

# EXHIBIT A

IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,	)	Case No. CV-2016-09-3928
	)	
Plaintiffs,	)	Judge James A. Brogan
	)	
vs.	)	<u>AFFIDAVIT OF</u>
	)	<u>MINAS FLOROS</u>
KISLING, NESTICO, & REDICK,	)	
LLC, et al.,	)	
	)	
Defendants.	)	

Now comes Affiant, Minas Floros, a Chiropractic Physician, having first been sworn upon his oath, and attests as follows:

1. I am of legal age, sound mind, and otherwise competent to testify.
2. This affidavit is based on my personal knowledge.
3. I am a licensed Chiropractic Physician in the State of Ohio and I am in good standing.
4. I have been an employee at Akron Square Chiropractor (ASC) since 2004.
5. ASC currently employs two chiropractors. At times, ASC has hired temporary chiropractors from a staffing agency.
6. As part of my chiropractic practice with (ASC), I provide various treatments to injured patients, which include all passive and active therapies, consultations, spinal manipulation, muscle stimulation, trigger point therapy, intersegmental traction, dry hydrotherapy, active release technique, passive stretching, therapeutic exercises, and

neuromuscular reeducation. I diagnosis injuries and provide patients with a treatment plan.

7. Each patient I treat has unique injuries and conditions, which require unique treatment plans tailored to their specific needs. No patient is the same.
8. With car accident victims, the most common injuries that I treat are soft tissue injuries, also known as whiplash injuries. *Id.* These types of injuries are considered “subjective” because they cannot be easily seen or diagnosed like a broken bone or laceration. These types of injuries can also take a prolonged time heal, depending on several factors (e.g. preexisting conditions, source of impact, position when injured, age, prior injuries, location of injury). If left untreated, these injuries can evolve into a condition requiring more invasive treatments, like surgery. For this reason, it is important that car victim receives immediate care.
9. Because of these health risks, potential issues in proving their claim, and need for immediate care with no upfront costs, injured car victims often prefer treatment with chiropractic clinics, like ASC.
10. In treating personal injury patients, it is also common for patients to want legal help.
11. My services, however, are limited to chiropractic treatments only; I do not provide legal assistance. I will, however, recommend various law firms to patients.
12. I do not have a policy on recommending patients to any particular law firms. But I have often recommended patients to Kisling, Nestico & Redick when they ask for legal help.
13. I have recommended KRN to my patients for multiple reasons. First, I am friends with Rob Nestico and other attorneys at KNR. Second, I believe that KNR’s attorneys

will treat my patients well. Third, I like that KNR is one of the largest personal injury firms in the Akron area and offers legal assistance past working hours (I often work until 7:00 pm). And fourth, I know that KNR will likely pay (with the permission of their client) ASC's bill for chiropractic treatment or portion thereof from the settlement proceeds.

14. I will often recommend patients to other attorneys, such as Slater & Zurz, Gary Himmel, Alberto Pena, Elk and Elk, Amourgis and Associates, and Skolnick Weiser Law Firm, and Lisa Haywood.
15. I have never had quid pro quo agreement with KNR or any other law firm
16. I have never had a quid pro quo agreement with another medical provider.
17. I have never accepted kickback payments in exchange for patient referrals.
18. I will sometimes recommend several attorneys at once to a patient. This allows the patient to choose the attorney or law firm that best fits their needs.
19. When I am finished treating a patient that is also represented by a law firm, like KNR, an attorney will often send me a request to prepare a narrative report for the patient/client.
20. From my understanding, law firms, like KNR, request narrative reports because they are often necessary in litigation and are helpful with presenting, proving, and negotiating personal injury claims. But I am not an attorney and I have no legal experience. I have no legal knowledge of what should be in an expert report. I have no legal knowledge of what effect his narrative report will have on each client's case or what value it will add. I usually have no knowledge of the status of the case and

whether it is in litigation. I have no legal knowledge of what adjusters and attorneys are looking for in an expert report.

21. I have no knowledge of the conversations that attorneys have with their client about their narrative report. I have no knowledge on whether an attorney deducts a narrative fee from their client's settlement as an expense.
22. In my narrative reports, I often summarize a patient's experience and treatment. This helps laypersons (adjusters and attorneys) understand the medical notations in the patient's file so that it may be presented cohesively in the representation of their client. I also an expert medical opinion on whether the client's injuries are related to the accident within a degree of reasonable chiropractic probability. *Id.* I also give an expert opinion on what treatment was necessary and may be necessary in the future, as well as the estimated cost of future care. Sometimes I will include citations to published reports in support of my opinion. When applicable, I will give an opinion on preexisting injuries that may have been exacerbated by the accident.
23. I often spend a significant amount of time on preparing narrative reports, which includes reviewing the patient's medical file. For instance, I estimate that Thera Reid's report took between 1-2 hours because of serious nature of her injuries.
24. Because I spend time and effort in preparing the narrative reports, I often charge a fee to the law firm of either \$150 or \$200 for each narrative report.
25. This is a reasonable rate for a chiropractic narrative report.
26. Each narrative report I prepare is different. Each report has facts and opinions unique to each patient, and often include an outline of future risks, a future care opinion, and estimated costs of future care.

27. I have often changed the style, format, and content of my narrative reports.
28. I have never had an attorney complain about reports or request more information. I would have no reason to believe that my narrative reports were deficient.
29. I have never had any ownership rights in ASC. I am only employee and my duties are mainly limited to providing chiropractic care.
30. ASC lawfully solicits new patients under Ohio law and in accordance with Ohio Chiropractic Board Association. It is common for chiropractic clinics to solicit through telemarketing.
31. ASC employs telemarketers. I do not personally employ telemarketers.
32. ASC only obtains transportation if the injured party cannot drive and obtain transportation because of their injuries. ASC does not employ drivers or advertise free rides.
33. ASC accepts payments from medpay and workers' compensation insurance. Often, patients injured in a car accident will also work directly with an insurance company and not go through an attorney to avoid attorney fees. In those cases, patients often pay ASC directly by cash or bank draft for services rendered.
34. ASC will also often work directly with car insurance companies. I estimate that thousands of patient's bills are directly submitted and negotiated with a car insurance company and not an attorney.
35. ASC has submitted claims to patients' health insurer, but these claims are usually denied because ASC is out-of-network with health insurance providers. At one time, ASC was networked with an insurance provider called Coventry Health Network.

36. ASC does not include KNR's contingency agreement in their new patient packet forms.
37. When a new patient comes to ASC they fill out paper work that is typical for medical providers, which includes new patient information and medical history. This paperwork never includes an attorney fee agreement.
38. If a patient wants to speak to an attorney and decides on their own that they need legal representation, then employees at ASC recommend various attorneys.
39. At times, law firms will call and fax over forms for the patient to review and sign if the patient wants immediate representation. When this happens, the law firms have spoken to the patient over the phone.
40. The amount ASC charges patients for chiropractic treatments is reasonable, customary, and akin to other chiropractors in Ohio
41. All patients at ASC, including patients represented by KNR, have their care determined solely by the chiropractor in charge.
42. In most cases, ASC also takes significant reductions on their bills. And unlike other health providers, ASC does not seek reimbursement from their patients' personally or pursue collections against their patients for unpaid bills. Nor does ASC sell outstanding bills to collection companies, which is a frequent practice of other medical providers.
43. ASC takes on the risk of nonpayment if patient does not have insurance coverage or if there is limited or no recovery on the injury claim, which is a common occurrence.
44. At various times, based upon the medical condition of the clients, I would refer patients to one of a multitude of medical providers.

45. ASC and I do not pressure patients to see other doctors.
46. Based upon my professional chiropractic judgment, and only if I determine it is in the best interest of a given patient, I refer a small percentage of my patients to Dr. Ghoubrial or another medical doctor for medical consultation because the services a medical doctor can provide to help the patient heal faster are out of my professional scope of practice.
47. The reason for referring patients to Dr. Ghoubrial depended solely on the patient's medical conditions and needs.
48. Form my experience, patients usually respond well to treatment from Dr. Ghoubrial.
49. ASC and I do not financially benefit in referring patients to Dr. Ghoubrial. In fact, it often results in greater reduction in our bills because there are more providers that need to be paid from a settlement.
50. I only prepare a narrative report on request. On many occasions, attorneys at KNR do not request narratives reports. For instance, attorneys at KNR do not usually request a narrative report if a patient is a minor (under 15 years old), if the patient has not received care for two weeks, or if the patient has under 6 treatment visits.

FURTHER AFFIANT SAYETH NAUGHT.





Minas Floros, Chiropractic Physician

STATE OF OHIO

)

) SS:

COUNTY OF \_\_\_\_\_

)

SWORN TO AND SUBSCRIBED in my presence by MINAS FLOROS,  
Chiropractic Physician this 17 day of June, 2019.



NOTARY PUBLIC



**SHAUN H. KEDIR**  
Attorney At Law  
NOTARY PUBLIC  
STATE OF OHIO  
My Commission Has  
No Expiration Date  
Section 147.03 O.R.C.

# EXHIBIT B

<p>1</p> <p>IN THE COURT OF COMMON PLEAS</p> <p>SUMMIT COUNTY, OHIO</p> <p>MEMBER WILLIAMS, et al.,</p> <p>Plaintiffs,</p> <p>-vs- CASE NO. CV-2016-09-3928</p> <p>KISLING, NESTICO &amp; REDICK, LLC, et al.,</p> <p>Defendants.</p> <p>- - - -</p> <p>Videotaped deposition of MINAS FLOROS, DC, taken as if upon examination before Brian A. Kuebler, Kurt Spencer, Notary Publics within and for the State of Ohio, at the Pattakos Law Firm, 101 Ghent Road, Fairlawn, Ohio, at 9:09 a.m. on Friday, March 20, 2019, pursuant to notice and/or stipulations of counsel, on behalf of the Plaintiffs.</p> <p>- - - -</p> <p>JK COURT REPORTING 55 PUBLIC SQUARE SUITE 1332 CLEVELAND, OHIO 44113 (216) 664-0541 www.jarkub.com</p>	<p>3</p> <p>1 ALSO PRESENT :</p> <p>2 John J. Reagan, Esq.</p> <p>3 Peter Graves - videographer</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>2</p> <p>1 APPEARANCES :</p> <p>2 Peter Pattakos, Esq.</p> <p>3 Rachel Hazelet, Esq.</p> <p>4 101 Ghent Road</p> <p>5 Akron, Ohio 44333</p> <p>6 (330) 836-8533</p> <p>7 peter@pattakoslaw.com</p> <p>8 On behalf of the Plaintiffs;</p> <p>9 Thomas P. Mannion, Esq.</p> <p>10 Lewis Brisbois</p> <p>11 1375 East 9th Street, Suite 2250</p> <p>12 Cleveland, Ohio 44114</p> <p>13 (216) 344-9467</p> <p>14 tom.mannion@lewisbrisbois.com</p> <p>15 and</p> <p>16 James M. Popson, Esq.</p> <p>17 Sutter, O'Connell</p> <p>18 3600 Erieview Tower</p> <p>19 1301 East 9th Street</p> <p>20 Cleveland, Ohio 44114</p> <p>21 (216) 928-2200</p> <p>22 jpopson@sutter-law.com</p> <p>23 On behalf of the Defendants,</p> <p>24 Kisling, Nestico &amp; Redick, LLC;</p> <p>25 Shaun H. Kedir, Esq.</p> <p>Feagan Law</p> <p>101 West Prospect Avenue, Suite 1600</p> <p>Cleveland, Ohio 44115</p> <p>(216) 937-2222</p> <p>Skedir@feaganlaw.com</p> <p>On behalf of the Defendant,</p> <p>Dr. Minas Floros, DC;</p> <p>Brad Barmen, Esq.</p> <p>Lewis Brisbois</p> <p>1375 East 9th Street, Suite 2250</p> <p>Cleveland, Ohio 44114</p> <p>(216) 344-9467</p> <p>Ryan.rubin@lewisbrisbois.com</p> <p>On behalf of the Defendants,</p> <p>Sam N. Ghoubrial, MD;</p>	<p>4</p> <p>1 EXAMINATION</p> <p>2 MINAS FLOROS, DC</p> <p>3 BY MR. PATTAKOS 5</p> <p>4 EXAMINATION</p> <p>5 MINAS FLOROS, DC</p> <p>6 BY MR. POPSON 2 5 6</p> <p>7 RE-EXAMINATION</p> <p>8 MINAS FLOROS, DC</p> <p>9 BY MR. PATTAKOS 2 5 8</p> <p>10 EXAMINATION</p> <p>11 MINAS FLOROS, DC</p> <p>12 BY MR. MANNION 2 5 9</p> <p>13 RE-EXAMINATION</p> <p>14 MINAS FLOROS, DC</p> <p>15 BY MR. PATTAKOS 2 6 0</p> <p>16 EXHIBIT INDEX</p> <p>17 (Morning session Exhibits marked)</p> <p>18 Plaintiff's Exhibit 1 1 6</p> <p>19 Plaintiff's Exhibit 2 3 5</p> <p>20 Plaintiff's Exhibit 3 5 2</p> <p>21 Plaintiff's Exhibit 4 5 3</p> <p>22 Plaintiff's Exhibit 5 5 4</p> <p>23 Plaintiff's Exhibit 6 6 6</p> <p>24 Plaintiff's Exhibit 7 7 7</p> <p>25 Plaintiff's Exhibits 8, 9, 10, 11 12 5</p> <p>Plaintiff's Exhibit 12 1 4 5</p> <p>(Afternoon session Exhibits marked)</p> <p>Exhibit 13 1 6 9</p> <p>Exhibit 14 1 8 8</p> <p>Exhibit 15 1 9 7</p> <p>Exhibit 16 2 0 0</p> <p>Exhibit 17 2 0 8</p> <p>Exhibit 18 2 1 6</p> <p>Exhibit 19 2 1 6</p> <p>Exhibit 20 2 1 7</p> <p>Exhibit 21 2 1 7</p> <p>Exhibit 22 2 1 8</p> <p>Exhibit 23 2 1 8</p> <p>Exhibit 24 2 1 9</p> <p>Exhibit 25 2 1 9</p> <p>Exhibit 26 2 2 9</p> <p>Exhibit 27 2 4 8</p> <p>Exhibit 28 2 5 5</p>

5

1 MINAS FLOROS, of lawful age, called by the  
2 Plaintiffs for the purpose of examination, as  
3 provided by the Rules of Civil Procedure, being  
4 by me first duly sworn, as hereinafter certified,  
5 deposed and said as follows:

6 EXAMINATION OF MINAS FLOROS

7 BY MR. PATTAKOS:

8 Q. Good morning, Dr. Floros.  
9 A. **Good morning.**  
10 Q. I'm Peter Pattakos. I represent the Plaintiffs  
11 in this lawsuit, Williams v. KNR, et al.  
12 You understand that you're here to provide  
13 testimony in that case today?  
14 A. **Yes.**  
15 Q. Will you please state your full name, for the  
16 record.  
17 A. **Dr. Minas Floros.**  
18 Q. And your date of birth?  
19 A. **February 13, 1979.**  
20 Q. And where were you born?  
21 A. **Toronto. Ontario, Canada.**  
22 Q. Have you ingested any substances recently that  
23 would impair your ability to remember events  
24 accurately and testify truthfully today?  
25 A. **No.**

6

1 Q. Is there any other reason you would not be able  
2 to remember events accurately or testify  
3 truthfully today?  
4 A. **No.**  
5 Q. Where did you go to high school?  
6 A. **Winston Churchill Collegiate Institute.**  
7 Q. And where is that?  
8 A. **It's in Scarborough Ontario.**  
9 Q. What year did you graduate?  
10 A. **High school? I don't remember. Nineteen ninety**  
11 **-- I don't know, six maybe, five. I don't**  
12 **remember.**  
13 Q. Where did you go to college?  
14 A. **York University in Toronto Ontario.**  
15 Q. And what year did you graduate from York?  
16 A. **I did three years and I got an early acceptance**  
17 **into Logan College of chiropractic.**  
18 Q. So you didn't graduate from York?  
19 A. **No, I got my bachelor's of human biology at Logan**  
20 **College of Chiropractic.**  
21 Q. Okay. And where is that?  
22 A. **In St. Louis, Missouri. In Chesterfield,**  
23 **Missouri, just outside of St. Louis.**  
24 Q. I'm sorry, what's the degree that you obtained  
25 there?

