

EXHIBIT D

1 IN THE COURT OF COMMON PLEAS

2 SUMMIT COUNTY, OHIO

3 MEMBER WILLIAMS, et al.,

4 Plaintiffs,

5 -vs-

CASE NO. CV-2016-09-3928
 VOLUME I

6 KISLING, NESTICO
7 & REDICK, LLC, et al.,

8 Defendants.

9 - - - -

10 Videotaped deposition of ALBERTO R. NESTICO,
11 ESQ., taken as if upon examination before Chana
12 Margareten, a Notary Public within and for the
13 State of Ohio, at the Hilton Akron-Fairlawn Hotel
14 and Suites, 3180 W. Market Street, Fairlawn,
15 Ohio, at 9:21 a.m. on Thursday, February 7, 2019,
16 pursuant to notice and/or stipulations of
17 counsel, on behalf of the Plaintiffs.

18 - - - -

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1 A. Then it says, Roger handle. Again, if you're
2 looking at your referrals, for marketing
3 purposes, and evaluating them, I want those
4 numbers as -- because there is already the margin
5 of error. At that time, making sure, hey, make
6 sure you have the referral correct. That's all.

7 MR. BARMEN: This is incomplete.
8 There are two e-mails here, and they're
9 both Re on the subject line, so the initial
10 e-mail is not here.

11 THE WITNESS: That's what I'm
12 saying.

13 MR. PATTAKOS: Okay. Well, I will
14 get it. We'll get it back tomorrow.

15 THE WITNESS: Okay.

16 MR. BARMEN: I thought you didn't
17 have it.

18 MR. PATTAKOS: I don't have it
19 here.

20 MR. BARMEN: Oh, got you.

21 THE WITNESS: But there is nothing
22 to that.

23 Q. So, let's talk about the narrative reports that
24 are at issue in this case. So basically for
25 clients who treat with certain chiropractors, the

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1 firm will automatically order a narrative report
2 from those chiropractors summarizing the client's
3 injuries and treatment that's ostensibly to be
4 used in settling the client's claim, correct?

5 MR. MANNION: Objection.

6 A. Okay. So, do we want to go through the whole
7 process?

8 Q. Please. Well, first is that correct?

9 MR. MANNION: Objection.

10 Q. Is anything I say false there? Again, and I will
11 read it again if you would like.

12 A. Yeah. Please.

13 Q. For clients who treat with certain chiropractors,
14 the firm will automatically order a narrative
15 report from that chiropractor summarizing the
16 client's injuries and treatment at the beginning
17 of the case ostensibly to be used in settling the
18 client's claim?

19 A. No.

20 Q. No?

21 A. That's where you're wrong.

22 Q. Okay.

23 A. You don't get a narrative report at the beginning
24 of the case.

25 Q. But it's ordered at the beginning of the case?

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1 A. No, it's not.

2 Q. Okay. How does it work?

3 A. Client is done treating, the paralegal will send
4 a letter, a request for records, bills, and a
5 report. The doctor then sends the records, the
6 bills, and the report.

7 Q. Okay.

8 A. When they receive the report, they automatically
9 pay the \$150 or 200, whatever the doctor's fees
10 are. They get the report.

11 Q. Okay. So the check is not cut until the report
12 is received?

13 A. Absolutely.

14 Q. And the report isn't received until after the
15 treatment is complete?

16 A. Because it's a summary of the treatment.

17 Q. Got you. And why is this necessary?

18 A. It benefits the client's case tremendously, in my
19 opinion.

20 Q. What's that opinion based on?

21 A. My experience in dealing with adjusters.

22 Q. Adjusters have told you that these narrative
23 reports really help and it makes it easier for
24 you to give your clients more money?

25 A. You just added a whole bunch of stuff there.

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1 Q. Well, tell me.

2 A. The adjusters have told me that this helps them
3 evaluate. Do you understand that a narrative
4 report, the effect of a narrative report?
5 According to -- I could give you even a name of a
6 supervisor that said they are excellent to have.
7 John Vallilo, at Auto Owners says they are good
8 to have and we request them.

