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SC Court of Appeals

158

1 some -- did I take that back from you?

2 A. No.

3 Q. You got that? Okay. Let me hand this to you.

4 That is a record that starts number one going all the way to
5 90, 91. Do you see that?

6 A. Uh-huh.

7 Q. And these are the medical records. following this
8 accident, I'd point out to you and let's go to page 15 and
9 let me know where you're there and then we'll talk about that
10 record.

11 THE COURT: Would these be the same records exhibit 14
12 through 27 for the plaintiff? Are we talking about the same
13 thing?

14 MR. COULTER: No. Maybe I -- maybe I need to mark this
15 for identification, Judge.

16 THE COURT: That's the best way.

17 MR. COULTER: So let -- let me go ahead and mark this,
18 what you have, ma'am. Number 3 and Number 4 for
19 identification.

20 (Defense's Exhibits 3 and 4 were marked for
21 identification.)

22 BY MR. COULTER:

23 Q. All right. Ma, am, let me give you the marked as
24 three as four for identification. Let me have you first go
25 to Number 4 and if you go to page 15, let me know when you

1 get there.

2 A. I am there.

3 Q. Now, the jury doesn't have this in front of them,
4 but, so let me ask you about this and so you can describe to
5 them what we're looking at. this is from Advanced Spine and
6 Neurosurgical Associates. Do you remember going and seeing
7 them ---

8 A. Yes.

9 Q. --- after this accident?

10 A. Yes.

11 Q. Okay. And this is dated July 12, 2018, is that
12 right?

13 A. Yes.

14 Q. All right. And -- and -- and would you agree on
15 this visit, which is one month after the accident, you again
16 point out to your doctor as you're treating that you know
17 your back really hasn't been affected by this accident at
18 all?

19 A. Correct.

20 Q. All right. And then let's go to page 40 and let
21 me know when you get there.

22 A. All right. I'm there.

23 Q. All right. Now, for the jury, you presented to
24 Optimum Life Center, do you remember them for physical
25 therapy?

1 A. Yes.

2 Q. And you did that following your back surgery, the
3 fusion that you had?

4 A. Yes.

5 Q. And when you went to Optimum Life Center, four
6 months after this accident, you were treating not only for
7 the problem with your low back surgery, but you also reported
8 having some issues with your right hip at that point,
9 correct?

10 A. Correct.

11 Q. Okay. And if -- if -- if you looked at page 41,
12 we can -- we can see that again. Would you agree that under
13 the subject of when you presented the physical therapist, you
14 said, "I got this issue with my back as well as this issue
15 with my right hip?"

16 A. Where does it specify that? It says it -- it says
17 ---

18 Q. Absolutely it's under, do you see subjective?

19 A. Oh, okay.

20 Q. You see that? And it says, "History of present
21 illness." And just for the jury's edification. So it says,
22 "Tracy is a 46-year-old female ---

23 A. Yes.

24 Q. --- going for therapy for evaluation and treatment
25 of L5 S1 lumbar fusion." So now we know the level.

1 "Performed on September 4, 2018, patient has concurrent
2 injury to right lateral hip from MVA?"

3 A. Yes.

4 Q Okay. And so you began doing that just shortly
5 after this last four months. And then if you go to page 60,
6 because I want to make sure the jury has a good timeline for
7 your complaints. let me know when you get to page 60.

8 A. I'm there.

9 Q. All right. And would you agree that this is a
10 record again from your physical therapist? November 15th,
11 2018. So this is basically five months after this accident,
12 after you'd undergone physical therapy treatment for both
13 your lumbar spine as well as your right hip, right? Is that
14 correct?

15 A. Yes.

16 Q. All right. In five months after the accident,
17 would you agree you told your therapist that you were feeling
18 good now you're good to do everything on your own now and
19 does not need to continue any physical therapy five months
20 after this accident

21 A. After surgery.

22 Q. Now, let -- let -- let's the -- let's see. Let's
23 make sure the jury understands this. Go to page 61.

24 A. I'm on 60.

25 Q. I know -- I know. That's my fault. This is five

1 months after this accident. This is two and a half years
2 before you underwent any type of hip surgery, correct?

3 A. Yes.

4 Q. And if you look at subjective on this same page,
5 would you agree that you reported to your therapist that I'm
6 feeling good and that you're doing everything on your own now
7 and you didn't need to have any more physical therapy?

8 A. For my back, correct.

9 Q. Well, but you were going there for your hip too,
10 right?

11 A. I was going to physical therapy at this time for
12 my back surgery.

13 Q. Well, just to be -- just to be clear because I
14 just thought I asked you this a minute ago if we were to go
15 back. Okay. And I don't want to take up too much time but
16 if we go back to the very first time you presented for
17 physical therapy following that again, that's page 40 and go
18 back there and just let me know when you're there.

19 A. I'm there.

20 Q. This is the first physical therapy treatment that
21 you had following your surgery from what I understand and
22 your attorney can correct me if I'm wrong, but does that
23 appear to be correct? We just went over this a second ago,
24 right?

25 A. Yes.

1 Q. And this is dated October 25, 2018, right?

2 A. Yes.

3 Q. And if you look at the second page, 41, page 41,
4 the second page of the same record, would you agree that you
5 presented the physical theory for physical therapy four
6 months after this accident? Not only for your surgery to
7 your spine, but also for your complaints to your right hip?

8 A. Yes. It states there that I had complaints of my
9 right hip.

10 Q. And then one month later you say you're able to do
11 everything on your own and you didn't want to have any more
12 physical therapy.

13 A. Any more physical therapy? Correct.

14 Q. All right. And let's go to page 75 and let me
15 know when you're there.

16 A. All right. I am there.

17 Q. And would you agree letting the jury know, just
18 like your attorney did read some things for medical records,
19 this is May 29th of 2019 advanced find. Do you remember
20 that? Or does that appear to be what it is?

21 A. Yes. That is what it is.

22 Q. All right. And would you agree that this is five
23 months after the accident?

24 MR. NICHOLSON: (Inaudible).

25 MR. COULTER: Yeah, sure. 75.

1 BY MR. COULTER:

2 Q. Can -- can we agree that ---

3 A. The accident was in June of 18?

4 Q. Oh, I'm sorry. You're right. It's actually
5 longer. It's 11 months. That's my fault. This is May 29,
6 2019. This is 11 months after the accident, right?

7 A. Yes.

8 Q. Okay. And this is a follow up. And at this
9 point, again, this is 11 months after this accident. This is
10 actually two months -- or excuse me, two years before you
11 have any type of right hip surgery, correct?

12 A. Correct.

13 Q. And you're reporting that you're doing very well
14 and that you're walking anywhere from three to six miles a
15 day. You are reported having lost 30 pounds with weight loss
16 and exercise that states that she feels better?

17 A. Correct.

18 Q. Okay. 11 months after the accident, you're able
19 to do all of those things, correct?

20 A. Yes.

21 Q. And as I understand, you were able to return --
22 you were able to turn to work full-time after this accident?

23 A. Yes.

24 Q. Other than three days, is that, is that right?

25 A. Yes.

1 Q. And in fact, we took your deposition in August of
2 2020 and other than you missing work for your back surgery,

3 A. Yes.

4 Q. That was four months, as I understand correct.
5 That you were able to work full time from the time of this
6 accident other than those three days up until the time of
7 your surgery, three years after, is that right?

8 A. Correct.

9 Q. And we're able to do all sorts of -- well, all
10 sorts. Three to six miles a day exercise, able to lose 30
11 pounds, able to do everything on your own.

12 A. Yes.

13 Q. Let's go to page 77. let me know when you get
14 there.

15 A. I'm there.

16 Q. And just for the jury this is Advanced Spine.
17 This is again the spinal place that you went for treatment.
18 And this is dated August 28th of 2019, which would be one
19 year and two months after the accident, this accident, right?

20 A. Yes. All right. And as a matter of fact, you had
21 reported to your doctor at that point that you're doing very
22 well and had returned to all of your usual activities.

23 A. Yes.

24 Q. Okay. And that's two years before this surgery,
25 right?

1 A. Yes.

2 Q. And it says, "Currently planning waiting for her
3 daughter." But I'm sure that means ---

4 A. Wedding.

5 Q. All right. And because your attorney asked you
6 that you were planning a wedding with your daughter and at
7 that time, 11 months after the accident, you returned to all
8 your previous activities.

9 A. Yes.

10 Q. All right. Let's go to page 85 and let me know
11 when you're there. Well let -- let -- let's go to 87. I'm
12 sorry. Make sure I got the right one.

13 A. All right.

14 Q. I'm sorry. I'm probably on the wrong. Excuse me?
15 Yeah, I'm on the wrong one. Could you go in -- if you would,
16 Ms. Campbell, if you look at page -- or excuse me. Exhibit
17 Number -- I got them backwards. I think it's Number 3, the
18 larger one?

19 A. Uh-huh.

20 Q. Thank you. All right. And if you look on page --
21 quite sure, let's go to page 105, I that's that place. 105.
22 Let me know when you're there.

23 A. I'm there.

24 Q. And so this would be a year and four months after
25 this accident, right?

1 A. Yes.

2 Q. And you mentioned that you were running around
3 with your grandchildren and sometimes it gets, your pain gets
4 irritated, but at that time, your pain, a couple years before
5 any type of surgery is less than a one?

6 A. Correct.

7 Q. 10 of course being the worst.

8 A. Yes.

9 Q. All right. Now, let's go to page 158. Let me
10 know when you get there.

11 A. I am there.

12 Q. You there? Okay. So for the jury just for them
13 to understand, this is a record from August 9, 2021. Is that
14 right?

15 MR. NICHOLSON: What page are you on?

16 MR. COULTER: Yeah, 158.

17 THE WITNESS: I seen my date of birth.

18 BY MR. COULTER:

19 Q. Oh, you're not on 158?

20 A. Yeah.

21 Q. Okay. You see up the top 158 is Palmetto Bone and
22 Joint?

23 A. Uh-huh.

24 Q. Okay. Is that a yes?

25 A. Yes.

1 Q. Okay. And you see up at the top it says date of
2 the exam July?

3 A. Oh, okay. Yes -- yes.

4 Q. Actually it says July 19th of 2021.

5 A. Yes.

6 Q. Do you see that? Right?

7 A. Yes.

8 Q. Okay. All right. And so this would've been two
9 months after, roughly a month or so after this surgery to
10 your hip, right?

11 A. A month.

12 Q. Okay. And -- and -- and I know just a minute ago
13 you were testifying for your attorney about all the problems
14 you're having now with your right hip. Would you agree that
15 a month after this -- after this surgery was performed, which
16 is three years after this accident, you weren't having any
17 hip pain when you presented a month after this accident?

18 A. I couldn't put any weight on my leg.

19 Q. Let's just make sure the jury ---

20 A. Six weeks.

21 Q. Look at the first two sentences under actually
22 three of the history of present illness. Would you agree
23 that you report that you're not having any pain at the hip at
24 this time? No?

25 A. Yes -- yes. I ---

1 Q. Oh, you agree with that? Okay.

2 A. It says -- would you like me to read it?

3 Q. Well, the question is the -- I mean, you can read
4 what you want, but the question is did you report not having
5 any hip pain at that time?

6 A. Yes.

7 THE COURT: You can explain if you want to after you've
8 answered the question, you can explain in whatever manner
9 you'd like.

10 THE WITNESS: I'm -- I'm good.

11 BY MR. COULTER:

12 Q. Okay. All right. Very good. Let's go to page
13 169 just so the jury gets an understanding of your recovery
14 from the surgery. Let me know when you're there.

15 A. I am there.

16 Q. And would you -- would you agree and -- and
17 letting the jury know that this is a physical therapy record
18 from August 20th, 2021, which would've been two months after
19 the surgery, which is three years and two months after this
20 accident. Does that sound about right?

21 A. Yes.

22 Q. Okay. And on this particular day, if you look at
23 page 170, you were actually just two months after the
24 surgery, you were leaving for the beach that day and you
25 didn't have any complaints of pain?

1 A. Yes. I have to go to the restroom.

2 Q. Let's go to page 170.

3 THE COURT: All right. Ms. Campbell's indicated she
4 needs to take a restroom break.

5 MR. COULTER: Oh, sure. Yeah.

6 THE COURT: So ladies and gentlemen if -- if any of you
7 need a break then I'll -- go back to the jury room. We'll
8 take a short afternoon break and bring you back out. Can you
9 wait a minute or you got go? Okay. Go ahead.

10 (Off the record.)

11 THE COURT: Let's go on the record. It was brought to
12 my attention that one of the jurors asked one of the
13 bailiffs, if they could, during the break, write out some
14 questions or make notes in their car or something, I'm going
15 to tell them. Yeah. So long as you don't bring anything
16 into the courthouse, certainly can't share it with anybody.
17 If you want to make some notes during a break in a car or at,
18 you know, at your house when we break for the -- the day and
19 you want to make some notes Yeah, that's fine. You just
20 can't bring them in. Can't share them. So I'll -- I'll give
21 that little instruction to the jury when to bring them out.
22 Just wanted to give you all a heads up. Okay. Just bring --
23 bring them out. Ms. Campbell, if you want to come back on
24 the witness stand, please, ma'am.

25 THE BAILIFF: Okay, let's do it.

1 THE COURT: Okay. Let the record reflect the jury's
2 back in. Ladies and gentlemen. It was brought to my
3 attention, I think one juror inquired whether or not during
4 breaks in their car or maybe when you go home, if you want to
5 jot down some notes or questions, whatever, that's fine.
6 Just so long as you don't bring any of that into the
7 courthouse. Certainly, and can't bring it into the jury
8 room, can't share it with anybody. But at the end of the day
9 or lunch break, if you want to write down some things just to
10 help you, you certainly are permitted to do that, but again,
11 you can't share it with anybody or bring it into the
12 courthouse. So just keep that in mind. All right. Mr.
13 Coulter, you want to proceed?

14 MR. COULTER: Yes. (Inaudible.)

15 BY MR. COULTER:

16 Q. Ms. Campbell, I think when we left off, we were
17 talking about the fact that you'd gone to the physical
18 therapist just two months after the accident. You were
19 heading out to the beach that day and you didn't have any
20 pain when you presented at all.

21 A. Correct.

22 Q. Okay. Let's go to page 172. Let me know when
23 you're there.

24 A. Every page, but. Okay.

25 Q. I'm sorry. What's that?

1 A. I said every page, but. All right. Now, I'm
2 there.

3 Q. All right. This is about four days later. Do you
4 -- do you see that again, the physical therapy and this is a
5 couple months after the surgery to your right hip?

6 A. Uh-huh.

7 Q. Okay. And if you go to page -- that's a yes?

8 A. Yes.

9 Q. Okay. If you go to page 1 73, and if you would
10 just tell the jury what you reported to the physical
11 therapist when you presented two months after the accident,
12 after you'd come back from the beach. Subjectively.