7

1 A. **Bachelor's of the human biology.**  
2 Q. And that qualifies you to practice chiropractic?  
3 A. **No, then I got my doctorate of chiropractic in**  
4 **2004 after I graduated from Logan College of**  
5 **Chiropractic. I obtained my bachelor's of**  
6 **science in the first three trimesters at Logan.**  
7 **There was a ceremony and then the program**  
8 **continued and that's when I got my doctorate of**  
9 **chiropractic.**  
10 Q. I understand. Okay. And what year did you  
11 obtain the doctorate of chiropractic degree?  
12 A. **2004.**  
13 Q. When did you start working for Akron Square?  
14 A. **November 2004.**  
15 Q. So that was your first job?  
16 A. **Correct.**  
17 Q. Out of chiropractic school?  
18 A. **Correct.**  
19 Q. And you've never worked anywhere else?  
20 A. **No.**  
21 Q. Okay. What is Universal Reports Plus, LLC?  
22 A. **It's a company I opened maybe a year into**  
23 **practicing chiropractic. It's to do depositions,**  
24 **discovery depositions, when I'm asked upon,**  
25 **narrative reports, and that's where I report**

8

1 **income to.**  
2 Q. You report income for the reports and litigation  
3 work that you do through Universal Reports, LLC?  
4 A. **Correct.**  
5 Q. Okay. So if you're paid to testify in a case, it  
6 will be reported through that?  
7 A. **Correct.**  
8 Q. Okay. So does Universal Report Plus, LLC, file  
9 separate tax returns?  
10 A. **Oh, I don't know. My accountant does all of that**  
11 **stuff. I have no idea.**  
12 Q. Okay. And it said in your discovery responses  
13 that you're the sole owner and member of this  
14 LLC?  
15 A. **Yes.**  
16 Q. There are no employees?  
17 A. **No.**  
18 Q. Can you please describe, generally, the services  
19 that you as a chiropractor provide for your  
20 patients?  
21 A. **All passive and active therapies, including, you**  
22 **know, consultations, x-rays, spinal manipulation,**  
23 **muscle stimulation, trigger point therapy,**  
24 **intersegmental traction, dry hydrotherapy, active**  
25 **release technique, passive stretching,**

9

1 **therapeutic exercises, neuromuscular reeducation.**  
 2 **Just a bunch of passive and active therapies.**  
 3 Q. What's the difference between passive and active  
 4 therapies?  
 5 A. **Active therapy is where the patient is moving**  
 6 **during the therapy. Or interactive manipulation**  
 7 **is an active therapy. An example of passive**  
 8 **therapy is muscle stimulation and intersegmental**  
 9 **traction. Those are more passive when the**  
 10 **patient or myself is not actually directly**  
 11 **involved in the therapy.**  
 12 Q. Sorry, what did you just say, the patient is not  
 13 directly involved?  
 14 A. **Well, they're involved, they've got, you know,**  
 15 **like, for example, muscle stimulation is when two**  
 16 **stim pads are placed on the muscles of the**  
 17 **patient and the patient sits there or lays on the**  
 18 **table, but I'm not actively involved in the**  
 19 **therapy.**  
 20 Q. Okay.  
 21 A. **That's passive, that's an example of passive**  
 22 **therapy. Active therapy is more spinal**  
 23 **manipulation, therapeutic exercises, those are**  
 24 **active therapies.**  
 25 Q. Therapeutic exercises, the patient would be

10

1 active?  
 2 A. **Correct.**  
 3 Q. Okay. Not you?  
 4 A. **Not me, no.**  
 5 Q. Okay.  
 6 A. **I would show the patient what to do and I'd**  
 7 **laundry the patient doing the therapeutic**  
 8 **exercises.**  
 9 Q. Are there any other therapies where the patient  
 10 is active or usually --  
 11 A. **Like I said, they're active. If they're present,**  
 12 **then all of the therapies.**  
 13 Q. Sure.  
 14 A. **Are they active moving around --**  
 15 Q. I guess --  
 16 A. **-- it depends. Like if I adjust the patient,**  
 17 **they're active. If I'm adjusting their lumbar**  
 18 **spine, they're active in the sense that they roll**  
 19 **on their side or they're elevating their leg.**  
 20 **They're definitely active in the manipulation**  
 21 **portion of the therapy, but in terms of muscle**  
 22 **stimulation, for example, or intersegmental**  
 23 **traction, they're laying on a table and the table**  
 24 **is performing the traction, the intersegmental**  
 25 **traction.**

11

1 Q. Okay. Or the, for example, hydrotherapy?  
 2 A. **Uh-huh.**  
 3 Q. That's on a table as well?  
 4 A. **Correct.**  
 5 Q. Can you describe what that is?  
 6 A. **Dry hydrotherapy is a -- it's almost like a water**  
 7 **pressure massage table. The patient first sits**  
 8 **at the edge of the table. We usually apply some**  
 9 **stimulation, neck or back or shoulder, wherever**  
 10 **they're having chief complaints. They lay down.**  
 11 **There's water jets, water pressure that put**  
 12 **pressure on the muscles to reduce muscle spasm of**  
 13 **tension, swelling, this kind of stuff.**  
 14 Q. So it's like a massage that happens automatically  
 15 by water?  
 16 A. **Correct.**  
 17 Q. On a machine?  
 18 A. **Correct.**  
 19 Q. And what's neuromuscular reeducation?  
 20 A. **Neuromuscular reeducation is reeducating the**  
 21 **joints. For example, we use wobble boards for**  
 22 **knee injuries and ankle injuries. The patient**  
 23 **either stands or sits and we balance them. They**  
 24 **stand up for balance. That's an example of**  
 25 **neuromuscular reeducation.**

12

1 Q. They stand up and you balance them?  
 2 A. **Yeah. So it's a wobble board. It's the circular**  
 3 **board with either two balls underneath the board**  
 4 **or one and they, you know, stand and they balance**  
 5 **themselves or they're seated and they put their**  
 6 **ankles back and forth if we're retraining the**  
 7 **ankle for movement. That's an example of**  
 8 **neuromuscular reeducation.**  
 9 Q. It's not unlike physical therapy, correct?  
 10 A. **Sure. It's very similar to physical therapy.**  
 11 Q. Something that a physical therapist might do?  
 12 A. **They could do that, of course. Physical**  
 13 **therapists do very similar passive therapies as**  
 14 **chiropractors do and vice versa.**  
 15 Q. Sure. So what sets a chiropractor apart from a  
 16 physical therapist or a masseuse?  
 17 A. **Well, a chiropractor --**  
 18 MR. KEDIR: Objection.  
 19 A. **-- a chiropractor can diagnose conditions. A**  
 20 **chiropractor can take x-rays. A chiropractor can**  
 21 **make referrals to other sources. I don't know if**  
 22 **a physical therapist can.**  
 23 Q. Uh-huh.  
 24 A. **Massage therapists cannot diagnose.**  
 25 Q. Sure.

13

1 A. **It's very different than a massage therapist.**

2 Q. Okay. But when you say diagnose, what's the  
3 significance of a diagnosis in this context? A  
4 physical therapist sees the same patient and says  
5 I think you have X, and a chiropractor sees the  
6 same patient and says I think you have X, what's  
7 the difference?

8 MR. KEDIR: Objection.

9 A. **I don't know if there's a difference. I don't  
10 know if a physical therapist actually diagnoses  
11 conditions. For example, I refer patients with  
12 my diagnosis over to the Akron General Wellness  
13 Center. The physical therapists there consult me  
14 regarding treatment. They ask me to sign off on  
15 the therapy they're going to do. I approve the  
16 therapy and I refer back or I fax the form that  
17 they send me back and they perform the treatment  
18 that we both agreed upon.**

19 **I don't know if they have diagnosing skills.  
20 I don't know if they can use CPT codes. I have  
21 no idea.**

22 Q. Okay. A sports medicine physician, on the other  
23 hand, would have the authority to diagnose,  
24 correct?

25 MR. KEDIR: Objection.

14

1 A. **Yeah. So chiropractors and sports medicine  
2 physicians, we both can diagnose.**

3 Q. Okay. But a sports medicine -- so what would you  
4 say the main difference between chiropractic and  
5 sports medicine are?

6 A. **Oh, very different. Right. So we treat  
7 basically similar conditions. For example, we'll  
8 use one of your clients, we'll use Thera Reid,  
9 for example, who had soft tissue injuries to her  
10 shoulder, neck, back, contusions on her legs. We  
11 would treat that inflammation with therapies.  
12 You know, spinal manipulation, muscle  
13 stimulation, traction, hydrotherapy.**

14 **A sports medicine doctor would treat the  
15 inflammation different. They would treat it with  
16 chemicals. With medication. That's the main  
17 difference. And sports medicine physicians a lot  
18 of times have physical therapists in their  
19 office. And they would refer that patient to a  
20 physical therapist to do active and passive  
21 therapies in conjunction with the medicine that  
22 they're prescribing.**

23 Q. Sure. Okay. So a sports medicine physician and  
24 a physical therapist would work together to  
25 provide similar treatment to chiropractic except

15

1 the sports medicine physician would have the  
2 ability to prescribe medications; is that fair?

3 MR. KEDIR: Objection.

4 A. **Correct. And sports medicine physicians a lot of  
5 times have chiropractors in their office. I  
6 would say most sports medicine facilities that I  
7 know of have chiropractors in their office.**

8 Q. To perform spinal manipulations, for example?

9 A. **Yeah. Just different active and passive  
10 therapies.**

11 Q. So what I want to understand is what can a  
12 chiropractor do -- or what does a chiropractor  
13 typically provide that cannot be obtained from a  
14 combination of a sports medicine physician  
15 working with a physical therapist or a  
16 massotherapist?

17 MR. KEDIR: Objection.

18 A. **They can probably get similar therapies at both  
19 places as opposed to -- well, you can't -- as a  
20 chiropractor, I'm not prescribing any medication,  
21 so --**

22 Q. I understand that.

23 A. **-- they wouldn't get that aspect of the  
24 treatment, but in terms of the type of therapy  
25 they would receive, it's in terms of the therapy**

16

1 **part, the active and passive therapy, is pretty  
2 much equal as opposed to -- I shouldn't say that.  
3 Physical therapists do not perform spinal  
4 manipulations. So the patient will not receive  
5 spinal manipulation at a physical-therapy based  
6 office as opposed to a chiropractic office.**

7 Q. Okay. And sports medicine physicians typically  
8 do not perform spinal manipulations either, is  
9 that your understanding?

10 A. **No. It depends. If they're sports medicine  
11 physicians, DOs, doctors of osteopaths, a lot of  
12 them will perform spinal manipulations. Some of  
13 them do and some of them don't do it. They'll  
14 refer out to chiropractors to perform the spinal  
15 manipulations.**

16 Q. Moving right along here. Okay.

17 MR. PATAKOS: Let's mark Exhibit

18 1.

19 - - - -

20 (Thereupon, Plaintiff's Exhibit 1 was marked  
21 for purposes of identification.)

22 - - - -

23 Q. This is a document that your attorney produced in  
24 this litigation. It appears to reflect the  
25 agreement for which Thera Reid was at least

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1 A. -- I have absolutely no idea, Peter.  
 2 Q. Okay. You will often refer patients to law  
 3 firms, correct?  
 4 A. No, I don't refer patients to law firms, sir.  
 5 Q. You don't --  
 6 A. No.  
 7 Q. -- do it at all?  
 8 A. No.  
 9 Q. Someone at your office does?  
 10 A. No. Nobody refers any patients to any attorneys.  
 11 I recommend attorneys. I don't refer patients --  
 12 Q. You recommend --  
 13 A. -- to attorneys.  
 14 Q. -- attorneys. Okay. So what's the difference  
 15 between referring and recommending, in your mind?  
 16 A. Well, there's two different definitions. A  
 17 referral is a direct source of help. A  
 18 recommendation is an endorsement of a law firm.  
 19 When I refer a patient to a neurosurgeon, I'm  
 20 making a direct reference for help for that  
 21 patient. I don't endorse a neurosurgeon, I refer  
 22 to a neurosurgeon. I refer to an orthopedic  
 23 surgeon. I refer to the Akron General Wellness  
 24 Center. I don't recommend it, I refer it.  
 25 I put a -- I sign a piece of paper, a

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1 prescription for the patient to be seen at an  
 2 office. I don't refer anybody to any law firms.  
 3 Q. You wouldn't sign a prescription to send a  
 4 patient to a law firm?  
 5 A. I don't reefer any of my patients to any law  
 6 firms.  
 7 Q. You recommend law firms?  
 8 A. Absolutely. Yes, I do.  
 9 Q. Okay. I'm not sure there's a difference in the  
 10 way I'm using the word, but --  
 11 MR. KEDIR: Objection.  
 12 A. There's a complete difference in the definition  
 13 between a referral and a recommendation, complete  
 14 different source.  
 15 Q. Well, a referral is a medical -- you're referring  
 16 to referral in a medical sense when you talk  
 17 about referring a patient to another doctor,  
 18 correct?  
 19 A. No --  
 20 MR. KEDIR: Objection.  
 21 A. -- I'm talking about the direct meaning of the  
 22 word. I want to make sure we don't confuse the  
 23 two words here. A referral means a direct -- a  
 24 direct source of help for a patient. A  
 25 recommendation is just a recommendation. Whether

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1 or not the patient does that recommendation is up  
 2 to them, but I definitely do not refer anybody to  
 3 any law firms.  
 4 Q. Whether a patient follows a referral is up to  
 5 them too, correct?  
 6 A. Sure. But I'm trying to help the patient get  
 7 well. And I write a prescription for the patient  
 8 to be seen, like I said, at an orthopedic  
 9 surgeon's office, a neurologist's office, a  
 10 physical therapy office, a medical doctor's  
 11 office, any sort of specialist. I usually write  
 12 it down on paper and I give them a referral slip,  
 13 but I don't do that with law firms. I've never  
 14 referred any of my patients to any law firms and  
 15 I especially haven't referred any of your clients  
 16 to any law firms.  
 17 Q. But when you recommend a law firm to a patient,  
 18 you are also trying to help the patient, correct?  
 19 MR. KEDIR: Objection.  
 20 A. No, I'm not trying to help the patient at all. I  
 21 just -- look, I'm not a lawyer, legal questions  
 22 come up all the time. A new patient comes in,  
 23 they ask me a ton of questions. They want to  
 24 know who's going to pay their bill. They want to  
 25 know what's going to happen if they don't pay the

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1 bill. They want to know, you know, why an  
 2 insurance company hasn't called them, who should  
 3 they contact, what should they do. I can't --  
 4 I'm not a lawyer, I can't instruct them on what  
 5 to do. So I recommend -- when legal questions  
 6 come up, I recommend them talking to one of the  
 7 attorneys that does auto accident cases.  
 8 Q. And you do that because it's helpful to the  
 9 patient to do that, correct?  
 10 A. I do --  
 11 MR. KEDIR: Objection.  
 12 A. -- that because it's my recommendation because I  
 13 cannot answer the question. If it's a legal  
 14 question -- imagine I answered a legal question,  
 15 what you'd be asking me now? I don't do that. I  
 16 have -- I can't do that. It's not my specialty.  
 17 Q. You only recommend patients to law firms when  
 18 patients ask legal questions?  
 19 A. Yeah, legal comes up in probably a high majority  
 20 of patients coming to my office injured in car  
 21 accidents, they have a lot of questions. Some I  
 22 can help them with, if they're medical related,  
 23 but if they're legal related, I can't help them.  
 24 Q. Okay. Do you deny that you treated the number of  
 25 KNR clients that KNR says you treated as we just

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1 went over?

2 MR. KEDIR: Objection.

3 **A. I can't deny or agree to it. I have no knowledge**  
 4 **of it. I have -- I don't keep any tracking**  
 5 **system in my office about who has an attorney or**  
 6 **who has KNR or who has Eshelman or who has Slater**  
 7 **or who has Elk & Elk, I have no idea.**

8 - - - -

9 (Thereupon, Plaintiff's Exhibit 7 was marked  
 10 for purposes of identification.)

11 - - - -

12 MR. KEDIR: You have no copies of  
 13 this?

14 MR. PATTAKOS: I only have two  
 15 copies of it, but I just want to refer Dr.  
 16 Floros to this chart.

17 MR. KEDIR: This is going to be  
 18 Exhibit 7?

19 MR. PATTAKOS: Exhibit 7, yeah.  
 20 And if we look at -- this is request for  
 21 production No. 3 --

22 MR. BARMEN: Peter, please, if  
 23 you're going to mark something, you've  
 24 indicated before the last break that you  
 25 would have copies made, if you're going to

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1 mark it, I need to see it.

2 MR. PATTAKOS: It's a discovery  
 3 response that's been produced in this case  
 4 --

5 MR. BARMEN: It's document you're  
 6 marking as an exhibit in a deposition, it  
 7 is incumbent upon you to provide copies to  
 8 all counsel that are here.

9 MR. PATTAKOS: If you want to take  
 10 a look.

11 MR. KEDIR: Do you have copies of  
 12 it?

13 MR. PATTAKOS: Had the witness'  
 14 testimony been different, I wouldn't have  
 15 marked this as an exhibit, okay?

16 MR. BARMEN: And that's fine, but  
 17 you are marking it as an exhibit. I would  
 18 appreciate you providing me a copy.

19 MR. POPSON: Are you referring to  
 20 No. 23?

21 MR. PATTAKOS: I'm referring to  
 22 this chart here, yes, on No. 23.

23 BY MR. PATTAKOS:

24 **A. So what page is this on?**

25 **Q. We're just going to look at No. 23.**

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1 **A. Oh, this here.**

2 **Q.** And you'll see that that response asks KNR to  
 3 produce all documents including, but not limited  
 4 to spreadsheets quantifying the number of  
 5 referrals to and from specific chiropractors over  
 6 time. And KNR provided this chart for the years  
 7 2012 through 2017. And this was produced in mid  
 8 September of 2017. So these numbers for 2017 are  
 9 not complete.

10 So, according to KNR, there were 440  
 11 referrals --

12 MR. PATTAKOS: And, Jim, I can't  
 13 tell from this, maybe you can help. Which  
 14 is the to ASC from KNR and vice versa?

15 MR. POPSON: Good question. I  
 16 don't know.

17 **A. Is there a question?**

18 **Q.** I'm waiting for --

19 **A. Oh, sorry.**

20 **Q.** -- him to explain what these numbers mean.