9 Insurance companies request them. Most of
10 them even put it in their form letters. So that
11 narrative report has a significance, has an
12 impact on every case.

13 Q. John Vallilo of who?

14 A. Auto Owners. Who is retired now. He was the
15 head of their entire BI unit.

16 Q. How do you spell that, Vallilo?

17 A. V-a-l-l-i-o, I believe.

18 Q. Okay. Do you have any documents where the
19 insurance companies are requesting the narrative
20 reports?

21 A. Yeah, we provided them to you.

22 Q. Okay. So, do you have any other evidence or
23 analysis of the -- the effectiveness of these
24 narrative reports besides the anecdotal evidence
25 that you just described?

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1 A. What do you mean?

2 MR. MANNION: I am going to object
3 to the form, but go ahead.

4 A. Yeah, how is it anecdotal? I'm hearing it right
5 from the insurance companies. I heard it from
6 SIU adjusters. I've heard it from regular
7 adjusters. All the lawyers have heard it.

8 Q. Have you ever conducted an analysis of whether
9 the fee is worth it?

10 A. There is no way of conducting any analysis of it,
11 impossible.

12 Q. So what --

13 A. So they are going to have a different value for
14 each case. I don't know if it increased it by a
15 thousand dollars, 10,000.

16 I'll give you a perfect example, you could
17 have an offer of \$20,000 on a case. The adjuster
18 says, could you get me a narrative report from
19 the neurosurgeon? Yes, we can. Go get the
20 narrative report. That adjuster is going to
21 increase it. Okay, I'm going to give you an
22 extra \$5,000.

23 Q. I want to make it clear that I'm only asking you
24 about narrative reports from the chiro.

25 A. Okay. No -- no difference.

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1 Q. Well, narrative report from a neurosurgeon is
2 going to have more of an impact than a narrative
3 report from a chiropractor; don't you agree?

4 MR. MANNION: Objection.
5 Depending on what injury, Peter. Come on,
6 seriously.

7 Q. Don't you agree, sir?

8 MR. MANNION: Do you know what a
9 bodily injury case is, Peter?

10 A. Okay. So --

11 MR. MANNION: Jesus.

12 A. -- if you're referring to a -- a soft tissue
13 injury case, we wouldn't go get a neurosurgeon to
14 evaluate a soft tissue injury case, right?

15 Q. Of course.

16 A. So the chiropractor, for \$150 is one heck of a
17 deal, to be able to get that report. And if you
18 go back in time, it will explain to you why
19 narratives are good.

20 MR. PATTAKOS: Could you play that
21 testimony back, please?

22 - - -

23 (Thereupon, the requested portion of
24 the record was read by the reporter.)

25 - - -

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1 Q. How so, going back in time?

2 A. Sure. So narrative reports, when you go back to
3 2005, because every time insurance companies have
4 made changes, but you go back to 2005, and
5 probably all of the way through 2009, they
6 started really ramping up Colossus. Colossus is
7 a program that insurance companies use.

8 The narrative report, when we get them,
9 because the doctor's note are -- you can't even
10 read them three quarters of the time, they didn't
11 have EMR back then, electronic medical records.
12 So you would get these narratives, summarize, it
13 would have all of that information in there, all
14 of the care, and it would include CPT and
15 diagnostic codes in there. Colossus runs off of
16 those codes.

17 You're now making sure that the insurance
18 company is capturing all of the injuries that
19 relate to the auto accident, that are on that
20 report in there. They utilize those codes, put
21 them in. Now they've captured all of the care,
22 which was not in their notes. This is all put in
23 a summary.

24 Q. But doesn't the chiropractor have a duty to
25 provide that information to the clients, just as

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1 their treating chiropractor?

2 MR. MANNION: Objection.

3 A. You're asking me now about duties of a
4 chiropractor. I don't know what their duty is,
5 but I could tell you what we utilize them for,
6 that's all.

