

# EXHIBIT B

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IN THE COURT OF COMMON PLEAS

SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,

Plaintiffs,

-vs-

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

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

Defendants.

- - - -

Videotaped deposition of GARY PETTI, taken as if upon examination before Brian A. Kuebler, a Notary Public within and for the State of Ohio, at the Pattakos Law Firm, 101 Ghent Road, Fairlawn, Ohio, at 9:33 a.m. on Friday, March 1, 2019, pursuant to notice and/or stipulations of counsel, on behalf of the Plaintiffs.

- - - -

JK COURT REPORTING  
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1 MR. MANNION: Okay.

2 MR. PATTAKOS: -- he first

3 testified to -- about cases that came in

4 where the person was calling from the

5 chiropractor's office --

6 MR. MANNION: Gotcha. Right.

7 Gotcha.

8 BY MR. PATTAKOS:

9 Q. So what about the cases -- other cases?

10 A. **Directed to a chiropractor that KNR liked.**

11 Q. That was on the list?

12 A. **Yes, or that you were directed to.**

13 Q. By the e-mail?

14 A. **Yes. Or direct face to face.**

15 Q. Was there a particular timeline that the

16 treatment was suppose to follow?

17 A. **Generally speaking, sure. Approximately 20**

18 **treatments over the course of about five weeks.**

19 MR. MANNION: Now, wait a minute.

20 Objection. When you say suppose to, did

21 you mean KNR from the chiro? I was

22 confused.

23 MR. PATTAKOS: Did I mean what and

24 what?

25 MR. MANNION: When you said there

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1 was a number of treatments or timeframe

2 they were suppose to treat --

3 MR. PATTAKOS: A course.

4 MR. MANNION: -- or course. Did

5 you mean from the chiro or did you mean

6 that KNR said that?

7 MR. PATTAKOS: Well, I mean that

8 the KNR attorneys were suppose to instruct

9 the client to follow.

10 A. **Oh, no. No. The clients -- we didn't tell the**

11 **client how many treatments to go to or anything**

12 **like that. Just go, do whatever your doctor**

13 **tells you to do. Don't miss appointments. Keep**

14 **going until he says you're done or she says**

15 **you're done, whatever the case may be.**

16 Q. And it typically ended up to be about 20

17 treatments over the course of how long did you

18 say?

19 A. **About five weeks. Four to six weeks.**

20 Q. And why did it end up at this number?

21 MR. MANNION: Objection.

22 A. **I'm not sure. Hypothetically speaking, I would**

23 **say because the chiropractors, I learned by**

24 **experience, that's the sweet spot.**

25 Q. The sweet spot in terms of what?

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1 A. **Return on investment. That they get a greater**

2 **percentage of their bills if they get the people,**

3 **you know, to get the bill to a certain level and**

4 **then discharge them either as healed or maximum**

5 **medical improvement.**

6 MR. MANNION: Objection. Move to

7 strike.

8 Q. If they treat too much then they won't -- they're

9 likely to not get compensated for it?

10 MR. MANNION: Objection.

11 A. **That's absolutely correct.**

12 MR. KEDIR: Objection.

13 A. **And if they treat too little, they don't get**

14 **enough money.**

15 THE REPORTER: What's that?

16 THE WITNESS: If they treat too

17 little they don't get enough money in terms

18 of the fee.

19 MR. MANNION: Move to strike,

20 Fee, you mean chiro bill?

21 THE WITNESS: Good question.

22 MR. MANNION: I'm just asking --

23 THE WITNESS: Yeah, that they're

24 -- there's more blood in the turnip.

25 - - - -

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1 (Thereupon, Gary Petti Plaintiff's Exhibit 9

2 was marked for purposes of identification.)

3 - - - -

4 Q. Let's take a look at Exhibit 9. This is an

5 e-mail from Brandy to Horton where she's talking

6 about a referral that she made to the firm. She

7 said since she is a nurse, she may not want

8 chiro. Feel her out for that before you refer.

9 She may want family doc and PT.

10 MR. MANNION: Objection.

11 Q. Did you ever --

12 MR. MANNION: I'm going to again

13 object. After he was terminated. Go

14 ahead.

15 Q. Did you ever have this experience where the

16 firm's advice as to medical treatment depends on

17 the level or type of education a person has?

18 MR. MANNION: Objection.

19 A. **I did not have that experience, but we got them**

20 **to a chiropractor regardless of the circumstance.**

21 Q. Do you remember anything about Red Bag referrals?

22 A. **I remember being confused by them.**

23 Q. Why is that?

24 MR. MANNION: Objection.

25 A. **I didn't understand -- of course wasn't privy to**

189	<p>1 individual cases?</p> <p>2 A. <b>Yes.</b></p> <p>3 Q. Who referred Richard Harbor to Dr. Ghoubrial?</p> <p>4 A. <b>I would not know that.</b></p> <p>5 Q. You never referred a KNR client to Dr. Ghoubrial,</p> <p>6 did you, personally?</p> <p>7 A. <b>I never did, no.</b></p> <p>8 Q. In fact, KNR typically did not refer cases to</p> <p>9 Dr. Ghoubrial, did they?</p> <p>10 A. <b>Typically, I would say probably not, but it came</b></p> <p>11 <b>through the relation that everyone had with one</b></p> <p>12 <b>another and most directly then through the</b></p> <p>13 <b>chiropractor.</b></p> <p>14 Q. Well, it would be a conversation between the</p> <p>15 chiropractor and the patient, true?</p> <p>16 A. <b>In my cases, certainly. I would never have</b></p> <p>17 <b>intervened in that.</b></p> <p>18 Q. Okay. And you don't know how the others did it,</p> <p>19 do you?</p> <p>20 A. <b>No, I do not.</b></p> <p>21 Q. And when you worked at KNR, you were essentially</p> <p>22 either on the phone or working on cases, for the</p> <p>23 most part?</p> <p>24 A. <b>Yes.</b></p> <p>25 Q. Were you paying a lot of attention to how</p>	191	<p>1 didn't want chiropractic care, would you?</p> <p>2 A. <b>You wouldn't ask. If they said, hey, I don't</b></p> <p>3 <b>want to go to a chiropractor, I wouldn't send</b></p> <p>4 <b>them to one.</b></p> <p>5 Q. You never forced a client at KNR to get unwanted</p> <p>6 health care, did you?</p> <p>7 A. <b>I would never have, no.</b></p> <p>8 Q. You never heard anybody do that, did you?</p> <p>9 A. <b>The lady I spoke to who is initially signed up by</b></p> <p>10 <b>Sandel was very clear that she did not want to go</b></p> <p>11 <b>to a chiropractor, but they told her she had to</b></p> <p>12 <b>--</b></p> <p>13 Q. Okay.</p> <p>14 A. <b>-- she felt forced to.</b></p> <p>15 Q. And so one case out of all the ones you know at</p> <p>16 KNR, do you know of any other cases that</p> <p>17 allegedly somebody received unwanted health care?</p> <p>18 A. <b>I do not know of any other.</b></p> <p>19 Q. Okay. And do you know Attorney Sandel?</p> <p>20 A. <b>I do know Kevin.</b></p> <p>21 Q. Are you trying to say that something -- he does</p> <p>22 things wrong?</p> <p>23 A. <b>I'm saying that the pressure at KNR to refer</b></p> <p>24 <b>people to chiropractors, specifically Akron</b></p> <p>25 <b>Square, resulted in him, you know, pressuring her</b></p>
190	<p>1 everybody else was interacting on the phones or</p> <p>2 handling their cases?</p> <p>3 A. <b>None. Virtually none.</b></p> <p>4 Q. Okay. As far as like what percentage of cases</p> <p>5 Rob Horton or Kelly Phillips or any other lawyer</p> <p>6 referred to a chiropractor, you don't know the</p> <p>7 exact percentage of those, do you?</p> <p>8 A. <b>Exactly, no. But like we discussed, I mean, it</b></p> <p>9 <b>was principally chiropractic referrals.</b></p> <p>10 Q. The same with how you practiced at Slater &amp; Zurz,</p> <p>11 fair?</p> <p>12 A. <b>I almost never referred. Not almost -- yeah,</b></p> <p>13 <b>almost never is fair to say. Most of my clients</b></p> <p>14 <b>came to me from a referral source so I wasn't in</b></p> <p>15 <b>a position to refer out and I didn't really</b></p> <p>16 <b>direct care.</b></p> <p>17 Q. And you didn't direct care at KNR either, did</p> <p>18 you?</p> <p>19 A. <b>Well, in terms of saying, you know, hey, go here.</b></p> <p>20 Q. Well, if they wanted chiropractic care, you would</p> <p>21 give them a referral source, true?</p> <p>22 A. <b>Well, certainly that's true, but beyond that</b></p> <p>23 <b>also, you know, hey, you'd select for them, you</b></p> <p>24 <b>know, here's where you should go.</b></p> <p>25 Q. But my question is: You wouldn't do that if they</p>	192	<p>1 <b>to go there.</b></p> <p>2 Q. Did he tell you that?</p> <p>3 A. <b>No.</b></p> <p>4 Q. Okay. You don't know why he sent her there, do</p> <p>5 you? That's your speculation?</p> <p>6 A. <b>It is --</b></p> <p>7 Q. Okay.</p> <p>8 A. <b>-- yeah, based on what I saw at --</b></p> <p>9 Q. Okay.</p> <p>10 MR. PATTAKOS: Objection.</p> <p>11 A. <b>-- KNR.</b></p> <p>12 Q. And did you ever go talk to Attorney Sandel about</p> <p>13 that after the fact and say, hey, what do you</p> <p>14 know about this?</p> <p>15 A. <b>No. And when I say I know Kevin, I should say I</b></p> <p>16 <b>-- we went to law school together. Beyond that</b></p> <p>17 <b>-- and I think we have some friends in common or</b></p> <p>18 <b>some acquaintances in common --</b></p> <p>19 Q. Right.</p> <p>20 A. <b>-- so I don't have an ongoing relationship with</b></p> <p>21 <b>Kevin at all.</b></p> <p>22 Q. And once that client went to see Akron Square, it</p> <p>23 was the discussions between Akron Square and that</p> <p>24 client that got them to see the medical doctor,</p> <p>25 true?</p>