21 MR. REAGAN: He doesn't know  
 22 anyway, so I don't know what the point is,  
 23 but I would assume --

24 MR. POPSON: We'll have to verify  
 25 it to make sure. So this is from ASC and

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1 this is from KNR?

2 MR. REAGAN: I believe so.

3 MR. PATTAKOS: The top number is  
 4 from ASC?

5 MR. REAGAN: I believe so.

6 MR. POPSON: Yeah, but we'll have  
 7 to verify it. We'll just -- that's our  
 8 assumption with looking at it now, but,  
 9 yeah, we should have put the word "from" in  
 10 front of either one of them, but we didn't,  
 11 but we'll try and verify for you today, if  
 12 we can.

13 MR. PATTAKOS: I would appreciate  
 14 it. That's the --

15 MR. POPSON: He's not going to  
 16 know anyway apparently, so...

17 MR. PATTAKOS: Well --

18 MR. KEDIR: And I'm objecting to  
 19 the exhibit also.

20 BY MR. PATTAKOS:

21 **Q.** This is the second amended responses to the third  
 22 set of requests for production --

23 MR. KEDIR: From KNR.

24 MR. POPSON: As soon as we take  
 25 the next break, I'll make a phone call to



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1 see what we can find out.  
 2 Q. -- and it's No. 23.  
 3 MR. REAGAN: Second amended  
 4 responses to what?  
 5 MR. PATTAKOS: The third request  
 6 for production.  
 7 MR. REAGAN: What number?  
 8 MR. PATTAKOS: And it's No. 23.  
 9 MR. REAGAN: Thanks.  
 10 BY MR. PATTAKOS:  
 11 Q. Well, does it seem right to you that you refer --  
 12 that you would refer, roughly, twice as many  
 13 cases to KNR as they would refer to you?  
 14 MR. KEDIR: Objection.  
 15 MR. POPSON: Objection.  
 16 A. **I have absolutely no way of knowing that,**  
 17 **Mr. Pattakos. I have no way of knowing that.**  
 18 Q. Okay. Just from your experience in dealing with  
 19 hundreds of these people over the years, you have  
 20 no idea?  
 21 MR. KEDIR: Objection.  
 22 A. **I treated probably over 20,000 people injured in**  
 23 **car accidents since 2004. I would have no idea**  
 24 **as to the -- if this is accurate or not.**  
 25 Q. Over 20,000 people injured in car accidents since

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1 2004?  
 2 A. **I would --**  
 3 MR. KEDIR: Objection.  
 4 A. **-- again, it's an estimate.**  
 5 Q. What's it based on?  
 6 A. **Just based on new patients.**  
 7 Q. Based on new patients in what way?  
 8 MR. KEDIR: Objection.  
 9 A. **Based on new patients that have come in, you**  
 10 **know, into my office whether it be workers'**  
 11 **comp -- when a patient is injured in work**  
 12 **injuries, auto accidents, back pain, neck pain.**  
 13 **I've seen a lot of people in 15 years.**  
 14 Q. So based on the number of files you've seen?  
 15 MR. KEDIR: Objection.  
 16 A. **Again, that's just a broad estimate. I have no**  
 17 **idea.**  
 18 Q. Do you remember when you first started treating  
 19 KNR clients?  
 20 A. **No, I don't.**  
 21 Q. Do you remember when you first met Rob Nestico?  
 22 A. **No, I don't. It was many years ago.**  
 23 Q. You don't remember how you met?  
 24 A. **No, I don't.**  
 25 Q. You're friends with Rob Nestico, aren't you?

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1 A. **Yes, I am.**  
 2 Q. Well, how did you become friends?  
 3 MR. KEDIR: Objection.  
 4 A. **Well, like I said, we met some time many, many**  
 5 **years ago. Probably -- I don't know, 12 years**  
 6 **ago maybe. I don't remember.**  
 7 Q. And how did you become friends?  
 8 A. **Well, we have a lot of similar interests.**  
 9 MR. KEDIR: Objection.  
 10 A. **He's from Canada and we like sports. We like**  
 11 **food. We're European descent, I'm Greek, he's**  
 12 **Italian. I don't know, we just get along.**  
 13 Q. I like sports and I like food and I'm Greek --  
 14 A. **I like you too.**  
 15 Q. I appreciate that. Okay. So no memory of how  
 16 the relationship came to be or came to develop  
 17 apart from --  
 18 A. **No, there is no relationship. It's a friendship**  
 19 **that we have, like I said, over the years.**  
 20 Q. Well, you do a lot of business with him, don't  
 21 you?  
 22 MR. KEDIR: Objection.  
 23 A. **It's -- again, it's hard to say. I don't know**  
 24 **what a lot means. I mean, it's -- like I said, I**  
 25 **don't know.**

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1 Q. Are there any other law firms or lawyers for whom  
 2 you do more business as a chiropractor than KNR?  
 3 A. **Again, I have no idea.**  
 4 MR. KEDIR: Objection.  
 5 A. **I don't know.**  
 6 Q. Okay. When you recommend a law firm to -- or  
 7 when you recommend a patient to KNR, how do you  
 8 decide to do that?  
 9 A. **I don't. Like I said, a patient comes into the**  
 10 **office, they fill out their paperwork, they're**  
 11 **brought to the consultation room, I do my**  
 12 **consultation, my exam. We review the police**  
 13 **report with the patient. We talk about impact.**  
 14 **We talk about biomechanics of injury, how it**  
 15 **happens. And then again, they'll ask me --**  
 16 **sometimes they'll ask me questions. Or many**  
 17 **times they'll tell me, hey, doc, I have an**  
 18 **attorney, here's my attorney's name, just make**  
 19 **sure you get all the records over to them.**  
 20 **That's it. And if they have legal questions and**  
 21 **they ask me for recommendations, I provide them**  
 22 **recommendations of multiple law firms in the**  
 23 **Akron, Cleveland area.**  
 24 Q. So whenever a patient has a legal question or  
 25 asks for a recommendation --

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- 1 A. **Yes.**
- 2 Q. -- you will recommend multiple law firms?
- 3 A. **Correct.**
- 4 Q. Why multiple?
- 5 A. **Because there's a lot of good attorneys out there**
- 6 **and I don't -- I don't have no preference on a**
- 7 **specific law firm. I don't -- I prefer my**
- 8 **patients be represented by attorneys in these**
- 9 **situations because I've seen patients been taken**
- 10 **advantage of many, many times by insurance**
- 11 **companies, so my preference is for them to be**
- 12 **represented by somebody. Who they choose to be**
- 13 **represented by though it doesn't matter to me, I**
- 14 **don't really care.**
- 15 Q. You agree there's no short -- sorry. Go ahead.
- 16 A. **And in terms of the clients in question here, Ms.**
- 17 **Reid and Ms. Norris, I didn't recommend or refer,**
- 18 **to use your word, to any law firm.**
- 19 Q. You agree there's no shortage of good personal
- 20 injury lawyers in --
- 21 MR. KEDIR: Objection.
- 22 Q. -- northeast Ohio?
- 23 A. **Oh, I would have no knowledge, but I would say**
- 24 **there's probably plenty other good ones.**
- 25 Q. What are your criteria for choosing which law

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- 1 firms you would recommend to your patients?
- 2 MR. KEDIR: Objection.
- 3 A. **I have no criteria. It doesn't matter. Like I**
- 4 **said, Peter, it doesn't matter who the attorney**
- 5 **is, there's no criteria. You know, there have**
- 6 **been attorneys that have come into my office, you**
- 7 **know, soliciting business, give me business**
- 8 **cards, and I utilize them.**
- 9 Q. Do you follow-up to check on whether those
- 10 attorneys are any good?
- 11 A. **No. I mean, I ask my patients. Through**
- 12 **interaction with my patients on a day-to-day**
- 13 **basis like they'll -- they'll tell me, hey, this**
- 14 **attorney sucks. Why isn't he calling me back?**
- 15 **Well, I don't know. Call the paralegal, talk to**
- 16 **the assistant. And many times a patient gets**
- 17 **extremely frustrated or multiple patients and**
- 18 **they fire their attorney or they get another**
- 19 **attorney. So I hear it. You know, like I said,**
- 20 **I've treated many patients injured in car**
- 21 **accidents and I've heard it, I've heard**
- 22 **everything.**
- 23 Q. You identified seven law firms in your discovery
- 24 response as firms that you will recommend your
- 25 clients to.

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- 1 A. **There are a lot more than seven. I remember**
- 2 **doing the discovery and I just -- I can't**
- 3 **remember in 15 years how many attorneys I've**
- 4 **recommended. It's way more than seven.**
- 5 Q. Okay. Well, so you listed KNR, Slater & Zurz --
- 6 A. **Uh-huh.**
- 7 Q. -- Gary Himmel --
- 8 A. **Yep.**
- 9 Q. -- Alberto Pena --
- 10 A. **Yep.**
- 11 Q. -- Elk & Elk --
- 12 A. **Yes.**
- 13 Q. -- Amourgis & Associates --
- 14 A. **Uh-huh.**
- 15 Q. -- and Skolnick Weiser?
- 16 A. **Correct.**
- 17 Q. Who else?
- 18 A. **On 15 years?**
- 19 Q. Yes.
- 20 A. **Oh, there was Thomas Magliner [phonetic], there**
- 21 **was Westfield, there was Dyer up in Kent.**
- 22 **There's been Lisa Haywood -- geez, there's been a**
- 23 **lot. I don't remember.**
- 24 Q. And you can't say whether you do more business
- 25 with one of these firms than any other?

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- 1 A. **No, it's hard to say.**
- 2 Q. And you can't even estimate?
- 3 A. **No.**
- 4 Q. How do you decide when a car accident victim with
- 5 soft-tissue injury doesn't need treatment
- 6 anymore?
- 7 A. **We assess their pain levels. We look at range of**
- 8 **motion. Palpatory findings. Essentially see**
- 9 **where their pain level is at compared to day one.**
- 10 **See how their injury is affecting their**
- 11 **activities of daily living. See if they're back**
- 12 **to work. See if they're functional. If they're**
- 13 **able to raise their kids, for example or if**
- 14 **they're able to go for a walk.**
- 15 **It's a subjective and objective thing as to**
- 16 **when I decide the patient is to be released.**
- 17 **Every patient is different and every patient is**
- 18 **treated differently.**
- 19 **Though we do whatever is in the best interest**
- 20 **of the patient to get them back to pre-accident**
- 21 **condition. Many times the patient is well when**
- 22 **they're released and many times they're not.**
- 23 Q. You refer your personal injury clients to Dr.
- 24 Ghoubrial, correct?
- 25 A. **Correct.**

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1 Q. And what do you do that for?

2 A. **They're injured --**

3 Q. Uh-huh.

4 A. **-- they got high inflammatory levels. The**

5 **patient advised me that their medication ran out**

6 **from the hospital, they can't sleep, they're in**

7 **high levels of pain. They hurt more when they're**

8 **working. It helps me get the patient better**

9 **faster. I'm not a medical doctor. I can't**

10 **prescribe the medication, so, yeah, I refer a lot**

11 **of patients to Dr. Ghoumbrial, he's a great**

12 **doctor.**

13 Q. Are there other doctors that you send your

14 patients to for similar treatment?

15 A. **Oh, yeah. In the last 15 years I've worked with**

16 **many doctors.**

17 Q. Who else besides Dr. Ghoumbrial would provide

18 similar services?

19 A. **Dr. Soni --**

20 MR. KEDIR: Objection.

21 MR. POPSON: Objection.

22 A. **-- was one of the orthopedic surgeons I referred**

23 **patients to for pain management.**

24 Q. Dr. Soni?

25 A. **Dr. Soni.**

90

1 Q. S-o-n-i?

2 A. **Yes. Comprehensive Pain Management is another**

3 **place I refer many patients to --**

4 Q. That's the Lababidi's?

5 A. **Yes. And they have -- they have a lot of pain**

6 **management specialists there. Center of Neuro &**

7 **Spine is another place I refer patients to. Dr.**

8 **Chonko, Dr. Tharp, Dr. Pinkowski. There was Dr.**

9 **Pogorelec back in the day that would see my**

10 **patients.**

11 **I'm willing to refer my patients to anybody**

12 **who accepts patients injured in car accidents and**

13 **sometimes that's very difficult to find.**

14 Q. How did you meet Dr. Ghoumbrial?

15 A. **I don't remember.**

16 Q. Well, how did you come to first send your

17 patients to him?

18 A. **He may have been a mutual treatment with one of**

19 **the pain management facilities that have treated**

20 **my patients. That's probably where I first saw**

21 **his name pop up.**

22 **Again, I'm willing to work with any medical**

23 **doctor, any physician, that's willing to take on**

24 **my patients. And I get new ones or once in a**

25 **while I see a report of a patient with a medical**

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1 **doctor, I try to reach out to the doctor and see**

2 **if he's willing to accept my patients or to see**

3 **patients injured in car accidents or work**

4 **injuries, and again, its extremely difficult to**

5 **find medical doctors that will treat patients**

6 **injured in car accidents, especially in my area.**

7 Q. In Akron?

8 A. **Yeah. I'll send them anywhere. I'll send them**

9 **up to Cleveland, Medina, Fairlawn, Kent,**

10 **Canton -- they've been down to Canton --**

11 **Massillon. Anywhere.**

12 Q. Dr. Ghoumbrial will sometimes treat patients at

13 your office, correct?

14 A. **Yes.**

15 Q. So he'll set up a number of appointments on any

16 given day and will come there and treat a number

17 of patients on a particular day?

18 A. **Yeah, that's more recent. Again, I've been**

19 **referring patients to Dr. Ghoumbrial for many**

20 **years. Him coming to the office is more of a**

21 **recent thing. I don't remember when he started**

22 **but he used to -- I used to refer patients out to**

23 **Wadsworth, but it was difficult for the patients**

24 **to get there. A lot of patients don't have money**

25 **for gas. A lot of patients have not**

92

1 **transportation. And he set up an office**

2 **somewhere in Akron --**

3 Q. On Brown Street?

4 A. **-- made it easier for my patients -- I think it**

5 **was Brown Street -- made it a lot easier for my**

6 **patients to get to. But I think ultimately it's**

7 **better that he comes to my office.**

8 Q. And why is that?

9 A. **Just easier. It's just easier. The patients**

10 **don't have to go anywhere. Again, my patients**

11 **don't have the finances to go -- put gas in their**

12 **car to go get an MRI. The place I refer for MRI**

13 **up in Medina, they provide transportation to my**

14 **patients. My patients can't get up there.**

15 Q. Do any other doctors come treat patients at your

16 office?

17 A. **No. Actually, I should -- I'm sorry, just to go**

18 **back. There are a few other doctors that have**

19 **come to my office over the last 15 years to treat**

20 **patients. Recently, no.**

21 Q. Okay. Who are those doctors that have come to

22 your office?

23 A. **Dr. Soni was one of the doctors that would come**

24 **to my office a few times. Again, he was located**

25 **down in -- close to the downtown Canton area.**

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1 And it just got difficult for patients to see him  
 2 down there so he would come once in a while, once  
 3 a month to see patients in my office. This is  
 4 many years ago. Dr. Gunning is another physician  
 5 that's come into the office to treat patients --  
 6 Q. Dr. Gunning?  
 7 A. Dr. Gunning.  
 8 Q. Well, he works for Dr. Ghoubrial, correct?  
 9 A. Yes. But I'm giving you specific names of  
 10 doctors. And those are a couple other  
 11 physicians. Dr. Wynn. Dr. -- I forgot the other  
 12 gentleman's name. There's been a couple other  
 13 ones.  
 14 Q. Dr. Wynn?  
 15 A. Yeah.  
 16 Q. W-y-n-n?  
 17 A. Correct.  
 18 Q. What kind of doctor is Dr. Wynn?  
 19 A. I think she's just a medical doctor. She may be  
 20 part of the Dr. Ghoubrial group. I'm not too  
 21 sure.  
 22 Q. Okay.  
 23 A. And just to go on record, I would welcome any  
 24 physician that's willing to come to my office to  
 25 see any patient. I wish there was one there

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1 every day.  
 2 Q. So you typically do not accept health insurance  
 3 payments from a patient who is involved in  
 4 litigation, correct?  
 5 MR. POPSON: Objection.  
 6 A. I'll accept any forms of payment. It doesn't --  
 7 I accept Med Pay. Any time they've asked me to  
 8 bill their out of network -- I'm out of network  
 9 with all insurance companies, many times they've  
 10 asked me to bill their health insurance  
 11 companies. We've done it, we don't get paid by  
 12 them. We're out of network, so I'm not in  
 13 network with anybody, but many times some  
 14 providers will accept bills and records from us  
 15 and then if the patient -- and again, I'm sorry,  
 16 I don't know all the terminology in the medical  
 17 insurance worlds.  
 18 Many times they haven't met their deductible.  
 19 Many times, like I said, I'm out of network, they  
 20 don't even consider my billing. The same goes  
 21 for MRI facilities. Like they need a  
 22 preauthorization of some kind to get an MRI and,  
 23 again, if they're not represented by a law firm,  
 24 their personal health insurance will just deny  
 25 it. The patient can't get an MRI. I try my best

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1 to do whatever is possible. Whatever is best for  
 2 the patient. If they ask me to bill an insurance  
 3 company, I would do it.  
 4 Q. Why don't you affiliate with a network?  
 5 MR. KEDIR: Objection.  
 6 A. I just haven't. I don't know. I don't know how  
 7 to.  
 8 Q. Have you ever asked anybody at your company to do  
 9 -- to look into that?  
 10 A. No. There was a network called Coventry Health  
 11 Network that somehow I got affiliated with.  
 12 Somebody filled out a document and we were  
 13 affiliated with them. And the insurance  
 14 companies would run our billing through Coventry  
 15 Health Network, but I don't know if they'd review  
 16 the bills and say, hey, it's an auto accident  
 17 case, we're not paying. Or an insurance company  
 18 would run it through that network and say, hey,  
 19 we're only paying, you know, 70 percent of the  
 20 bill, if they're not represented by an attorney.  
 21 So it just varies patient to patient.  
 22 Q. You treat many of your patients on a letter of  
 23 protection, correct?  
 24 A. Yes.  
 25 Q. And why do you do that?