7 Q. It sounds like what you just described was
8 something that any client would have the right to
9 go to a provider and say, hey, the CPT and
10 diagnostic codes, what were they? I need this
11 information.

12 A. Peter, they are not communicating with the
13 insurance company. Everybody doesn't know how to
14 deal with the insurance company or what they're
15 doing. There is classes. There were CLEs back
16 then that actually helped plaintiffs lawyer do
17 that. There were actual classes on Colossus.

18 Q. So -- so how else is going back in time going to
19 show that this \$150 is a heck of a deal? Is
20 there any other reason besides --

21 A. What do you mean?

22 Q. -- this Colossus explanation?

23 MR. MANNION: And what else he has
24 already testified to, you mean?

25 Q. Do you have anything to add about how going back

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1 in time would show the effectiveness and the
 2 value in these narrative reports?
 3 A. **Apart from --**
 4 Q. What you already said?
 5 A. **-- the cases that I've handled and hearing it**
 6 **from the insurance companies and adjusters and**
 7 **the fact that they send letters requesting it.**
 8 **The narrative reports, do you understand that**
 9 **what they contain is a caption of all of the**
 10 **treatment that was -- that was done? A caption**
 11 **of the injuries. It captures causation. It**
 12 **captures the doctor's opinion. It captures**
 13 **research. It captures prognosis. It captures**
 14 **permanent or partial impairment sometimes.**
 15 **All reports, and it's different between these**
 16 **doctors, but that's what you're looking for. The**
 17 **lawyers like it. We get it and it's a succinct**
 18 **analysis of the care that was rendered.**
 19 **Those reports, again, are used -- defense**
 20 **counsel will cross-examine these doctors on their**
 21 **narratives. The adjuster will refer to them when**
 22 **talking to the lawyers about the -- the claim.**
 23 **So the list is just endless.**
 24 Q. Anything else?
 25 A. **Well, if that benefited the client, guess what,**

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1 **it's in the best interest of the client to obtain**
 2 **a report for \$150, and that also includes the**
 3 **copying fee.**
 4 Q. Sometimes \$200, correct?
 5 A. **Sometimes \$200.**
 6 Q. And you understand that \$200 is significant to
 7 your clients, correct?
 8 A. **Any amount is significant.**
 9 Q. Of course. Well, you also understand -- well,
 10 let me back up. You agree that if a cl --
 11 clients have a right to obtain their medical
 12 records from their providers, if they pay the
 13 statutory fee, correct?
 14 A. **Okay.**
 15 Q. Like, if your client tells you, hey, I want to
 16 see my medical records, and you say, okay, you
 17 have a right to that, you could get them or we
 18 could help you get them, right?
 19 A. **Sure.**
 20 Q. Do you agree that if the client can't read the
 21 doctor's notes that are in the records that that
 22 client has a right to ask the doctor what they
 23 had written in that note and the doctor should
 24 tell them?
 25 A. **You're asking --**

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1 MR. MANNION: I'm going to object,
 2 again, to the rights of the doctors.
 3 A. **I was going to say, you're asking me for what a**
 4 **doctor has to do. I'm a lawyer.**
 5 Q. Well, no, I'm not asking you that. I'm sorry if
 6 I'm being unclear. If you -- if your client
 7 said, I got these -- I got these records from my
 8 doctor and I can't understand what this says,
 9 could you ask my doctor for me?
 10 MR. MANNION: Wait.
 11 A. **They could call the doctor.**
 12 Q. They could call the doctor?
 13 MR. MANNION: Are you asking
 14 whether the doctor has to do it for free?
 15 MR. PATTAKOS: I'm saying would
 16 Mr. Nestico tell a client that he should --
 17 that the client should accept a separate
 18 charge for the doctor to interpret their
 19 notes if a patient can't read their
 20 handwriting?
 21 MR. MANNION: Objection.
 22 A. **That's not what they are doing. I just gave you**
 23 **the whole list.**
 24 Q. Okay.
 25 A. **That's not in the notes. What is in the**