13 A. "Patient Reports her pain is barely a 1 out of 10.
14 It's getting better every day. Patient reports that is she
15 -- she is going to MD office and we'll bring protocol
16 tomorrow."

17 Q. So barely a one at that point, out of 10. Right?
18 And -- and -- and again, this is compared by the way, this is
19 compared to what you were feeling prior to this accident ever
20 happening, which was 8 to 10 every day with your low back,
21 right?

22 A. Yes.

23 Q. And here we are two months after the surgery,
24 three years later and it's less than a one?

25 A. Yes.

1 Q. Okay. All right, very good. All right, and then
2 let's go to page 180 6. Let me know when you get there.
3 Think I'll finish this up.

4 A. Eighty-six you said?

5 Q. Yeah, 186.

6 A. I am there.

7 Q. Would you agree -- and let the jury know this is
8 from a physical therapist and this is dated September 27,
9 2021, which would've been roughly three months after your
10 surgery. Would that be right?

11 A. Three months after hip surgery?

12 Q. Now?

13 A. Yes -- yes.

14 Q. Okay. And if you look at page 187 of the same
15 note.

16 A. You want me to read it?

17 Q. No -- no. No, ma'am. Just when you're there.

18 A. I'm there.

19 Q. That's okay. All right. And -- and at that
20 point, three months later, you're doing good and you weren't
21 having any pain at that point.

22 MR. NICHOLSON: What page?

23 MR. COULTER: 186.

24 MR. NICHOLSON: 187?

25 MR. COULTER: I'm sorry, 87. Yep. 187.

1 BY MR. COULTER:

2 Q. That up here?

3 A. Yeah.

4 Q. Do you agree that that's what you presented to
5 your physical therapist?

6 A. I'm reading.

7 Q. Okay. Sorry.

8 A. Correct.

9 Q. Okay. And then let's just to show the jury how
10 you were recuperating after your surgery, if you would, if
11 you'll go to page 194. Let me know when you're there.

12 A. I'm there.

13 Q. Okay. And this is -- would you agree this is
14 roughly four months after the accident? I mean, after the
15 surgery to your hip? Actually, it's three years and four
16 months after the accident though.

17 A. Yes.

18 Q. Okay. And if you go to page 195 of the same
19 visit, and if you'll tell the jury just a few months after
20 this accident, while, and I'm understanding you're not
21 working during this time, is that right?

22 A. No.

23 Q. You weren't working?

24 A. After the surgery?

25 Q. Correct.

1 A. No.

2 Q. Meaning on this particular date, on October 8th of
3 2021, which is four months after this surgery, you weren't
4 working on that date?

5 A. Correct.

6 Q. Okay. And the subjective says what? What did you
7 tell the physical therapist about on this particular date?
8 Just a few months after the surgery.

9 A. It says that before this surgery I couldn't sit in
10 the car for long and we just went to Florida.

11 Q. Okay. Well, let -- let's just read the whole
12 thing, if you don't mind. "Before The surgery I couldn't sit
13 in a car for long. Now, we just did an eight-hour trip to
14 Florida and I did fine."

15 A. Correct.

16 Q. You weren't working at this time?

17 A. No.

18 Q. All right. Let's go to page 215 and let me know
19 when you get there. Let me know when you're there.

20 A. Okay. I'm there.

21 Q. Okay. Would you agree this is again, physical
22 therapy? I'm going to try to shut this down pretty quickly,
23 but this is November 15, 2021, is that right?

24 A. Yes.

25 Q. And that on this particular visit would you agree

1 that your pain was a 0 out of 10? And if you I can show it
2 to you real quick?

3 A. Please do. Because I might be on the wrong page.
4 Oh, okay. Yes.

5 Q. So when you presented just a few months after this
6 surgery, it was a zero, correct?

7 A. Correct.

8 Q. All right. And then if you look at 217, you were
9 actually discharged that date from physical therapy, correct?

10 A. Yep. Correct.

11 Q. 2000 -- let's go to page 218. Let me know when
12 you're there.

13 A. I'm there.

14 Q. All right. And this is a basically a six month
15 follow up -- excuse m., Five month follow up. Actually six
16 months.

17 A. Six months.

18 Q. And you reported doing very well and you were
19 discharged from the doctor that day?

20 A. Yes.

21 Q. Now, as far as the -- you talked about the fact
22 that you missed work on direct examination from your
23 attorney. Do you remember that?

24 A. Yes.

25 Q. Okay. And you actually missed work following your

1 back surgery as well, four months?

2 A. Yes.

3 Q. Okay. Now, you may have missed work, but you
4 didn't lose any wages during that time, did you?

5 A. I lost PTO time PT --

6 Q. I got your tax returns. And it doesn't suggest
7 that you lost any type of money ---

8 A. Okay.

9 Q. --- Following this accident.

10 A. Okay.

11 Q. Would you agree?

12 A. Correct.

13 Q. And then you've also talked about the fact that
14 you and your husband hobbies go, which are great. One of
15 them includes riding motorcycles.

16 A. Correct.

17 Q. Okay. And you actually made the decision to buy a
18 motorcycle well after this accident ever happened?

19 A. Yes.

20 Q. In fact, it was in 2022 years after this accident
21 happened that you decided you were going to get a motorcycle
22 and start using that as a hobby, right?

23 A. We've used that as a hobby before this accident,
24 not this particular motorcycle.

25 Q. Right. But you -- as you mentioned in your

1 deposition, you and your husband made a decision together.

2 A. To purchase a motorcycle.

3 Q. That was two years after the -- I'm sorry, what?

4 A. To purchase a motorcycle, correct.

5 Q. So that you and your husband can go on motorcycle
6 rides all over the state and sometimes outside the state?

7 A. Correct.

8 Q. Again, you've been saying that you can't work, you
9 were in pain, but you're able to go on -- as a matter of
10 fact, there was a motorcycle ride you went on not too long
11 before this deposition took place in 2020 over to Georgia,
12 some three and a half, some hours away, right?

13 A. Yes.

14 Q. Okay. And that's something you do regularly,
15 correct?

16 A. No, not regularly. We ---

17 Q. Not too long ago you went to, what was it called?
18 Greenwood, Blessing of the Bikes or something like that?

19 A. Yeah, like a 15-minute ride.

20 Q. Okay. And that's where a bunch of people get
21 together somewhere in Greenwood. Bunch of motorcyclists,
22 right?

23 A. Correct.

24 Q. Okay. And that's all you do, only do 15-minute
25 rides, is that what you do?

1 A. We rode from one spot to the next, bless the
2 bikes. End of story.

3 MR. COULTER: Okay -- okay. Very good. Thank you. I
4 appreciate your time.

5 THE COURT: Okay, Mr. Nicholson, any redirect?

6 MR. NICHOLSON: Yes, Judge. Thank you.

7 REDIRECT EXAMINATION

8 BY MR. NICHOLSON:

9 Q. Tracy. is it fair to say when you had this
10 accident, you were getting taken -- you were being taken to
11 self by EMS, were you mainly concerned with your back? Were
12 you concerned that you had aggravated your back? I'm not
13 saying that you hurt your back in the accident, but were you
14 concerned that ---

15 A. That I aggravated it? Yes.

16 Q. And you're not claiming your back injury, your
17 back surgery, any of that as part of this claim today, are
18 you?

19 A. No.

20 Q. And you did have -- I'm sure you had sleeping
21 problems because of your back pain, didn't you, before your
22 back surgery?

23 A. Yes.

24 Q. And the problem you described with your hip is
25 specifically with having to sleep on one side and not being

1 able to roll over on your right hip. Is that ---

2 A. Correct.

3 Q. --- Is that what you said? Okay. And is that --
4 is that particular problem, is that related to your back
5 surgery? Is that ---

6 A. No.

7 Q. --- Your back?

8 A. No, I can sleep on my back.

9 Q. Was Dr. Lyle treating your hip at all?

10 A. No. He was strictly back doctor.

11 Q. And when he sent you to physical therapy, was this
12 a order to treat your back and your hip or just your back?

13 A. My back.

14 Q. Yeah. You trying to get over your -- your back
15 surgery at that time?

16 A. My back surgery, correct.

17 Q. When he sent you physical therapy? Okay. Now, a
18 lot of what you all were reading together by the things that
19 Mr. Coulter was pointing out was after your hip surgery and
20 that whole time, every one of those pages, you were not
21 working, were you?

22 A. No.

23 Q. So that means you weren't going to work standing
24 up all day, lifting stuff, doing what you normally do at
25 work.

1 A. No.

2 Q. Is that right?

3 A. Correct.

4 Q. Was there less pain not working?

5 A. Well, yes.

6 Q. Okay. If you went this week without working,
7 would you have less hip pain?

8 A. Yes.

9 Q. All right. And we're going -- I'm look at a
10 couple of these and I think that he was reading from one page
11 158. It says, "Continue with non-weight bearing status." So
12 I mean, you weren't even putting any weight on that leg at --
13 at the time. You weren't putting weight on the leg, was it
14 -- I mean, was there anything there to create pain in your
15 hip?

16 A. Well, no, I, I couldn't put weight on it.

17 Q. And then I am going to page 171 and some of that
18 you were asking them if you wanted -- if you wanted -- if you
19 wanted you to read it. I am looking at page 170.

20 A. Okay.

21 Q. He was reading from earlier. The whole thing
22 says, "Waiting for protocol from MD general right hip range
23 of motion avoid abduction until clearance from doctor lower
24 extremity hip strengthening as tolerated gait. And it says
25 gait improving." And I guess that means massage the scar or

1 something like that. Is that what that you take that to mean
2 at the top? You -- were they telling you to massage the scar
3 at that?

4 A. Oh yes. Yes, I was -- I had to massage it and put
5 vitamin E on it, and.

6 Q. Okay. This the next page, which is the same date
7 of treatment. "Assessment Called MD office requesting
8 protocol again and left a voicemail. Treatment today
9 continued to be focused on range of motion and strengthening.
10 Patient able to progress with standing exercise his patient
11 with minimal improvement in hip mobility noted today.
12 Patient would benefit from skilled physical therapy to
13 continue to address deficits progressing as tolerated towards
14 established goals." Does that sound like you completely
15 recovered at that point?

16 A. No.

17 Q. Another one that you were reading from there, page
18 187. And again, I think only part of this was read, "Patient
19 reports. I've been doing good. I even showed my husband how
20 I have to stand on one foot. I think it's -- it's gotten
21 better. I'm not having any pain right now. I think the
22 swelling has gone down a lot. There's a few places where
23 it's still swollen, but the doctor, so it has to be expected.
24 I'm still leaning to the left side to keep up the weight off
25 the right side. I think a lot of that is mental. My husband

1 tells me that I'm leaning if we, if we can more visits. When
2 -- what you teach me I can do at home." I'm not sure.

3 A. Oh.

4 Q. What you can teach me at home.

5 A. If I continued then they would teach me more stuff
6 that I could do at home to --

7 Q. Not have to do it.

8 A. Yeah.

9 Q. Did -- now, there was a big deal made about you --
10 you took a trip where you went to the beach or took another
11 trip. Did physical therapy or Dr. Loging say that you could
12 not ride in a car?

13 A. No -- no.

14 Q. They said you couldn't do what your work
15 activities were as a -- in your housekeeping job at the --

16 A. Correct. I could not return to work.

17 Q. You couldn't return to work. Is riding in a car
18 easier than work?

19 A. Yes.

20 MR. NICHOLSON: That's all I have.

21 THE COURT: Any recross Mr. Coulter?

22 MR. COULTER: No, sir.

23 THE COURT: Step down, ma'am. Thank you.

24 MS. CAMPBELL: Where do these go?

25 THE COURT: Just hand -- he can give them to the court

1 reporter.

2 MS. CAMPBELL: Thank you.

3 THE COURT: All right. Next witness, Mr. Nicholson?

4 MR. NICHOLSON: Will be Dr. Loging. I think we need to
5 probably take the jury back.

6 THE COURT: Yeah, we got a little issue we need to
7 discuss related to that. Okay. Ladies and gentlemen, I
8 think the next witness will be Dr. Loging video deposition.
9 I'll explain to you about a deposition when you get back in.
10 But go back to the jury room for a few minutes. Okay.
11 Yesterday we talked about Dr. Loging deposition and I ruled
12 that the rating of 47 percent would not come in because it
13 was clear from the deposition that Dr. Loging needed to
14 recalculate it, which of course never -- has never taken
15 place. But be that as it may I've ruled that 47 percent
16 could not come in.

17 However, I believe it would still be permissible to
18 allow the existence of an impairment to come in. I don't
19 think a rating in -- in this type of case is absolutely
20 necessary as it is in a worker's comp case. Now, I realize
21 the practicalities of redacting and the deposition may -- may
22 present a little challenge. I think probably the easiest way
23 of doing it is just muting at the appropriate spots as
24 opposed to actually physically going in and removing those
25 few portions. But that -- that's my ruling that I allow any

1 reference by Dr. Logging to an impairment that is can come in.
2 But the rating of 47 percent will not. So I don't know
3 exactly how Mr. Nicholson, you want to handle that.

4 MR. COULTER: (Inaudible) page 19, Judge. It's 19th
5 through 21.

6 THE COURT: 19 through 21. And Mr. Coulter, do you
7 take this deposition back? I made copies of the three pages
8 for my records. And -- and I think the word rating needs to
9 come out as well. I think that might be a little misleading.
10 So if you look at page 19 -- you can go and take that note.
11 Yeah. All right. There's one on line 18 rating on page 19,
12 20, page 8 -- and I mean line eight and nine, 47 percent.
13 And then again, the word rating and then 18 through 22 where
14 he says I have to recalculate it. I think that's not, that's
15 going to be confusing to the jury. So I think that would
16 need to come out.

17 Then 21 line six, 47 percent line seven, the word
18 rating. If I'm going too fast, tell me line 11, 47 percent.
19 And then 16 through 19. Again, Mr. Coulter ask about jury's
20 not to consider 47 percent and he said, "Yeah, I have to
21 recalculate it." So I think those four lines would need to
22 be redacted as well. I'm going to leave it to you guys as
23 far as how you want that redaction to take place. So again,
24 you get -- for whatever it's worth, you get his testimony
25 concerning the existence of an impairment. You just don't

1 get to 47 percent.

2 MR. NICHOLSON: I'm trying to figure out whether this
3 is just a continuous -- this is a in and out kind of
4 situation, or is it just -- is it a continuous thing? Is
5 there anything in there that needs to be put in 19, 20, 21?

6 THE COURT: Now, I understand that the only pages of
7 the deposition I've looked at are 19 through 21. I haven't
8 looked at anything else. So you all need -- you all need a
9 few minutes to kind of study that?

10 MR. NICHOLSON: Yes, we do. I think.

11 THE COURT: Oh, okay.

12 MR. NICHOLSON: We need to look at it together and see.

13 THE COURT: Okay.

14 MR. COULTER: Yes. What I'm looking at, Judge, it
15 seems to me like maybe one of -- maybe this is, but it seems
16 to me if maybe if we just -- if you all just read it or
17 something, but on page 20, line 13 through 16 says after the
18 surgery, you think she would have an impairment of the right
19 lower extremity? She would.