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1 A. Just to get -- I don't really get involved with  
 2 the paperwork. A letter of protection, from what  
 3 I'm made aware of, it just protects to patient,  
 4 the patient's bill, to ensure that we get payment  
 5 somehow.  
 6 Q. How does that protect the patient?  
 7 MR. KEDIR: Objection.  
 8 A. I don't know. I guess they want their bills to  
 9 be paid. That's my understanding of it.  
 10 Q. The patients want their bills to get paid?  
 11 A. Oh, yeah. Patients main concern when they come  
 12 into our office is who's going to pay this bill?  
 13 Like, am I going to be left with any bills here?  
 14 That's their main concern. So a letter of  
 15 protection protects, I guess, myself, my bill,  
 16 and the patient from not owing any money when the  
 17 case settles. Again, whether the patient has an  
 18 attorney or not, it's the same thing, they want  
 19 to have protection, we want to have protection.  
 20 And most physicians who treat patients injured in  
 21 auto accidents including facilities that do MRIs  
 22 and specialists and surgeons, they all want  
 23 letter of protections. It's not just my office  
 24 that wants a letter of protection in a patient  
 25 injured in a motor vehicle accident.

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**We also have patients who are involved in work injuries sign letter of protections to make sure that the Bureau of Workers' Compensation pays the bill as well.**

Q. You wouldn't need a letter of protection if the patient's health insurance was on the hook for the treatment, correct?

MR. KEDIR: Objection.

A. Oh, we would -- I would always have the patient sign it. Again, Peter, I've talked to many patients, Med Pays of their insurance policies, adjusters that work at these insurance companies, they won't consider our bill, they won't pay the bill. They'll say go to the patient, we're not looking at it.

Q. And why don't they pay your bill?

MR. KEDIR: Objection.

A. They just refuse to because it's in an auto accident case. You know, an insurance adjuster had told me in the past, we only pay for patients in a motor vehicle accident who are injured that went to the ER the first day. Anything after the first day, they're not paying the bills. It's a common thread, it's a common thing. I don't know why that happens, I don't know why they don't pay

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**the bill, but they just don't.**

Q. So you say you always have your patients sign the letter of protection?

A. Correct. The paperwork is pretty standard in our office. Like even this paper that you gave me from Thera Reid, you know, Monique Norris may have -- may have received the same document -- where is it? Exhibit number -- I'm sorry -- Exhibit No. 6, Monique Norris may have been given the same document. She may have signed it. After reviewing the file I saw that KNR had referred me Monique Norris. She wasn't contacted by anybody, but she probably would have received it because the stack of papers that my staff gives to the patients and many times they'll sign it, many times they won't and that's it. So a letter of protection is just a standard paperwork in my file.

Q. So you have all your clients sign letters of protection?

A. I don't have anybody sign anything. They're just part of my file. Like they're just a bunch of documents that a patient will sign. Do you have an example of a letter of protection so I can see it?

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Q. If they don't sign the letter of protection, you will treat them anyway?

A. I will treat every single patient --

MR. KEDIR: Objection.

A. -- that comes into my office. Peter, many times a patient refuses to sign forms. I don't -- I don't care. I'm just an employee of Akron Square Chiropractic. I like getting patients well. If they sign a letter of protection, if they don't, it doesn't make any difference to me. I will treat them, I will give them the best possible care I can give them. And if we get paid on it, great, and if we don't, hey, it happens, what are you going to do? Mr. Carter, who you just presented me a bill, has never paid his bill from 2015. Maybe he didn't sign his letter of protection. What am I going to do? He's injured, I'm going to treat him and we move on.

Q. You've never sued any of your patients for not paying a bill, have you?

MR. KEDIR: Objection.

A. Oh, I don't know. I haven't sued anybody personally. I don't know if Akron Square Chiropractic has. I have no idea, I don't know what the billing does.

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Q. You're not aware of any instance where that's happened, are you?

A. No, I wouldn't know. I would have no idea. I would prefer not to sue any patients.

Q. So if a client comes to Akron Square with injuries and wants to pay using his own health insurance, you will accept that form of payment if -- I mean, do you have a process where your staff will call the insurance company -- strike that.

MR. POPSON: You saw me, didn't you?

MR. PATTAKOS: I could feel you.

Q. If a client comes to your office with injuries and wants to pay using their own health insurance, do you have a process by which your office will contact the insurance company to see if they will pay?

MR. KEDIR: Objection.

A. No, we don't have a process, but I can tell you if a patient comes to our office and is represented by an attorney, they will instruct us when they're done with therapy, hey, make sure my attorney gets the bills and the records as soon as you can.

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1 **If the patient doesn't have an attorney, then**  
 2 **we ask them, do you have Med Pay on your policy?**  
 3 **Who's going to pay the bill? Have you talked to**  
 4 **a third-party insurance company. Do you have**  
 5 **health insurance? I'll ask them on their exit**  
 6 **day to see if they have anything. And if they**  
 7 **do, they provide it to us and then we send it out**  
 8 **to the billing office and then they do whatever**  
 9 **they do with it. Whether or not I get paid or**  
 10 **not, I have no idea. I'll tell you this, nine**  
 11 **times out of ten, I probably won't get paid on**  
 12 **that case.**  
 13 Q. If the client wants to be -- wants to pay using  
 14 their health insurance, you won't get paid on the  
 15 case, is that what you're saying?  
 16 A. **I'm out of network. Most of the times they will**  
 17 **not pay us.**  
 18 Q. Okay.  
 19 A. **Sometimes they do, actually sometimes they'll pay**  
 20 **us, but mainly the -- my experience with this --**  
 21 **and I don't have much experience with this, the**  
 22 **patient's health care insurance will review the**  
 23 **documents, see that it's a motor vehicle accident**  
 24 **and say, hey, follow up with a third-party payer,**  
 25 **here's the information, State Farm, claim number,**

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1 **date of accident, adjuster, phone number, facts,**  
 2 **have a nice day. They won't pay it.**  
 3 **I don't know if there's a law in Ohio that**  
 4 **restricts insurance companies from paying bills**  
 5 **with patients in auto accidents but that's my**  
 6 **experience with it.**  
 7 Q. And what about Medicare or Medicaid, are you an  
 8 approved provider for them?  
 9 A. **I'm out of network with everybody.**  
 10 Q. Okay. So you're not an approved provider for  
 11 Medicare or Medicaid?  
 12 A. **Correct. I'm out of network with every insurance**  
 13 **company.**  
 14 MR. PATTAKOS: Why don't we take a  
 15 break.  
 16 THE VIDEOGRAPHER: We're going off  
 17 the record. This is the end of Tape No. 1.  
 18 The time is 11:15.  
 19 - - - -  
 20 (Thereupon, a recess was had.)  
 21 - - - -  
 22 THE VIDEOGRAPHER: We're back on  
 23 the record. This is the beginning of Tape  
 24 No. 2. The time is 11:25.  
 25 BY MR. PATTAKOS:

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1 Q. Let's talk about the narrative reports.  
 2 A. **Okay.**  
 3 Q. When did you first start making the narrative  
 4 reports?  
 5 A. **Oh, I don't remember when they started being**  
 6 **requested from me. I've been typing narrative**  
 7 **reports since my first month in practice.**  
 8 Q. Let me understand that answer, you said, I don't  
 9 remember when they first started requesting them  
 10 from me. I've been typing them since I first  
 11 came to practice?  
 12 A. **Yeah. So, to go back, I've been typing**  
 13 **narratives since I started practicing. Probably**  
 14 **the first month after I started practicing at**  
 15 **Akron Square Chiropractic.**  
 16 Q. So attorneys were requesting them from you since  
 17 then?  
 18 A. **Correct.**  
 19 Q. And when did you start charging separately for  
 20 that?  
 21 A. **I haven't charged separate. My fee was initially**  
 22 **\$200 for a narrative. That's what it was when I**  
 23 **first started out.**  
 24 Q. And is that what it is now?  
 25 A. **I get paid anywhere between 150 and 200 for the**

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1 **narrative. It should be a lot more, just saying.**  
 2 Q. Why should it be a lot more?  
 3 A. **I spend a lot of time. A lot of weekend time, a**  
 4 **lot of evening time. Time that I should be**  
 5 **spending with my kids spending -- looking over**  
 6 **records and preparing narratives.**  
 7 Q. How long does it take you to prepare one?  
 8 A. **Oh, it varies. You know, just looking at the two**  
 9 **patients here, Ms. Reid's hours, hour and half,**  
 10 **two hours to review everything. Ms. Reid -- or**  
 11 **Ms. Norris -- I'm sorry -- probably less because**  
 12 **I only treated her four or five times.**  
 13 Q. So it depends on the records that you would have  
 14 to go through?  
 15 A. **Yeah. Like Ms. Reid's I had to review over a**  
 16 **hundred documents before I prepared the**  
 17 **narrative. And I had to make a pretty good -- or**  
 18 **try to make the best estimation that I could make**  
 19 **for future medical care. Because, again, Ms.**  
 20 **Reid was ejected off a motorcycle in an accident.**  
 21 **It's very different than Ms. Reid -- Ms. Norris,**  
 22 **I'm sorry -- so definitely hers took a little bit**  
 23 **longer just to make these -- cause -- you know,**  
 24 **future medical expense predictions.**  
 25 Q. It's a range of time you would spend on the

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- 1 narrative reports; is it fair to say anywhere  
2 between half an hour to two hours for each one?  
3 **A. Sometimes can be more than two hours. Again,**  
4 **it's the reviewing of the documents that come up**  
5 **with the prognosis and the future medical expense**  
6 **cost. It can take sometimes, you know, 30**  
7 **minutes, it can take 45 minutes, it can take two**  
8 **and a half hours, three hours, it just depends.**  
9 Q. Okay. It's not typical for it to take more than  
10 three hours though?  
11 **A. Usually not, I would say usually not.**  
12 Q. Okay. I should have asked: How many kids do you  
13 have?  
14 **A. Two.**  
15 Q. How old?  
16 **A. Three -- my daughter is three and a half, my son**  
17 **is two.**  
18 Q. Wow. That's a handful.  
19 **A. Yeah.**  
20 Q. And you're married?  
21 **A. No. Common law in Canada.**  
22 Q. Okay. Your kids are in Canada?  
23 **A. Everyone is in Canada.**  
24 Q. So you spend the weekdays here and spend the  
25 weekends in Canada?

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- 1 **A. No. Now, it's you spend half the week here and**  
2 **half the week there.**  
3 Q. So you're only in -- you're only treating  
4 patients at Akron Square for half the week?  
5 **A. Usually half the week. Sometimes early in the**  
6 **week, sometimes later in the week, sometimes**  
7 **middle of the week. It just changes week to**  
8 **week.**  
9 Q. Okay.  
10 **A. And that's recent, that's for the last three**  
11 **years.**  
12 Q. Since the kids were born?  
13 **A. Yeah, before that I was here usually every day.**  
14 Q. And your wife lives in Canada?  
15 **A. Correct.**  
16 Q. What's your wife's name?  
17 **A. Lucy.**  
18 Q. Is she Greek?  
19 **A. Yes. Not that it matters. It doesn't matter.**  
20 Q. I had to ask. Okay. It's just a Greek to Greek  
21 thing. You understand.  
22 **A. I hear you.**  
23 Q. My wife is not Greek. Of course my mother wasn't  
24 either, so my father started, you know --  
25 **A. Okay.**

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- 1 Q. -- down the road with the --  
2 **A. Sure.**  
3 Q. All right. So in your discovery responses, in  
4 your responses to an interrogatory you describe a  
5 narrative report and I'll read your description.  
6 You say a narrative report provides a synopsis of  
7 a patient's experience with his doctor, so that  
8 laypersons, attorneys, can understand the medical  
9 notations in the patient's file so it may be  
10 presented cohesively in the representation of  
11 their client.  
12 The narrative report provides the  
13 chiropractor's expert medical opinion on  
14 causation.  
15 The narrative report relates the client's  
16 injuries and the accident within a degree of  
17 reasonable chiropractic probability. The  
18 narrative report proves the chiropractor's expert  
19 opinion on what treatment was necessary and may  
20 be necessary in the future.  
21 The narrative report provides citations to  
22 published reports that support the chiropractor's  
23 expert opinion.  
24 The narrative report serves as an expert  
25 report which is often required in litigation.

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- 1 The narrative report helps attorneys with  
2 presenting, proving and negotiating personal  
3 injury claims. For these reasons attorneys often  
4 request narrative reports.  
5 Is that an accurate description of what a  
6 narrative report is?  
7 MR. KEDIR: Let me get an  
8 objection because it also lists an  
9 objection earlier I believe in that  
10 response too, so...  
11 **A. That's fairly accurate.**  
12 Q. Is there anything you want to add to that?  
13 **A. It doesn't go into the amount of time I spend**  
14 **reviewing documents and that. It's not just**  
15 **typing the report. It's much deeper than that.**  
16 **It's just not putting paper to pen or typing**  
17 **something out. It's a lot more detailed than**  
18 **that.**  
19 **I put a lot of effort preparing these**  
20 **narratives. I know a lot of patients, example,**  
21 **Thera Reid, is -- she's probably suffering today.**  
22 **I haven't seen her in many, many years, but her**  
23 **level of injury was very traumatic and it's hard**  
24 **for me to make a solid prediction on future**  
25 **medical care.**

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1 Every deposition that I've ever gone to, your  
2 friend Rob Horton, for example, as recent, the  
3 last several depositions he's taken from me at  
4 Slater & Zurz, he's brought up the narrative all  
5 the time. He asks me specific questions, you  
6 know, about the narrative. Why I came up with  
7 reasons, causations, diagnosis and all that  
8 stuff. So I feel like it's very important in the  
9 case. I feel like it's the best interest of the  
10 case -- best interest of the patient for me to  
11 prepare these narratives for them.

12 Q. Did you write that response to that  
13 interrogatory?

14 MR. KEDIR: Objection.

15 A. With my counsel, yeah.

16 Q. With your attorney. Okay.

17 A. Yes.

18 Q. And there are certain attorneys or law firms with  
19 whom you work that automatically requests a  
20 narrative report from you for all --

21 MR. KEDIR: Objection.

22 Q. -- of the clients of that firm that treat with  
23 you, correct?

24 MR. POPSON: Objection.

25 A. I don't work with any law firms, let's make sure

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1 we get that because I don't work with any law  
2 firms. I recommend law firms to patients. Many  
3 law firms request narratives. Some more frequent  
4 than others, but I don't work with any law firms.  
5 I wait until I get a request. I produce records.  
6 Sometimes I produce the narratives, sometimes I  
7 don't. It depends on the request of the law  
8 firm.

9 Q. But if you get the request, you will always make  
10 the report, correct?

11 A. Of course if it's requested, yes. So if they  
12 request records, I have to send the records. If  
13 they request bills, I send the bills. If they a  
14 narrative, I request -- I prepare a narrative.

15 Q. And you're aware that KNR automatically requests  
16 a narrative on every case that you're involved  
17 with, correct?

18 MR. POPSON: Objection.

19 MR. KEDIR: Objection.

20 A. That's far from the truth, Peter, that doesn't  
21 happen. It's not every single case. What if the  
22 patient -- what if I treat the patient 25 times  
23 and there's no insurance. There hasn't been no  
24 established insurance on the car that caused an  
25 accident --

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1 Q. Uh-huh.

2 A. -- KNR is usually not going to request a  
3 narrative for that patient.

4 Q. Okay.

5 A. So it's not on every single patient.

6 Q. The great majority of them?

7 MR. KEDIR: Objection.

8 MR. POPSON: Objection.

9 A. It's hard for me to say number wise. It's hard  
10 to say based on what I produced, I don't think  
11 it's anywhere close to every patient, but again,  
12 it's very hard to predict.

13 Q. Okay. Are there any other law firms -- are there  
14 any law firms, I should say, for whom you will  
15 produce a narrative report on every case that  
16 that law firm handles where the patient is  
17 treating with you?

18 A. I don't -- I don't produce any narratives on  
19 every case for any law firm that I have patients  
20 with. It just doesn't happen. So there are  
21 attorneys that request narratives and when the  
22 request comes in, I comply and I produce the  
23 narrative. But it's never on every case for  
24 every law firm.

25 Q. Or on the great majority of them?

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1 MR. KEDIR: Objection.

2 MR. POPSON: Objection.

3 A. That's so hard to say, Peter, very difficult to  
4 say.

5 Q. So let me understand your testimony about KNR.  
6 Is it your testimony that you do not produce a  
7 narrative report on the great majority of cases,  
8 KNR cases, where you treat the patients?

9 MR. KEDIR: Objection.

10 MR. POPSON: Objection.

11 A. I can't say it's a great majority or great  
12 minority, it's case-to-case basis. If a patient  
13 -- if I release a patient and KNR sends a request  
14 that asks for a narrative, I'll produce a  
15 narrative. If that request doesn't say produce a  
16 narrative, I won't produce a narrative.