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1 **narrative is not in the notes, not always, and**
 2 **not everything.**
 3 Q. Okay. Well, you know, you said -- the one thing
 4 you said that is salient to me is that the report
 5 captures the doctor's opinion on causation.
 6 A. **Proximate cause, correct.**
 7 Q. Apart from that, what does -- why does the doctor
 8 need to provide a succinct analysis of the care
 9 that was rendered when the lawyers could do it?
 10 MR. MANNION: Excuse me?
 11 MR. PATTAKOS: From the medical
 12 records.
 13 MR. MANNION: I will object. But
 14 go ahead.
 15 Q. Say -- well, let me -- let me just rephrase that
 16 question. A succinct analysis of the care that
 17 was rendered, is one of the things you said as --
 18 A. **Yes.**
 19 Q. -- as a reason why the narrative report is a good
 20 deal?
 21 A. **One of.**
 22 Q. One of them. Sure. It's sort of a lawyer's job
 23 to provide a succinct analysis of the medical
 24 care that his client received, isn't it,
 25 Mr. Nestico?

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2 SUMMIT COUNTY, OHIO

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CASE NO. CV-2016-09-3928
 VOLUME II

6 KISLING, NESTICO
7 & REDICK, LLC, et al.,

8 Defendants.

9 - - - -

10
11 Continued videotaped deposition of ALBERTO R.
12 NESTICO, ESQ., taken as if upon examination
13 before Brian A. Kuebler, a Notary Public within
14 and for the State of Ohio, at the Hilton
15 Akron-Fairlawn Hotel and Suites, 3180 W. Market
16 Street, Fairlawn, Ohio, at 9:05 a.m. on Friday,
17 February 8, 2019, pursuant to notice and/or
18 stipulations of counsel, on behalf of the
19 Plaintiffs.

20 - - - -

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1 upon receipt of the narrative report. The
 2 narrative fee is paid automatically in the amount
 3 negotiated with certain medical service
 4 providers. There was no quote "policy" as
 5 assumed by the interrogatory. The medical
 6 service providers identified in Gobrogge
 7 deposition transcript at 292 to 297, et cetera,
 8 agreed to provide reports upon request for KNR
 9 clients at a flat rate agreed to by the medical
 10 care service provider.

11 So what I want to ask about this is, if I'm
 12 understanding this interrogatory answer as well
 13 as your testimony from yesterday correctly, you
 14 are saying that -- are you saying that it's the
 15 payment for the report that's automatic once the
 16 report is requested, but whether the report is
 17 requested is determined by the attorney working
 18 on the case on a case-by-case basis, is that your
 19 testimony?

20 MR. MANNION: Can you --

21 A. **Yeah, you need --**

22 MR. MANNION: -- rephrase that?

23 That was a lot.

24 Q. What's automatic? Is it the payment or the
 25 request for the report?

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1 A. **Okay. The payment is automatic once they receive
 2 the report.**

3 Q. Okay. So the report is not automatically
 4 requested?

5 A. **The report -- so here's what happens. You have
 6 -- as soon as the client is done treating, they
 7 will let the paralegal know. The lawyer's
 8 evaluating the case throughout the time period,
 9 okay? If he doesn't say, don't order a report,
 10 the report is requested. It's a form letter that
 11 asks for records, bills and a report. Once that
 12 report is received, if that provider produces a
 13 report and they receive it, they automatically
 14 pay that amount that is already -- that they have
 15 in their list, the amount is requested, put in a
 16 value item in Needles and the check is printed
 17 and goes out to the provider.**

18 Q. So the lawyer has to say don't order the report
 19 otherwise the report will be automatically
 20 ordered by the paralegal?

21 A. **The lawyer has the right at any point to not ask
 22 for a report or they get a report.**

23 Q. Okay.

24 A. **I'd rather have it as a default than not have it
 25 at all.**

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1 Q. Okay.