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1 Q. You don't know her discussions with Dr. Floros  
 2 about whether to see Dr. Ghoubrial or not, do  
 3 you?  
 4 A. **No, I don't have any personal information about**  
 5 **that.**  
 6 Q. You don't know Monique Norris' conversations with  
 7 Dr. Ghoubrial about whether to receive trigger  
 8 point injections or opioids or TENS units or any  
 9 of that, do you?  
 10 A. **Of course not.**  
 11 Q. And you've had clients that have used TENS units  
 12 even before you got to KNR, true?  
 13 A. **Yeah.**  
 14 Q. Because they help some patients, don't they?  
 15 A. **I don't recall whether or not they were**  
 16 **successful or not.**  
 17 Q. But you would leave that to the medical doctor?  
 18 A. **Yeah.**  
 19 Q. And you certainly had chiropractors who did  
 20 electrical stimulation even at their office,  
 21 correct?  
 22 A. **All the time.**  
 23 Q. And that your clients told you helped, fair?  
 24 A. **Generally, yes.**  
 25 Q. And you certainly had clients who had trigger

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1 point injections at times, didn't you?  
 2 A. **I'm sure of it.**  
 3 Q. If you heard --  
 4 A. **I don't remember any specific instances, but --**  
 5 Q. Sure.  
 6 A. **-- thousands -- thousands of people, yeah.**  
 7 Q. You're not here arguing, are you, that trigger  
 8 point injections, in and of themselves, have no  
 9 medical value? You're not here to make --  
 10 A. **No, of course I'm not qualified for that.**  
 11 Q. Okay. Do you know what a CPT code is?  
 12 A. **Uh-huh.**  
 13 Q. What is it?  
 14 A. **It's a code assigned on a medical bill that the**  
 15 **medical insurance typically uses for pricing.**  
 16 Q. And, for example, trigger point injections have a  
 17 CPT code, don't they?  
 18 A. **Yes. Each treatment has a code assigned. There**  
 19 **are two. And it's been so long I can't really**  
 20 **remember, but there are ICD9 codes and CPT codes**  
 21 **and I can't quite remember which is which**  
 22 **anymore.**  
 23 Q. And there's different codes depending on how many  
 24 different trigger points are being injected, two  
 25 different codes --

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1 A. **Beyond --**  
 2 Q. -- three and less or three and more, whatever the  
 3 --  
 4 A. **Yeah, I wouldn't know that.**  
 5 Q. Okay. But have you ever seen an insurance  
 6 company have CPT codes for treatment that is  
 7 somehow not recognized in the medical field?  
 8 A. **No. No, I don't think so.**  
 9 Q. And the same with TENS units, there's CPT codes  
 10 for electrical stimulation?  
 11 A. **As far as I'm aware, sure.**  
 12 Q. Okay. And you're not here to argue that either  
 13 trigger points or TENS units are not reasonably  
 14 and medically necessary for some patients, are  
 15 you?  
 16 A. **Again, I'm not qualified for that.**  
 17 Q. You'd have to look at every individual patient,  
 18 their records, the doctor, and look at the whole  
 19 entire file to determine whether, for that  
 20 particular patient, it was reasonably and  
 21 medically necessary, fair?  
 22 A. **Yes.**  
 23 Q. And you didn't do that in any of these cases, did  
 24 you?  
 25 A. **Certainly not.**

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1 Q. And, for example, let's say Mr. Harbor, as an  
 2 example, had trigger point injections and felt  
 3 they were helpful and had another accident and  
 4 went back again to Dr. Ghoubrial and got more  
 5 trigger point injections --  
 6 A. **Uh-huh.**  
 7 Q. -- and even testified under oath that they were  
 8 helpful and provided relief, would you at least  
 9 say, based on those limited facts, they seemed to  
 10 be helpful for him?  
 11 A. **Yeah.**  
 12 Q. And if he was told that they were cortisone  
 13 shots, is that what your understanding of what  
 14 those are?  
 15 A. **Yes, that is my understanding.**  
 16 Q. Now, would you, in a Complaint, if your client  
 17 met with Dr. Ghoubrial and told you and sent you  
 18 an e-mail saying he's giving me trigger point --  
 19 or he's giving me injections of cortisone --  
 20 A. **Uh-huh.**  
 21 Q. -- and then later testified that it was a  
 22 cortisone shot and it was helpful, would you put  
 23 in a pleading that Dr. Ghoubrial gave him an  
 24 injection of an unspecified medication?  
 25 A. **I don't think so.**



241	<p>1 <b>and based on his symptoms, I probably would have</b></p> <p>2 <b>tried to get him to an MD right away.</b></p> <p>3 Q. So those decisions on who you would refer the</p> <p>4 client to as far as medical care or chiropractic</p> <p>5 care, would depend on the conversation with the</p> <p>6 client?</p> <p>7 A. <b>Yes.</b></p> <p>8 Q. Because that's not necessary, especially in the</p> <p>9 513 area code, you're not going to send him to</p> <p>10 Dr. Floros, correct?</p> <p>11 A. <b>No. 513 would have been what, the Cincinnati</b></p> <p>12 <b>guys down there, Werkmore.</b></p> <p>13 Q. But even if it was Akron, that's a guy that you</p> <p>14 probably would have sent to a medical doctor</p> <p>15 instead?</p> <p>16 A. <b>Me personally, yes.</b></p> <p>17 Q. Okay.</p> <p>18 A. <b>Like I said, that was always my first preference</b></p> <p>19 <b>was let them do their own health insurance, if</b></p> <p>20 <b>possible. If they have a relationship with a</b></p> <p>21 <b>doctor, that's what I want to do.</b></p> <p>22 Q. And that's how you handled cases even at KNR,</p> <p>23 true?</p> <p>24 A. <b>Yes.</b></p> <p>25 Q. And you talked some about we saw e-mails from</p>	243	<p>1 <b>know, like I said, there's sort of a template in</b></p> <p>2 <b>terms of how things go.</b></p> <p>3 Q. But again, a template meaning the way you did it</p> <p>4 at Slater as well, true?</p> <p>5 A. <b>Yeah. How soft tissue cases work.</b></p> <p>6 Q. But where it goes on that template depends on the</p> <p>7 conversation between you and that client and that</p> <p>8 client's desires, true?</p> <p>9 A. <b>For me, yes.</b></p> <p>10 Q. That's how you handled cases at KNR, fair?</p> <p>11 A. <b>That is fair.</b></p> <p>12 Q. And when you told the patient -- or excuse me,</p> <p>13 the client, that KNR would give them a fair</p> <p>14 evaluation of their case, true? Isn't that what</p> <p>15 you just said on there?</p> <p>16 A. <b>I don't remember if that's what it said is what</b></p> <p>17 <b>-- that's what I said is what I said.</b></p> <p>18 Q. You did that with every KNR client, didn't you?</p> <p>19 A. <b>A fair evaluation, sure.</b></p> <p>20 Q. And you said that you make the facts of your</p> <p>21 case, not me?</p> <p>22 A. <b>Yes.</b></p> <p>23 Q. And you told that to every client?</p> <p>24 A. <b>Virtually.</b></p> <p>25 Q. Okay. And you said that it's important to follow</p>
242	<p>1 Brandy and Megan, but I think what you said was</p> <p>2 you didn't let them tell you how to practice law,</p> <p>3 fair?</p> <p>4 A. <b>That is fair. I'm not listening to them.</b></p> <p>5 Q. Okay. You handled your cases the way you felt a</p> <p>6 lawyer should handle the cases, true?</p> <p>7 A. <b>That is true.</b></p> <p>8 Q. And you followed your professional duties, true?</p> <p>9 A. <b>Yes.</b></p> <p>10 Q. And what you did is what you thought was in the</p> <p>11 client's best interest, true?</p> <p>12 A. <b>True.</b></p> <p>13 Q. And, in fact, whether you sent them to a chiro or</p> <p>14 a medical doctor or whatever it is or just kept</p> <p>15 them with who they were, that was based on each</p> <p>16 individual conversation with each individual</p> <p>17 client, fair?</p> <p>18 A. <b>Fair.</b></p> <p>19 Q. You'd have to look at the notes and talk to the</p> <p>20 client and talk to you to find out how those</p> <p>21 conversations went?</p> <p>22 A. <b>I would, yes.</b></p> <p>23 Q. Okay. Pretty much no two are exactly alike, are</p> <p>24 they?</p> <p>25 A. <b>And of course they're not exactly alike, but, you</b></p>	244	<p>1 your doctor's orders. Why did you say that?</p> <p>2 A. <b>Evidentiary purposes. Really that's mostly what</b></p> <p>3 <b>I'm concerned about always is that when the time</b></p> <p>4 <b>comes to settle their case, that I have ammo to</b></p> <p>5 <b>get it settled. So if they didn't go to the</b></p> <p>6 <b>doctor and they're getting a crappy offer, I can</b></p> <p>7 <b>say, look, I told you you were suppose to go to</b></p> <p>8 <b>the doctor, so...</b></p> <p>9 Q. Now, you wouldn't tell them that unless the</p> <p>10 doctor had wanted them to go, fair?</p> <p>11 A. <b>Well, that's why I said follow your doctor's</b></p> <p>12 <b>advice. Tell your doctor -- I mean, typically</b></p> <p>13 <b>that's very similar to what I said to virtually</b></p> <p>14 <b>everyone, tell your doctor everything that's</b></p> <p>15 <b>bothering you, even if it's minor, because you</b></p> <p>16 <b>don't know what the future holds. Perhaps that</b></p> <p>17 <b>minor thing lasts forever. And the things that</b></p> <p>18 <b>bother you today get better quickly -- or things</b></p> <p>19 <b>that bother you most today get better quickly,</b></p> <p>20 <b>and this little issue you have with your elbow</b></p> <p>21 <b>that lasts for six months. So tell the doctor</b></p> <p>22 <b>everything that's bothering you. It gets better</b></p> <p>23 <b>quickly, that's terrific for you. If it doesn't,</b></p> <p>24 <b>you're protected from an evidentiary standpoint</b></p> <p>25 <b>because there's a record of that part of your</b></p>