17 Q. I'm not asking you that, I'm asking if you're  
18 denying that on the great majority of KNR cases  
19 where you are treating the patient, you are asked  
20 to produce a narrative report by KNR.

21 Are you denying that or are you saying you  
22 don't know?

23 MR. KEDIR: Objection.

24 MR. POPSON: Objection.

25 A. Yeah, I'm not -- I don't know. I'm not agreeing



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1 MR. MANNION: You're asking him to  
2 interpret what a Court says.  
3 **A. Yeah. I'm not going to comment, and I'm not**  
4 **going to agree with you on anything that this**  
5 **says, because I don't really understand it.**  
6 Q. Okay.  
7 MR. POPSON: Did you tell him what  
8 the outcome was?  
9 MR. PATTAKOS: I don't think the  
10 outcome is relevant.  
11 MR. MANNION: Right. The fact  
12 that it was properly excluded.  
13 Q. Okay. So, you're saying that you can't  
14 understand that the insurance company that  
15 represented the Defendant, in this case, was  
16 attacking your relationship with the KNR firm?  
17 MR. MANNION: Objection.  
18 MR. KEDIR: Objection.  
19 MR. POPSON: Objection.  
20 Q. You never became aware of that?  
21 **A. No. I've treated, like I said, many patients,**  
22 **and I've never been made aware of that.**  
23 Q. And, you never advised your clients of any  
24 skepticism that insurance companies have over the  
25 relationship between you and KNR, or any law

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1 firm, have you?  
2 MR. KEDIR: Objection.  
3 MR. MANNION: Objection. Assumes  
4 facts not in evidence.  
5 **A. I don't agree with you that there is any**  
6 **skepticism. I don't think there is. I treat**  
7 **patients who are injured, and that's it.**  
8 Q. Whether you agree with me or not, the question  
9 is, you don't advise clients about this, do you?  
10 MR. KEDIR: Objection.  
11 **A. I don't know what to advise them about. I don't**  
12 **understand your question.**  
13 Q. Well, if you don't agree that the insurance  
14 companies, for example, in this case, *Chambers v.*  
15 *Lee*, are attacking your relationship with the law  
16 firm, as is said very clearly here in this  
17 paragraph 10 --  
18 MR. MANNION: Objection. You're a  
19 lawyer.  
20 Q. -- you certainly don't advise your clients of  
21 that, do you?  
22 MR. KEDIR: Objection.  
23 MR. MANNION: Objection. Asking  
24 him to interpret a legal decision.  
25 **A. I don't even know what this means. I have no**

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1 **comment on this case.**  
2 Q. Okay.  
3 - - - - -  
4 (Thereupon, Deposition Exhibit 28 was marked  
5 for purposes of identification.)  
6 - - - - -  
7 Q. Do you remember *McDade v Morris* and State Farm?  
8 MR. KEDIR: Objection.  
9 **A. No. What year was this in? I don't know. I**  
10 **don't remember this.**  
11 Q. You don't remember treating Yulanda McDade?  
12 **A. No.**  
13 Q. Or, testifying --  
14 **A. No.**  
15 Q. -- in this case, at all?  
16 **A. No.**  
17 Q. Okay. Page 2 paragraph 3, it says *Ms. Dade*  
18 *believed it was Mr. Morris' intention to defend*  
19 *the lawsuit against him by discrediting*  
20 *Dr. Floros, in particular, she believed Mr.*  
21 *Morris meant to argue that Dr. Floros had an*  
22 *arrangement with certain law firms, and routinely*  
23 *profited from referring his patients legal*  
24 *counsel.* You never became aware of that?  
25 MR. KEDIR: Objection.

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1 MR. POPSON: Objection.  
2 **A. No. Again, I don't know what any of this means.**  
3 **I don't know.**  
4 Q. Okay.  
5 MR. PATTAKOS: Let's take a short  
6 break. I think I'm almost done. I think I  
7 only have a few minutes, but let me  
8 confirm.  
9 VIDEOGRAPHER: We're going off the  
10 record. The time is 3:48.  
11 - - - - -  
12 (Thereupon, a recess was had.)  
13 - - - - -  
14 THE VIDEOGRAPHER: We're back on  
15 the record. The time is 3:53.  
16 MR. PATTAKOS: We have no further  
17 questions, Dr. Floros. Thank you for your  
18 time today.  
19 THE WITNESS: Thank you.  
20 MR. POPSON: Just one quick thing  
21 to follow up on.  
22 - - - - -  
23 EXAMINATION OF MINAS FLOROS, DC  
24 BY MR. POPSON:  
25 Q. Dr. Floros, my name is Jim Popson. I represent



# EXHIBIT C

STATE OF OHIO

)

) SS.

COUNTY OF SUMMIT

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AFFIDAVIT

I, John Valitto, J.D., LPCS, having been duly sworn, and having personal knowledge of the facts and statements contained herein, testify as follows:

1. I am greater than eighteen (18) years of age.
2. I have 37 years of experience in the insurance industry including positions at Kemper Insurance Company, Economy Fire and Casualty Company, Northeast Adjusting Services, Inc., and Auto Owner's Insurance Company.
3. I retired from Auto Owner's Insurance Company after 27 years of service. I have experience in all lines, property and casualty claims. I was the manager of the Akron branch of Auto Owner's for nine years.
4. I graduated from the University of Akron, School of Law in 2005 and was admitted to the bar in 2006. My Ohio State bar membership is currently inactive.
5. During my career of handling injury claims, it was well-known in the insurance industry that chiropractic offices would review publicly available accident reports for potential clients who may have been injured. It cannot be inferred that chiropractors solicited clients on behalf of specific lawyers or law firms. Chiropractors may refer or recommend patients to any number of attorneys or law firms upon request of the patient.
6. Insurance claims personnel are trained to consider each claimant who alleges injury as an individual with distinct symptoms and individualized treatment plans. Despite this, low impact accidents resulting soft tissue injuries requiring medical treatment more than likely look for chiropractic treatment initially and then may be referred to a physician specializing in more serious conditions. My experience with soft tissue claims revealed similar symptoms, diagnosis and common treatment regimens by almost all chiropractic providers. The objective of all claims

personnel is to allow an injured party to seek treatment so full recovery may be achieved as soon as possible. Settlement of these types of claims results in a closed file so claims personnel may move on to the next claim.

7. Statements of skepticism and increased scrutiny to Plaintiffs' attorneys by claims personnel are common negotiating tactics. Claims representatives look to resolve injury claims before they become expensive because of litigation costs and loss of time. Statements like these made to attorneys representing the injured parties are tactical in nature and are motivated by desire to move these cases to settlement. As part of the negotiation process, a claims representative may request a recorded statement from the injured party with permission of the attorney. The attorney has full discretion to allow or not allow such a statement. This decision is typically made on a case-by-case basis and is also accepted practice in the insurance industry. The bottom line for claims representatives is to settle the claim and properly compensate the injured party prior to suit being filed. The great majority of claims are settled in this manner and even if suit is filed, the vast majority of those cases settle prior to trial. This is particularly true where liability is not in dispute. If suit is filed, the rules of the Court govern the process of discovery for the involved parties and should result in obtaining information needed to conclude the matter in a transparent and clear manner.

8. Insurance claims personnel are not trained to be physicians but are expected to obtain all pertinent information in order to properly evaluate each claim prior to suit being filed. One of the tools of evaluation is obtaining a narrative report from treating physicians that provides basic information regarding the patient including a brief medical history, a record of the current injury or sickness including claimed and evident symptoms, a diagnosis by the treating physician, a record of the treatment regimen, and a prognosis of recovery. These reports also often include opinions regarding causation. Rather than deciphering volumes of medical records, the narrative report provides an efficient method of evaluating each claim and is a common document to be used by

both claims personnel and attorneys.

9. It is not unusual, nor may an improper relationship be inferred by an attorney's decision to obtain narrative reports in any soft tissue injury cases. Many insurance carriers request copies of narrative reports as a matter of course in evaluating injury claims. Therefore, it cannot be said that it is unusual or unreasonable for attorneys to request such reports as a matter of course. In my experience, the purpose of these reports is to help get the case resolved. It cannot be inferred that the purpose of the reports is to improperly divert client funds to a chiropractor.

10. When an insurance adjuster is reviewing the cost of medical care submitted in connection with a claim, the evaluation of whether a charge is reasonable is subject to the elements of proof in a particular jurisdiction and may be the subject of expert testimony by physicians or other medical care providers. In my experience, the discounted rates negotiated by Medicare or health insurance carriers are not the limit of a reasonable charge. Different health insurance providers may negotiate different amounts for payment for the same service, and many physicians only offer these discounted rates for health insurance purposes. The rates charged by physicians for similar services may vary in a significant manner and are not categorically unreasonable in the view of a third party claims professional simply because Medicare or a health insurance carrier will only pay a discounted rate. Further, the amount charged is often more than the amount accepted by physicians for payment. Thus, the determination of whether a particular payment to a medical care provider was reasonable would vary from claim to claim.

FURTHER AFFIANT SAYETH NAUGHT.

  
John Vallillo

SWORN TO BEFORE ME and subscribed in my presence this 13<sup>th</sup> day of

June, 2019.

Cynthia M Caster  
Notary Public



CYNTHIA M. CASTER  
Attorney at Law  
NOTARY PUBLIC  
STATE OF OHIO  
My Commission Has  
No Expiration Date  
Section 147.03 O.R.C.

# EXHIBIT D



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IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, et al.,  
Plaintiffs,  
-vs-  
KISLING, NESTICO  
& REDICK, LLC, et al.,  
Defendants.

- - -

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

- - -

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Member Williams

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EXAMINATION  
ALBERTO R. NESTICO, ESQ.  
BY MR. PATTAKOS

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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?

279

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.

280

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?

281

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 - - - -

283

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

# EXHIBIT E

**IN THE COURT OF COMMON PLEAS  
SUMMIT COUNTY, OHIO**

MEMBER WILLIAMS, <i>et al.</i>	)	CASE NO.: CV-2016-09-3928
	)	
Plaintiffs,	)	JUDGE PATRICIA COSGROVE
	)	
vs.	)	
	)	
KISLING, NESTICO & REDICK, LLC, <i>et al.</i>	)	
	)	
Defendants.	)	

**AFFIDAVIT OF JOHN LYNETT, JR**

BEFORE ME, the undersigned authority, John Lynett, Jr. personally appeared and declared the following:

1. My name is John Lynett, Jr. I am over 18 years of age, and capable of making this affidavit. I have personal knowledge of the facts stated in this affidavit. The facts stated herein are true and correct.
2. I went to law school at the University of Akron, School of Law and received my law degree with honors and was admitted to the Ohio Bar in 1993. I have practiced continuously since that time.
3. My law practice focuses on claims involving personal injury.
4. Many of my clients receive soft tissue injuries that resulted from the negligence of another person in a motor vehicle crash. Those injuries regularly require treatment and therapy that can last weeks, or even months.
5. Many of my clients do not have personal medical insurance, or the personal means that would allow them to access to the care they needed without my help.
6. To provide the best possible service for my clients, I have recommended to my clients doctors and facilities that will treat them for their injuries, with the understanding that these providers will not try to collect payment for those services from my clients until my clients' claims have been settled or adjudicated.
7. Because these physicians do not have the legal right in Ohio to enforce an Assignment of Benefits on my clients' claims, with my clients' permission I agree to withhold an amount of agreed upon health care services fees from my clients' settlement or judgment and pay those amounts directly to the doctor or healthcare facility. That promise benefits my client because it puts the healthcare provider at ease knowing that if there is a monetary resolution to the claim, the physician will get some portion of their fees paid and allows my client to get the timely medically necessary treatment that is required.

8. I have also been recommended to clients by healthcare providers, like Minas Floros, DC, who are treating individuals that are similarly situated to my clients, in that they did not have personal medical insurance, or the personal means that would allow them to get the care they needed without the assistance of an attorney.
9. Dr. Floros has told me that he recommends patients to me because he believes that I will represent his patient, now my client, well, and with my client's approval, I will pay Dr. Floros' bill or a portion thereof directly from the proceeds of any settlement and judgment.
10. In the normal course of business, I request written narrative reports from Minas Floros, D.C. (and other health providers) once the physician has completed treating one of my clients. I find a narrative report to be useful in negotiating with the claims adjuster. This report explains the causal relationship between the motor vehicle accident in which my client was involved, and the injuries sustained. The plain language used by the health care provider in the narrative report makes it easy for a layperson, to understand what caused the injury, what the injury was, what treatment was administered, and what the patient's prognosis is.
11. The narrative report that I ask Dr. Floros and other health care providers for is obtained for the benefit of my client in negotiating a settlement and/or for use in litigation. It is a cost of preparing the demand package to facilitate a settlement and/or in anticipation of litigation. It is not a part of the health care treatment my client received, and therefore is a separate expense of litigation.
12. Settlement proposals from insurance adjusters are delivered to me as a total amount. When a settlement is reached, the release contains no direction from the insurer how the funds are to be disbursed between the various parts that make up the settlement amount. Language in the release of claims also fails to provide any itemization.
13. In some personal injury claims, the amount obtained in settlement is not adequate to cover payment of the full amount incurred by my client for his or her medical care. Therefore, I must negotiate with the provider for a reduction in the amount the provider will accept as full compensation for the services rendered in order to settle those claims.

Further affiant sayeth naught.

  
JOHN J. LYNETT, JR.

Before me, a notary public, in the aforesaid county and state, personally appeared the above-named John J. Lynett, Jr. who acknowledged that he did sign the same and that the same was his free act and deed.

Witness my hand the office of  
MARCH, 2018.



AKRON Ohio on this 22<sup>nd</sup> day of  
  
NOTARY PUBLIC

# EXHIBIT F

1

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

6                                       VOLUME II

7            KISLING, NESTICO

8            & REDICK, LLC, et al.,

9                    Defendants.

10                    - - - -

11            Videotaped deposition of GARY PETTI, taken as if

12            upon examination before Brian A. Kuebler, a

13            Notary Public within and for the State of Ohio,

14            at the Pattakos Law Firm, 101 Ghent Road,

15            Fairlawn, Ohio, at 9:33 a.m. on Friday, March 1,

16            2019, pursuant to notice and/or stipulations of

17            counsel, on behalf of the Plaintiffs.

18                    - - - -

19                    JK COURT REPORTING

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1   ALSO PRESENT:

2            John J. Reagan, Esq.

3                    Randy Andrews - videographer

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                  On behalf of the Defendants,

                Sam N. Ghoubril, MD;

## 1                    I N D E X

2            EXAMINATION

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1 Q. I don't know. In the affidavit -- who prepared  
2 the affidavit?  
3 A. **Kickback is my word --**  
4 Q. Okay.  
5 A. **-- I mean it's certainly in the affidavit, yeah.**  
6 **I believe the payment to the chiropractor is a**  
7 **kickback.**  
8 Q. For the narrative report?  
9 A. **Yep. Yep. The narrative report has no**  
10 **independent value whatsoever in those cases and**  
11 **that it's paid strictly as a means to make the**  
12 **chiropractor happy.**  
13 Q. Now, you understand that other lawyers both at  
14 KNR and elsewhere disagree with you on the value  
15 of narrative reports, true?  
16 A. **The ones that are doing it.**  
17 Q. I'm asking. Well --  
18 A. **Yeah.**  
19 Q. -- if you don't think it's valuable, then you  
20 would assume those lawyers aren't doing it, fair?  
21 A. **No. No.**  
22 Q. Okay.  
23 A. **I would say if Dr. Floros is getting a kickback**  
24 **from KNR and he says, look, if you want referrals**  
25 **from me, you're not going to give them up -- I'm**

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1 **not going to give up that 200 bucks, so you've**  
2 **got to give me 200 bucks, too. So they either**  
3 **walk away from Floros or they pay the 200 bucks.**  
4 Q. Are you saying Dr. Floros said that?  
5 A. **I'm saying -- no, I never heard that.**  
6 Q. Okay. So you never heard somebody say that  
7 getting \$200 for a prepared and typed-out, signed  
8 narrative report --  
9 A. **Uh-huh.**  
10 Q. -- was a kickback, did you?  
11 A. **No. Kickback is my word --**  
12 Q. Okay.  
13 A. **But I did hear John Lynett phrase it in a way**  
14 **that suggested the same thing.**  
15 Q. You think John Lynett was --  
16 A. **He knows it's a kickback. Everybody knows it's a**  
17 **kickback.**  
18 Q. And he does it anyway?  
19 A. **Yes.**  
20 Q. So you're saying John Lynett gives kickbacks to  
21 chiros?  
22 A. **Yeah. Everybody who pays the 200 bucks, it's a**  
23 **kickback.**  
24 Q. That's your opinion?  
25 A. **Yes.**

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1 Q. Now, you would agree that that's not paid until  
2 there's actually a narrative report signed by the  
3 doctor talking about the patient, true?  
4 A. **I don't know that. I was told otherwise.**  
5 Q. Really?  
6 A. **Yes.**  
7 Q. What if you found out that you had to have the  
8 narrative report signed about that patient --  
9 A. **It wouldn't matter.**  
10 Q. Just wait. Signed about that patient and then a  
11 check was requested to pay for that narrative  
12 report?  
13 A. **It wouldn't matter.**  
14 Q. What if the lawyer on that individual case  
15 believed in his professional judgment that that  
16 narrative report had value?  
17 A. **Then --**  
18 Q. That wouldn't be a kickback, would it?  
19 A. **No, it wouldn't.**  
20 Q. Okay. And different lawyers have different  
21 judgments about what's valuable to a case, don't  
22 they?  
23 A. **They do.**  
24 Q. Now, you're not alleging that Dr. Floros, Akron  
25 Square or any chiropractor or medical provider

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1 actually made some type of cash payments to KNR,  
2 are you?  
3 A. **No.**  
4 Q. And other than paying for a narrative fee, you're  
5 not saying that KNR or Rob Nestico or Robert  
6 Redick, made any cash or other payments to the  
7 chiropractors, are you?  
8 A. **Other than the narrative reports --**  
9 Q. Right.  
10 A. **-- is that what you said? No, I would not be**  
11 **aware of that.**  
12 Q. For example, you're not saying that the client  
13 gets charged \$200 for the narrative reporting,  
14 KNR and the chiros split it?  
15 A. **No, I don't know that.**  
16 Q. And, in fact, did you know that the narrative  
17 report is paid even when KNR refers the client --  
18 A. **I did know that.**  
19 Q. -- to the chiropractor?  
20 A. **I did know that.**  
21 Q. So --  
22 A. **Thirty to nothing though, right?**  
23 MR. KEDIR: What's that?  
24 THE WITNESS: Thirty to nothing  
25 though.