2 MR. POPSON: I have it right here.

3 MR. PATTAKOS: Okay. What's the
 4 Bates number on that?

5 MR. POPSON: 04026 to 04037. You
 6 want me to forward it to you?

7 MR. PATTAKOS: If you could
 8 forward it to Rachel and me.

9 MR. POPSON: Okay.

10 BY MR. PATTAKOS:

11 Q. Okay. Let's look at another exhibit.

12 A. **Are we done with this one?**

13 Q. Yeah, for now I think.

14 - - - -

15 (Thereupon, Plaintiff's Exhibit 45 was marked
 16 for purposes of identification.)

17 - - - -

18 Q. So it's the first amended responses to the second
 19 interrogatories.

20 MR. MANNION: And which one should
 21 I look at?

22 MR. PATTAKOS: Let's look at No.

23 29.

24 MR. MANNION: Number what?

25 MR. PATTAKOS: Nine, No. 9.

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1 MR. MANNION: Oh.

2 BY MR. PATTAKOS:

3 Q. So --

4 A. **Hang on.**

5 MR. MANNION: Yeah, one second
 6 here. Read both, too. Read the actual
 7 request.

8 A. **Okay.**

9 Q. So this requests the firm to identify every
 10 medical service provider with whom any defendant
 11 has agreed that the medical service provider may
 12 prepare a narrative report and/or charge a
 13 narrative fee without first obtaining
 14 authorization from the KNR attorney on the case.
 15 And the response is: Defendants state that KNR
 16 paralegals or attorneys will automatically
 17 request narrative reports from ASC with
 18 exceptions. Defendants further state the
 19 decision not to obtain a narrative report from
 20 ASC depends on various factors, including,
 21 without limitation, the nature of the injuries
 22 involved, the value of the case, whether the
 23 injury is to a minor under 12, local court rules,
 24 cost of report, and the specific needs and
 25 requirements of the adjuster handling the case,

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1 correct?

2 A. **Okay.**

3 Q. So this says that the lawyer will automatically

4 request a report from ASC --

5 MR. MANNION: Objection.

6 Q. -- why just ASC?

7 MR. MANNION: Wait. Objection.

8 You can't give your interpretation and then

9 throw a question on at the end. You can

10 ask him if he agrees with your

11 interpretation, but you can't give your

12 interpretation and then add a question at

13 the end.

14 Q. This does say that the attorneys will

15 automatically request narrative reports from ASC,

16 correct?

17 MR. MANNION: Objection.

18 A. **It does say that in the response.**

19 Q. Okay. Why just ASC?

20 A. **Because his claim is only against ASC.**

21 Q. That's not what this interrogatory asks you for,

22 it says identify every medical service provider?

23 A. **And I'm telling you that the answer is based off**

24 **of -- Defendant is ASC.**

25 MR. MANNION: What are you smiling

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1 at me for like that?

2 Q. So you didn't --

3 THE WITNESS: He can smile all he

4 wants, I don't care.

5 Q. -- so you were asked to identify every medical

6 service provider that gets this kind of

7 treatment. The Court overruled your objection

8 and you are still saying that you gave an

9 incomplete limited response relating just to ASC

10 because you believe that you're entitled to do

11 that because the claim is only against ASC?

12 A. **Yes, that's what they did. Now, if you want to**

13 **know there's other providers, there's an e-mail**

14 **that has the list of providers.**

15 Q. So there are other providers that get this

16 treatment in addition to ASC?

17 MR. MANNION: Objection as to

18 "this treatment." Go ahead.

19 A. **That get -- we get narrative reports from, there**

20 **are other providers, sure there are.**

21 Q. That are automatically requested by the

22 attorney --

23 MR. MANNION: Objection.

24 Q. -- with exceptions?

25 A. **The individual attorney makes that determination,**

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1 **agree? So the payment it says, for the payment**

2 **is automatic. But you have an e-mail that has**

3 **the list of the providers.**

4 Q. It says that the request for the reports is

5 automatic. Here, it says KNR paralegals or

6 attorneys will automatically request narrative

7 reports.