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1 for very long when I left Slater & Zurz. And I  
 2 really didn't want to do business with Town &  
 3 Country because they were competitors with  
 4 Columbus Injury who had been very friendly to me  
 5 for a much longer period of time.  
 6 Q. So it wasn't that you didn't want to do business  
 7 with Town & Country because you thought they  
 8 wouldn't treat your clients well, it's that you  
 9 didn't want to ruin the relationship with the  
 10 Columbus chiropractic firm?  
 11 A. **Right.**  
 12 Q. Okay. And Town & Country, did you promise them  
 13 anything?  
 14 A. **That I would not embarrass them.**  
 15 Q. Did you --  
 16 A. **And I returned their clients phone calls and that**  
 17 **I would reflect well on them.**  
 18 Q. You'd take good legal care of their clients?  
 19 A. **Yes.**  
 20 Q. And that's why they sent you cases?  
 21 A. **Yes, I think so.**  
 22 Q. And did you ever tell Town & Country, for  
 23 example, I'll make sure your bills get paid?  
 24 A. **That -- yeah. I mean, not that I'm going to make**  
 25 **sure, but, you know, make representations that**

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1 **I'm going to work hard if there's money here, you**  
 2 **know, we're going to cover it, and do what we can**  
 3 **to make sure that your bills do get paid.**  
 4 Q. That's not a quid pro quo, is it? Do you think  
 5 you were involved in a quid pro quo with Town &  
 6 Country when you were at Slater & Zurz?  
 7 A. **No, I don't.**  
 8 Q. Okay. That's proper, isn't it, that if the care  
 9 is reasonable and necessary you're going to try  
 10 to get it reimbursed by the insurance company?  
 11 A. **Sure.**  
 12 Q. Okay. You weren't doing anything improper when  
 13 you dealt with Town & Country, were you?  
 14 A. **No.**  
 15 Q. Okay. You never had an agreement with Town &  
 16 Country of, any referrals I do get, even though I  
 17 do get many, I'll send them to you if you send me  
 18 cases?  
 19 A. **An agreement, no.**  
 20 Q. You hesitated.  
 21 A. **Well, sure. Because there's an expectation.**  
 22 Q. From Town & Country?  
 23 A. **Yeah. From Town & Country. Because, you know,**  
 24 **referrals are valuable. You know, the average**  
 25 **chiropractic bill is whatever, so say, for**

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1 **example, the average reimbursement on a**  
 2 **soft-tissue chiropractic case, the average**  
 3 **reimbursement to the chiropractor is 3,500 bucks.**  
 4 **So if I can give you -- for every one I give you**  
 5 **you make \$3,500, those are valuable.**  
 6 **And like I said I believe that's -- well,**  
 7 **that's what I was told why I was getting sort of**  
 8 **cut out of the Columbus Injury ones, certainly**  
 9 **minimize, if not cut out, but it was less.**  
 10 Q. You though sent clients to Town & Country  
 11 sometimes?  
 12 A. **I probably did.**  
 13 Q. Because you thought they'd give them good  
 14 chiropractic care, true?  
 15 A. **Because I thought they'd give good chiropractic**  
 16 **care and they're in the neighborhood and they're**  
 17 **going to be happy with us.**  
 18 Q. Okay. So --  
 19 A. **And there was definitely a benefit for me.**  
 20 Q. And you liked doing business with people that  
 21 liked doing business with you, fair?  
 22 A. **For sure.**  
 23 Q. Nothing wrong with that, is there?  
 24 A. **Not that I'm aware there.**  
 25 Q. And you can't control the chiropractor's

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1 expectations, can you?  
 2 A. **No -- well, I mean you can -- I didn't.**  
 3 Q. You didn't promise Town & Country anything, did  
 4 you?  
 5 A. **I did not, no.**  
 6 Q. You never promised them anything at any time, did  
 7 you, other than to take good care of their  
 8 clients?  
 9 A. **Yeah, that's really it.**  
 10 MR. MANNION: Okay. How long have  
 11 we been going?  
 12 THE VIDEOGRAPHER: Just over an  
 13 hour.  
 14 MR. MANNION: Let's take a quick  
 15 break.  
 16 THE VIDEOGRAPHER: Off the record.  
 17 - - - -  
 18 (Thereupon, a recess was had.)  
 19 - - - -  
 20 (Thereupon, Defendant's Exhibit A was marked  
 21 for purposes of identification.)  
 22 - - - -  
 23 Q. I'm going to hand you, Mr. Petti, what's been  
 24 marked as Defendant's Exhibit A for  
 25 identification. I'm sure that you probably don't



281	<p>1 Q. I understand your commentary, but let me --</p> <p>2 A. <b>Right.</b></p> <p>3 Q. -- re-ask the question and if you can just answer</p> <p>4 the question.</p> <p>5 A. <b>I will.</b></p> <p>6 Q. Okay. Because you do know how a deposition</p> <p>7 works?</p> <p>8 A. <b>I do.</b></p> <p>9 Q. Okay.</p> <p>10 A. <b>I'm out of practice though.</b></p> <p>11 Q. How many have you taken do you think?</p> <p>12 A. <b>Hundreds.</b></p> <p>13 Q. How many trials?</p> <p>14 A. <b>Dozen.</b></p> <p>15 Q. So you understand at trial you have to have a</p> <p>16 doctor relate the injuries to the accident --</p> <p>17 A. <b>Yes.</b></p> <p>18 Q. -- true?</p> <p>19 A. <b>That is true.</b></p> <p>20 Q. Okay. That's what the law says, right?</p> <p>21 A. <b>Right.</b></p> <p>22 Q. Now you're not saying that -- well, strike that.</p> <p>23 Do you understand that even on cases that KNR</p> <p>24 referred to Akron Square or other chiropractors</p> <p>25 or other medical providers, that when they</p>	283	<p>1 A. <b>Well, I was there when Brandy said Rob invented</b></p> <p>2 <b>the narrative report thing and that's for</b></p> <p>3 <b>business, number one. I was there when the</b></p> <p>4 <b>chiropractor told me, well, look, if you --</b></p> <p>5 <b>essentially if you want referrals from me, you've</b></p> <p>6 <b>got to get a narrative report every time.</b></p> <p>7 Q. When did he tell you that?</p> <p>8 A. <b>I was still at Slater &amp; Zurz and it was a West</b></p> <p>9 <b>Tusc guy.</b></p> <p>10 Q. Who was that?</p> <p>11 A. <b>I don't remember his name. It wasn't Tassi</b></p> <p>12 <b>because Tassi, he's super tall and skinny. I</b></p> <p>13 <b>remember him. It wasn't Tassi.</b></p> <p>14 Q. Okay.</p> <p>15 A. <b>And I certainly dealt with Akron Square</b></p> <p>16 <b>Chiropractic on many occasions before Floros was</b></p> <p>17 <b>there and I never paid a narrative report to</b></p> <p>18 <b>anyone, and I don't know any other lawyer who</b></p> <p>19 <b>did.</b></p> <p>20 Q. Did you look at all the cases that they had?</p> <p>21 A. <b>Certainly not all of them, no, but I never did</b></p> <p>22 <b>and I don't think John Lynett was paying a</b></p> <p>23 <b>narrative report back then either. KNR -- at</b></p> <p>24 <b>some point it started. What started it?</b></p> <p>25 Q. Well, do you understand that there's lawyers who</p>
282	<p>1 received a narrative report, they paid for that</p> <p>2 narrative report. Did you know that?</p> <p>3 A. <b>I did know that.</b></p> <p>4 Q. In those cases, certainly they weren't paying for</p> <p>5 a referral, were they? They were the ones who</p> <p>6 referred it to the chiropractor?</p> <p>7 A. <b>I look at it more as a global, as a big picture</b></p> <p>8 <b>kind of thing. And in each of those referrals is</b></p> <p>9 <b>worth much more than 200 bucks. So, yeah, you've</b></p> <p>10 <b>got to pay on the ones that you referred us, too.</b></p> <p>11 Q. Well --</p> <p>12 A. <b>And also -- I mean, we wouldn't be here -- there</b></p> <p>13 <b>would be no argument if they weren't paying for a</b></p> <p>14 <b>narrative report on the ones that they referred</b></p> <p>15 <b>over. I mean, then it would be completely</b></p> <p>16 <b>transparent. Now it's just pretty transparent.</b></p> <p>17 Q. In your opinion?</p> <p>18 A. <b>Yeah, certainly my opinion --</b></p> <p>19 Q. Okay.</p> <p>20 A. <b>-- well, I suspect more, other people know.</b></p> <p>21 Q. Well, that's not -- I'm saying it's in your</p> <p>22 opinion -- you weren't there to have the</p> <p>23 discussions, to hear the discussions between the</p> <p>24 chiropractor and Mr. Nestico and Brandy, were</p> <p>25 you?</p>	284	<p>1 think that it is a good value for \$150 to \$200 to</p> <p>2 get a narrative report?</p> <p>3 A. <b>I would say that that's -- I don't believe them.</b></p> <p>4 <b>Again, it's a kickback and so you --</b></p> <p>5 Q. In your opinion again?</p> <p>6 A. <b>It's not a matter of opinion --</b></p> <p>7 Q. Okay.</p> <p>8 A. <b>-- it's not.</b></p> <p>9 Q. Why don't you listen to the question and answer</p> <p>10 it, would you?</p> <p>11 A. <b>I am.</b></p> <p>12 Q. Okay.</p> <p>13 A. <b>You asked me a question --</b></p> <p>14 Q. You understand --</p> <p>15 A. <b>-- you said in my opinion and I answered --</b></p> <p>16 Q. -- do you understand -- no, no, that's not what I</p> <p>17 asked. I said do you understand that there's</p> <p>18 attorneys who in their professional judgement</p> <p>19 having a narrative report from a chiropractor or</p> <p>20 a medical doctor causally relating the injuries</p> <p>21 to the accident is valuable. Do you understand</p> <p>22 that?</p> <p>23 A. <b>Are you speaking about the narrative reports that</b></p> <p>24 <b>Dr. Floros and the Plambeck doctors create on</b></p> <p>25 <b>every single case or virtually every single case?</b></p>