20 THE COURT: Yeah. I -- I mean I think that's -- that's
21 -- certainly, I think that covers everything right there.

22 MR. NICHOLSON: Is -- is there anything on 19, I mean,
23 is there anything ---

24 THE COURT: Well, the word impairment is used on 18 in
25 con -- in connection with rating. I'm saying rate, the word

1 rating comes out, but impairment to a right lower extremity.
2 Is that right? Do you remember that on the very first visit?
3 So.

4 MR. NICHOLSON: You might -- you might go from line 16
5 on page 19.

6 THE COURT: Why -- you guys, it -- it -- to be
7 consistent with my ruling? If you all want to take a few
8 minutes or go through that and see maybe you all kind of come
9 to some agreement just so long as just consistent with my
10 ruling.

11 MR. COULTER: Yes, sir.

12 THE COURT: Okay. All right. We'll -- we'll take a
13 little short break.

14 (Off The record.)

15 THE COURT: Mr. Nicholson, if you'll put on the record
16 what you and Mr. Coulter have agreed to is insofar as
17 handling Dr. Loging's deposition and being consistent, which
18 you have been with my ruling. If you'll just put on the
19 record how you going to handle that.

20 MR. NICHOLSON: Yes, Your Honor. We are going to play
21 the video and, and my paralegal is going to keep up with the
22 -- the -- the transcript and it -- page 19, line -- after
23 line 15, we're going to stop and that we would send the jury
24 back out. We'll re-key it up on page 21 at line 20. So
25 we'll send them out. We'll just out of an abundance of

1 caution, she will cue it back up at that level. And then
2 there are two lines that I will just read and we will explain
3 to them that I'm reading it because it's easier than trying
4 to edit.

5 THE COURT: Okay. All right. Mr. Coulter, is that
6 your understanding of your agreement?

7 MR. COULTER: Yes.

8 THE COURT: Okay. All right. Let's bring the jury out
9 please.

10 MR. NICHOLSON: You -- you going to explain to them
11 about the -- I'll say I'm calling Dr. Loging through.

12 THE COURT: Right. You -- you -- you state that and
13 then I'll explain to them about a video deposition and then
14 explain to them how that's going to be handled. That
15 there'll be a little break in between that you'll actually
16 publish yourself a couple lines from the deposition and I'll
17 explain all that. You ready? Okay. All right. Let the
18 record reflect the jury's back in. Mr. Nicholson, your next
19 witness is?

20 MR. NICHOLSON: Dr. Loging and that is through de bene
21 esse deposition.

22 THE COURT: Okay.

23 MR. NICHOLSON: And we would like to play the video --
24 I would like to explain that the videographer was live with
25 Mr. Loging at his office. I was participating and I think

1 Mr. Coulter was participating by Zoom and I don't think the
2 volume comes up. She may have to adjust the volume because
3 of that we aren't in the same room together.

4 THE COURT: Okay. All right. A couple things, ladies
5 and gentlemen, and I think that you've already heard
6 reference to a deposition when -- when Ms. Campbell was on
7 the stand. What a deposition is -- is a -- a sworn question
8 and answer, just like what takes place in in the courtroom.
9 And it -- it -- deposition is done for one to two reasons.
10 One, is to find out it's a discovery deposition to find out
11 what a witness or a litigant party to the case what he or she
12 has to say. And oftentimes and has done a lot of times with
13 doctors to avoid them having to come to court. They'll take
14 their testimony to what is called a de bene esse deposition
15 typically. Now, doing it via video. And so that video
16 deposition, I mean, you -- you are to consider same as you
17 would if Dr. Loging was seated here in the witness chair
18 testifying and give it whatever consideration and weight you
19 feel like it it needs to be given.

20 What we're going to do with this about halfway through
21 the deposition, we're going to stop for logistical reasons,
22 send you back to the jury room and then bring you back
23 shortly, not long. Mr. Nicholson is actually going to
24 publish, read himself a few lines in the deposition and then
25 pick back up with the video, the conclusion of the video

1 deposition. So that's kind of the mechanics of how we're
2 going to handle it with you guys. So now it was mentioned
3 about volume. If at any time you're having a hard time
4 hearing either Dr. Loging or Mr. Nicholson, Mr. Coulter then
5 raise your hand and we'll certainly we'll certainly try to
6 accommodate that. And we may want to maybe dim the lights
7 just a little bit, just -- I think it maybe -- can see the
8 screen a little bit better.

9 (Video played.)

10 THE COURT: Okay. Ladies and gentlemen, if you'll just
11 go back to the jury room for a few minutes, we're going to
12 get things situated with that and get you back out shortly.

13 MR. NICHOLSON: Might need the lights.

14 THE COURT: Drew is going to cut the light on. Okay.
15 So -- so Mr. Nicholson, you're going to read just a short
16 portion and then we'll pick back up somewhere after page 21,
17 is that right?

18 MR. NICHOLSON: (Inaudible).

19 THE REPORTER: I was going to turn the volume down.
20 Just hit play.

21 MR. COULTER: Page 20, line 13 through 16

22 MR. NICHOLSON: On the very first visit.

23 UNIDENTIFIED SPEAKER: (Inaudible).

24 THE COURT: Yes. How much is left time-wise on this
25 deposition, roughly?

1 MR. COULTER: Yeah, it couldn't -- couldn't be more
2 than 10 minutes.

3 UNIDENTIFIED SPEAKER: Eleven minutes.

4 THE COURT: Oh, 11 minutes?

5 MR. NICHOLSON: It couldn't be.

6 UNIDENTIFIED SPEAKER: Eleven minutes and two seconds.

7 THE COURT: You need to say, Mr. This is not on record.
8 Mr. Coulter took 11 minutes in his cross-examination of the
9 treat -- okay. Ladies and gentlemen, how we're going to do
10 this is Mr. Nicholson is going to read, I think one question
11 and one answer just a couple lines in the deposition and then
12 when the video starts back, we'll be in Mr. Coulter's
13 cross-examination. Okay. So Mr. Nicholson?

14 MR. NICHOLSON: Yes. And I start a question that I am
15 answering the question. I'm asking the question. "All Right
16 -- all right. After the surgery, do you think that she would
17 have an impairment of the right lower extremity." Dr. Loging
18 response, "She would."

19 THE COURT: Okay. All right. Now, start the video
20 back up please. Trudy, if you'll cut the lights off.

21 UNIDENTIFIED SPEAKER: This is Mr. Coulter, he said --
22 he said that.

23 (Video Played.)

24 THE COURT: Okay. Let me chat with lawyers real quick
25 for a second. All right. We feel like in talking with

1 lawyers just now that probably this is a good time to break
2 for the -- the day instead of going very much past 5:00. So
3 we're going to go ahead and break for the day. We've got
4 some work to do with the lawyers in the morning, so don't
5 come until 11:00 okay? And just remember all my instructions
6 and make sure you get some good -- good rest and we'll see --
7 see you in the morning. So come about 11:00. Okay? Or come
8 at 11:00. I'm not going to say about, because then you all
9 be coming all different times. So yeah, come at 11:00 and
10 hopefully we'll be ready for you then. Okay? Have a good
11 evening.

12 THE BAILIFF: Come for your goodies. We'll have
13 coffee, drinks.

14 THE COURT: Need to be back here in the morning. Okay?
15 Don't -- so 10:30 will be fine. All right? Okay. Yeah.
16 Wait for them to leave then I'll go ahead and recess for the
17 night. Okay. Let's see you guys by 10:15, 10:30 in the
18 morning. Have a good evening.

19 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
20 04:51 P.M.)

21
22
23
24
25

CERTIFICATE OF TRANSCRIBER

I, NATASHA BARRIENTOS, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 8 of Greenwood County, South Carolina, on the 31th Day of May, 2023.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 23, 2024

Natasha Barrientos

Transcriber

1 CONTINUATION OF PROCEEDINGS - JUNE 1, 2023

2 THE COURT: All right. I'm going to go on the record
3 for just a minute to make sure that the record is clear
4 concerning our discussion in the -- in the back chambers. We
5 were discussing the issue of punitive damages, the issue of
6 the defendant's credibility. Whether or not the plaintiffs
7 intend to recall the defendant, which I gave the -- the
8 plaintiffs every opportunity to -- to recall them. I am
9 still going to allow that to happen.

10 Mr. Coulter shared his thoughts about the issue of
11 punitive damages and credibility, as did plaintiff's counsel.
12 I shared my -- my views of where I thought I was on the issue
13 of punitive damages at the present time. And then Mr.
14 Nicholson indicated in so many words that if it doesn't go
15 right in his way on the issues we were informally discussing
16 that he would appeal the case. I immediately stopped Mr.
17 Nicholson, indicated that I was offended and that I was
18 insulted by him using that tactic to try to convince me to
19 rule in his favor, otherwise he would appeal.

20 And I made it very clear to him that I was insulted and
21 that I was offended. Now -- well, I further indicated that I
22 realize everybody that goes through the judicial system has a
23 right to appeal. I could care less if I get appealed or not.
24 And I've been appealed a bunch of times since I've been on
25 the bench. I've been affirmed a lot of times, and I have had

1 some reversals. So if I'm appealed and I've done correctly,
2 they're going to tell me I've done correctly. If I'm
3 appealed and I've not done correctly, the appellate court's
4 going to tell me I'm not done correctly.

5 The fact that I indicated that I was offended and
6 insulted in no way whatsoever, and I want this extremely
7 clear on the record, in no way will that have any effect on
8 my ultimate decisions in this case. I want the record
9 extremely clear. I don't want it later on to say, okay, the
10 reason why Hocker ruled this way or ruled that way is because
11 he was mad at me because he indicated that he was insulted or
12 offended by my statement. I don't want that to be an issue
13 at all.

14 And again, I emphasize the fact that I made that
15 indication is in no way going to have any effect on any
16 rulings I have to make until this case is completed. So Mr.
17 Nicholson, if you still want to recall the defendant either
18 now or later on, then you certainly have that, right. You
19 can renew your request to charge punitive damages or argue
20 that it does have in some way an effect on his credibility
21 for impeachment purposes. I'll be glad to entertain any of
22 those requests or arguments if they are made plaintiff ready
23 to call this next witness.

24 MR. NICHOLSON: Judge, I think if -- if I call -- and
25 first I'd like to say that I --- I did not say that for the

1 purpose of trying to intimidate or force any decision. I
2 said it for the purpose because I want to build a record for
3 this because a lot of what the evidence we have, you know,
4 and it's not -- it's not Your Honor, but -- but Mr. Coulter,
5 everywhere we turn on this, there is a reason why we can't
6 get into any other behavior by this client.

7 And I think we have reasons to bring in that behavior,
8 and -- and you had not even ruled on it. So I'm not trying
9 to -- what we have here, we have two different issues. One,
10 if I called Mr. Newman, one thing I have is impeachment. And
11 -- and I'll go through his statements because we listened to
12 him again this morning. I wanted to make it clear that what
13 I, what he had said, and one thing he said is that I do not
14 -- I do not drive anymore because I know I have epilepsy. I
15 should not drive.

16 And I said, "Well, when did you stop driving?" He was
17 very unclear about when he stopped driving. Another issue is
18 he said basically he just decided because he had epilepsy at
19 age seven, that he was going to stop driving. And it made it
20 seem like he voluntarily stopped driving, which is not the
21 case. He had multiple offenses in the past where the highway
22 department basically took his license away and he did not
23 stop driving. So he has multiple offenses in the past,
24 multiple offenses in the future.

25 So the other issues on impeachment would be that I'm not

1 driving. I only drive when I absolutely need to, when I
2 absolutely have to. And that's very, very important. And
3 that is not the case. There are multiple DUIs. There are
4 multiple other cases where he's driving where he is not under
5 some necessity to drive. I think we should be -- and -- and
6 -- and one of your honor's comments was that they have
7 admitted liability.

8 The situation here is that he has gotten, they admitted
9 liability to supposedly take these issues out, and then he
10 gets on the stand and says, "I really don't drive. I'm a
11 good guy. I'm concerned about the safety of the roads. You
12 know, I have epilepsy." You know, he -- he's basically
13 deflecting responsibility. You can't admit liability and
14 then deflect responsibility. And we don't have a chance to
15 impeach what he's saying up there. I think it is still an
16 issue because of what he said and his culpability, you know,
17 despite what his lawyer said, he didn't get up there and say
18 he was responsible. He said he didn't remember it.

19 So I don't -- I don't think the lawyer's statement that,
20 you know, the lawyer's admitting liability and then this guy
21 gets on the stand and says that I think we're able to impeach
22 him. And what -- what I would -- I have a proffer. I mean,
23 I have the convictions of three DUSs since this incident. I
24 have an incident six months later where he hits -- rear ends
25 another person on the same road, sends them to the hospital,

1 leaves the scene, and I've got these records, leaves the
2 scene, hits a tree. There are two accident reports on the
3 same day, and that's six months following this incident. He
4 appeared before Your Honor and pled guilty. So you would've
5 had to talk to this man and determined that he had the
6 capability of remembering the event and saying that he was
7 guilty of it.

8 THE COURT: Well, I -- I -- in getting these -- these
9 convictions in, I think, you know, you're -- you're saying
10 impeaching his credibility, but then also on the issue of
11 punitive damages. If you wanting to impeach his credibility,
12 which again, I -- I have this big question of whether or not
13 how relevant his credibility is, because it's a mid-liability
14 case. But lay that to the side. If you're wanting to
15 impeach his credibility with these prior convictions. We --
16 we have to look at Rule 609.

17 I don't see how we can get around that without looking
18 at what 609 says, impeachment of evidence or by evidence of
19 conviction of a crime, and the -- the driving offenses, the
20 DUIs, DUSs whatever those may be, you know, do they fit
21 within the requirements of -- of 609? I -- I -- I think we
22 have to look at 609.

23 MR. NICHOLSON: I don't have the rule in front of me,
24 Judge.

25 THE COURT: Yeah. I -- I got it -- I got it front of

1 me. It says again, Rule 609, impeachment by evidence of
2 conviction of a crime; General rule, this is subsection (a)
3 for the purpose of attacking the credibility of a witness.
4 One, evidence that a witness other than an accused has been
5 convicted of a crime shall be admitted, subject to Rule 403,
6 which is the, you know, prejudice, probe, debate. If the
7 crime was punishable by death or imprisonment in excess of
8 one year, well, these driving offenses wouldn't -- would not
9 fall within -- within subsection one.

10 Subsection two, evidence that any witness has been
11 convicted of a crime shall be admitted if it involved
12 dishonesty or false statement regardless of the punishment.
13 Well, again, DUIs, DUSs traffic offenses would not fall under
14 two. And then (b) is the time limit. If it falls within a,
15 then you look under the time limit, but those driving
16 offenses don't fall within what, how I read 609. So if
17 you're wanting it to come in for impeachment of credibility,
18 not -- let's lay punitive damages to the side, the
19 impeachment of credibility, I don't think 609 will allow you
20 to do it for that purpose.