8 MR. MANNION: Except.

9 Q. With exceptions.

10 A. **Yeah, and --**

11 Q. It doesn't say -- it's not referring to the

12 payment there, is it, sir?

13 MR. MANNION: Well, if there's

14 exceptions, it's not on every case, is it

15 then?

16 A. **It says that right there.**

17 Q. Okay.

18 MR. MANNION: Geez.

19 Q. So in the second part of this where you talk

20 about the factors for the decision not to obtain

21 the report --

22 A. **Uh-huh.**

23 Q. -- you say that in part that depends on the value

24 of the case?

25 A. **Uh-huh.**

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1 Q. So you're saying if the -- does this mean that on

2 certain cases if the value is smaller, you won't

3 request a report on smaller cases?

4 A. **What it means is if they go to that provider and**

5 **they only go one time, they will not generate a**

6 **report. If the bill's only going to be \$300,**

7 **what am I'm going to do with a \$150 expense.**

8 Q. And is that why minors under 12 don't get

9 narrative reports on their cases?

10 A. **Pretty much. And then those are requested if we**

11 **file -- because the insurance company wants**

12 **probate court approval of it. You need a report.**

13 **And we will request a report. Probate courts**

14 **want it because they look at permanency or if**

15 **there's any additional injuries.**

16 Q. Okay. You also refer to the cost of the report

17 and I thought that was fixed up front --

18 A. **Uh-huh.**

19 Q. -- that that was fixed cost for the report that's

20 identified in various e-mails?