<p style="text-align: right;">309</p> <p>1 correct?</p> <p>2 A. <b>Well, you wouldn't order it unless you determine</b></p> <p>3 <b>it has value.</b></p> <p>4 Q. Okay. Well, why don't you listen to my question.</p> <p>5 A. <b>Isn't that it?</b></p> <p>6 Q. No.</p> <p>7 A. <b>Oh.</b></p> <p>8 Q. My question to you was: The value of the</p> <p>9 report --</p> <p>10 A. <b>Uh-huh.</b></p> <p>11 Q. -- whether that report has any value, whether</p> <p>12 it's worth 150, 200, 500, whatever it's worth --</p> <p>13 A. <b>Uh-huh.</b></p> <p>14 Q. -- you have to look at the individual case and</p> <p>15 all those factors, true?</p> <p>16 A. <b>But you're presupposing that it has to have a</b></p> <p>17 <b>narrative report and cases don't, so I'm not -- I</b></p> <p>18 <b>don't understand the points of the question.</b></p> <p>19 Q. No, you're just arguing with me.</p> <p>20 A. <b>No, I'm not trying to --</b></p> <p>21 Q. If there's a narrative report in a case --</p> <p>22 A. <b>Uh-huh.</b></p> <p>23 Q. -- whether it's from a medical doctor or --</p> <p>24 A. <b>Okay. So we're assuming --</b></p> <p>25 Q. -- a chiropractor --</p>	<p style="text-align: right;">311</p> <p>1 A. <b>Right. That's if -- one of the bases for</b></p> <p>2 <b>requesting a narrative report is if you -- you</b></p> <p>3 <b>know, if there's going to be future treatment,</b></p> <p>4 <b>that should be addressed.</b></p> <p>5 Q. There were actually some claims examiners who</p> <p>6 needed and asked for a report causally relating</p> <p>7 injuries, true?</p> <p>8 A. <b>In certain cases, yeah.</b></p> <p>9 Q. And you'd have to look at that individual case to</p> <p>10 determine whether they asked, true?</p> <p>11 A. <b>Yeah.</b></p> <p>12 Q. And -- now, any of the cases that you inherited</p> <p>13 with narrative reports, did you go back and ask</p> <p>14 the lawyer whether or not they thought the report</p> <p>15 had value?</p> <p>16 A. <b>No. No.</b></p> <p>17 Q. Did you go through and search through the records</p> <p>18 of each of those cases and compare what was in</p> <p>19 the report to the records on each --</p> <p>20 A. <b>No.</b></p> <p>21 Q. -- of those cases?</p> <p>22 A. <b>No. The narrative reports were essentially</b></p> <p>23 <b>useless to me.</b></p> <p>24 Q. That's not what I asked.</p> <p>25 A. <b>But that's why I didn't look at them.</b></p>
<p style="text-align: right;">310</p> <p>1 A. <b>-- there is one?</b></p> <p>2 Q. -- or any medical provider --</p> <p>3 A. <b>Okay.</b></p> <p>4 Q. -- to determine the value of that report --</p> <p>5 A. <b>Okay.</b></p> <p>6 Q. -- you'd have to look at that individual case,</p> <p>7 fair?</p> <p>8 A. <b>Yeah, that's fair. Assuming that there is one.</b></p> <p>9 Q. Okay. And you'd have to look at preexisting</p> <p>10 injuries is one thing you'd look at, true?</p> <p>11 A. <b>Yes.</b></p> <p>12 Q. You'd have to look at whether there was</p> <p>13 significant future pain and suffering that you</p> <p>14 might expect or not and whether it was causally</p> <p>15 related to the accident, fair?</p> <p>16 A. <b>Fair.</b></p> <p>17 Q. There may be injuries that the insurance company</p> <p>18 is saying was or not related to this accident and</p> <p>19 you'd have to see if the report addressed those</p> <p>20 issues, fair?</p> <p>21 A. <b>That is fair.</b></p> <p>22 Q. There might be future care and cost for future</p> <p>23 care that aren't necessarily in the medical</p> <p>24 record, but that might be in the report, true,</p> <p>25 and you'd have to look at that?</p>	<p style="text-align: right;">312</p> <p>1 Q. I didn't ask you why you didn't look.</p> <p>2 A. <b>I'm just telling you, isn't that helpful?</b></p> <p>3 Q. Well, if I ask that, answer it.</p> <p>4 My question to you is: Did you go back and</p> <p>5 compare --</p> <p>6 A. <b>I answered it, no.</b></p> <p>7 Q. Let me finish.</p> <p>8 A. <b>Oh.</b></p> <p>9 Q. Did you go back and compare the narrative report</p> <p>10 to the medical records in those cases you</p> <p>11 inherited?</p> <p>12 A. <b>No.</b></p> <p>13 Q. So you can't sit here and tell me whether those</p> <p>14 narrative reports contained information not in</p> <p>15 the medical records or not, can you?</p> <p>16 A. <b>I didn't do it in every case. And none of the</b></p> <p>17 <b>ones that I looked at did I ever find anything</b></p> <p>18 <b>different.</b></p> <p>19 Q. Well, in the medical records it usually doesn't</p> <p>20 say "causally-related", does it?</p> <p>21 A. <b>It doesn't.</b></p> <p>22 Q. Okay. That was in every report though, wasn't</p> <p>23 it?</p> <p>24 A. <b>I don't know.</b></p> <p>25 Q. You don't recall?</p>



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1 Q. "It is a cost of preparing the demand package to  
 2 facilitate a settlement and/or in anticipation of  
 3 litigation." Did I read that correctly?  
 4 A. **Yes, I believe so.**  
 5 Q. Okay. And are you saying that's a lie?  
 6 A. **No, I think that's true.**  
 7 Q. "It is not part of the health care treatment my  
 8 client received, and therefore is a separate  
 9 expense of litigation." Is that true?  
 10 A. **Yeah, it's certainly not part of the health care.**  
 11 Q. Okay. In paragraph ten, "In the normal course of  
 12 business, I request written narrative reports  
 13 from Minas Floros, DC (and other health  
 14 providers) once the physician has completed  
 15 treating one of my clients." Did I read that  
 16 correctly?  
 17 A. **Yes.**  
 18 Q. And are you aware that at KNR those narrative  
 19 reports are never requested until the patient has  
 20 done -- has completed their treatment with Dr.  
 21 Floros or the medical providers?  
 22 A. **I was specifically told otherwise by Megan  
 23 Jennings in the incident that I've described a  
 24 couple times now. She said it happens  
 25 automatically, immediately, as soon as the case**