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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 BY MR. MANNION:  
 2 Q. So can I ask you what the cost to stabilize Thera  
 3 Reid's condition will be over the next year, can  
 4 you tell me?  
 5 A. **No, I don't know.**  
 6 Q. It's not in there?  
 7 A. **I don't know. I didn't look through it all.**  
 8 Q. How long would that take you to find?  
 9 A. **How long would it take me to find?**  
 10 Q. Yeah.  
 11 A. **I'm out of practice, so I don't know if it's in**  
 12 **there.**  
 13 Q. And you don't expect Dr. Floros or any  
 14 chiropractor to remember every patient, do you?  
 15 A. **No.**  
 16 Q. They'd have to go back and look through the  
 17 medical records, wouldn't they?  
 18 A. **They would.**  
 19 Q. Do you know how much time he --  
 20 A. **Well, if you're saying they -- yes, they would.**  
 21 Q. Do you know how much time it took Dr. Floros to  
 22 prepare a narrative report for Thera Reid?  
 23 A. **No.**  
 24 Q. Any idea?  
 25 A. **No, none.**

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1 Q. Okay. So just looking through there, do you see  
 2 any reference to how much it will cost to  
 3 stabilize her condition over the next year?  
 4 A. **Over the next year, so following her treatment?**  
 5 Q. Yeah.  
 6 A. **No, I don't see anything about that.**  
 7 Q. It's not in there, is it?  
 8 A. **I didn't see anything about it, but again, I**  
 9 **didn't look through it all and I really don't**  
 10 **want to.**  
 11 Q. Well, where in there does it say that the  
 12 chiropractic care was reasonable and causally  
 13 related to the motor vehicle accident, in those  
 14 words, the magic legal language?  
 15 A. **To use -- using the magic language, I would**  
 16 **suggest he probably did not do that.**  
 17 Q. Okay. That's not what doctors and chiropractors  
 18 do, is it?  
 19 A. **Ordinarily, no.**  
 20 Q. Okay. In most -- in the vast majority of your  
 21 cases, you don't see that in the medical records,  
 22 do you?  
 23 A. **Not that I recall. I mean, there's some**  
 24 **handwritten notes where he indicates that she was**  
 25 **a motorcycle passenger, fell off a bike. So, you**

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1 **know, there's a suggestion certainly that she**  
 2 **sustained injuries falling off a motorcycle.**  
 3 Q. Okay. But where does it say that --  
 4 A. **Using the magic -- I'm sorry.**  
 5 Q. -- it's his opinion, based upon a reasonable  
 6 chiropractic probability, that the injuries she  
 7 sustained were due to the motor vehicle accident  
 8 and that the treatments rendered thus far had  
 9 been a necessity as a result?  
 10 A. **Yeah, I don't --**  
 11 Q. That's not in there, is it?  
 12 A. **I don't see it.**  
 13 Q. Okay. Can you tell me in there where it says  
 14 that Thera Reid had multiple risk factors that  
 15 would significantly lower her threshold for  
 16 injury and increase the probability of long-term  
 17 symptoms?  
 18 A. **I would say that that probably is in here**  
 19 **somewhere.**  
 20 Q. Okay. Find it.  
 21 A. **In those words?**  
 22 Q. Where it says that it lowers her threshold for  
 23 injury and increases the probability for  
 24 long-term symptoms?  
 25 A. **Lowers her threshold for injury.**

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1 Q. And increases her probability for long-term  
 2 symptoms.  
 3 A. **I don't see any.**  
 4 Q. So if that's contained in the report, that's  
 5 certainly something that's not contained in the  
 6 records, fair?  
 7 A. **Yeah. What did he say were the factors? Because**  
 8 **I'm sure he didn't have it memorized so he must**  
 9 **have had it written down somewhere, right?**  
 10 Q. Well, but it was a little more than that, what I  
 11 asked you, wasn't it?  
 12 A. **Uh-huh.**  
 13 Q. I'm not saying that there isn't documentation in  
 14 there of injuries, but where in there does it say  
 15 there's risk factors that will significantly  
 16 lower the threshold for injury and increase the  
 17 probability for long-term symptoms? There's not,  
 18 is there?  
 19 A. **I don't see that, no.**  
 20 Q. It also doesn't say that the risk factors can be  
 21 subcategorized into risk factors for acute injury  
 22 and long-term symptoms, does it?  
 23 A. **I didn't see that.**  
 24 Q. It doesn't then talk about the risk factor for  
 25 acute injury, does it?

333

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

334

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 certainty, 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 --**

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

417

1 insurance adjusters are looking to verify certain  
 2 facts before they put money on a case?  
 3 **A. Yeah.**  
 4 **Q.** Like, for example, how the accident occurred,  
 5 they want to know that?  
 6 **A. Sure.**  
 7 **Q.** They want to know whether or not their insured is  
 8 negligent?  
 9 **A. Right.**  
 10 **Q.** Whether or not their insured's negligence caused  
 11 an injury?  
 12 **A. Yes.**  
 13 **Q.** Insurance adjusters then want to potentially look  
 14 at what the magnitude of damage may be?  
 15 **A. Yes.**  
 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. Yes, absolutely.**  
 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. That's my understanding.**

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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. 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.**  
 12 **Q.** Right. So it's mandatory?  
 13 **A. 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.**  
 19 **Q.** Do you know whether or not possession of an  
 20 expert report increases potential value of a  
 21 case?  
 22 **A. It could.**  
 23 **Q.** Did you ever hire experts while at Slater & Zurz?  
 24 **A. Yes. Yep. Yes.**  
 25 **Q.** Have you ever paid more than \$200 for an expert

419

1 report?  
 2 **A. Frequently.**  
 3 **Q.** Have you ever paid more than \$1,000 for an expert  
 4 report?  
 5 **A. Yes. Well, the firm has.**  
 6 **Q.** How about has Slater & Zurz ever paid more than  
 7 2,000 for an expert report?  
 8 **A. On one of my cases probably, but I don't remember**  
 9 **specifically.**  
 10 **Q.** Mr. Mannion previously gave you a stack of  
 11 medical records related to Thera Reid?  
 12 **A. I seem to recall that.**  
 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 & 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. 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**

420

1 **litigation?**  
 2 **Q.** Even if you lost?  
 3 **A. 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.**  
 9 **Q.** So Slater & Zurz would sometimes leverage  
 10 expenses against their clients to achieve a  
 11 settlement?  
 12 **A. Yep. Yes.**  
 13 **Q.** Do you have that stack of medical records related  
 14 to Thera Reid?  
 15 **A. I think you're referring to Defendant's Exhibit**  
 16 **D?**  
 17 **Q.** I am.  
 18 **A. I do have it.**  
 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. I'm out of practice; however, I don't know, an**  
 23 **hour.**  
 24 **Q.** Okay. And in terms of prognosis, I presume it  
 25 would take a while for you to give a

421

1 comprehensive assessment of Ms. Reid's entire  
 2 prognosis based on all of those records?  
 3 **A. Yeah, it would take a while.**  
 4 **Q.** And to get a comprehensive summary of all  
 5 treatment she received in all the pages contained  
 6 in those records, it would take a while as well,  
 7 fair?  
 8 **A. That's fair.**  
 9 **Q.** Wouldn't you agree, it's a lot easier for a busy  
 10 insurance adjuster to look at a single page or  
 11 maybe two pages as opposed to reviewing all of  
 12 those records for an hour or more as you just  
 13 said?  
 14 **A. It would be easier, yes -- well, I don't know.**  
 15 **Maybe, maybe not. It's hard to say. I mean, it**  
 16 **would be easier, but, you know, in this business**  
 17 **people are -- you know, you've got to be trusting**  
 18 **if you're going to read the narrative report and**  
 19 **not read all the notes because you're only going**  
 20 **to get the highlights, so maybe you've got to**  
 21 **read both, almost certainly you've got to read**  
 22 **both, to make sure that the report -- you know,**  
 23 **the items contained in the report are supported**  
 24 **by what's in the records. So I don't think it's**  
 25 **a short cut.**

422

1 **Q.** But if you read both and verify that the report  
 2 is supported by the records --  
 3 **A. Uh-huh.**  
 4 **Q.** -- then it would be a quick reference for an  
 5 insurance adjuster to go back?  
 6 **A. Reference later on, yeah, sure, but you know they**  
 7 **have to do -- they have all kinds of summaries**  
 8 **and stuff like that that they have to generate on**  
 9 **their own, which I've seen some of them. I**  
 10 **assume that maybe others will, you know,**  
 11 **dependent on what the protocol is for each**  
 12 **carrier, they may allow them to use a medical**  
 13 **record instead of something that they generate**  
 14 **themselves.**  
 15 **Q.** The -- I'm not going to re-ask questions  
 16 Mr. Mannion already asked about all the different  
 17 components contained in Ms. Reid's narrative  
 18 report that's not in those medical records --  
 19 **A. Uh-huh.**  
 20 **Q.** -- but I presume you wouldn't be surprised if  
 21 there's plenty more items that you didn't even  
 22 address in the questions with Mr. Mannion that  
 23 are not contained in the medical records?  
 24 **A. That's fair.**  
 25 **Q.** Given that it would take you, I think you

423

1 estimated an hour of time, to read and summarize  
 2 just those records, you would agree it would  
 3 presumably take anyone preparing a narrative  
 4 report summarizing those medical records some  
 5 period of time?  
 6 **A. Some period of time for sure. You know, like I**  
 7 **mentioned, there are the programs and things like**  
 8 **that and whether he prepared them himself or**  
 9 **delegated that to someone, I have no way of**  
 10 **knowing.**  
 11 **Q.** You wouldn't expect a medical professional to  
 12 generate such work product summarizing medical  
 13 records for free, would you?  
 14 **A. No, I wouldn't expect it.**  
 15 **Q.** You haven't compared narrative reports from  
 16 several different KNR clients at any point in  
 17 time in the last seven years, have you?  
 18 **A. No, I have not.**  
 19 **Q.** So you can't testify as to whether or not they're  
 20 identical or different?  
 21 **A. Right, I don't know.**  
 22 **Q.** You can't say whether or not they're simple or  
 23 complex?  
 24 **A. You're correct.**  
 25 **Q.** If preparation of a narrative report is delegated

424

1 to some staff member of a chiropractor, that  
 2 staff member still is working and getting paid  
 3 for their job, fair?  
 4 **A. Yes, that's fair.**  
 5 **Q.** And then you would expect if a professional like  
 6 a chiropractor is putting their name on a  
 7 narrative report, even if one of their staff  
 8 member prepares the narrative, that that  
 9 chiropractor should read over and verify that  
 10 they can support the contents of the narrative  
 11 report, fair?  
 12 **A. That's what they should do, yes.**  
 13 MR. RUBIN: All right. Thank you,  
 14 sir. I have nothing further.  
 15 - - - -  
 16 EXAMINATION OF GARY M. PETTI  
 17 BY MR. KEDIR:  
 18 **Q.** Hello, Mr. Petti.  
 19 **A. Hi there.**  
 20 **Q.** My name is Attorney Shaun Kedir. I represent Dr.  
 21 Floros.  
 22 **A. Nice to meet you, Shaun.**  
 23 **Q.** Nice to meet you, too. First of all, have you  
 24 talked to Dr. Floros on the phone before?  
 25 **A. There's a likelihood that I have. I can't say**



425

1 that I recall it specifically though. You know,  
 2 I've been aware of Dr. Floros for however many  
 3 years he's been there, so I never dealt with him  
 4 much though.  
 5 Q. You didn't deal with him much. So would that be  
 6 over the -- how many months did you work at KNR  
 7 was it?  
 8 A. I worked at KNR only for nine months, but at  
 9 Slater & Zurz I worked there for 15 years --  
 10 Q. Okay.  
 11 A. -- and I did have -- before Floros started at  
 12 Akron Square, I did have a relationship with  
 13 chiropractors, multiple, who were there, and then  
 14 I don't think any, once Floros started, but maybe  
 15 one or two, because who can remember such things.  
 16 Q. So between the time you were at KNR, would you  
 17 estimate that you talked to Floros maybe 30  
 18 times?  
 19 A. Oh, I wasn't even thinking of that. Yeah, if  
 20 they call and say there's somebody here. You  
 21 mean that kind of talk to him?  
 22 Q. Whatever -- just if you ever talked to him.  
 23 A. Probably less than that.  
 24 Q. Less than that?  
 25 A. I was doing a lot of intakes, that much is clear.

426

1 Q. What's the procedure if, say, Floros or Akron  
 2 Square calls over and they want to get ahold of  
 3 you?  
 4 A. I think it went to the intake department first  
 5 and then the intake department would hit the  
 6 special ringer button and whoever answers it,  
 7 usually the doctor would be on the other line and  
 8 they'd say, you know, I'm here with Mrs. Smith  
 9 and Mrs. Smith was in an accident, they want to  
 10 talk to you about representation.  
 11 Q. Okay. And would they ever talk to you -- only  
 12 during that intake was the only reason they would  
 13 call or would they ever call you for other  
 14 reasons?  
 15 A. I think that's probably the only time I ever  
 16 spoke to Floros while I was at KNR, just two  
 17 seconds on the phone, whereas he hands it off to  
 18 somebody else.  
 19 Q. Okay. And did Floros, did he ever give  
 20 information to your paralegal, Jennings, that she  
 21 related to you?  
 22 A. No, not that I can recall.  
 23 Q. That you can't recall?  
 24 A. Right. It's possible.  
 25 Q. Okay. Did you ever mention when you talked to

427

1 Floros about narrative -- his narrative reports?  
 2 A. No.  
 3 Q. Did you ever talk about narrative fees?  
 4 A. Nope.  
 5 Q. So you mostly just talked about the intake?  
 6 A. Yeah. Just a little bit. I mean, sometimes, if  
 7 I remember correctly, sometimes he would say a  
 8 little bit about the nature of the crash or the  
 9 underlying facts. You know, this is a big  
 10 accident, multiple parties in it. He'd try to  
 11 give you the heads up that there are more people  
 12 here, potential clients, potential patients, than  
 13 the person whom you're speaking with at that  
 14 moment, but very, very limited conversation with  
 15 Dr. Floros.  
 16 Q. Limited? But that sounds a little bit more  
 17 involved though if he's trying to give the  
 18 background information on it.  
 19 A. Not really the background. I mean, 30 seconds.  
 20 Q. Thirty seconds?  
 21 A. I'm guessing. I mean, again, there wasn't a lot  
 22 to talk about. You know, here they are, do what  
 23 you do.  
 24 Q. How many cases did you have where Floros was the  
 25 treating doctor?

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1 A. No idea. Not a lot. I kind of found that odd  
 2 that, you know, he referred a bunch and  
 3 statistically it was true, but I didn't get -- in  
 4 the limited amount of intakes I was doing, he did  
 5 not seem to be a high percentage. For whatever  
 6 reason I would get Dr. Briggs at Valley Spine it  
 7 seemed like quite a bit and then the Cincinnati  
 8 guy, Maurer, that's who that was, Jason Maurer,  
 9 at Werkmore and Vernon Place, but I didn't hit  
 10 Floros very much.  
 11 Q. Would you estimate more than ten?  
 12 A. It would be a pure guess, but I would say  
 13 probably, yes, more than ten, but not -- I mean,  
 14 if you said 30, I would say, no. So again, I'm  
 15 just guessing. That was never any significance  
 16 to me. You know, I have no -- I would have no  
 17 reason to recall that even tomorrow on where the  
 18 cases came from.  
 19 Q. Okay. So your experience with Floros was a lot  
 20 more limited compared to some of the other chiros  
 21 that you dealt with --  
 22 A. Yeah --  
 23 Q. -- at KNR?  
 24 A. -- it just seemed like I ended up speaking to --  
 25 I never got the close ones when the phone rang.