21 A. **You're saying again if it pertains to a**

22 **chiropractor. Other medical service providers,**

23 **they charge a lot more than \$150. You know**

24 **that --**

25 Q. Okay.

| | |
|--|---|
| <p style="text-align: right;">400</p> <p>1 A. I don't know --</p> <p>2 Q. Okay --</p> <p>3 A. -- Peter.</p> <p>4 Q. -- Dr. Gunning I believe testified --</p> <p>5 MR. MANNION: Hey, stop talking</p> <p>6 over him.</p> <p>7 A. I just -- I told you I don't know.</p> <p>8 Q. Okay. So were there other -- there were no other</p> <p>9 doctors up in Cleveland that you would send -- up</p> <p>10 in the Cleveland area that you would send -- the</p> <p>11 firm would send clients to besides Hochman and</p> <p>12 Ghoumbrial at this time?</p> <p>13 A. That's not true.</p> <p>14 MR. MANNION: Objection.</p> <p>15 A. At least let me tell you when I had it, I would</p> <p>16 send an e-mail and ask who's around there.</p> <p>17 There's a -- there were two orthopedics up there,</p> <p>18 Fumich is another doctor that's up there. Mars</p> <p>19 was another doctor that was up there.</p> <p>20 Q. Were these good doctors?</p> <p>21 A. Yeah.</p> <p>22 Q. Why is Ghoumbrial the first option?</p> <p>23 A. Again --</p> <p>24 MR. MANNION: Objection.</p> <p>25 A. Again, I don't know and -- at that timeframe.</p> | <p style="text-align: right;">402</p> <p>1 Q. -- where Brandy would say things, we are six to</p> <p>2 one, we need to get a case here, we need to get a</p> <p>3 case there, you testified that that was part of</p> <p>4 an effort to spread out referrals evenly to the</p> <p>5 chiropractors, correct?</p> <p>6 A. Not evenly, I never said evenly.</p> <p>7 MR. MANNION: He tried that with</p> <p>8 Brandy, too.</p> <p>9 Q. Just to spread them out.</p> <p>10 A. Yes, sir, correct.</p> <p>11 Q. In some particular way?</p> <p>12 A. No particular way.</p> <p>13 Q. Just to spread them out?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Okay. Why isn't that done with the doctors as</p> <p>16 well?</p> <p>17 MR. MANNION: Objection.</p> <p>18 A. I don't know that it's not done.</p> <p>19 Q. Doesn't this reflect that when Ghoumbrial is the</p> <p>20 first option --</p> <p>21 MR. MANNION: Peter, you're</p> <p>22 missing a step.</p> <p>23 Q. But that's -- you're not spreading referrals out,</p> <p>24 here you're saying Ghoumbrial is the first option,</p> <p>25 always.</p> |
| <p style="text-align: right;">401</p> <p>1 But if they're not treating at Shaker Square,</p> <p>2 they don't go to Ghoumbrial.</p> <p>3 Q. What's the connection between Ghoumbrial and</p> <p>4 Shaker Square?</p> <p>5 MR. BARMEN: Objection.</p> <p>6 A. He sees their patients.</p> <p>7 Q. That are your clients?</p> <p>8 MR. MANNION: Objection.</p> <p>9 A. Some are.</p> <p>10 Q. So you're willing to defer to Shaker Square's</p> <p>11 recommendation of Dr. Ghoumbrial at that point; is</p> <p>12 that what you're saying?</p> <p>13 MR. MANNION: Excuse me, I'm</p> <p>14 sorry, say that again.</p> <p>15 A. What they do is between the patient and the</p> <p>16 doctor, Peter. We don't get involved in that.</p> <p>17 MR. MANNION: Criticizes you if</p> <p>18 you do and criticizes you if you don't.</p> <p>19 Q. So you don't spread out referrals among the</p> <p>20 doctors, correct?</p> <p>21 MR. MANNION: Objection.</p> <p>22 A. That's not true either.</p> <p>23 Q. Well, yesterday when we went over all of the</p> <p>24 e-mails about the chiropractic referrals --</p> <p>25 A. Uh-huh.</p> | <p style="text-align: right;">403</p> <p>1 A. I'm not saying anything, first of all.</p> <p>2 Q. Well, Brandy is.</p> <p>3 MR. MANNION: Peter, your question</p> <p>4 is assuming that KNR referred to Ghoumbrial.</p> <p>5 He's told you that again and again,</p> <p>6 MR. PATTAKOS: Tom, stop</p> <p>7 testifying for your client.</p> <p>8 MR. MANNION: I'm not testifying.</p> <p>9 You're not listening to his answers.</p> <p>10 A. We're going around in circles here.</p> <p>11 Q. You're going to rely on your attorney's answer</p> <p>12 there?</p> <p>13 MR. MANNION: Stop it. You're not</p> <p>14 listening to his answers, Peter.</p> <p>15 A. I'm relying on the answer I gave you.</p> <p>16 Q. Okay.</p> <p>17 MR. PATTAKOS: He needs to change</p> <p>18 the tape, so let's take just one minute.</p> <p>19 MR. MANNION: No, we're going to</p> <p>20 take a regular one.</p> <p>21 THE VIDEOGRAPHER: We're going off</p> <p>22 the record at 11:18.</p> <p>23 - - - -</p> <p>24 (Thereupon, a recess was had.)</p> <p>25 - - - -</p> |