21 MR. NICHOLSON: I don't want to put the crimes in.

22 THE COURT: Okay.

23 MR. NICHOLSON: I want to be able to question him. I
24 ask him, the reason I was cut off during the -- the prior
25 examination is that I ask -- I said, were you driving on such

1 and such a date? And Mr. Coulter jumps up because it was a
2 date that the crime was committed. But I was just saying,
3 what were you going to do that day? I mean, where were you
4 driving that day? Because we know he was driving.

5 THE COURT: Right? We know he is driving and we know
6 that he caused the accident in some fashion. Yeah.

7 MR. NICHOLSON: I mean, that -- that accident, what I'm
8 saying is, and I -- I don't -- I understand the prejudicial,
9 you know, the probative versus prejudicial. That's why I'm
10 thinking about that. Mr. Coulter is going to say, oh, this
11 is so prejudicial, we can't let it in. Even though it is
12 impeaching what he said earlier.

13 THE COURT: I -- I think probably the best way to handle
14 this is let's get the jury back in the jury room. Let's put
15 him up in camera outside the presence of the jury, and you
16 ask him everything that you would like to ask him in front of
17 the jury. Let's see exactly what you're going to ask. And
18 let's see exactly what he says. I think that's going to be
19 the best way of handling this. So -- so before I take any
20 more argument from either side, let's just go ahead and do
21 that. Let's get, go ahead and get the jury -- get the jury
22 in the jury room, and then once we do that, then we can just
23 -- let's see what's asked, see what's answered.

24 MR. COULTER: You said outside the presence of the jury?

25 THE COURT: Outside the presence of the jury. Yes.

1 THE CLERK: Some coffee?

2 THE COURT: Yeah. I'll take a bottle of water. That'd
3 be good. Thank you, Lisa.

4 MR. COULTER: Quick. Yeah. Okay. There's one right
5 there. Mine's going down right now. Wait till, yeah, the
6 jury's coming in and going back there.

7 THE COURT: Thank you.

8 THE CLERK: You are welcome.

9 MR. COULTER: Judge. I've got (inaudible)

10 MR. NICHOLSON: Restroom right here.

11 THE COURT: Okay?

12 MR. NEWMAN: Yeah.

13 MR. COULTER: And Judge, I complete -- I understand what
14 we're going to be doing now is calling my client again. And
15 I understand the court's ruling. I appreciate that.

16 THE COURT: Okay.

17 MR. COULTER: I just wanted to put this on -- on the
18 record that by the plaintiff's attorney has said, Hey, Mr.
19 Coulter has done this and done that and all, the plaintiff's
20 attorney has not attempted to take Mr. Newman's deposition.

21 THE COURT: Right

22 MR. COULTER: Now. He's called him in his case in chief
23 and said, oh, I don't like what he said, and now I'm going to
24 call him again to try to impeach his credibility. I mean, I
25 don't know how many bites at the apple you get. He's been

1 doing that with his own doctor too. And so I -- I mean, if
2 that's, I get the ruling, I understand that, but I just --
3 yet, at some point I go, I mean, if I've never done that
4 before, well, called somebody and then said, well, yeah, I'm
5 going to call them again if I don't like their answer. So I
6 just want to put that on the record.

7 THE COURT: And that's fine. And -- and if I remember
8 correctly, the plaintiff recalling Mr. Newman was the court's
9 suggestion.

10 MR. COULTER: Yes.

11 THE COURT: As opposed to Mr. Nicholson or Ms. Mayor to
12 saying, Hey, judge, can we recall them? So I -- I offered
13 that for whatever reason.

14 Okay, Mr. Newman, come on up. Have you -- well swear
15 him in again. Madam clerk, stand right there and get sworn
16 him in, then come up to the witness stand.

17 BRIAN KEITH NEWMAN,
18 having been duly sworn, testified as follows:

19 MR. NICHOLSON: Judge, may I proceed.

20 THE COURT: Yes you may.

21 CROSS-EXAMINATION

22 BY MR. NICHOLSON:

23 Q. Mr. Newman, do you remember I asked you some
24 questions?

25 A. I guess it was yesterday. I kind of time

1 suggesting.

2 Q. Tuesday probably, maybe. Anyway, and I previously
3 asked you some questions. You were sitting right there. Do
4 you remember that? You need to verbally respond?

5 A. Yes, I do.

6 Q. Okay. And do you remember saying that you do
7 realize that you have a -- a epilepsy or a seizure problem?

8 A. Yes, I do.

9 Q. And that because of that, you -- you don't drive
10 anymore, is what you said, is that right?

11 A. Yes.

12 Q. And you really didn't say exactly when you stopped
13 driving, but you said that you realized, you said that you
14 realized you had epilepsy dating back when you were seven
15 years old, is that right?

16 A. Yes.

17 Q. And you stated that you only drive out of
18 necessity?

19 A. Yes.

20 Q. Is that right?

21 A. Uh-huh.

22 THE COURT: You speak up Mr. Newman.

23 THE WITNESS: Yes, sir.

24 BY MR. NICHOLSON:

25 Q. So the only time you drive a car is when there's

1 some emergency or you have to drive?

2 A. Yes.

3 Q. Do you remember driving about six months, almost
4 exactly six months after this accident happened on January
5 16th, 2019?

6 A. Yes.

7 MR. COULTER: Judge ---

8 THE COURT: Now what -- what I'm going to do, I -- I'm
9 going to hear everything that Mr. Nicholson wants to ask and
10 his answers. You can certainly ask anything you would like
11 to, so we'll know exactly what's out there and then I'll hear
12 objections, arguments, whatever. Okay?

13 MR. COULTER: Yes.

14 THE COURT: Ask that question again. Mr. Nicholson.

15 BY MR. NICHOLSON:

16 Q. Do you remember driving on January 16th, 2019?

17 A. No, I don't.

18 Q. And I'm going to try to refresh your memory
19 because a lot of things happened to you on that date.

20 THE COURT: What was the date again?

21 MR. NICHOLSON: January 16, 2019.

22 THE WITNESS: I don't.

23 BY MR. NICHOLSON:

24 Q. And it was -- actually says on Highway 225, which
25 is the same road that this accident was on in the area kind

1 of up towards the spot that you rear ended. Not this vehicle
2 that we're talking about here, but another vehicle.

3 A. I don't remember.

4 Q. You don't remember that?

5 A. No.

6 Q. That you rear ended a vehicle and that you left
7 the scene before officers got there?

8 A. I don't remember.

9 Q. And that a short time later you went off the road
10 and hit a tree?

11 A. I don't remember.

12 Q. Do you remember that?

13 A. No.

14 Q. You don't remember that at all?

15 A. No.

16 Q. And that the -- and I don't have to, Judge, I
17 don't have to answer all these questions, but do you remember
18 being arrested that day?

19 A. No, I don't.

20 Q. Do you remember pleading guilty to some offense
21 related to that accident?

22 A. No. I don't.

23 Q. Do you remember appearing in front of this same
24 Judge -- Judge, in this same courtroom?

25 A. No. I don't.

1 Q. You don't remember that?

2 A. No.

3 Q. You have -- do you have a friend named McBride?

4 A. McBride?

5 Q. Yeah.

6 A. My ex son-in-Law.

7 Q. Your ex son-in-Law?

8 A. Mm-hmm.

9 Q. Have you ever borrowed his vehicle to drive?

10 A. Not that I recall.

11 Q. You don't remember wrecking his vehicle against a
12 tree?

13 A. No.

14 MR. COULTER: Judge, I'm just -- if I could, is there
15 something you're referring to some documentation?

16 MR. NICHOLSON: Yes.

17 MR. COULTER: And I -- is that something that you just
18 came up with today? Because I've not seen this
19 documentation. I was given lost wages yesterday, \$14,000.
20 Right. And now I'm -- is this new information, because I've
21 not received this ahead, my client is being cross examined on
22 this and it's not been produced pursuant to discovery.

23 THE COURT: Well, I -- I think what's important right
24 now, go ahead and show -- show Mr. Nicholson. What -- what
25 You got this again, this is all in camera. I understand your

1 point, but it's not for the jury yet.

2 MR. COULTER: Again, I hadn't seen it.

3 MR. NICHOLSON: Sure.

4 MR. COULTER: Is it okay if I copy this before we ---

5 THE COURT: Yeah, go ahead.

6 MR. COULTER: I can read it?

7 THE COURT: Yeah, go ahead And ma'am clerk, can you make

8 a copy from Mr. Coulter on that copy machine, please ma'am,

9 we -- we'll go off the record for just a second.

10 (Off the record.)

11 THE COURT: All right. We're back on the record. Mr.

12 Nicholson go --- go back to that. You started with a

13 separate line of questioning about McBride, some guy named

14 McBride. Go start back with that person

15 BY MR. NICHOLSON:

16 Q. Who owned the vehicle that was involved in this

17 incident January 16, 2019 was a Mr. McBride.

18 A. No.

19 Q. Had you ever borrowed Mr. McBride's vehicle

20 before?

21 A. Not that I recall.

22 Q. Do you know what your emergency or necessity was

23 on January 16, 2019?

24 A. No, I don't.

25 Q. Do you remember that you had methamphetamine on

1 you at the scene of that accident?

2 A. No, I don't.

3 Q. And do you remember that you pled guilty to a DUI
4 offense in front of this Judge?

5 A. No, I don't.

6 Q. Do you remember -- do you remember driving on
7 August 19, 2021?

8 A. I don't recall.

9 Q. Do you remember driving on April 12, 2021?

10 A. I don't recall.

11 Q. You remember driving on April 22, 2021?

12 A. No.

13 Q. Do you remember driving in 2007 on November 15th?

14 A. No.

15 Q. 2008 on May 27th?

16 A. No.

17 MR. NICHOLSON: Judge, I think it's pretty evident that
18 he's going to say that he doesn't remember anything.

19 THE COURT: Right.

20 MR. NICHOLSON: I -- I mean, what we have as an event
21 and, and Mr. Coulter's saying I didn't produce it. I had no
22 idea what he was going to say until he got the sand. I mean,
23 he could say -- he could say he was on Mars, but I'd have to
24 go gather evidence to prove he wasn't no Mars. I mean, after
25 I hear what he says. Okay so ---

1 THE COURT: All right. So this line of, are you kind of
2 finished with, with your questioning of Mr. ---

3 MR. NICHOLSON: And I would like to, and I would like to
4 present this evidence and I -- and I'm not trying to present
5 something salacious to say, you know, he pled guilty to
6 methamphetamine or pled guilty to DUI, which he did and he
7 obviously appeared in front of Your Honor. I just want to
8 establish that he was driving not for some purpose, you know,
9 not for some necessity on that day.

10 THE COURT: All right. Well, what I -- what I need to
11 know is you're wanting to offer this testimony for purposes
12 of impeachment of credibility or you're wanting to offer it
13 on the issue of punitive damages? That's -- that's kind of
14 what I need to know. So I -- I -- I know how to make my
15 ruling.

16 MR. NICHOLSON: Well, I want -- I want to offer it not
17 to impeach character through a criminal conviction. That's
18 not what I'm trying to do. I'm -- I'm impeaching his
19 statement in his direct testimony of -- of what he does and
20 does not do. It is controverting his ---

21 THE COURT: You -- you -- you are wanting -- you are
22 wanting to impeach his testimony that he doesn't remember.

23 MR. NICHOLSON: No. That he says he doesn't drive
24 except when he's absolute -- he's absolutely needed to drive.
25 He presents that he takes care of people, he takes care of

1 these older ladies. Maybe he's driving just for that
2 purpose. I don't know what he's saying when he says that,
3 but he says, I know I have epilepsy. I don't drive unless I
4 absolutely have to. And then he said, I don't drive anymore.
5 And he's -- he's driven four times since this incident --
6 incident. I mean, he's been caught four times since this
7 incident. One of them six months later on the same road, and
8 at that time he was under the influence and had a
9 methamphetamine. That is not a necessity.

10 THE COURT: Okay. All right.

11 MS. MEREDITH: Not only that, Your Honor, but his guilty
12 plea would be a prior inconsistent statement if he remembered
13 driving and had to enter a plea as to driving under the
14 influence. He doesn't remember it now, but he remembered it
15 then when he was in court and pled guilty to it.

16 THE COURT: Mr. Coulter, you want to be heard on this?

17 MR. COULTER: Yeah, Judge, I would. Thank you. First
18 of all, again I think that my client has been called and --
19 and we talked about this, I won't go into that. But in terms
20 of what my client has said, the thing that's confusing to me
21 is Mr. Nicholson is -- first of all, none of what I
22 understand that my -- Mr. Newman may have been convicted of
23 after this accident would fall under any exception to the
24 rules. Okay?

25 I -- I don't see that at all. If you look at the

1 punitive damages charge statute, and -- and I'm sure you've
2 had at -- at -- at best it talks about past conduct. Okay?
3 But -- but we've also got to deal with 609 and that sort of
4 thing and we're talking about issues that happened almost 20
5 years, well, 15 years ago. Okay. Which is well outside the
6 parameters of the 10 years and credibility issues. And --
7 and really there wasn't any issues that he said other than he
8 doesn't remember and he has epilepsy. Mr. Nicholson has
9 said, oh, wait a second. You said you can't drive because
10 you have epilepsy. If I could ask my client a few ---

11 THE COURT: Now, I told you -- you would -- you could
12 have in camera and ask him whatever you want to. Sure.

13 MR. COULTER: Sure.

14 RE-DIRECT EXAMINATION

15 BY MR. COULTER:

16 Q. And so I -- I'll proceed. Keith, you said you had
17 epilepsy since you were seven

18 A. Uh-huh.

19 Q. You can --

20 A. Yes -- yes.

21 Q. --- with a yes or no?

22 A. Yes.

23 Q. Okay. And Keith was there -- was there a time
24 after you were diagnosed with epilepsy that you did not have
25 any problems for a while?

1 A. Yes.

2 Q. How long was that?

3 A. From the time I was, I had three seizures. Seven,
4 eight, and nine years old.

5 Q. Yeah.

6 A. And then I outgrew it until here about two, three
7 years ago.

8 Q. Right.

9 A. I started having seizures again.

10 Q. Right. And then, as I understand recently, you
11 were in the ER about two months ago for that?

12 A. Yes.

13 Q. And that's when you started to -- to have to do
14 medication for the treatment of that?

15 A. Yes.

16 Q. Okay. All right. So at that point, during some
17 of these issues that Mr. Nicholson was talking about, you
18 weren't under epileptic care at that time?

19 A. No.

20 MR. COULTER: No. Thank you.

21 THE COURT: Okay. Anything follow up.

22 RE-CROSS EXAMINATION

23 BY MR. NICHOLSON:

24 Q. Mr. Newman, when did -- when did you stop driving?
25 Was of concern?

1 A. Here recently. I mean, the last time I -- the
2 last time I got caught or whatever, I -- I haven't drove
3 anymore. I don't drive anymore. I walk everywhere I go.