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1 **comes in.**  
 2 Q. Okay. Do you know of a single case where the  
 3 care wasn't done yet and Dr. Floros just sent in  
 4 a report without a request?  
 5 A. **No. Like I said, I never requested them, so that  
 6 was not my responsibility to, A, see the report  
 7 when it came in or, B, request it, or, C, pay  
 8 him. So I had nothing to do with that.**  
 9 Q. You're telling me things that Megan Jennings  
 10 said, I'm asking: Do you know whether there was  
 11 a specific file where Dr. Floros just sent in a  
 12 narrative report without being requested for one?  
 13 A. **By the lawyer?**  
 14 Q. Yeah.  
 15 A. **Yeah, that case that I mentioned to her. Because  
 16 I never requested it, but it was there, included  
 17 the charge.**  
 18 Q. My questions is: Do you know whether there was a  
 19 request to Dr. Floros for the report though? Do  
 20 you know that?  
 21 A. **I believe Megan requested it --**  
 22 Q. Okay. And --  
 23 A. **-- but I don't know when.**  
 24 Q. Well, essentially she's working for you doing  
 25 that, right? She's your paralegal working on the

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1 case.  
 2 A. **She was not working for me.**  
 3 Q. Well, she was assisting you in representing the  
 4 client, fair?  
 5 A. **Correct. But as I mentioned -- and I'm picking  
 6 on Megan, she was fine enough, but it was clear  
 7 that she worked for them --**  
 8 Q. Okay. And in --  
 9 A. **-- not for me.**  
 10 Q. -- that particular case you don't know whether it  
 11 got charged to the client, fair?  
 12 A. **That's fair. That's fair. I got fired before  
 13 then.**  
 14 Q. Do you know of a single case at KNR where Dr.  
 15 Floros was paid for a narrative report without  
 16 preparing it or before it was requested and it  
 17 got charged to a client? Any?  
 18 A. **No, I don't know that.**  
 19 Q. Okay. In paragraph 10, John Lynett testifies --  
 20 A. **Uh-huh.**  
 21 Q. -- "I find a narrative report to be useful in  
 22 negotiating with the claims adjuster."  
 23 A. **Uh-huh.**  
 24 Q. Did I read that correctly?  
 25 A. **Yep. Yes, you did.**

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1 Q. And different attorneys negotiate differently  
 2 with insurance companies, true?  
 3 A. **That is true.**  
 4 Q. There's no one way to do it, is there?  
 5 A. **Not that I'm aware of.**  
 6 Q. If John Lynett believes that a narrative report  
 7 is useful in negotiating with a claims adjuster,  
 8 that's his professional judgement, isn't it?  
 9 A. **That is.**  
 10 Q. "This report explains the causal relationship  
 11 between the motor vehicle accident in which my  
 12 client was involved and the injuries sustained."  
 13 Did I read that correctly?  
 14 A. **You did.**  
 15 Q. And if he believes that that's useful, he should  
 16 do it, shouldn't he?  
 17 A. **If he really believes it's useful, he should do  
 18 it every single time.**  
 19 Q. Exactly.  
 20 A. **Does he?**  
 21 Q. The plain language used by the health care  
 22 provider in the narrative report makes it easy  
 23 for a layperson to understand what caused the  
 24 injury, what the injury was, what treatment was  
 25 administered, what treatment was administered,

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1 and what the patient's prognosis is." Did I read  
 2 that correctly?  
 3 A. **Whether it makes it easy for them is a question**  
 4 **for a layperson to answer, not for me.**  
 5 Q. Did I read it correctly?  
 6 A. **You did.**  
 7 Q. Okay. And you'd certainly agree that these  
 8 claims people also have many, many files, true?  
 9 A. **True.**  
 10 Q. Some of them have 300, 400 files, right?  
 11 A. **I have no idea, but they frequently complained to**  
 12 **me about how busy they were.**  
 13 Q. And they don't necessarily have time to sort  
 14 through hundreds of pages of records, do they?  
 15 A. **I'm not guessing about what they have time for.**  
 16 Q. You never wanted to find out how claims adjusters  
 17 look at cases and analyze cases?  
 18 A. **I've spoken to some. I mean, if you're asking**  
 19 **about that, I mean, they told me that these**  
 20 **reports are useless.**  
 21 Q. Who? Who told you that?  
 22 A. **Kathy Thomas at Westfield.**  
 23 Q. Okay. Anybody else?  
 24 A. **Not -- I can't recall any other names.**  
 25 Q. Okay. Because in that e-mail you had, you seem

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1 to make it sound like there were others?  
 2 A. **Yeah. Frequently -- not frequently, but more**  
 3 **than once.**  
 4 Q. Well, Kathy Thomas doesn't speak for all claims  
 5 people, does she?  
 6 A. **She doesn't, no.**  
 7 Q. She speaks for Kathy Thomas, true?  
 8 A. **Yeah, yeah. Fair enough. And I think Kathy**  
 9 **Thomas is the name. It's been a long time.**  
 10 Q. So if an insurance claims person doesn't have  
 11 time to look through the records and look through  
 12 and see what the injuries were and whether they  
 13 were related, doesn't a one or two-page report  
 14 help them do that?  
 15 A. **If what you're saying is true and I don't know**  
 16 **that it is, then it might.**  
 17 Q. Okay. Did you ever take time to find out?  
 18 A. **By doing what?**  
 19 Q. I'm asking you: Did you ever take any time to  
 20 find out?  
 21 A. **To find out what?**  
 22 Q. Did you ever ask any of the claims people?  
 23 A. **If it helps them? Yeah, I told you Kathy Thomas**  
 24 **--**  
 25 Q. No, no, that's not --

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1 A. **-- said it was useless.**  
 2 Q. -- what I asked. About whether they had time to  
 3 sort through --  
 4 A. **No, I didn't ask them about their schedule**  
 5 **ordinarily. I did hear them complain about the**  
 6 **fact that they were busy though.**  
 7 Q. And --  
 8 A. **But I do think their employer expected them to**  
 9 **look at the stuff closely. I mean, if they were**  
 10 **sitting here answering questions under oath, that**  
 11 **they would probably say, yeah, I did look at**  
 12 **everything that came through, all the records and**  
 13 **bills.**  
 14 Q. And the claims people, they have their files  
 15 audited, don't they?  
 16 A. **I believe so.**  
 17 Q. And, in fact, when they're looking to see what  
 18 they paid, they're looking to see, hey, were  
 19 these injuries reasonably related to the  
 20 accident, that's one of the things that their  
 21 managers and other people look at, isn't it?  
 22 A. **I don't know.**  
 23 Q. You don't know that?  
 24 A. **No, I don't know how they get audited.**  
 25 Q. Okay. So then you may not know for any one

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1 individual claims person whether these are  
 2 required for their files or not?  
 3 A. **Only if they asked me. And like I said, I never**  
 4 **gave them and nobody ever asked for a Plambeck**  
 5 **narrative report from me.**  
 6 Q. Do you have any explanation for why some  
 7 insurance claims people would send a letter  
 8 directly to lawyers at KNR saying, hey, do you  
 9 have a report causally relating these injuries?  
 10 A. **From a Floros case?**  
 11 Q. From any case.  
 12 A. **Sure. If the circumstances of the accident were**  
 13 **such that they doubted anybody was hurt, they'd**  
 14 **say, look, you need to tell us, you know, how**  
 15 **this happened. You know, this is a**  
 16 **one-mile-an-hour accident, I need an explanation.**  
 17 Q. So you'd have to look at each individual case to  
 18 see whether a report was necessary?  
 19 A. **Yeah. There's no way to do it on virtually every**  
 20 **one of them.**  
 21 Q. You just can't blanketly say none of the cases  
 22 need reports, you can't say that, can you?  
 23 A. **Right, that's fair.**  
 24 Q. And again, you'd have to look at the medical  
 25 records, talk to the attorney who was involved in



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1 the case, talk to the claims examiner, there's  
 2 all sorts of things you'd have to look at, fair?  
 3 **A. That's, generally speaking, fair.**  
 4 MR. MANNION: Can I see some of  
 5 those records and narratives?  
 6 MR. KEDIR: Do you want both of  
 7 them?  
 8 MR. MANNION: Yeah, any of them.  
 9 BY MR. MANNION:  
 10 **Q.** Now, one of the things you told me -- or excuse  
 11 me -- that you put in your affidavit, Mr. Petti,  
 12 is it's your understanding that the decision as  
 13 to whether a narrative report is worthwhile is  
 14 the attorney's to make upon consultation with the  
 15 client?  
 16 **A. Right.**  
 17 **Q.** Now, there's no requirement that you discuss  
 18 every expense with the client, is there?  
 19 **A. No, there's not.**  
 20 **Q.** That's up to the attorney in his own --  
 21 **A. Right.**  
 22 **Q.** -- professional judgement, true?  
 23 **A. Yeah.**  
 24 **Q.** And if the attorney determines in his own  
 25 professional judgment that a narrative report is

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1 worthwhile to the client, by signing the  
 2 contingency fee agreement, the client is giving  
 3 them the authority to do that, true?  
 4 **A. That is true.**  
 5 **Q.** So another thing that you said in your  
 6 affidavit --  
 7 **A. Uh-huh.**  
 8 **Q.** -- only proper -- strike that.  
 9 In your affidavit you stated that narratives  
 10 are only properly used to allow a medical  
 11 professional to explain why the plaintiff's  
 12 injuries are different or more challenging than  
 13 might appear from the contents of the medical  
 14 records and provide information not provided in  
 15 the medical records. Do you recall that?  
 16 **A. I do.**  
 17 **Q.** Okay. So what else would be needed to be  
 18 valuable in a report? I mean, what are the  
 19 things that would be valuable to you if they were  
 20 in a report?  
 21 **A. I would -- if, as I described, if the injuries**  
 22 **were different than what you would anticipate**  
 23 **based on the accident. So you get a very**  
 24 **low-speed collision, a one-mile-an-hour**  
 25 **collision, and six months of chiropractic care,**