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1 **And as far as I know, it was just random. You**  
 2 **know, I got Toledo, Dr. Lee-Seyon out there and**  
 3 **Dayton and Cincinnati often. Not hardly any**  
 4 **Canton or Akron.**  
 5 Q. Okay. We're going to go back to I guess your --  
 6 I guess it's Exhibit 1, the affidavit --  
 7 A. **Uh-huh.**  
 8 Q. -- Plaintiff's Exhibit. Can you pull that back  
 9 out?  
 10 A. **Yeah, let me see if I can find it.**  
 11 Q. Okay. I just want to verify paragraph two, if  
 12 you can go to that.  
 13 A. **Yep.**  
 14 Q. You mentioned, while I was working for Slater &  
 15 Zurz, I first learned that KNR paid kickbacks to  
 16 certain chiropractors in the form of narrative  
 17 fees?  
 18 A. **Right.**  
 19 Q. Do you have any evidence that Floros, Dr.  
 20 Floros --  
 21 A. **Yeah, he was a big referral source. That's --**  
 22 Q. Well, did they mention Dr. Floros when they  
 23 said --  
 24 A. **Yeah.**  
 25 Q. -- that there was a kickback?

430

1 A. **It was really -- you know, John Lynett's**  
 2 **affidavit is not shocking because he has to**  
 3 **defend his own behavior, but John Lynett dealt**  
 4 **with Dr. Floros all the time and they absolutely**  
 5 **referred to it in terms substantially similar to**  
 6 **a kickback.**  
 7 Q. Well, how do you define "kickback"?  
 8 A. **It is payment in return for -- an illicit payment**  
 9 **in return for something.**  
 10 Q. In return for something?  
 11 A. **In this case, you know, they're paying Dr. Floros**  
 12 **200 bucks for referrals, and I know as we already**  
 13 **covered they do it either way, but that's what it**  
 14 **is.**  
 15 Q. And you heard John Lynett tell you that he pays  
 16 illicit payments for referrals?  
 17 A. **Substantially similar language to that, yes.**  
 18 Q. Can you state the exact language that he used --  
 19 A. **I cannot say it, no. I mean, now we're talking**  
 20 **about things that whenever this whole procedure**  
 21 **first started, ten, 12 years ago, whenever Rob**  
 22 **invented the narrative report thing, according to**  
 23 **Brandy. So, no, I don't remember.**  
 24 **But I absolutely remember crystal clear that**  
 25 **they resented the fact that they had to do that,**

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1 **but that was the cost of doing business,**  
 2 **otherwise it would all go to KNR.**  
 3 Q. So you only heard this from John Lynett though,  
 4 you didn't hear this from Floros?  
 5 A. **No, I don't know that I ever had a direct**  
 6 **face-to-face conversation with Floros in my life.**  
 7 Q. So any speculation you have here about Floros,  
 8 the kickback, is a speculation because you  
 9 haven't actually talked about it with him?  
 10 A. **He certainly never admitted to me that he was**  
 11 **accepting or soliciting kickbacks from people.**  
 12 MR. PATTAKOS: I'm going to object  
 13 to speculation. There's a difference  
 14 between -- you guys keep using speculation  
 15 as to refer to reasonable inferences, so  
 16 I'm just going to object to that.  
 17 MR. MANNION: No, you're just  
 18 trying to coach the witness, Peter, so call  
 19 it what it is.  
 20 MR. PATTAKOS: Okay.  
 21 BY MR. KEDIR:  
 22 Q. Next it says -- let's see here, I'm trying not to  
 23 go over some of the questions we already talked  
 24 about here --  
 25 MR. PATTAKOS: When the Court has

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1 to construe all reasonable inferences in  
 2 the plaintiff's favor --  
 3 MR. MANNION: Would you stop it?  
 4 MR. PATTAKOS: -- are you going to  
 5 accuse the Court --  
 6 MR. MANNION: Stop it.  
 7 MR. PATTAKOS: -- of speculating?  
 8 MR. MANNION: Stop it.  
 9 MR. PATTAKOS: It will be your  
 10 appeal brief.  
 11 BY MR. KEDIR:  
 12 Q. Lets go to actually paragraph three.  
 13 A. **Okay.**  
 14 Q. It says I always understood that narrative  
 15 reports were properly used to allow medical  
 16 professionals to explain why plaintiff's injuries  
 17 were different or more challenging than they  
 18 might appear from the contents of the medical  
 19 records --  
 20 A. **Uh-huh.**  
 21 Q. -- and in doing so provides information that was  
 22 not included in the records?  
 23 A. **Oh, yeah, that's fair.**  
 24 Q. Who told you this?  
 25 A. **Pardon me?**

433

1 Q. Who told you this?

2 A. **That's based on my experience in litigation.**

3 Q. Just your experience?

4 A. **Seminars, stuff like that. I mean, based on the**

5 **sum total of my experience. So a conversation**

6 **with other lawyers, my personal experience. All**

7 **that stuff. I mean at Slater & Zurz until they**

8 **started paying what's his name, Floros, you know,**

9 **it was a thoughtful consideration before you do a**

10 **narrative report. You know, why do I need it?**

11 **What is it going to accomplish? Is it going to**

12 **benefit the client in relation to the amount of**

13 **money that we're spending. And that's why -- I**

14 **mean, Slater & Zurz and KNR, they don't pay**

15 **anybody else narrative report fees. They don't.**

16 **Not routinely. You can scoff all you want, but**

17 **show me that, you know, Dr. Tubbs of Cuyahoga**

18 **Falls is getting narrative report fees every time**

19 **he -- every time they have a case with him. Show**

20 **me that Dr. Favor at Akron Injury on V Odom is**

21 **getting a narrative report fee every time they**

22 **have a case with him. They're not.**

23 Q. And if they did get a referral fee you would

24 assume -- speculate or --

25 A. **Well, if they did it every now and then, I would**

434

1 **suspect that there was reasonable grounds for it.**

2 **If they were doing it every time, then it's a**

3 **kickback.**

4 MR. PATTAKOS: You said "referral

5 fee", did you mean narrative fee?

6 MR. MANNION: Yeah, you did say

7 referral fee.

8 THE WITNESS: Yeah, and I'm --

9 MR. KEDIR: Narrative fee. Yeah,

10 I'm sorry, narrative fee.

11 A. **And I answered your question, I should have**

12 **clarified it. I heard --**

13 Q. Yeah, I should have -- I messed --

14 A. **-- I assumed that that's what you were referring**

15 **to.**

16 MR. PATTAKOS: You assumed he was

17 referring to narrative fee?

18 THE WITNESS: Narrative fee, yes,

19 yes.

20 MR. RUBIN: But he did say referral

21 fee.

22 THE WITNESS: Right. Right.

23 BY MR. KEDIR:

24 Q. But you just talked about earlier that these

25 reports are beneficial for other purposes just

435

1 than that -- this, correct? Then this then --

2 for where the injuries are challenging and

3 difficult?

4 A. **There can be circumstances, sure, but that's a**

5 **case by case base determination that you have to**

6 **make. You can't just blanket say, we're doing**

7 **them all the time. That's ridiculous. Because**

8 **they don't do it all the time.**

9 **If it's valuable all the time in Plambeck**

10 **ones, why isn't it valuable all the time in**

11 **Dollison Chiropractic out of Cambridge cases?**

12 **I mean you're going to have to convince**

13 **someone of that, if not me, that either every**

14 **case needs one or every case doesn't. What makes**

15 **-- what makes Dr. Floros and the Plambeck guy so**

16 **special.**

17 Q. So you think every case should be treated --

18 follow the same format and the same --

19 A. **No --**

20 Q. -- medical care?

21 A. **-- everyone should be on its own facts. And once**

22 **you do virtually -- and because you're doing**

23 **virtually every one the same, then to me that --**

24 **well, there's more than that. I've already**

25 **explained all the reasons why I think it's a**

436

1 **kickback or why it is a kickback. It just is.**

2 Q. Well, you're calling it a kickback, but you also

3 testified that he puts time and effort into these

4 reports?

5 A. **He does, but I don't know how much. And frankly**

6 **the fact is 200 bucks to me suggests also that**

7 **it's not that valuable. I mean, if it was really**

8 **valuable, he'd charge for it. I mean, he barely**

9 **-- a real doctor, a regular doctor, you can't get**

10 **a narrative report for 200 bucks, you know, MDs,**

11 **DOs.**

12 Q. Do you have any proof or is this speculation?

13 A. **It's not speculation. It's based on my 15 years**

14 **of litigation experience, conversations with**

15 **other lawyers, CLEs, all that kind of stuff.**

16 **Nobody charges 200 bucks for a narrative report,**

17 **not nobody, but that's hyperbole. The amount of**

18 **people, it's got to be tiny.**

19 **And I don't understand how suddenly it went**

20 **from -- and I'm sure there's evidence out there**

21 **that supports this -- KNR went none, none, none,**

22 **none with Dr. Floros, none with Dr. Floros and**

23 **all of a sudden it's like a switch, all of them.**

24 MR. MANNION: Objection.

25 A. **Or virtually all of them.**

437

1 MR. MANNION: Objection. Move to  
 2 strike.  
 3 A. **I'm speculating like crazy right there.**  
 4 Q. I'm glad you're speculating.  
 5 A. **It's a little bit frustrating because I mean -- I**  
 6 **probably shouldn't say this --**  
 7 Q. Say it.  
 8 A. **Some of you in this room are being obtuse**  
 9 **because it's your job. It's a kickback. And**  
 10 **that I'm trying to push water up hill when you're**  
 11 **essentially paid to not believe me or paid --**  
 12 **when I was a defense lawyer, I used to say I made**  
 13 **-- I was a lemonade manufacturer. Life gives you**  
 14 **lemons, you make lemonade. So it doesn't matter**  
 15 **what people tell you, you twist it, squeeze it,**  
 16 **add a little sugar to it, now it's something I**  
 17 **can use. So to be in this setting where I really**  
 18 **believe in the -- that some of you in this room**  
 19 **know what I'm saying is true, but you can't just**  
 20 **say it because you're getting paid to do**  
 21 **something else.**  
 22 Q. So you think all of the other attorneys that work  
 23 on these cases and accept --  
 24 A. **Some of those guys -- oh, you should finish your**  
 25 **question.**

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1 Q. -- and accept the narrative fee payment, that all  
 2 of those cases are people engaged in kickback  
 3 schemes, all of those attorneys?  
 4 A. **The ones at KNR who do that.**  
 5 Q. Any attorney who does it?  
 6 A. **If you have a procedure where you're paying a**  
 7 **chiropractor over and over and over -- a certain**  
 8 **group of chiropractors and no others on virtually**  
 9 **every instance that you're paying a narrative**  
 10 **report fee to that doctor, then there's a strong**  
 11 **possibility that it's a kickback. I'm just**  
 12 **guessing. I don't have any personal experience**  
 13 **with that. In this case I do.**  
 14 You know, Brandy said the thing about Rob  
 15 inventing the narrative report thing, that's when  
 16 business really took off. They're all the things  
 17 I talked about. The other chiropractor telling  
 18 me that, you know, look, if you want any cases  
 19 out of me, you've got to give me -- essentially,  
 20 you're going to have to get a narrative report  
 21 fee every time.  
 22 Q. But this was not Dr. Floros that told you that?  
 23 A. **No, it was not. It was -- 90 percent certainty**  
 24 **it was the West Tusc guy, but I don't remember**  
 25 **who. That was prior to me starting there, at**

439

1 **KNR.**  
 2 Q. Do you think Dr. Floros would have any reason to  
 3 know that he should have additional information  
 4 in his narrative reports to make it more valuable  
 5 as you would call it?  
 6 A. **Would he have any reason to know? No, probably**  
 7 **not.**  
 8 Q. Because he doesn't practice law, correct?  
 9 A. **Correct.**  
 10 Q. And he doesn't submit it to the insurance  
 11 company?  
 12 A. **He doesn't, nope.**  
 13 Q. In fact, he doesn't submit it to the client  
 14 either, correct?  
 15 A. **That's -- the client has no use for it, that I'm**  
 16 **aware of.**  
 17 Q. So it's just an exchange between him and the  
 18 attorney?  
 19 A. **Yep. He sends it to the lawyer, the lawyer does**  
 20 **with it whatever they do.**  
 21 Q. And the attorney doesn't have to necessarily  
 22 collect that from the client?  
 23 A. **Collect what?**  
 24 Q. The narrative fee.  
 25 A. **No, no. The law firm could eat that cost.**

440

1 Q. And sometimes they don't collect it from the  
 2 client, correct?  
 3 A. **I don't know that.**  
 4 Q. Well, if the case isn't settled then they have to  
 5 eat that cost, correct?  
 6 A. **Yeah, yeah.**  
 7 Q. You said a narrative fee is paid on every case  
 8 that Floros sends him?  
 9 A. **No, not -- virtually every, I think was the words**  
 10 **I used.**  
 11 Q. Virtually every?  
 12 A. **Yes. I know they had a prohibition against doing**  
 13 **it for minors, stuff like that, but to me that**  
 14 **was -- that's only because typically they -- you**  
 15 **barely treat minors. Insurance companies don't**  
 16 **like soft-tissue injuries on minors, as you guys**  
 17 **probably know. So they expect them to heal**  
 18 **better with very little treatment. So if a guy**  
 19 **goes for -- or a kid, eight-year-old kid goes for**  
 20 **six visits to a chiropractor, the bill is only**  
 21 **going to be 300 bucks, the settlement is going to**  
 22 **be 500, pay Dr. Floros 200. How are you going to**  
 23 **get that case settled? You're not. So no**  
 24 **narratives for little kids because Floros isn't**  
 25 **going to treat them.**

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1 Q. Would Floros charge a narrative if the patient  
2 stopped treating early, if you know?  
3 A. **I don't know.**  
4 Q. Let's go to -- let's go to paragraph four.  
5 A. **Yes.**  
6 Q. You said I soon learned that these narrative  
7 reports ordered by KNR were very different from  
8 narrative reports I was customarily using --  
9 A. **Uh-huh.**  
10 Q. -- and were essentially worthless, containing no  
11 information that was not already apparent from  
12 the client's medical records.  
13 A. **Right.**  
14 Q. We already went through this before, but it's --  
15 do you stand by that statement?  
16 A. **Yeah. I don't think even these ones have much  
17 value. You know, he repeats the studies and  
18 stuff like that that --**  
19 Q. Yeah, let me clarify it. That contains  
20 information readily -- already apparent from the  
21 client's medical records?  
22 A. **It does contain some. These are better than the  
23 ones that I historically had seen --**  
24 MR. PATTAKOS: You're -- just to  
25 be clear, you're referring --

442

1 MR. MANNION: Stop it. He's in  
2 the middle -- stop it --  
3 MR. PATTAKOS: You're referring to  
4 --  
5 MR. MANNION: -- he's in the  
6 middle of an answer.  
7 MR. PATTAKOS: -- you're referring  
8 to Monique Norris and Thera Reid's  
9 narrative reports?  
10 THE WITNESS: Yes.  
11 MR. MANNION: Peter, this is  
12 craziness. He was in the middle of an  
13 answer.  
14 THE WITNESS: As it turns out he's  
15 exactly correct.  
16 MR. MANNION: But he has to wait  
17 until you stop and then he can try to  
18 clarify.  
19 A. **Nonetheless --**  
20 MR. MANNION: Don't shake your  
21 head, you're not allowed to do that.  
22 A. **-- the narratives that I've seen today, I have  
23 not seen before today. And as I said, they seem  
24 to have evolved. I have a mental image of what  
25 they used to look like way back when and they**

443

1 **were ridiculous. And maybe Slater & Zurz's are  
2 different, maybe he did a different one for  
3 Slater & Zurz. I'm not sure. And maybe those  
4 are the ones I have in my head where it's  
5 essentially fill in the blank, yes/no, yes/no, I  
6 don't know that because I never -- I would only  
7 have seen them incidentally.**  
8 **And then the ones I saw at KNR, at least the  
9 ones I handled, again, seemed to be different.**  
10 **My recollection is anyhow seemed to be different  
11 than the ones I've seen here today.**  
12 Q. Okay. But the ones you see here today --  
13 A. **Those are more advanced.**  
14 Q. They're more advanced. And they contain  
15 information that is not from the medical records?  
16 A. **They do. Nonetheless I would still contend that  
17 they have no value.**  
18 Q. And it would take you, I think you approximated,  
19 maybe an hour to go through Thera Reid's --  
20 A. **Yeah.**  
21 Q. -- and have a similar --  
22 A. **-- an hour.**  
23 Q. Do you know how much Dr. Floros gets paid per  
24 hour when he testifies?  
25 A. **When he testifies, no, I do not. My recollection**

444

1 **is they cut separate deals on those, it depends  
2 on who you're -- what law firm you were with.**  
3 Q. If I told you a doctor would charge \$500 per hour  
4 for testimony, do you think that's unusual?  
5 A. **I think that's more than what my recollection is  
6 for Dr. Floros with a friendly law firm, but as  
7 far as like an MD, a specialist, something like  
8 that, then I'm not surprised by that at all. And  
9 I'm certain there are some that would charge more  
10 than 500 an hour.**  
11 Q. Okay. And it's your belief that when he produced  
12 this narrative report, he should have done it for  
13 free?  
14 A. **No, I don't think the narrative report was  
15 necessary. That's my perspective. I don't think  
16 the narrative was necessary. I think the  
17 narrative report is a pretense for a kickback.**  
18 Q. But when they request Floros, he should be able  
19 to get compensated for his work, correct?  
20 A. **I don't really know how to answer that question.  
21 I don't think it's worth 200 bucks because most  
22 of these soft-tissue injury cases you don't need  
23 one at all, which is why KNR doesn't get one from  
24 any other chiropractor not affiliated with  
25 Plambeck.**