4 Q. The last time you got caught is -- when the last
5 time you ---

6 A. I can't remember the date.

7 Q. I didn't -- I didn't hear you, sir. Huh?

8 A. I'm sorry, what was the question?

9 Q. Well, I guess, and is that what you're saying?
10 The last time you got caught or driving under suspension, is
11 that the last time that you drove?

12 A. Yeah. Yes.

13 Q. And that's when you did drive?

14 A. Yes.

15 Q. So at the time of the accident, did it involve the
16 cabs? You were still driving?

17 A. Yeah. Yes.

18 Q. Why were you driving?

19 A. I don't remember. I remember -- I can't remember.
20 Memory.

21 Q. So back in -- in June of 2018, you were not
22 concerned about getting an -- having an epileptic seizure?

23 A. No.

24 Q. You previously said that you thought you had an
25 epileptic seizure on that day. Is that what you think?

1 A. I said I could have had; I don't know.

2 Q. Well, at the time did you think you could have had
3 an epileptic seizure?

4 A. What -- what was that?

5 Q. Well, since that time you do realize that -- that
6 you've driven at least four different times?

7 A. Yes.

8 Q. Do you remember that?

9 A. No. I don't.

10 Q. You know that you have those convictions for
11 driving, the driving offenses were -- have been punished for
12 driving four different times since this accident we're
13 talking about?

14 A. Yes. I know about convictions.

15 Q. You know you've got those convictions.

16 A. Yes.

17 Q. You don't dispute those?

18 A. No.

19 MR. NICHOLSON: All right. Judge, I don't know. I
20 mean, you know, his testimony here would clarify that, but I
21 -- you know, it's -- it's inconsistent with his previous
22 testimony.

23 THE COURT: Okay. Anything else from this witness in
24 camera?

25 BY MR. NICHOLSON:

1 Q. Well, Mr. Newman, let me ask you, the -- the four
2 times that you were, did you know you have convictions since
3 this accident? What was the necessity on those four times?

4 A. I don't remember.

5 Q. Well, what could they be? What -- what do you
6 consider to be a necessity?

7 A. Going to pick -- pick up medication or groceries?

8 Q. Going to pick up groceries is it a necessity?

9 A. Uh-huh.

10 Q. So anytime you needed groceries, you would go
11 driving?

12 A. Not now. Don't, because I lived next door to
13 grocery store.

14 Q. So when did that start?

15 A. I don't know where I did about a year ago.

16 Q. So before that time you would just drive whenever
17 you wanted to drive?

18 A. Not wanted to. No.

19 Q. But whenever you needed the groceries, you would
20 drive?

21 A. If I had to, yes.

22 Q. So how often would that be? For -- for a week?

23 A. I don't remember. I don't drive all the time.

24 Q. Mr. Newman, in 2018, were you -- did you ever go
25 to the hospital because of a seizure?

1 A. I don't remember. I don't know.

2 MR. NICHOLSON: Judge, I don't have any more questions.

3 THE COURT: Okay. All right. You can step down, Mr.
4 Newman. Step down. Okay. All of these post-accident
5 events, 2019 -- and '20 and 2021 would not be relevant. And
6 I'm not going to allow plaintiffs to examine Mr. Newman, in
7 front of the jury on -- on those. Then these events of 2007,
8 2008, whatever they amount to here, there's two remote in
9 time. You indicate Mr. Nicholson that this line of
10 questioning, you're not trying to impeach his credibility.
11 So I don't know for what other reason that you would want to
12 do that in front of the jury.

13 And I've stated, and -- and I believe I'm right, that
14 since this is admitted liability case, his credibility really
15 is not important because again, is approximate cause and
16 damages that the jury has to make a determination. So I'm
17 not going to allow this line of questioning before the jury
18 of Mr. Newman. Your record's protected, you've got it on the
19 record outside the presence of the jury.

20 And then I'll make a ruling on the issue of punitive
21 damages. I know you got one more -- one more witness I think
22 the trooper to put up. And I know you still have, Mr.
23 Campbell to put up on the -- on the issue loss of consortium.
24 So I'm -- I'll make a final ruling on the punitive damages,
25 at the end of -- at the end of the case. Anything else on

1 the record before we bring the jury out?

2 MS. MEREDITH: Your Honor, just one thing. The issue
3 that we are trying to address specifically is that the
4 defendant is trying to limit his degree of culpability by
5 providing excuses for the reasons for his conduct. And I
6 think what we're trying to cross examine him on are that the
7 reasons that he's given in his previous testimony for his
8 conduct do not make sense in light of his actions. It does
9 not make sense if he's admitted liability, why he would
10 excuse himself, but he's not allowed to admit liability and
11 then we are not able to cross-examine him if he says, but I
12 really only drove if I needed to go get somebody's medicine.
13 Well, we know he was high on meth that he got a DUI ---

14 THE COURT: That's all post-accident, Ms. Meredith.
15 That's ---

16 MS. MEREDITH: But it goes ---

17 THE COURT: Year -- year and a half later so.

18 MS. MEREDITH: It's not six months -- it's six months.
19 It was ---

20 THE COURT: Accident. 2018 -- June of 2018.

21 MS. MEREDITH: January of 2019 is when ---

22 THE COURT: Six months post-accident so.

23 MR. COULTER: 2018, Judge. Yeah. But do not ---

24 THE COURT: My -- yeah, my bad. Six months.

25 MS. MEREDITH: June of 2018 is when this accident

1 occurred, right? January 16, 2019, is when the subsequent
2 accidents plural on the same night when he hit someone and
3 sent them to the hospital. I think his testimony that he's
4 not trying to endanger anyone, he specifically said in his
5 initial testimony that he gave up driving because he couldn't
6 live with himself if he killed anyone. That he couldn't live
7 with what would happen if he hurt somebody.

8 He's tried to make this jury believe that he cares about
9 the safety of others on the road. And that's just not true.
10 If he's out driving under the influence of methamphetamine
11 and him trying to limit his degree of culpability. By
12 entering that testimony opens the door for us to
13 cross-examine him on it, because that is one of the factors
14 that we have to go into as to punitive damages.

15 THE COURT: Isn't the law pretty clear that prior
16 conduct would need to be conduct prior to the incident in
17 question? Because if he doing all this terrible stuff before
18 and then did something terrible on the day of -- of the
19 incident, possibly quotation, possibly may be relevant,
20 anything that happens afterwards law's pretty clear that that
21 that's not a factor for punitive damages.

22 MS. MEREDITH: It also goes to whether any type of
23 judgment or verdict against him would deter future conduct.
24 He's continued his conduct up until at least 2021 when he got
25 three DUSs in Ware Shoals, South Carolina.

1 THE COURT: Well.

2 MS. MEREDITH: In 2019 he continued ---

3 THE COURT: Right.

4 MS. MEREDITH: --- by hitting someone else and putting
5 them in the hospital. Right.

6 THE COURT: Deter future conduct once the punitive
7 damages award is made, that's -- that's you award punitive
8 damages to punish and prevent any future conduct. Not to
9 clean the record as far as what happened after the incident.
10 The future conduct is post award of punitive damages. This
11 would be -- the 2019 case would be pre-award of punitive
12 damages.

13 MS. MEREDITH: Whether he's remorseful, whether he has
14 any care consideration for the safety of others or is
15 reckless, willful and wanting and cared so little that he
16 continued his conduct after this accident, I think is
17 relevant. And I can't find a case that says that it doesn't
18 come in.

19 THE COURT: Well, do you have a case, Ms. Meredith that
20 says it can come in?

21 MS. MEREDITH: I don't have one either way. I don't
22 have one that says that it can't.

23 THE COURT: I appreciate your candor. Again, I don't see
24 where post-incident events would be admissible in this case
25 and I'm not going to allow it to come in. Again, I'm not

1 going to make a ruling on the punitive damages until the case
2 is closed or the evidentiary record is closed, then I'll make
3 a -- make a ruling.

4 And -- and let me just go back to a point, it may be a
5 wrong determination to call this an admitted liability case.
6 I think admitted liability may be a misnomer. I think it
7 should be called an uncontested liability case. Especially
8 in this case where Mr. Newman says, I don't remember what
9 happened on June of 2018. So I -- I -- I think -- and we've
10 all used that term many, many times, admitted liability case.
11 So the issue of damages is what jury determines damages case.
12 But I think probably the correct classification of, of this
13 type of case would be an uncontested liability case as
14 opposed to admitted liability.

15 And especially in a case like this where Mr. Newman says
16 he doesn't remember. So anyways I made my ruling and so I
17 know you still have the trooper put up and --- and Mr.
18 Campbell put up. So who you going to call first?

19 MR. NICHOLSON: Judge, I appreciate the ruling on the
20 punitive damage issue. I think there's still the -- and I --
21 I -- I don't know whether you, I'm -- I'm not questioning
22 whether you made a ruling, but I don't -- I didn't hear you
23 make a ruling on the, the issue of the impeachment because
24 ---

25 THE COURT: Yeah, I -- I -- well, if I wasn't -- I maybe

1 wasn't clear what -- what you asked Mr. Newman in camera.
2 I'm not going to allow you to get into that with him in front
3 of the jury. So if -- if I was not clear on my ruling, I
4 apologize, but I'm not going to allow that line of
5 questioning in.

6 MR. NICHOLSON: And I just -- just to make it clear, I'm
7 just trying to preserve the record that we were making the
8 request really for impeachment purposes at this point.

9 THE COURT: Well, you -- you -- you already stated Mr.
10 Nicholson, because I just typed it in my notes a minute ago,
11 not trying to impeach his credibility. You state -- you
12 stated that on the record, and you're not trying to get into
13 609. So, you know, I -- I -- I don't know what -- for what
14 other reason you would want to get it, get into it.

15 MR. NICHOLSON: I'm not trying to impeach his character
16 (inaudible) I'm trying to impeach his -- his prior testimony
17 with inconsistent activity that he has done. That's what I'm
18 trying to do.

19 THE COURT: Well, but the reason why I allowed you the
20 other day to recall -- my suggestion for you to recall, Mr.
21 Newman was on this issue -- on the issue of punitive damages.
22 And that was the -- the only reason why, let me go back in my
23 notes just to make -- just to make sure, because I did put in
24 here the, the right to recall. Let's take a look here.
25 Okay. Here's -- here's what I put in my notes. Plaintiff

1 wanting to get into conduct post-accident and also prior DUI
2 convictions before accident denied right now because not
3 relevant on issue, approximate cause and damages.

4 I put -- allow Billy to recall him on the issue of
5 punitive damages. So that's why at my suggestion, I gave you
6 the right to recall on the issue of punitive damages. And if
7 -- if it was just on to attack, which you say he's not trying
8 to attack his credibility, but to attack his character or
9 whatever maybe wouldn't have allowed you to -- to do that.
10 By way of recall. So my -- my ruling stands and you can
11 call, we'll bring the jury out and you can either call a
12 trooper next or call Mr. Campbell on the issue of loss of
13 consortium.

14 MR. NICHOLSON: We have to send the jury back. That one
15 issue with -- with regard to the trooper. Yeah. Officer is
16 he had intimated -- Mr. Newman had intimated that he
17 voluntarily quit driving at some point, which is not the
18 case. Now, I don't necessarily want to bring in DUIs and all
19 that other stuff. There's a stipulation that the Highway
20 Department took away his license back in 1998. Then I don't
21 have to go into those questions with the trooper. I mean, he
22 pretty much said he couldn't drive since 1998, but he
23 basically just said, you know, I just stopped driving. But
24 he was made to stop driving by the highway bar.

25 THE COURT: If -- if I remember his -- his testimony two

1 days ago, I think he said he hadn't had driver's license for
2 25, 30 years.

3 MR. COULTER: Right. And I told the jury that judge,
4 that his license was under suspension at the time.

5 THE COURT: And I think -- I think Mr. Coulter did --
6 did mention that in some fashion in his opening.

7 MR. COULTER: I -- I say.

8 MS. MEREDITH: And, Your Honor, violation of the statute
9 being negligence per se would get us to the jury on the issue
10 of punitive damages.

11 THE COURT: Ms. Meredith, are you trying to suggest to
12 me that that is the only issue?

13 MS. MEREDITH: No, sir. Not at all.

14 THE COURT: There's a lot of elements and factors of
15 punitive damages. Certainly violation of statute is
16 negligence per se, indication of wanting and recklessness.
17 But that in and of itself is not the sole determination of
18 punitive damages. If I -- if I'm out speeding and this
19 trooper pulls me over and I violated the traffic laws that in
20 and of itself would not automatically justify punitive
21 damages.

22 Once again, this is all post-accident. If you're trying
23 to about the 2019 issue that is post-incident, which I'm --
24 I'm not going to allow any of that to get in, plus not allow
25 that to be a factor in awarding punitive damages.

1 MS. MEREDITH: No, sir. He was charged with DUS for
2 this accident that we are here for today. And what I was
3 getting at under the gamble factors would be his degree of
4 culpability, the duration of his conduct, his awareness or
5 concealment of his conduct. I mean, there are many --- many
6 things that we should be allowed to go into as far as whether
7 he is -- not the least of which I've already put on the
8 record. Regarding whether he is continuing even beyond this.

9 We don't believe that he's not driving anymore, number
10 one, but him saying in two different testimonies, one, that
11 he could have had a seizure at the time of this accident, he
12 doesn't know to try to take away from himself any type of
13 degree of culpability for his knowingly having driven or hit
14 someone he doesn't remember. He doesn't have any idea. And
15 then to come back today and say, "No, my seizures only really
16 got bad in the last year. That's why I quit driving in the
17 last year, because I knew I shouldn't because I didn't want
18 to hurt somebody." I mean, it -- there's a discrepancy in
19 his testimony that's critical.

20 THE COURT: Right. Yeah. I mean that you all been
21 doing this a long time. I have too. I mean, you have
22 discrepancies and testimony all the time. You may have,
23 again, I don't see the relevance, but nonetheless you know,
24 you may have a pretty good jury argument in closing to beat
25 up on Mr. Newman because of the discrepancy. But that in and

1 of itself, I don't think allows me to let you go where you
2 all want to go.

3 Now, since Mr. Coulter had told the jury in opening that
4 his license was under suspension, I mean, if you want to ask
5 this trooper that the 2018 accident subject of this case
6 where he was charged with DUS, yeah. You -- you -- you can
7 do -- you can do that. I'll -- I'll allow you to do that.
8 But again, you are wanting to get into all this post instant
9 things and I've already made my ruling and I just don't see
10 where it's, where it's relevant.

11 And again, once again, I'll make my final ruling on pen
12 to damages once the evidentiary record is closed. But if you
13 want to ask this trooper about whether or not he was charged
14 with DUS in this case you have at it, you can do that.