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1 **you have no chance really of settling that case,**  
 2 **but a narrative report might help.**  
 3 **An orthopedic case you've got a Lisfranc**  
 4 **fracture on a 18-year-old girl, what's her future**  
 5 **going to be with respect to that fracture? Can**  
 6 **we link the cost of future medical treatment?**  
 7 **How likely is future medical treatment? Is that**  
 8 **bone going to devascularize and die? What's your**  
 9 **opinion, doctor? Put it in writing for me.**  
 10 **So that's what I was getting at in the**  
 11 **affidavit. More complex issues than I've got a**  
 12 **sore neck following this automobile accident**  
 13 **case.**  
 14 **Q.** When it's providing information that's not in the  
 15 medical records that increases the value of the  
 16 case, that's a good thing, fair?  
 17 **A. Yes, yes.**  
 18 MR. MANNION: What am I up to? D?  
 19 E? Exhibits -- do you remember?  
 20 **A. Oh, I don't know.**  
 21 THE REPORTER: He's got them right  
 22 here.  
 23 MR. MANNION: I can't see that  
 24 far.  
 25 THE WITNESS: C. C is Lynett's

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1 affidavit so if that's next.  
 2 - - - -  
 3 (Thereupon, Defendant's Exhibit D was marked  
 4 for purposes of identification.)  
 5 - - - -  
 6 **Q.** I'm going to hand you what's been marked Exhibit  
 7 D.  
 8 **A. Uh-huh.**  
 9 **Q.** Now, I'd like you to tell me --  
 10 MR. PATTAKOS: I'm going to mark  
 11 this as confidential under the protective  
 12 order.  
 13 MR. MANNION: All this is, we've  
 14 agreed to that --  
 15 MR. PATTAKOS: Okay.  
 16 MR. MANNION: -- until a week  
 17 after the -- right?  
 18 MR. PATTAKOS: Okay.  
 19 MR. MANNION: No, I mean is that  
 20 correct? I want to make sure --  
 21 MR. PATTAKOS: Yeah, that's fine.  
 22 MR. MANNION: Okay.  
 23 (Unintelligible).  
 24 MR. MANNION: Well, we all have a  
 25 week after the transcript, too.

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1 A. **No, I did not see that.**

2 Q. Or the risk factors for long-term symptoms, does

3 it?

4 A. **Nope, I didn't see it.**

5 Q. Okay. Do you know anything about Thera Reid's

6 medical treatment and her course of treatment

7 with Dr. Floros or anybody else other than what

8 you just looked at?

9 A. **No, I don't know anything about Thera Reid that's**

10 **not on these papers.**

11 Q. Okay. Do you think it's helpful to have an

12 insurance company understand that there's going

13 to be future costs of \$5,000?

14 A. **It depends on the nature of those costs. I mean,**

15 **as a practical matter, if the chiropractor is**

16 **saying, oh, my gosh, your neck is sore and based**

17 **on my experience you're going to have to come**

18 **back five to seven times a year for three to four**

19 **visits each and that's going to cost this, then,**

20 **no, it's probably not helpful.**

21 **If it's, you know, that you had an orthopedic**

22 **injury like a torn meniscus and you had surgery**

23 **as a result of that and that may stiffen up a**

24 **couple times, then, yes, that's helpful.**

25 Q. Do you know who the claims examiners was in

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1 Monique Norris' case?

2 A. **No, of course not. How would I know that?**

3 Q. And do you know how it is that Dr. Floros decided

4 to put those specific types of comments in Thera

5 Reid's report as opposed to Monique Norris'

6 report or somebody else's report?

7 A. **No, I don't.**

8 Q. It's something that would have been gleaned

9 factually from the medical records as far as his

10 treatment and then he had to apply his opinion to

11 those as to her future, true?

12 A. **Right. Yes, I assume so. I don't know how he**

13 **does it.**

14 Q. You don't know how long it took him, do you?

15 A. **No. No, I don't.**

16 - - - -

17 (Thereupon, Defendant's Exhibit E was marked

18 for purposes of identification.)

19 - - - -

20 Q. Okay. Showing you a copy of Exhibit E. And you

21 certainly never seen this report before, have

22 you?

23 MR. PATTAKOS: Objection. This is

24 the same report that I already examined

25 him.

335

1 MR. MANNION: Okay. You're right.

2 Q. But before today you never saw this report, fair?

3 A. **That's fair, yes.**

4 Q. Okay. And, in fact, this has, if you look down

5 at two paragraphs from the bottom where it

6 starts, "Thera Reid sustained, joint, disc and

7 ligamentous injury." Do you see that?

8 A. **No, I'm not looking there.**

9 Q. Four lines up from the bottom.

10 A. **Four lines, yes, I see it.**

11 Q. And it says, "The cost to stabilize her condition

12 over the next year is approximately \$5,000." Did

13 you see that?

14 A. **Yes, I did.**

15 Q. And that's information you didn't find in the

16 medical records, true?

17 A. **That is true.**

18 Q. And if you look at the next line where it talks

19 about reasonable chiropractic probability and a

20 necessity as a result, that wasn't in the medical

21 records, was it?

22 A. **It wasn't, no.**

23 Q. Okay. The information --

24 A. **Not that I saw.**

25 Q. -- regarding -- information regarding the

336

1 research was not in the records, was it?

2 A. **No.**

3 Q. Okay. If you look up here about the multiple

4 risk factors were present in the case of Thera

5 Reid, right under prognosis/discussion. Do you

6 see that?

7 A. **Yeah, her gender?**

8 Q. No.

9 A. **Well, that was --**

10 Q. "Thera Reid continues to be symptomatic." The

11 next line, multiple risk factors were present in

12 the case of Thera Reid --

13 A. **Right.**

14 Q. -- these risk factors will serve to significantly

15 lower -- and I go on -- we talked about this --

16 A. **And that's where it mentioned gender, risk**

17 **factors for acute injury, colon, and then he**

18 **apparently lists them, female --**

19 Q. Well, you're not --

20 A. **-- poor head restraint --**

21 Q. -- you're not there yet. You skipped a paragraph

22 from me. I'm still reading the multiple risk

23 factors were present in the case of Thera Reid --

24 A. **Right.**

25 Q. -- these risk factors will serve to significantly



337

1 lower the threshold for injury and increase the  
 2 probability for long-term symptoms.  
 3 That wasn't in the records, was it?  
 4 A. **Not that I saw.**  
 5 Q. And the next line wasn't in the records either,  
 6 was it?  
 7 A. **Not that I saw.**  
 8 Q. Those -- you don't know that he cut and paste  
 9 those from anywhere, do you?  
 10 A. **No. Like I said, I didn't know how he did it.**  
 11 Q. Okay. You're not -- you can't sit here and tell  
 12 me how the claims examiner valued this report,  
 13 how the attorney valued this report or what  
 14 impact it had on Thera Reid's case, can you?  
 15 A. **With absolute certainly, no.**  
 16 Q. Well, you can't do it because you weren't there,  
 17 were you?  
 18 A. **That's what -- right. With absolute certainty, I**  
 19 **cannot.**  
 20 Q. Did you talk to the claims examiner?  
 21 A. **Of course not. How would I?**  
 22 Q. Do you know how much the case would have settled  
 23 for without this report?  
 24 A. **No --**  
 25 Q. You don't know, do you?

338

1 A. **-- I don't know how much it settled for with the**  
 2 **report.**  
 3 Q. Okay. And you'd agree that if the attorney on  
 4 this case determined, in his professional  
 5 judgment, that this was a valuable report for the  
 6 client's benefit, then that was up to that  
 7 attorney to make that professional judgment,  
 8 true?  
 9 A. **Yeah, if an individual attorney makes that**  
 10 **decision then they're allowed to do that.**  
 11 Q. These aren't like the reports that you were  
 12 talking about with the future care of 5,000 and  
 13 things of that nature, is it?  
 14 A. **Future care was contained in the other ones.**  
 15 **That --**  
 16 Q. With the cost?  
 17 A. **Yeah. The cost of the future care.**  
 18 Q. And you don't think that's beneficial?  
 19 A. **In most cases, no. In some cases, it is.**  
 20 Q. Okay. You don't know in this case whether it was  
 21 or not, fair?  
 22 A. **Fair.**  
 23 Q. You'd have to look at each individual case to  
 24 determine --  
 25 A. **My objection --**