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| <p style="text-align: right;">628</p> <p>1 facilities have forms that you can use online --</p> <p>2 A. Yep, uh-huh.</p> <p>3 Q. -- why do you need an investigator to do that,</p> <p>4 why can't your intake department or paralegals do</p> <p>5 that?</p> <p>6 A. This is what happens, they make that request and</p> <p>7 then Summa's record department tells them we have</p> <p>8 records here for you to pick up or you can pay to</p> <p>9 ship. It's cheaper, since we already paid an</p> <p>10 investigator, to go pick it up. Summa used to do</p> <p>11 that, they don't do it anymore.</p> <p>12 Q. None of the investigators, KNR employees, are</p> <p>13 actually licensed as investigators, correct?</p> <p>14 MR. MANNION: Objection.</p> <p>15 A. I don't know if the retired police officers are.</p> <p>16 Q. You're not aware though of any of them being</p> <p>17 actually licensed?</p> <p>18 Why does the firm call them investigators?</p> <p>19 A. What am I going to call them?</p> <p>20 Q. Messengers?</p> <p>21 MR. MANNION: Objection.</p> <p>22 A. Information gatherer?</p> <p>23 Q. Messengers, messenger services.</p> <p>24 A. They're not messengers. They're not sending</p> <p>25 messages. The definition of investigation is to</p> | <p style="text-align: right;">630</p> <p>1 constantly different. You're not going to know</p> <p>2 unless you look at that, just like I told you in</p> <p>3 the Needles' notes.</p> <p>4 Q. Let's go back to the Holly Tusko e-mail.</p> <p>5 A. Which one?</p> <p>6 Q. I don't remember the exhibit number, but it looks</p> <p>7 like this (indicating).</p> <p>8 A. Yeah. Okay.</p> <p>9 Q. Can you --</p> <p>10 MR. MANNION: See you, George.</p> <p>11 Q. Can you please find this in the stack here? I'm</p> <p>12 sorry.</p> <p>13 A. Oh, sure.</p> <p>14 MR. MANNION: What's the number</p> <p>15 again?</p> <p>16 MR. PATTAKOS: I don't know the</p> <p>17 exhibit number.</p> <p>18 MS. HAZELET: 93.</p> <p>19 MR. PATTAKOS: 93 Rachel says. By</p> <p>20 the way, do you have everyone on the record</p> <p>21 that's in here, in the room?</p> <p>22 THE REPORTER: Uh-huh.</p> <p>23 MR. PATTAKOS: Okay. I know</p> <p>24 nobody went around -- we didn't go around</p> <p>25 and identify.</p> |
| <p style="text-align: right;">629</p> <p>1 gather information, that's what they do, but</p> <p>2 that's what I call them, Peter. I'm not going to</p> <p>3 explain it to you.</p> <p>4 Q. Errand --people that run errands.</p> <p>5 MR. MANNION: Objection.</p> <p>6 A. Come on.</p> <p>7 Q. Well, you know there's a whole industry of</p> <p>8 messenger services --</p> <p>9 A. Couriers.</p> <p>10 Q. Couriers --</p> <p>11 A. Yeah, couriers.</p> <p>12 Q. -- how are they anything but couriers?</p> <p>13 A. Are they going to police stations? Are they</p> <p>14 going to pick up medical records? Are they going</p> <p>15 to talk to clients? Are they taking pictures of</p> <p>16 intersections? They can't send a courier service</p> <p>17 to go take a picture of an accident scene or go</p> <p>18 to a scrap yard and get pictures of a car. They</p> <p>19 don't do that.</p> <p>20 Q. Can't?</p> <p>21 A. No.</p> <p>22 Q. Can you send a paralegal to do that?</p> <p>23 A. I guess. Everything these guys do is different</p> <p>24 on every case. Do you understand that? Picking</p> <p>25 up records, you just focused on one. It's</p> | <p style="text-align: right;">631</p> <p>1 THE WITNESS: He went.</p> <p>2 THE REPORTER: I went around the</p> <p>3 room.</p> <p>4 MR. PATTAKOS: Okay. Great,</p> <p>5 BY MR. PATTAKOS:</p> <p>6 Q. So all of these tasks on this list --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- you agree that these are basic tasks that any</p> <p>9 law firm would have to perform to handle a</p> <p>10 personal injury case adequately, don't you?</p> <p>11 MR. MANNION: Objection.</p> <p>12 A. I can't comment on that. That is what we expect.</p> <p>13 Q. Okay. You agree there's nothing special about</p> <p>14 any of these tasks that would require someone</p> <p>15 with special investigative expertise to perform</p> <p>16 then?</p> <p>17 MR. MANNION: Objection.</p> <p>18 A. I don't know if they need special expertise to</p> <p>19 perform it. They don't. I don't see anything in</p> <p>20 there that does.</p> <p>21 Q. So why are they called investigators?</p> <p>22 MR. MANNION: Objection. Asked</p> <p>23 and answered.</p> <p>24 A. That's what I decided to call them.</p> <p>25 Q. Why?</p> |