15 MR. NICHOLSON: I do have records of this convictions,
16 certified records of convictions for the DUS and a speeding.

17 THE COURT: The DUS and what?

18 MR. NICHOLSON: And speeding.

19 THE COURT: Speeding. Okay. For this instance?

20 MR. NICHOLSON: Yes.

21 THE COURT: Okay.

22 MR. NICHOLSON: Or would you use still not time?

23 MR. COULTER: Judge, let me -- let -- let me, if I
24 could.

25 THE COURT: Yeah, sure.

1 MR. COULTER: Being pretty quiet over here. DUS I get
2 it. I've already said it. Driving too fast for conditions.
3 I can tell you this. I've had cases where somebody is
4 stopped at a stoplight behind another vehicle, takes their
5 foot off the brake, hits the vehicle in front of him, and
6 that's too fast for conditions that -- that's exactly what I
7 was presenting in this -- in limine motion about traffic
8 citations. And that -- that's just not -- that's just not a
9 proper thing.

10 As a matter of fact, we've been redacting all these
11 medical records, which there's some speculation as to the
12 speed of my client, which in their deposition said they have
13 no idea. I get the suspension. That's fine. I admitted
14 that. But I think it would be improper to say that he was,
15 you know, going too fast suggesting he was speeding or the --
16 that sort of thing. And there's no guilty plea as to that.

17 THE COURT: Right. Okay. What if -- if you want to, in
18 order to protect the record, call the trooper up and get him
19 to testify that he was charged with driving too fast for
20 conditions. That's part of the record. I'm not going to
21 allow that to go before the jury, but to protect the record
22 because I know you're seeking punitive damages. So I'll
23 allow you to do that. The DUS is a -- I mean, yeah. That --
24 that can come in.

25 MR. NICHOLSON: You were talking about making a proffer

1 with him?

2 THE COURT: Yeah. On -- on the driving too fast for
3 conditions.

4 MR. NICHOLSON: I don't -- I don't want to do that.

5 THE COURT: Okay.

6 MR. NICHOLSON: I just have a few questions for him. I
7 don't think there will be a problem with what I'm going to
8 ask you.

9 THE COURT: Okay. You'll call him next?

10 MR. NICHOLSON: Yes.

11 THE COURT: All right, well, let's -- anything else
12 before we bring jury out?

13 MR. COULTER: No.

14 THE COURT: Okay. All right. Let's bring jury out.

15 (Jury enters courtroom.)

16 THE COURT: All right. Let the record reflect the jury
17 is in. Good morning, ladies and gentlemen. I appreciate
18 your patience. We've just had a lot of -- lot of legal
19 issues that we had to wade through, and I -- I -- when you
20 have good lawyers in the case, they're going to work the
21 judge pretty hard and that's what they've been doing. So but
22 we're ready to go ahead and wrap up the -- the plaintiff's
23 case.

24 Then as you know, we are ordering lunch for you. It's
25 going to be here around one, we'll see, you know, about when

1 we're going to break. I mean, ideally it'd be nice to at
2 least get closing arguments in before lunch gets here, but
3 we'll just have to kind of play that by ear. The reason why
4 we're doing order to lunch is just shorten the amount of
5 lunchtime as opposed to going out hour, hour and a half,
6 shorten the lunch break to 20, 30 minutes. So that just
7 allow us more time to finish up this case and -- and -- and
8 get it to you at a reasonable hour for purposes of
9 deliberation. So that's -- that's my -- my thinking, behind
10 that. Okay.

11 All right. Next witness.

12 MR. NICHOLSON: I call Jamie Brown there.

13 THE COURT: Come around. Trooper.

14 MR. BROWN: What's up? You want this up?

15 MR. NICHOLSON: I don't mind.

16 JAMES F. BROWN, JR.,

17 having been duly sworn, testified as follows

18 DIRECT EXAMINATION

19 BY MR. NICHOLSON:

20 Q. Mr. Brown, give us your full name.

21 A. My legal name's James F. Brown, Jr. But I go by
22 Jamie.

23 Q. I ask you what you do, but I can kind of guess by
24 what you're today, what's your job.

25 A. Yes, sir. I'm -- I'm the first Sergeant with

1 South Carolina Highway Patrol post commander of Greenwood
2 Ville Counties.

3 Q. How long have you been with -- been a trooper or
4 with the Highway department?

5 A. July will be 26 years.

6 Q. Congratulations. I think back in 2018 in June,
7 you were corporal. Would that be right?

8 A. I would have - I would've to look at it. I don't
9 know. CPL would be corporal. Yes, sir.

10 Q. But you were in a similar position back in June
11 14, 2018?

12 A. I was on the Highway Patrol of Corporal is the
13 first line supervisor. Job duties are a little different.
14 Yes, sir.

15 Q. Okay. I'm going to show you what I've marked just
16 for identification 31. I'm going to see if you recognize
17 what that document is.

18 A. And this is a traffic collision report refer to as
19 a TR310.

20 Q. Is that what normally just call accident report?

21 A. A collision report, yes, sir.

22 Q. Collision report?

23 A. Yes, sir.

24 Q. Okay. And were you the ---

25 MR. COULTER: Objection --

1 THE COURT: Could before we get --

2 MR. COULTER: I apologize, we just approach.

3 THE WITNESS: Yes, sure, I got it. Okay.

4 THE COURT: Would you repeat that question again?

5 MR. NICHOLSON: I'm trying to remember where I was, but

6 --

7 THE COURT: Okay.

8 BY MR. NICHOLSON:

9 Q. I think we were talking about this collision
10 report. Did you create this collision report?

11 A. I did not. No, sir.

12 Q. What trooper did that?

13 A. At -- at the time it was Trooper, DA Johnson.

14 Q. He's no longer with the -- with the Highway
15 Patrol.

16 A. That's correct. Yes, sir.

17 Q. He doesn't work with Trooper?

18 A. He does not, no, sir.

19 Q. (Inaudible) maybe a couple years ago right now.

20 A. I'm not -- I'm not sure about the timeline, but
21 somewhere in that neighborhood, maybe year and a half
22 something.

23 Q. What was your -- what was your participation in
24 this accident report? Now your -- your name is listed at the
25 bottom, is that correct?

1 A. Yeah, I -- I'm, all I did was review the accident
2 report for accuracy ensure that all the blocks are the
3 required blocks are completed and everything is, is correct
4 on face value. I was not on scene, so I don't know, you
5 know, per se what happened, but it's just more or less for
6 accuracy to make sure the -- the report is -- is correct.

7 Q. Is -- is there a block on there? Speaking of the
8 little blocks, is there a block on there that indicates
9 whether someone was taken by ambulance or -- or not taken by
10 ambulance or EMS?

11 A. It is, yes, sir. On the reverse page.

12 Q. Can you -- can you find the line that applies to
13 Mr. Brian Keith Newman?

14 A. Yes, sir.

15 Q. Does it indicate that he was taken by EMS from the
16 scene?

17 A. This report indicates that he was not injured and
18 not transported.

19 Q. And you've been doing this job, you've obviously
20 been a trooper out on the road kind of doing what Mr. -- what
21 Trooper Johnson was doing on that day?

22 A. Right. Yes, sir.

23 Q. In -- in years past, if someone has a, a seizure
24 or a crisis or says they have a seizure, would they -- would
25 they be normally taken for medical treatment from an

1 accident?

2 A. It -- it -- it just depends. I mean, if -- if
3 they, from my experience, if, you know, if -- if they refuse
4 EMS, the -- they would not be transported. So it's kind of
5 up to them, I guess if -- if the seizure had expired and they
6 didn't deem necessary to go, then they -- they wouldn't have
7 to have to.

8 Q. To your knowledge, is there a -- a requirement or
9 regulation about people who have seizures not driving for a
10 certain period of time?

11 A. I'm -- I'm not familiar with that. There -- there
12 is -- there is a place on a -- on the -- on the red report,
13 that note that you can notate any medical condition. And in
14 my experience from collisions that I've investigated as such,
15 would do a reexamination, I would fill out a reexamination
16 paper and submit to the DMV. If I felt like that there were
17 -- there was some extenuating circumstances such as a medical
18 condition that, that could -- could deem -- deem somebody to
19 need to be reexamined.

20 Q. Do -- do you know of -- of -- of doctors issuing
21 reports to the DMV concerning someone having a seizure and
22 not needing to drive?

23 A. I have -- I have heard of -- of doctors issuing --
24 issuing letters to the DMV, but I -- I specifically which
25 ones I couldn't name one, but I have heard of that, yes, sir.

1 MR. NICHOLSON: All right. Thank you for your testimony.

2 THE COURT: Mr. Coulter, anything of this Trooper?

3 MR. COULTER: Very -- very briefly.

4 THE COURT: Yes.

5 CROSS-EXAMINATION

6 BY MR. COULTER:

7 Q. Trooper Brown, I -- I got the last name right,
8 right?

9 A. Yes, sir.

10 Q. Good afternoon or good morning?

11 A. No, good afternoon.

12 Q. So from -- and if you were not at the accident
13 scene itself.

14 A. No, sir, I was not.

15 Q. Did you go there -- didn't talk with anybody at
16 the scene, anything like that?

17 A. No, sir.

18 Q. And your -- your responsibility based on what we
19 just established, you just looked and made sure all the boxes
20 were checked, correct?

21 A. Correct. Yes, sir.

22 Q. Okay. That was one of your jobs at the time,
23 probably even more so now, right?

24 A. Correct. Yes, sir. Okay.

25 Q. And so even though you didn't know anything about

1 that, didn't go to the accident view in reviewing the
2 accident report, as I understand my client, Keith, sitting
3 over here, based on what the investigating trooper said, he's
4 in the same accident as the plaintiff and reported no injury.

5 A. Did your client reported no injuries? Yes, sir.
6 Mr -- no -- no injuries from Mr. Newman.

7 Q. All right. And when you talk about -- and you've
8 had your plaintiff's attorney ask you about seizure have you
9 dealt with people with seizures before?

10 A. I have throughout my career, yes.

11 Q. My daughter used to have seizures, but once it's
12 over, it's over. Not what you can do about it. After it's
13 over, isn't it correct?

14 A. Right.

15 Q. From my experience, yes, sir.

16 MR. COULTER: That's right. Thank you.

17 THE COURT: Mr. Nicholson, anything follow up of Trooper
18 Brown?

19 MR. NICHOLSON: No.

20 THE COURT: Okay. You can step down, sir.

21 THE WITNESS: Yep.

22 THE COURT: Just to -- that's marked for our ID, but
23 just hand it to the court reporter and Trooper Brown, you are
24 free leave courthouse if you so choose.

25 MR. BROWN: Thank you. Yes, sir.

1 THE COURT: All right, next witness.

2 MR. NICHOLSON: Yeah, I call Dan Campbell to the stand.

3 THE COURT: Come around Mr. Campbell come here first and
4 get sworn in.

5 DANIEL ALLEN CAMPBELL,
6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. NICHOLSON:

9 Q. Give us your full name, Mr. Campbell.

10 A. Daniel Allen Campbell.

11 Q. Okay. And you're married to Tracy Campbell,
12 right?

13 A. Yes, sir.

14 Q. Okay. And I -- I -- we asked her, I'm trying to
15 remember if -- if you got it right or if she got it right.
16 How -- how long you all been married?

17 A. Twenty eight years.

18 Q. All right, congratulations. And you all have two
19 grown children that -- that live in Greenwood area, right?

20 A. Yes, sir.

21 Q. All right. What is your job?

22 A. I maintain coolers and grocery stores.

23 Q. All right. And you're talking about big
24 industrial coolers, right?

25 A. Yeah. For -- if you was to go to the grocery

1 store, you walk up to like your produce case that was
2 actually what we call a cooler. I maintain those.

3 Q. And is a lot of this work out of town?

4 A. Oh yeah. Most -- 95 percent of my work is out of
5 town.

6 Q. And I think a lot of times you work at night,
7 don't you, when the stores are closed?

8 A. Yes.

9 Q. All right. How long you been doing that job?

10 A. Thirteen years.

11 Q. Now, I want to ask you before 2018, what kind of
12 activities that you and your wife do that, what would you all
13 enjoy doing together?

14 A. We used to do a lot of camping, a lot of hiking.
15 We both love waterfall, so we'd travel around from waterfall
16 to waterfall.

17 Q. Did you go in a vehicle or on a motorcycle?

18 A. Well we had a -- a smaller road bike back then.
19 Once a mile we'd take the bike.

20 Q. Right.

21 A. Weather permit.

22 Q. Okay. And was one of your hobbies riding a
23 motorcycle?

24 A. Yes, sir.

25 Q. Would you always be the -- the driver of the

1 motorcycle?

2 A. Yes.

3 Q. Okay. And you -- do you remember that Tracy had a
4 -- a back problem?

5 A. Yes.

6 Q. And that back problem had been going on for a
7 number of years, had it not?

8 A. Yes.

9 Q. And approaching 2018 had it gotten worse?

10 A. Yeah. Yes.

11 Q. All right. And I -- I think, was she seeing the
12 spine clinic?

13 A. Yes.

14 Q. And tell me what you noticed about the back
15 problem. I mean, I'm talking before this accident happened,
16 what did you observe about her going through these back
17 problems?

18 A. Well, she was in a great amount of pain. She got
19 to the point before the -- before her back surgery that she
20 couldn't even put her own socks on. She couldn't get
21 dressed. I would get her out of bed in the morning if -- if
22 provided I was at home, I'd help get her out of bed, get her
23 into the living room, and then I just -- I would take over
24 the -- the house lead duties and whatever needed to be done
25 that day.

1 Q. Was she -- so it was a problem bending over?

2 A. Yes, that's right.

3 Q. And but she was continuing to work most of that
4 time, wasn't she?

5 A. Yes.

6 Q. All right. Now, there's been a discussions about
7 a limp that she had and whether she had a limp. What did you
8 notice about her walking? And I'm talking about before June
9 14th of 2018.

10 A. She had her good days and her bad days. I mean,
11 she would limp. I mean, I -- I could tell what kind of day
12 she was happening if she was limping that day, but she -- she
13 would have one day where she'd wake up and she'd feel good
14 and she would be able to move around and do a little bit of
15 something. On the days that she was limping, I would, you
16 know, I -- I knew it. I'd let her just do her and let her do
17 what she needed to do and I'd pick up the -- the remainder of
18 what needed to be done that day.

19 Q. So her problems in walking was not an everyday
20 kind of thing?

21 A. No.

22 Q. All right. And -- and did you have an observation
23 about kind of how she walked? Was it -- was it not just a
24 limp? Was it some ---

25 A. It -- it wasn't a really a limp, it was more of a

1 let's get up and get moving and get the kinks worked out a
2 little bit. With her back, it was a lot of stiffness and a
3 lot of just pain altogether from the muscles trying to take
4 and correct what was going on with her back at the time.

5 Q. Which -- which she walked hunched over

6 A. A little hunched over. Yeah.

7 Q. All right. Now, I want to go to the day of June,
8 June 14, 2018. What did you all do in the early evening of
9 that day?