339

1 Q. -- whether it was beneficial?  
 2 A. **-- I don't have an objection to narrative**  
 3 **reports. I have an objection to couching them as**  
 4 **a narrative -- couching something else as a**  
 5 **narrative report.**  
 6 Q. Well, you missed my question. This is a  
 7 narrative report, true?  
 8 A. **I know. Like I said, I don't have an objection**  
 9 **to it in general.**  
 10 Q. And to know whether this particular narrative  
 11 report was beneficial or not, you'd have to look  
 12 at this case and all the records and the  
 13 negotiations, true?  
 14 A. **Yeah, that's true.**  
 15 Q. That's true for every case, isn't it?  
 16 A. **It is true.**  
 17 Q. Do you believe you ever committed legal  
 18 malpractice at KNR?  
 19 A. **At KNR, no.**  
 20 Q. Okay. And we don't need to get into it,  
 21 obviously there was one lawsuit you had with  
 22 legal malpractice at Slater & Zurz, true?  
 23 A. **Yeah. We missed a statute.**  
 24 Q. Okay. Would you agree that it's extremely  
 25 beneficial to a client not to have their lawyer

340

1 not miss a statute?  
 2 A. **In this case, speaking frankly, it was probably**  
 3 **the best thing that ever happened to them.**  
 4 Q. They got more money because of that?  
 5 A. **For sure. It was a disputed liability Allstate**  
 6 **case.**  
 7 Q. Okay.  
 8 A. **We 41A'ed it and there were instructions that she**  
 9 **be advised that she needed to find a new lawyer**  
 10 **who would re-file within a year, and we could**  
 11 **find no evidence that we actually sent her that**  
 12 **letter. So factually that's what happened there.**  
 13 **I was the lawyer of record on that.**  
 14 Q. Okay. Generally speaking though, it's not  
 15 beneficial to a client to miss statutes, is it?  
 16 A. **No, you don't want to do that.**  
 17 Q. Okay. If you miss the statute of limitations and  
 18 don't get to file the case whether it's from the  
 19 41A or whether it's the original statute, that  
 20 could have detrimental effects on a client?  
 21 A. **It sure could.**  
 22 Q. I mean, do you think it's beneficial to have  
 23 checks and balances at a law firm to make sure  
 24 you don't miss a statute?  
 25 A. **Yes --**



341

1 Q. Okay.

2 A. -- **you should do that.**

3 Q. Do you think police reports are valuable?

4 A. **Yeah.**

5 Q. What are the value of police reports?

6 A. **I love the crash report. It gives a thumbnail of**

7 **how the accident happened. Whether or not you've**

8 **got a liability dispute. The names of parties.**

9 **It typically has accurate information about who**

10 **the insurer is on there. It will have some**

11 **representation of the severity of the collision.**

12 **So, yeah, I like the police reports.**

13 Q. I want to ask you another question about Thera

14 Reid's report, by the way. Thera Reid testified

15 or a relative or somebody like that said that he

16 thinks this report only had an eighty-some dollar

17 value.

18 Do you have any idea how they would come to

19 that conclusion?

20 A. **No.**

21 Q. Do you have any idea why Thera Reid had the

22 information for that relative in her phone at the

23 deposition and to this date refuses to tell us

24 who it was?

25 A. **No, I don't know.**

342

1 Q. Don't you think that the rules of discovery

2 required her to do that?

3 A. **I'm poor in civil procedures, but I would assume**

4 **-- I don't know.**

5 Q. Okay. Do you think that somebody in California

6 who hasn't looked at all the medical records or

7 notes in negotiations can tell you exactly how

8 much that report is worth?

9 A. **I'm sorry, ask that again.**

10 Q. Sure. Do you think that -- do you think that an

11 individual just looking at the report without

12 looking at the medical records and knowing how

13 the negotiations went and talking to the lawyer

14 and looking through the file, can tell you that

15 that's worth \$86 or whatever dollar value that

16 is?

17 A. **No, I think that's arbitrary. I mean --**

18 Q. You'd have to look at the individual case and

19 talk to all those people to make that

20 determination, true?

21 A. **I would expect so.**

22 Q. And there's times as a lawyer you did things in

23 your professional judgement that you thought

24 would increase the value of the case that didn't?

25 A. **Yeah. Yeah.**

343

1 Q. I mean, it doesn't mean you were wrong or

2 anything of that nature, it's you did what you

3 thought was right, true?

4 A. **Yeah. Again -- yes.**

5 Q. You try to get leverage, so to speak, against the

6 insurance company to get them to settle?

7 A. **It's all about leverage.**

8 Q. Did you ever -- were you ever accused of not

9 providing good representation by any of the

10 clients at KNR?

11 A. **No, I don't think at KNR, no.**

12 Q. And have you ever had a client who was

13 unsatisfied at KNR that talked to somebody about

14 how you handled their --

15 A. **None that I'm aware of.**

16 Q. It's a mere fact that if a client complains that

17 they're unsatisfied doesn't necessarily mean that

18 you did something wrong in the handling of the

19 case, does it?

20 A. **To complain, no. No, no, it doesn't.**

21 Q. Did you ever accuse any of the clients at KNR of

22 lying or not telling the truth?

23 A. **Maybe. I don't specifically remember it.**

24 Q. Do you recall any?

25 A. **No, I don't, but --**

344

1 Q. And generally speaking though you have to take

2 your clients at their word, right?

3 A. **Yeah, you do.**

4 Q. I mean when a client goes to see a chiropractor

5 or a medical doctor, those two are talking about

6 what care they're going to receive, fair?

7 A. **I assume so.**

8 Q. You never got a call at KNR while somebody was at

9 the chiropractors and said, hey, uhm, the doctor

10 says this many visits over this many times, what

11 do you think?

12 A. **Maybe that kind of thing could have happened.**

13 Q. What would you say?

14 A. **It's up to you and the doctor --**

15 Q. Okay.

16 A. **-- keep me out of it.**

17 Q. And you never heard of any of the lawyers at KNR

18 on a call like that, did you?

19 A. **None that I can recall.**

20 Q. Did you ever get any calls from Ghoubrial's

21 office saying, hey, the doctor says I should get

22 injections, should I?

23 A. **No, Ghoubrial would never speak with me.**

24 Q. Well, I mean, I'm talking about whether or not

25 the client called. Did you ever get that kind of

345

1 call?

2 A. **It's possible.**

3 Q. You don't remember any?

4 A. **No, I don't.**

5 Q. You would have told them the same thing, that's

6 between you and the medical doctor?

7 A. **Yes, I would have.**

8 Q. So you don't get along with Ghoubrial? You said

9 he wouldn't call me?

10 A. **No, I don't think he knows me at all --**

11 Q. Okay.

12 A. **-- and the way things were arranged at KNR, I**

13 **mean, Rob and other people talked to doctors, not**

14 **me.**

15 Q. But you don't know that Dr. Ghoubrial ever called

16 Rob Nestico saying what kind of care should I

17 provide a patient?

18 A. **I -- no, I do not know that.**

19 Q. You've never heard anybody even say that, have

20 you?

21 A. **No.**

22 Q. I'm going to show you -- what are we on E?

23 A. **Yes, I believe -- no, F.**

24 Q. F.

25 A. **Yeah. E is Thera Reid.**

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1 - - - -

2 (Thereupon, Defendant's Exhibit F was marked

3 for purposes of identification.)

4 - - - -

5 Q. I just want to make sure we don't have anything

6 more than a first name in here. Ah, son of a

7 gun.

8 Okay. Do you recall --

9 MR. PATTAKOS: I'm going to ask

10 this document be produced once you have a

11 chance to redact it.

12 MR. MANNION: Yeah, I don't have a

13 problem there.

14 MR. PATTAKOS: Okay.

15 MR. MANNION: Yeah. I can produce

16 it now because he knows the client's name.

17 If we agree, we can redact it and we won't

18 say her name --

19 MR. PATTAKOS: That's fine.

20 MR. MANNION: -- other than her

21 first name. Is that fair?

22 MR. PATTAKOS: Yeah, let's do

23 that.

24 MR. MANNION: Anybody have a

25 problem with that?

347

1 MR. RUBIN: No.

2 BY MR. MANNION:

3 Q. Okay. Handing you what's been marked as Exhibit

4 F. I'm not sure if -- and don't say her name out

5 loud, if you don't mind, Mr. Petti. Look this

6 over and see if this refreshes your recollection

7 at all.

8 MR. PATTAKOS: I'm going to object

9 to the whole e-mail chain not being

10 included here too.

11 MR. MANNION: I don't know what

12 you're talking about --

13 MR. PATTAKOS: Oh, I'm sorry.

14 MR. MANNION: -- I gave you two

15 pages.

16 MR. PATTAKOS: Sorry, Tom.

17 A. **Uh-huh.**

18 Q. Apparently there was a complaint by a KNR client

19 about your communications with them?

20 A. **By complaint earlier when you asked about**

21 **complaint, I assumed you meant like a bar**

22 **complaint.**

23 Q. Oh, I apologize. I did not, we're not allowed to

24 ask about those.

25 MR. PATTAKOS: Tom, I don't care

348

1 if you want to ask about bar complaints.

2 A. **Yeah, I don't care.**

3 MR. MANNION: We'd violate the

4 order of the case.

5 MR. PATTAKOS: I don't really

6 think so.

7 A. **As far as dissatisfied clients, there were**

8 **probably dozens.**

9 Q. Okay. It doesn't mean the clients were always

10 right, fair?

11 A. **Fair. Sure.**

12 Q. Now in this --

13 A. **I have no specific recollection of this.**

14 Q. If you look at this one though --

15 A. **Uh-huh.**

16 Q. -- your response you say I'm not convinced Ms.

17 Blank is telling you the truth. Do you see that?

18 A. **Yes.**

19 Q. Then if you go down to the first sentence in the

20 second paragraph, it says to pretend like she

21 didn't understand the Medicaid issue --

22 A. **Uh-huh.**

23 Q. -- is a good example of you not getting the

24 truth. Meaning from the client, true?