445

1 Q. I'm just saying, the fact when they order it from  
 2 Floros, Floros is allowed to charge for work he  
 3 performs, correct?  
 4 A. **Yeah. If you do work, you should get paid for it**  
 5 **as a general principle. But you understand the**  
 6 **distinction that I'm trying to make that, you**  
 7 **know, they're really not valuable to the case so**  
 8 **it shouldn't have been ordered in the first**  
 9 **place.**  
 10 Q. I'm looking at it from Floros' position, he put  
 11 work --  
 12 A. **Right --**  
 13 Q. -- and put time into this.  
 14 A. **-- I understand. I understand.**  
 15 Q. They weren't just paying him for doing nothing  
 16 whether you think it's valuable for the end of  
 17 the case, Floros was putting --  
 18 A. **Yeah, he did some kind of work.**  
 19 Q. And up to an hour is what you estimated on --  
 20 A. **Well, I don't know how long it would take him. I**  
 21 **said I'm out of practice and all that kind of**  
 22 **stuff, so --**  
 23 Q. It's just your guess it was?  
 24 A. **Yeah.**  
 25 Q. I think you said the narrative report provided --

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1 next in that same paragraph you said the  
 2 narrative report provided by Dr. Minos Floros for  
 3 Akron Square Chiropractor, a Plambeck-owned  
 4 clinic in Akron, were especially bad and the  
 5 worst narratives I've ever seen.  
 6 A. **Yeah.**  
 7 Q. Who had better narrative reports?  
 8 A. **Everybody.**  
 9 Q. Everyone.  
 10 A. **You know, regular MDs, DOs, stuff like that. I**  
 11 **mean, you can really get -- and sometimes they're**  
 12 **a very important tool to, you know, explain what**  
 13 **somebody's future is going to hold with respect**  
 14 **to future medical care.**  
 15 **And even the blurb he put in the example that**  
 16 **we used today, you know, \$5,000, well, \$5,000 for**  
 17 **what? What kind of treatment are they going to**  
 18 **need? When are they going to need it? How often**  
 19 **is that going to be? Where is this \$5,000 number**  
 20 **coming from?**  
 21 **Those are the kind of things that you see in**  
 22 **a typical narrative report. He's going to need**  
 23 **rehabilitative care. He's probably going to have**  
 24 **to go -- I'm speculating as to what might be in**  
 25 **another more valuable report, but what kind of**

447

1 **treatment it is, why he's going to need it, not**  
 2 **just, oh, he's going to need 5,000, so an**  
 3 **insurance company is not going to pay for that.**  
 4 Q. Those narrative reports you're talking about, the  
 5 other ones you see, what doctors?  
 6 A. **I don't recall any names. I mean, we're**  
 7 **talking--**  
 8 Q. You don't recall any. Okay. Were they medical  
 9 doctors?  
 10 A. **Yeah, I almost never get a chiropractor.**  
 11 Q. How much do they charge for those reports?  
 12 A. **Significantly more, way more?**  
 13 Q. Significantly more.  
 14 A. **Yep. Way more.**  
 15 Q. On a smaller case that went to litigation, would  
 16 you want to charge an expert report for that --  
 17 A. **No --**  
 18 Q. -- significantly more than \$200?  
 19 A. **-- definitely not. I won't pay the 200 bucks on**  
 20 **a little case.**  
 21 Q. But you talked about how if it goes to court you  
 22 need an expert report?  
 23 A. **Yeah, once it goes to litigation, I need an**  
 24 **expert report.**  
 25 Q. And sometimes cases don't go to -- aren't filed

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1 to go to court for like two years, until the  
 2 statute of limitation --  
 3 A. **Exactly.**  
 4 Q. And then sometimes --  
 5 A. **So you have plenty of time to settle without**  
 6 **spending the 200 bucks.**  
 7 Q. Sometimes it doesn't go to trial say for another  
 8 six months or three months?  
 9 A. **Yes, absolutely.**  
 10 Q. You think it's better to get a report then --  
 11 A. **Yes.**  
 12 Q. -- two and a half years later?  
 13 A. **Yes. The doctor -- if the doctor is going to**  
 14 **testify, he or she is going to need to be fresh**  
 15 **about what the treatment was, what the medical**  
 16 **record was, they typically do a review. So**  
 17 **getting the report is absolutely, especially the**  
 18 **expensive one, better later than early.**  
 19 Q. But the less expensive one if you're going to  
 20 have a chiro testify, chiropractor testify --  
 21 A. **Uh-huh.**  
 22 Q. -- and the treatment was just chiropractic  
 23 treatment they received, wouldn't it be better to  
 24 have him do the -- prepare the report right after  
 25 he got done treating her so he can add in other

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1 things that are not in the medical that he  
 2 realized about the case?  
 3 **A. He or she has an obligation to put in the**  
 4 **relevant stuff in the medical records. I mean**  
 5 **that's part of the doctor's --**  
 6 **Q.** Right, but we're talking about expert reports  
 7 here --  
 8 **A. Right --**  
 9 **Q.** -- narrative reports.  
 10 **A. -- but he -- anything that's relevant, he or she**  
 11 **is going to be able to look at later and get out**  
 12 **of the medical records. He's not going to store**  
 13 **relevant information about a particular patient**  
 14 **in his head and then write in down in a narrative**  
 15 **report in the event he's asked.**  
 16 **Q.** But he might be able to spend less time on it if  
 17 he just finished treating the patient, correct?  
 18 **A. That's possible. He may be able to do it without**  
 19 **consulting the medical records because it's all**  
 20 **fresh in his or her memory, sure.**  
 21 **Q.** And that might reflect a lower fee than say if he  
 22 had to do it two and a half years --  
 23 **A. It might. It might.**  
 24 **Q.** Next you said they appear to follow a basic  
 25 formula of a few sentences where Floros merely

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1 filled in the blanks with information that was  
 2 readily apparent from the medical records.  
 3 **A. Uh-huh.**  
 4 **Q.** I won't -- we won't go through this again as far  
 5 as the difference between what's in the narrative  
 6 report and the medical records, but I think you  
 7 agreed, at least for Thera Reid, although --  
 8 maybe if you really want to, real quick, glance  
 9 at Monique Norris --  
 10 **A. Which is -- which letter is she?**  
 11 **Q.** I think you already have her narrative report.  
 12 And I'll turn these in as an exhibit.  
 13 THE WITNESS: What letter is she,  
 14 do you guys know, or number or where she  
 15 came from?  
 16 MR. KEDIR: I got another copy  
 17 here of the narrative.  
 18 THE WITNESS: I think it is here.  
 19 I just don't know what letter --  
 20 MR. PATTAKOS: I've got Exhibit 12  
 21 for Monique Norris.  
 22 THE WITNESS: So it's a numbered  
 23 yellow.  
 24 MR. PATTAKOS: It's Plaintiff's  
 25 Exhibit 12.

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1 THE WITNESS: Okay.  
 2 MR. PATTAKOS: Here it is.  
 3 THE WITNESS: Okay.  
 4 **A. Yes, I have it in front of me now.**  
 5 MR. KEDIR: All right. And her  
 6 medical records haven't been introduced as  
 7 an exhibit yet, right? Correct?  
 8 MR. MANNION: I can't remember if  
 9 we did Norris or not.  
 10 MR. PATTAKOS: Monique's medical  
 11 records?  
 12 MR. KEDIR: Yeah.  
 13 MR. PATTAKOS: They were exhibits  
 14 to previous depositions, but not this one.  
 15 MR. KEDIR: Okay. I know I have  
 16 other copies. Let me just give you that.  
 17 We'll mark that --  
 18 THE WITNESS: Those are the  
 19 records that correspond with the report  
 20 apparently.  
 21 MR. PATTAKOS: Can I have a copy,  
 22 Shaun?  
 23 MR. KEDIR: Yeah, I'm looking  
 24 for --  
 25 - - - -

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1 (Thereupon, Defendant's Exhibit N was marked  
 2 for purposes of identification.)  
 3 - - - -  
 4 **Q.** I apologize for that delay. Can you just review  
 5 those medical records and the narrative report.  
 6 **A. Is there anything in particular I'm looking for?**  
 7 **Q.** I just want, similar to Thera Reid's --  
 8 **A. Oh, okay.**  
 9 **Q.** -- is there information that's in the narrative  
 10 report that is not in the medical records? Or  
 11 does the narrative report contain the same  
 12 information that's in the medical records?  
 13 **A. No airbag, red light, left shoulder -- not much**  
 14 **immediately comes to mind as being contained in**  
 15 **the report versus the medical record. I mean he**  
 16 **does give an opinion that probably would be**  
 17 **inadmissible in court with respect to permanent**  
 18 **opinion -- or permanent injury because he just**  
 19 **says any trauma can cause it.**  
 20 **Q.** I'm not -- I don't want you to evaluate the  
 21 report necessarily, I'm just asking if it  
 22 contains the same information as the medical  
 23 records or is it different?  
 24 **A. They're largely the same. What her complaints**  
 25 **were, what he did, what his diagnosis was, it's**

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1 largely the same.  
2 Q. That's contained in the medical --  
3 A. Correct.  
4 Q. -- report?  
5 A. Yes.  
6 Q. Where in the report does it say, in my opinion,  
7 upon reasonable -- sorry. Where in the medical  
8 records does it say, in my opinion, based on  
9 reasonable chiropractic probability, the injuries  
10 that Monique Norris sustained were due to motor  
11 vehicle --  
12 A. I didn't see that. Like I said, it's largely the  
13 same.  
14 Q. You say largely, but there's several things that  
15 are --  
16 A. Yeah.  
17 Q. Like what is the same that you see in there  
18 that's in the medical records?  
19 A. The complaints that she had, the treatment that  
20 he performed. What her -- the fact that she went  
21 to the emergency room. What she complained of at  
22 the emergency room. The fact that the low back  
23 was not an issue at the emergency room, which she  
24 states alternatively is -- it was a gradual onset  
25 or something like that he said. He opines as to

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1 the possibility of chronic conditions which that  
2 is different. There's no reason to say that in  
3 the medical record. The postural stuff being out  
4 of align, that's reflected in the medical  
5 records. I'm sure there's more.  
6 Like I said it's large -- to me -- and I  
7 suppose is relative and subjective and all that,  
8 but to me it's largely the same.  
9 Q. But it does contain different language?  
10 A. It does, it does, granted.  
11 Q. Okay. Back to the affidavit --  
12 A. Uh-huh.  
13 Q. -- paragraph -- what is it, four? It says it was  
14 clear that virtually no time or effort could have  
15 been expended on this worthless narrative --  
16 A. Uh-huh.  
17 Q. -- certainly no effort --  
18 A. Yes.  
19 Q. -- remotely justified for the fees being paid.  
20 I know we already discussed at least Floros  
21 would be entitled to getting paid for producing  
22 these narrative reports, correct?  
23 A. Yes.  
24 Q. And he might have spent, as you estimated, almost  
25 an hour, correct?

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1 A. Well, like I said, I believe that there was an  
2 evolution of what the narrative reports look  
3 like. And the ones that I can recall seeing, but  
4 of course don't have any examples of, those ones  
5 are, you know, zero time, in 30 seconds.  
6 MR. MANNION: Objection.  
7 A. I'm sure Dr. Floros -- well, I don't know. I  
8 would suspect Dr. Floros has copies of his older  
9 ones.  
10 THE REPORTER: Has what?  
11 THE WITNESS: Copies of his older  
12 narrative reports or perhaps no.  
13 MR. PATTAKOS: I think he's  
14 required by law to hang on to those.  
15 MR. MANNION: The law by Peter  
16 Pattakos.  
17 MR. PATTAKOS: You saying the Ohio  
18 Revised Code doesn't apply there, Tom? We  
19 are lawyers. You think it's --  
20 MR. MANNION: Well, the rules by  
21 Peter Pattakos. He doesn't think it's  
22 property of contention in interrogatories  
23 even though it says you can't object on  
24 that basis, he does.  
25 BY MR. KEDIR:

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1 Q. And on paragraph six --  
2 A. Yes.  
3 Q. -- you state I told her that I am the lawyer so  
4 I'm the one that gets to advise the client as to  
5 whether a narrative report is a justifiable  
6 expense.  
7 A. That's correct. I feel strongly about that.  
8 Q. That's your individual lawyer's choice, correct?  
9 A. That is correct.  
10 Q. And every fact that every case be different as  
11 far as attorneys --  
12 A. Yeah --  
13 Q. -- it stops with the attorney, the attorney makes  
14 the choice.  
15 A. Again, that's among a number of things that  
16 demonstrate clearly that it's a kickback is  
17 there's always over and over and over and over  
18 and over again there's narrative reports when in  
19 other, I'm sure, factually-similar cases with  
20 other chiropractors, there is no narrative  
21 report. For example, Town & Country doesn't  
22 produce reports with that level of frequency and  
23 they do lots of soft-tissue cases.  
24 Q. Do you ever handle any breach of fiduciary duty  
25 cases?



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1 A. **No.**  
 2 Q. Are you familiar with a breach of fiduciary duty?  
 3 A. **Probably not.**  
 4 Q. Probably not?  
 5 A. **Yeah.**  
 6 Q. Can you cite to any evidence showing that Dr.  
 7 Floros breached the fiduciary duty to his  
 8 patients?  
 9 A. **No, I'm only vaguely familiar with fiduciary**  
 10 **duty.**  
 11 Q. Okay. You said if the cases are settled pre-lit,  
 12 you have to file it, correct?  
 13 A. **Yeah, I mean as a technical matter, you know,**  
 14 **you're going to talk to your client about that**  
 15 **first and the client -- I did have a client once**  
 16 **who she had social anxiety disorder and she would**  
 17 **not file it.**  
 18 Q. And in those cases, did they -- did they usually  
 19 get higher settlements?  
 20 A. **If you file? That's the goal, but whether or not**  
 21 **they usually do, I don't know.**  
 22 Q. Did you have experiences where they gave no  
 23 offer --  
 24 A. **Yeah --**  
 25 Q. -- and you filed it?

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1 A. **-- I've definitely had experiences where, you**  
 2 **know, on the plaintiff's side I had a trial where**  
 3 **there's a low offer before trial. I took it to**  
 4 **trial, we litigated it, and I lost. And in an**  
 5 **act of God injured a pastor --**  
 6 Q. But have you had other cases where you filed --  
 7 there's zero offer then you filed it and then the  
 8 insurance company settled --  
 9 A. **Oh, sure. Sure.**  
 10 Q. -- or they offered money?  
 11 A. **Yes, yes.**  
 12 Q. And those cases a narrative report would be  
 13 involved?  
 14 A. **It was -- again, in most -- as I'm sure you know**  
 15 **and I wouldn't disagree with -- in most instances**  
 16 **when you're litigating a case, at some point the**  
 17 **judge says, you know, we're going to exchange**  
 18 **expert witness reports by whatever day and you**  
 19 **need one from whoever your testifying witnesses**  
 20 **are.**  
 21 Q. But if you already have an expert report, that's  
 22 helpful than not having an expert report once  
 23 it's filed, that they know that?  
 24 A. **Yeah. For argument's sake, yeah, it's helpful,**  
 25 **but --**

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1 Q. Because otherwise you'd have to pay -- they might  
 2 think that you have to pay for an expert report  
 3 and there's extra costs with that?  
 4 A. **Yeah, but you pay for it one way or the other,**  
 5 **right?**  
 6 Q. But they already know that you already have those  
 7 costs --  
 8 A. **Oh, yeah, if they're going to leverage you --**  
 9 **yeah, I guess, I suppose sometimes we would do**  
 10 **that to people on the defense side is, you know,**  
 11 **if it's a little case, they're not going to spend**  
 12 **the money on this case, so let's push them to**  
 13 **trial.**  
 14 Q. And you have no facts or evidence beside  
 15 speculation that Dr. Floros knew his reports  
 16 were --  
 17 A. **No, I don't know anything about Dr. Floros and**  
 18 **what he knew. I don't know that he's ever seen**  
 19 **anybody else's narrative reports, if he had**  
 20 **anything to compare it to.**  
 21 Q. And if you knew an attorney was defrauding a  
 22 client, would you report them?  
 23 A. **No, no. Not in every case.**  
 24 Q. And --  
 25 A. **It would depend on the circumstances. I mean,**

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1 **defrauding, I mean, that's strong language. I**  
 2 **mean, if what you're suggesting is stealing money**  
 3 **from somebody, yes, of course. But, you know,**  
 4 **outright -- you know, an estate case taking**  
 5 **money, yeah, I would do that.**  
 6 Q. And you no longer --  
 7 A. **But if what you're suggesting too here without**  
 8 **saying it is because I didn't report this, do I**  
 9 **think that it was okay? No, I don't think this**  
 10 **was okay.**  
 11 Q. Okay. And you said that -- I know you no longer  
 12 -- you still have your law license, but you no  
 13 longer practice law?  
 14 A. **Yeah, I don't actively practice law. I mean,**  
 15 **very seldom. Occasionally I'll get a DUI that I**  
 16 **do as a favor to someone.**  
 17 Q. Okay. And do you ever -- you refer cases still  
 18 though?  
 19 A. **Yeah, yep. If I have -- people still call me**  
 20 **from time to time with injuries and I refer them**  
 21 **to people who actively practice.**  
 22 Q. Do you take a cut from the referral fee from  
 23 that?  
 24 A. **Not always. Sometimes.**  
 25 Q. Sometimes.