10 A. The day of the accident we met our children for
11 dinner and then -- but that was something we try to do with
12 the kids. At least -- at least every couple of weeks we try
13 to get with them.

14 Q. You -- you all having a pretty good evening when
15 you finished dinner and tried to head home?

16 A. Oh, yeah. It was great. We all -- whenever we're
17 with the kids, it's always a good day.

18 Q. And I think we -- you heard her testimony, you
19 were at George's restaurant, which is over there near the old
20 Walmart, Lowe's area.

21 A. Yeah.

22 Q. And were you driving when you all left to go home?

23 A. Yes.

24 Q. Tell me the route you took.

25 A. We pulled out of the restaurant and we headed down

1 towards 225. We turned on 225 and was heading to the south
2 side of Greenwood. Wife had made the comment that she needed
3 to go to a Food Lion and I said, okay. That's -- we come on
4 down the hill and there's, it's a pretty good descend down
5 the hill.

6 Q. So how are you going to go to -- you're on 225,
7 you're headed south as in Greenwood we say you're going
8 toward the hotspot, basically.

9 A. Yeah.

10 Q. People live in South Greenwood say that, but
11 you're heading in that direction?

12 A. Yes.

13 Q. So you were going to turn onto what street?

14 A. Florida Avenue.

15 Q. All right. So you -- you passed the CPW ---

16 A. Yes.

17 Q. --- facility there. And you were saying going
18 down the hill is -- is down the hill kind of, it is hard
19 Labor Creek, it's kind of at the bottom of the hill. It --
20 it -- there's a bridge there?

21 A. From CPW down there. It's roughly a mile.

22 MR. NICHOLSON: Can you turn that?

23 MR. COULTER: No objection, Judge.

24 THE COURT: Okay. And what is that Mr. Nicholson?

25 MR. NICHOLSON: The Plaintiff's Exhibit 5 and 6. That

1 or maps.

2 THE COURT: Oh, okay. Maps.

3 BY MR. NICHOLSON:

4 Q. Is that the general area of 225 Florida Avenue?

5 A. Yes, sir.

6 MR. NICHOLSON: All right. I move to introduce these

7 ---

8 THE COURT: Five and six into evidence without

9 objection.

10 (Plaintiff's Exhibit 5 and 6 admitted into evidence.)

11 BY MR. NICHOLSON:

12 Q. All right. Dan, I'm going to show you this as,
13 can you see that from where you are? All right. And you
14 said this is the area 225 in Florida Avenue?

15 A. Yes.

16 Q. And you see to the left of this is a facility of
17 some kind. Is that the Pepsi-Cola facility distribution
18 center?

19 A. Yeah.

20 Q. Okay. And so you would've been traveling on the
21 road is it from the top left of this photo and going in the,
22 I guess the down direction?

23 A. Yes.

24 Q. Is that right? Okay. And you were approaching
25 Florida Avenue to turn left about where that red spot is --

1 is that -- is that right?

2 A. Yeah.

3 Q. And this is -- is it -- this is a two lane road
4 with -- and there is a -- a turn lane of some sort off of 225
5 turning onto Florida Avenue, is that right?

6 A. Yes.

7 Q. Okay. See, now, I'm going to use this pen right
8 here. Were you going in the direction I'm showing with the
9 pen going this way?

10 A. Yes.

11 Q. And you were preparing to turn left there. Is
12 that it?

13 A. Yes, sir.

14 Q. Okay. Now, did you -- before you we're starting
15 to make you a turn, did you notice a car behind you?

16 A. No. As I was said earlier, I was coming down the
17 hill when I hit towards the bottom of the hill, I -- I -- I
18 looked back and I didn't see no concern of any vehicles that
19 would concern me at all. They was -- he was back a good ways

20 Q. You saw a vehicle, but it was a good ways behind
21 you.

22 A. Yes.

23 Q. All right. So let's just give a reference point
24 as say you were down at the -- say the bottom of the hill,
25 which would be where the, the creek is the hard labor creek

1 and the bridge there in that area. Did -- did you see a car
2 behind you?

3 A. Like I say, he was back over -- he was back ways.

4 Q. How far did -- did you think?

5 A. A couple football fields length maybe.

6 Q. And so as you approached Florida Avenue, what did
7 you do to prepare to make a turn?

8 A. Well, I -- the bottom of the hill you had to, you
9 coming up, there's a curve. So you have to, you know,
10 everybody slows down before a curve, at least you should. I
11 started slowing down, I hit the -- the top of the hill is
12 where the turn lane is for Florida Avenue. At that time I
13 put my blinker on, I look at my mirror, make sure there's
14 nobody there again. He was nowhere to be seen. Nothing
15 behind me, no lights, no nothing. I put my blinker on. I
16 received, I -- I got just about into the turn lane, front
17 tire, front driver's tire into the turn lane at point of
18 impact when he hit us. Semi-Truck coming at us.

19 Q. We're -- all right. Slow down just a second
20 because I (inaudible.)

21 A. Okay.

22 Q. I'm going to show you what we marked Plaintiff's
23 Exhibit 7 and 8. Do you recognize the -- the scene depicted
24 in those photographs?

25 A. Yes.

1 Q. Is that the approach to Florida Avenue ---

2 A. Yes, sir.

3 Q. --- section?

4 A. Yes, sir.

5 MR. NICHOLSON: Okay. I move to introduce Plaintiff's
6 Exhibit 7 and 8.

7 MR. COULTER: No objection, Judge.

8 THE COURT: No objection, 7 and 8 into evidence.

9 (Plaintiff's Exhibit 7 and 8 admitted into evidence.)

10 BY MR. NICHOLSON:

11 Q. All right. I'm going to show you Plaintiff's
12 Exhibit 8 to start. And this is a little bit further back
13 and I have one closer up, but is this the approach to the
14 Florida Avenue?

15 A. Yes.

16 Q. You mentioned a slight curve and you mentioned
17 kind of going up a hill, a slight incline, is that right?

18 A. Yes.

19 Q. And -- and this photograph, the PepsiCo place
20 would be over to your right, is that right?

21 A. Yes.

22 Q. Okay. And this is before the turn lane starts, is
23 that right?

24 A. Yes.

25 Q. Okay. I'm going to show you Exhibit 7. Is this

1 closer to the intersection there?

2 A. Yes.

3 Q. And you can start to see the turn -- the left turn
4 lane, is that right?

5 A. Yes.

6 Q. All right. Now you mentioned that you were barely
7 into that turn lane when the impact happened?

8 A. Yes.

9 Q. All right. Tell me about the impact.

10 A. Well, the impact sent us across oncoming traffic
11 into the ditch and when we stopped we was up on top of that
12 little hill.

13 Q. And that's over to the left in this photograph?

14 A. Yes.

15 Q. And the ditch that you're talking about you went
16 into is to the left of that left car in this?

17 A. Yes.

18 Q. Okay. Were there actually -- was it just one
19 impact or was there more than one impact?

20 A. Well, one -- well the impact of him -- of us being
21 rear ended and then the impact of the car hitting the -- the
22 -- the hill from the ditch.

23 Q. All right. And the second impact, did you carry
24 through that and went up the hill?

25 A. Yes.

1 Q. All right. Did the airbags go off?

2 A. Yes.

3 Q. Do you know when they went off?

4 A. I -- I can't for say -- for -- for sure say I'm
5 pretty sure but airbags are -- they don't all go off at one
6 time depending on the, the accident. I think her side went
7 off before my side.

8 Q. Did -- do you know whether they went off at the
9 impact with the other vehicle or the impact with the ditch?

10 A. I think they went off when we was rear-ended.

11 Q. Okay. Now, you -- you were not at a standstill
12 waiting to turn left, were you?

13 A. No, sir.

14 Q. So how fast do you think you were traveling?

15 A. Maybe 30, 35 maybe. I don't know. Sun is slowing
16 down. That is a very short turn lane. I mean, it's not like
17 you can get in the lane and then slow down. You have to be
18 slowing down as you before you get into it.

19 Q. Now, you say at the impact you went across the
20 traffic. Now, where was the -- where was the -- the -- when
21 -- was there any oncoming traffic?

22 A. Yes, I had a 18 wheeler coming at us.

23 Q. All right. And where was the 18 wheeler in
24 relation to the ---

25 A. He was at intersection. He was directly -- he was

1 in coming to the intersection.

2 Q. So had he gotten to the intersection or, I mean,
3 how?

4 A. I believe he was right at the beginning of the
5 intersection.

6 Q. So how far do you think you would've been from him
7 when you crossed in front of that track?

8 A. 50 yards, maybe 40 yards from about where I'm
9 sitting to the back of the -- back of the room.

10 Q. And you did not that -- that truck did not strike
11 you?

12 A. No, no, sir.

13 Q. Okay. Did the truck stop?

14 A. Yes.

15 Q. All right. Now you said you may have been going
16 how fast?

17 A. Maybe 30, 35.

18 Q. Do you think that your speed and that you were
19 moving somehow took some of the impact away as opposed to
20 being sitting still?

21 A. Oh yeah.

22 MR. COULTER: I'm sorry. I -- I don't believe this
23 witness is an expert in that type of testimony.

24 THE COURT: Right. I would sustain the objection.

25 BY MR. NICHOLSON:

1 Q. So you were pushed into the addition up on the
2 hill. You don't know how fast this car was going behind you,
3 do you?

4 A. I have no idea.

5 Q. All right. How fast -- I mean, how -- did he have
6 to gain on you pretty fast to make an impact? From what I
7 saw the vehicle.

8 MR. COULTER: If -- if -- if this witness doesn't know
9 how fast he was going, I think that's ---

10 THE COURT: I mean, he said I don't know how fast he's
11 going so I don't see how he can, you know, respond to any
12 questions as it relates to the speed or movement of the -- of
13 the defendant. So I'll -- based upon his previous answer,
14 I'll sustain the objection.

15 BY MR. NICHOLSON:

16 Q. Let me ask this question and he can see if he has
17 an objection to this. In -- in your opinion as to where the
18 car was when you last saw him and how quickly he gained onto
19 you, how do you push him?

20 MR. COULTER: I'm going to object. Yeah, I mean first
21 of all, he's not an expert. He just asked about his opinion
22 if we need to take some other ---

23 THE COURT: I sustain -- I sustain.

24 BY MR. NICHOLSON:

25 Q. Tell me what happened right after the accident,

1 Dan?

2 A. Well, when the car come to the stop realized what
3 was going -- what had happened I went to get out of the
4 vehicle to go check on everyone, make sure everyone was okay.
5 By the time I got out of the vehicle, the truck driver had
6 stopped and he was coming up to check us out and make sure we
7 was okay. When I went to get out the vehicle, I couldn't --
8 I went to stand up and wasn't able to. The truck driver
9 actually had helped me to the ground so I didn't continue
10 falling all the way. He went around and the truck driver
11 went around, he checked, make sure everybody else was okay.

12 Q. And were you able to eventually stand up and be
13 able to -- to move around?

14 A. Yes. And then once I did that I directly went
15 over to around the other side. My wife wasn't able to get
16 out of the vehicle. Her hip was giving her pretty much.

17 Q. Tell me what you observed about her actions when
18 you got to the other side of the vehicle.

19 A. She was very concerned with the fact that with her
20 back injury, she was really concerned with her back being
21 messed up more than it was I already to begin with.

22 Q. Right. And did she try to get out of the vehicle?

23 A. She did.

24 Q. How did that go?

25 A. She wasn't able to stand up.

1 Q. And what kind of vehicle were you driving?

2 A. 2017 Chevy Equinox.

3 Q. All right. That -- is that an SUV?

4 A. Yes.

5 THE COURT: Okay. That's fine.

6 MR. NICHOLSON: Wait. I have -- Judge, I have
7 Plaintiff's Exhibits 9, 10, 11, 12, and 32 and for
8 identification.

9 THE COURT: Okay.

10 BY MR. NICHOLSON:

11 Q. I ask that you look at these photographs. Can you
12 tell me what -- what that depict? Just say in general all.

13 A. In general, they are the pictures of my vehicle
14 after the accident

15 Q. And this was -- we know in 2018, what -- what year
16 vehicle was this?

17 A. '17.

18 Q. 2017?

19 A. Yes, sir.

20 Q. I just want you to describe what we see there.
21 This is Plaintiff's Exhibit 9.

22 A. Right rear quarter.

23 Q. Is that what took the brunt of the -- the damage?

24 A. Yes.

25 Q. The initial impact.

1 A. That's the initial impact, yes.

2 Q. So the other car hit you in the right rear, is
3 that right?

4 A. Yes.

5 Q. All right. That's the driver's front.

6 Q. And tell me what we're -- we're looking at there.
7 That was the?

8 A. We're looking at the front tire being pushed up
9 into the -- the frame.

10 Q. Okay. Do you know when that damage would've
11 occurred? Would that have been on the initial impact or the
12 impact with the ditch?

13 A. That's the impact of the ditch.

14 Q. Is that another picture of the rear of the
15 vehicle?

16 A. Yeah, that's a picture of the -- the rear corridor
17 panel getting shoved up into the door.

18 Q. Now you're a I guess HVAC kind of mechanic, but
19 are you also a gearhead?

20 A. Yeah.

21 Q. Call it. And you said you passed that on to your
22 son, right?

23 A. Oh, yeah -- oh, yeah.

24 Q. So you know a little bit about vehicles, so little
25 bit you probably can help us more than I could with these

1 photos. Tell me what that is.

2 A. That is a lower control arm.

3 Q. All right. And where is that on the vehicle?

4 A. That is on the -- the front.

5 Q. Is it the front driver's side?

6 A. Yeah, it's the front driver's side. Excuse me.

7 Q. Front driver's side. And so the -- the metal
8 piece that we see right there is that -- and I'm going to
9 point with a pen right there. Now, what is that?

10 A. That actually is where the end of course you can't
11 see in the picture but to the right side of where that brake
12 is -- is where the tire is actually attached to the vehicle.

13 Q. Okay. And that was busted during this accident?
14 And I'm going to need a lot of help with that one. Tell me
15 what that is.

16 A. That is a -- the subframe behind which would be
17 well it's kind of in between where the -- the a -- arm lower
18 control arm would come in. That's the frame in between
19 there.

20 Q. Is that kind of between the driver and the front
21 left wheel?

22 A. Yes, it's in that area, yes.

23 Q. All right. I may have already done it but I move
24 to introduce those I think. Is that okay?

25 THE COURT: Without objection?

1 MR. COULTER: That's fine, Judge. Yeah.

2 THE COURT: Okay. All right. 19 through, I mean 9
3 through 12 and 32 into evidence for the plaintiff.

4 (Plaintiff's Exhibit 9 through 12 and 32 admitted into
5 evidence.)