25 A. **Right. That she went above my head and said,**

413

1 A. **I did know about it because I -- and I described**  
 2 **this already, I'm not trying to be evasive or**  
 3 **difficult, it seems as though you are, I said I**  
 4 **made arrangements for it. I tried to talk the**  
 5 **guy out of it, I made arrangements for it. I**  
 6 **knew it was there, but at that point you've got**  
 7 **400 or 500 clients who are calling you all the**  
 8 **time, but you do it, the paperwork comes in, you**  
 9 **shuffle it across and that's what happened.**  
 10 Q. But you do agree it was your duty to crosscheck  
 11 the expenses on the settlement memorandum, true?  
 12 A. **Yes. It's her duty to put it in there so I can**  
 13 **see it so I don't have --**  
 14 Q. It's your duty to crosscheck it?  
 15 A. **And then my duty to look at what she put in**  
 16 **there. And she didn't put it in there is what**  
 17 **I'm trying to say. At least that's the way I**  
 18 **remember it and that's what this seems to**  
 19 **support --**  
 20 Q. But it is your --  
 21 A. -- **but that's a minor point --**  
 22 Q. -- but it is your duty to crosscheck those  
 23 expenses, true?  
 24 A. **Right, yes. And it appears I did that.**  
 25 Q. And that means all the expenses on the settlement

414

1 memorandum, true?  
 2 A. **Yes. Yes.**  
 3 MR. MANNION: Okay. I don't have  
 4 anything further.  
 5 - - -  
 6 EXAMINATION OF GARY M. PETTI  
 7 BY MR. RUBIN:  
 8 Q. All right? Sir, my name is Ryan Rubin. I  
 9 represent Dr. Ghoubrial. I just have some  
 10 follow-up questions for you, okay?  
 11 A. **Sure thing.**  
 12 Q. I think I heard you testify earlier that many  
 13 clients, especially for those without insurance,  
 14 it could be hard for them to find a medical  
 15 doctor?  
 16 A. **That's right.**  
 17 Q. You met Dr. Ghoubrial when you worked at Slater &  
 18 Zurz?  
 19 A. **Yes.**  
 20 Q. You never personally referred a client to Dr.  
 21 Ghoubrial?  
 22 A. **I don't think so.**  
 23 Q. And to your knowledge, Dr. Ghoubrial provided  
 24 care to some of your clients at Slater & Zurz?  
 25 A. **I don't think any of my personal clients. Slater**

415

1 **& Zurz clients, yes. Gary Petti clients, no.**  
 2 Q. To your knowledge, was Dr. Ghoubrial involved in  
 3 treating any of your clients at KNR?  
 4 A. **Don't have any independent recollection of that.**  
 5 Q. In the nine or so months that you worked at KNR,  
 6 you don't personally recall reviewing any  
 7 settlement memorandum or charges from Dr.  
 8 Ghoubrial, do you?  
 9 A. **I don't have any specific recollection of it, no.**  
 10 Q. But to your knowledge, Dr. Ghoubrial would  
 11 provide care and treatment to patients who did  
 12 not have insurance?  
 13 A. **To my recollection, yes.**  
 14 Q. And referrals to Dr. Ghoubrial, to your  
 15 knowledge, came from either chiropractors or  
 16 other medical providers?  
 17 A. **To my knowledge. I know I never referred**  
 18 **anything to him.**  
 19 Q. And you are not personally aware of any direct  
 20 referral from KNR to Dr. Ghoubrial, correct?  
 21 A. **I'm not personally aware of such a referral.**  
 22 Q. Most of your work at KNR involved clients seeing  
 23 chiropractors, not doctors like Dr. Ghoubrial?  
 24 A. **That's my recollection.**  
 25 Q. And you'd agree of course you're not a doctor or

416

1 a chiropractor?  
 2 A. **That's correct.**  
 3 Q. And you're not qualified to offer any medical  
 4 opinions or chiropractic opinions?  
 5 A. **I'm not qualified to do that.**  
 6 Q. I believe you said your caseload was typically  
 7 400 or 500 cases with KNR?  
 8 A. **An absolute guess. A lot.**  
 9 Q. Are you aware, given your years of work in the  
 10 personal injury industry, that insurance company  
 11 adjusters would likely often times even have far  
 12 more than 400 or 500 cases on their dockets?  
 13 A. **I never heard anybody say that. And I did have a**  
 14 **couple of conversations with claims**  
 15 **representatives, typically downtime at a**  
 16 **mediation or something like that, they'd be**  
 17 **complaining about their caseload. And honestly**  
 18 **my recollection is that none of them ever had as**  
 19 **many cases as I thought I had.**  
 20 Q. But is it your recollection that many that did  
 21 motor vehicle accidents did at least have a  
 22 significant caseload?  
 23 A. **They -- yeah, I believe they're busy.**  
 24 Q. Given your interactions with insurance adjusters  
 25 over the years, do you generally know that these



<p style="text-align: right;">417</p> <p>1 insurance adjusters are looking to verify certain 2 facts before they put money on a case? 3 A. <b>Yeah.</b> 4 Q. Like, for example, how the accident occurred, 5 they want to know that? 6 A. <b>Sure.</b> 7 Q. They want to know whether or not their insured is 8 negligent? 9 A. <b>Right.</b> 10 Q. Whether or not their insured's negligence caused 11 an injury? 12 A. <b>Yes.</b> 13 Q. Insurance adjusters then want to potentially look 14 at what the magnitude of damage may be? 15 A. <b>Yes.</b> 16 Q. And then in support of damages, insurance 17 adjusters, it's typically important, to your 18 knowledge, for them to get medical records and 19 medical bills? 20 A. <b>Yes, absolutely.</b> 21 Q. Once insurance adjusters get proof that they 22 need, to your knowledge, they then set a reserve 23 on how much money they need to potentially settle 24 a case? 25 A. <b>That's my understanding.</b></p>	<p style="text-align: right;">419</p> <p>1 report? 2 A. <b>Frequently.</b> 3 Q. Have you ever paid more than \$1,000 for an expert 4 report? 5 A. <b>Yes. Well, the firm has.</b> 6 Q. How about has Slater &amp; Zurz ever paid more than 7 2,000 for an expert report? 8 A. <b>On one of my cases probably, but I don't remember 9 specifically.</b> 10 Q. Mr. Mannion previously gave you a stack of 11 medical records related to Thera Reid? 12 A. <b>I seem to recall that.</b> 13 MR. MANNION: You said the firm 14 did it. 15 Q. Let me jump back to a prior question. 16 When you were at Slater &amp; Zurz and the firm 17 spent several hundred or several thousand dollars 18 on expert reports, did they charge that to the 19 client as an expense on the case? 20 A. <b>Yeah, they charge it back to the extent they 21 recover -- that we recover -- we did recover. 22 They didn't -- sometimes they would -- their 23 contingency fee contract had a provision in it 24 where they -- in litigation they could require 25 the client to pay it in the cost of the</b></p>
<p style="text-align: right;">418</p> <p>1 Q. And in litigation you know that insurance 2 adjusters often consider whether or not the 3 opposing party, like the plaintiff, has an expert 4 report? 5 A. <b>In litigation -- typically, of course in 6 litigation you're going to require an expert 7 report by the trial order -- by the court's 8 pretrial orders. So I suppose if you didn't have 9 one that would work against you, but typically by 10 the time you get to litigation, you're going to 11 have one. You know you need one.</b> 12 Q. Right. So it's mandatory? 13 A. <b>Yeah. But I'm not looking at it -- and I don't 14 know, I can't speak for everybody, but you're not 15 doing that at that point because your -- it 16 relates to the offer necessarily but because if 17 you don't produce a report, your expert is not 18 going to be able to testify.</b> 19 Q. Do you know whether or not possession of an 20 expert report increases potential value of a 21 case? 22 A. <b>It could.</b> 23 Q. Did you ever hire experts while at Slater &amp; Zurz? 24 A. <b>Yes. Yep. Yes.</b> 25 Q. Have you ever paid more than \$200 for an expert</p>	<p style="text-align: right;">420</p> <p>1 <b>litigation?</b> 2 Q. Even if you lost? 3 A. <b>Yep, in advance. It was leverage that they used 4 to get people to settle. If they had somebody 5 who was unreasonable, you know, if they got a 6 good offer, but somebody wanted triple what the 7 offer is, they'd say, all right, well, if you 8 want to gamble, let's gamble with your money.</b> 9 Q. So Slater &amp; Zurz would sometimes leverage 10 expenses against their clients to achieve a 11 settlement? 12 A. <b>Yep. Yes.</b> 13 Q. Do you have that stack of medical records related 14 to Thera Reid? 15 A. <b>I think you're referring to Defendant's Exhibit 16 D?</b> 17 Q. I am. 18 A. <b>I do have it.</b> 19 Q. How long do you think it would take you to give 20 me a comprehensive summary of the patient's 21 global care from all of those records? 22 A. <b>I'm out of practice; however, I don't know, an 23 hour.</b> 24 Q. Okay. And in terms of prognosis, I presume it 25 would take a while for you to give a</p>