6 BY MR. NICHOLSON:

7 Q. You -- did you have any conversations with Mr.
8 Newman or see Mr. Newman?

9 A. I -- I don't think I did.

10 Q. Okay.

11 A. I -- I don't -- I was more concerned with my wife.

12 Q. All right. And I think did the -- did the truck
13 driver or the 18 wheeler truck driver, did he go check on
14 him?

15 A. Yes. I do believe he did because I -- I did ask
16 him once I -- once he sat me back down, he asked me if I was
17 --

18 THE COURT: Yeah -- yeah, don't -- don't repeat what
19 someone outside this courtroom told you. Okay?

20 THE WITNESS: Okay.

21 THE COURT: You can say as a result of the conversation,
22 I did such and such.

23 BY MR. NICHOLSON:

24 Q. I -- did the -- did the airbags go off in the car?

25 A. Yes.

1 Q. Which ones, sir? How many of them?

2 A. The -- the windows airbags, side airbags

3 Q. Were the -- well did the front window airbags like
4 the front window?

5 A. Both sides. All sides.

6 Q. Both sides?

7 A. Yeah.

8 Q. Your side and Tracy's side?

9 A. Yes.

10 Q. All right. Now, did -- did both of you go to by
11 EMS to the emergency room?

12 A. Yes.

13 Q. All right. Tell me, did you have some injuries
14 from this accident?

15 A. Yes, I did.

16 Q. All right. Your claim is not in this court today
17 though, as far as your personal entries from this, right?

18 A. Yes.

19 Q. All right. But were -- were both of you all
20 treated in the emergency room?

21 A. Yes.

22 Q. Tell me what you observed about Tracy in the -- I
23 may not -- let me go back. Were both of you all treated and
24 released the evening of the accident?

25 A. Yes.

1 Q. Okay. Tell me what you observed about Tracy in
2 the -- in the days following this accident.

3 A. Well, if I was -- after, I mean, she was in a lot
4 of pain, like real sore between now not only her back giving
5 her prob not her hips giving her problems. It's just -- it
6 was just turned into nightmare sleep.

7 Q. Did she -- did she develop a bruise on her hip?

8 A. (Inaudible).

9 Q. And how long did that bruise last on her hip?

10 A. Oh God, About 3, 4 -- 4 weeks. I mean, there was
11 -- there was still color in it, but two -- two months later
12 there was still color in it when she had surgery.

13 Q. Now, she had already been seeing, we've heard from
14 her, and I'm not going to go belabor this and go through all
15 that, but she had already been seeing a back doctor and she
16 decided to go ahead and have back surgery a few months after
17 this ---

18 A. Yes.

19 Q. --- this car accident, is that right?

20 A. Yeah.

21 Q. And what did she do? What did you see she did in
22 -- in her recovery from her back surgery?

23 A. Well, she was doing the stretches, like the doctor
24 told her, the doctor told her to walk because that would help
25 strengthen the muscles up that he had to, you know, cut to

1 get in there, do her surgery. I mean, she was doing
2 everything she was supposed to. Pain pills in the morning,
3 pain pills at night, stuff of that nature.

4 Q. Did she do a good bit of walking?

5 A. She tried as much as she could because that's, I
6 mean, that's what she was told to do.

7 Q. And did you go with her or did she do that alone?

8 A. Oh, no.

9 Q. You didn't -- you didn't go with her?

10 A. No, actually I did. I walked with her as much as
11 possible. We would walk up and down the road or -- or
12 something like that. Excuse me.

13 Q. All right. Now you mentioned that she was having
14 the bruises on her hip and complaints of her hip. Did, did
15 this problem after the accident, did it stay the same or did
16 it change over time?

17 A. It got worse a lot. You know, as the longer it
18 went. I mean, it, there wasn't instantaneously the bruising
19 was there right off the -- off the back, but the -- the
20 swelling and all that, it gradually got worse and worse and
21 worse. All right.

22 Q. What did you observe after of the -- the
23 appearance of the -- her right hip over the, let's say, six
24 months to year following the accident?

25 A. Well, as soon as she -- as soon as it started

1 creating a bulge, we, you know, obviously we were trying to
2 find a doctor that would take a look at her with COVID. It
3 drew that out. Nobody, you know to get into a doctor was 30
4 days out. And by the time they seen her, they told her there
5 wasn't nothing they could do for her. So now we're into
6 another doctor, to another doctor. It's just --- over a
7 period of time was very agonizing.

8 THE COURT: Wait one second, sir. I've got an
9 objection, so.

10 MR. COULTER: I'm going to object to his testifying as
11 to what doctors have said and where they've gone. Just not
12 just ---

13 THE COURT: Just testify as to things that you have
14 observed yourself. Don't repeat what doctors have -- have
15 told you or told, told your wife. Okay.

16 BY MR. NICHOLSON:

17 Q. All right. Now, we -- we talked about her having
18 the back surgery. Yes. Did she appear to you to have less
19 pain after the surgery with her back?

20 A. Oh yeah. Oh yeah.

21 Q. Did you all both consider this a success?

22 A. Oh yeah, definitely.

23 Q. All right. And did some of the, the, the symptoms
24 that you had seen with problems with her back prior to the,
25 this accident, did most of those go away or all of them go

1 away?

2 A. With her back? Yes.

3 Q. All right. So did you observe that her right hip
4 was becoming more deformed?

5 A. Yes.

6 Q. And over what period of time did that happen?

7 A. The hip got real bad within about six months at, I
8 would say it's just gotten to the point to where it was as
9 bad as it was going to get.

10 Q. All right. Now, how did that affect your
11 activities as a couple?

12 A. Well, it kept us -- kept us at bay. I mean,
13 instead of running and going and doing the things that we
14 would normally do, we did a lot of sitting on the -- sitting
15 on watching TV because that's all she could do. She couldn't
16 move.

17 Q. You all tried to do some things, didn't you? Did
18 you try to ride the motorcycle?

19 A. Once? Yeah, a couple times she tried it and we --
20 we would up, in fact, we left the house. We made it about
21 six, seven miles down the road and I turned her -- we had to
22 turn around and go back because she couldn't, she said, I
23 can't do this.

24 Q. And at some point, I think you all went to Helen,
25 Georgia or something. I can't remember where you went or you

1 took a -- a -- a trip that may have taken a few hours, did
2 you not?

3 A. Yeah, it took us all day.

4 Q. Yeah. What would -- would she be able to be able
5 to ride for long distances when this hip problem was ---

6 A. No at that time, well, we was about 30 minutes of
7 traveling and then we'd have to stop and she'd -- she'd walk
8 it out and she'd -- she'd get it to where it wasn't causing
9 her as much pain and then we'd travel on. We knew when we
10 left it was going to take us all day to get there.

11 Q. And she continued to work all this time, right?

12 A. Oh, yes.

13 Q. And she was out of work for the back surgery
14 recovery, is that right?

15 A. Yes.

16 Q. All right. But after that doctor had released her
17 off of her back surgery, she continued to work on every day.

18 A. Oh yeah.

19 Q. All right. What about you -- you mentioned that
20 y'all like to go see waterfalls and hiking and stuff like
21 that. Did y'all do much of that?

22 A. We haven't -- we haven't went hiking and -- and in
23 five years, probably more like six years because it started
24 out with, you know, all the -- the different medical problems
25 that she's had.

1 Q. What about sharing the housework what she did,
2 what you did -- did that change after she had this hip
3 problem?

4 A. After the back surgery, she was able to do a
5 little bit more, but I mean, we went from one problem to
6 another.

7 Q. All right. Well, with the -- with the hip
8 surgery, I mean with the hip problem, did you try to help out
9 more around the house?

10 A. Yeah. Yeah, I'd say I ---

11 Q. But you weren't there all the time though, were
12 you?

13 A. No. I -- if I was home, I was doing it.

14 Q. All right. Now and -- and you were in the
15 courtroom -- courtroom where you heard her testify about it,
16 that -- that y'all had some change in your sexual activities
17 because of this.

18 A. Oh yeah.

19 Q. Is that right? Explain that to me.

20 A. Well, I mean, she's in pain already and every time
21 I go to touch her, that would just -- it just -- it was tough
22 for me.

23 Q. Did you feel hesitant to even try to initiate
24 sexual activity?

25 A. Oh yeah. I -- I don't -- I still don't.

1 Q. All right. Was it worse before she had the surgery
2 to her hip?

3 A. Worse? Yeah.

4 Q. I mean, is has it gotten any better now?

5 A. Oh, yeah.

6 Q. Okay.

7 A. Still not the same but better.

8 Q. Okay. All right. Tell me about her state of mind
9 as far as you mentioned all these different treatments, and I
10 don't want you to go into what the doctor said, but was she
11 feeling frustrated?

12 A. Very frustrated.

13 Q. Tell -- tell me about her mental state during this
14 time.

15 A. When she's frustrated. She's very difficult to
16 deal with. I love her to death, but it -- it put a strain on
17 our marriage.

18 Q. Was she scared it what as well? Was she scared
19 about what it could be on her hip?

20 A. Yeah. They had talked about it might be cancer at
21 one time.

22 Q. Now, she eventually, and we've heard all this,
23 went through it with her. She eventually found out Dr.
24 Loging (ph) and -- and he proposed to surgery and she went
25 through the surgery. And -- and she was out of work for, I

1 don't know, five or six months after that, right?

2 A. Yes.

3 Q. All right. And during that time, was she I think
4 it said she was non-weight bearing?

5 A. Yes. Six -- about six weeks. Yes.

6 Q. Did that have a lot to do with what had to be done
7 around the house?

8 A. Oh God.

9 Q. Okay.

10 A. I told her, you get up in the morning, she had her
11 -- she had the walker, so she was able to get around a little
12 bit, but even just the weight, you know, not being able, the
13 weight of her own leg on it would cause her pain. So I would
14 get her up and I'd get her situated for the day. And at that
15 time even I was still at the same company. I was able to, I
16 -- I stayed close to home. And when I mean close to home,
17 within three hours.

18 Q. You -- you were able to ask your employer to
19 change your work activity somewhat to accommodate.

20 A. Yes.

21 Q. Being able to help her out more?

22 A. Yes.

23 Q. Is that what you're saying? Okay. what about
24 comparing the recovery from the hip surgery as opposed to
25 recovering from the back surgery? What did you observe about

1 that?

2 A. The back surgery recovery was fairly quick. Even
3 though they -- they did keep her out of work. The recovery
4 was so much easier to deal with. She wasn't in the -- the
5 amount of pain, the recovery for her back was mostly because
6 of the back being damaged, you know, like it was with her
7 hip, it just, it didn't seem no matter that she did good, but
8 it was still real, just a slow -- slow process.

9 Q. And in -- in your opinion, is she a lot better
10 with the, her hip and hip pain since this surgery?

11 A. Oh, yeah.

12 Q. So ---

13 A. She's -- she's a lot better. She's -- we're doing
14 a lot more, we're getting, even now, she's still healing
15 every day. She's still getting better. We -- we just --
16 we're starting to get back to our lives to the best that we
17 can.

18 Q. Okay. Now -- now, what do you observe about her?
19 Physically, what -- what problem is she having with her hip?

20 A. She has a limp now that she didn't have before.
21 She favors that -- that right hip still. And I -- I'm going
22 to assume she's going to for the rest of her life.

23 Q. You do hope it gets better, right?

24 A. Well, I hope it gets better. Yeah.

25 Q. You mentioned that, you know, you hesitant to

1 touch her and there was pain and that kind of thing, and you
2 say has gotten better, but it's not -- not the way it was.

3 A. No.

4 Q. She still have some tenderness.

5 A. Oh, yeah. Yes. I mean that some days are better
6 than it -- it hurts all the time. I can see that there are
7 good days and bad days.

8 Q. Do you observe that she either gets in a certain
9 position whether she's sitting or lying in bed or whatever,
10 that she has to.

11 A. She can't -- she don't sleep on her right side.
12 She can't, if for whatever reason she tries to she roll,
13 it'll wake her up from a dead sleep. I've seen it happen.

14 Q. Now we've asked you about physically, what about
15 mentally, what, how is her mental state now about her hip?
16 Excuse me. How is her mental -- mental state about?

17 A. Her mental state? She's a whole lot better than
18 it was before, but she still gets, you know, there's always
19 going to be that worry in her mind that this is all this is,
20 it's good as it is, and she knows that this is it. This is
21 -- it's not going to get any better. This is all the best --
22 this is the best I'm ever going to be again.

23 Q. And does it continue to affect your relationship
24 sexually?

25 A. Yes, kind of because I'm still afraid to touch

1 her. I mean, I -- I don't know I can, unless she -- she's
2 always limping, but at least with her back when she was
3 limping, I knew she was hurting. Now, if she's hurting all
4 the time, I don't know if it's a good day or a bad day.

5 Q. One other thing I wanted to ask you, Dan. When
6 she was recovering from the back surgery and recovering from
7 the hip surgery, she was out of work, right?

8 A. Yes.

9 Q. Did she seem to have less pain on both of those
10 while she was not working?

11 A. Well, yeah, I mean, when she's home she didn't
12 have to do anything. If she's working, I mean, she's there
13 to go to work. You just can't say, I'm not going to do it
14 because I hurt today. I mean, all right, that's the way that
15 is.

16 MR. NICHOLSON: I don't have any other questions.
17 Please answer anything Mr. Coulter may ask.

18 THE COURT: Coulter, do you have any cross-examination?

19 MR. COULTER: Very briefly, Judge.

20 THE COURT: Okay.

21 CROSS-EXAMINATION

22 BY MR. COULTER:

23 Q. Thank you. Good afternoon Mr. Campbell. Just
24 again, real quickly just to be sure I understand this, and
25 again, we took your, I -- I took your deposition, you did

1 2020, do you remember that?

2 A. Yes.

3 Q. And for the jury the judges explained a little bit
4 yesterday, but the deposition is when you were put under
5 oath.

6 A. Yes.

7 Q. You remember that?

8 A. Yes.

9 Q. Just like you did a little bit ago?

10 A. Yes.

11 Q. Were you supposed to testify to the truth?

12 A. Yes.

13 Q. Okay. All right. And we talked a little bit, and
14 as I understand, you didn't see any other vehicle my client,
15 prior to this accident happening?

16 A. Exactly.

17 Q. Right?

18 A. Yes.

19 Q. And to be sure that the jury understands, there's
20 an intimation, I think on direct about distances. You have
21 no idea how fast or slow my client was going. Do you?

22 A. I don't know how fast he was going on.

23 Q. Or slow.

24 A. Or slow, yeah.

25 Q. Okay. Now, as far as my client's the vehicle my

1 client was driving, and that's by the co-defendant in this
2 case? Kim Norman. Do you know Kim?

3 A. No.

4 Q. Now yeah. And -- and Kim was excuse me, he was
5 driving Kim's car that day, so he doesn't remember it. He
6 you don't know Kim or her situation or anything like that?

7 A. No. No.

8 Q. Do you know if she's passed away?

9 A. I did hear that, yes. That was in a testimony.

10 Q. So, and you're suing her?

11 A. Yes.

12 Q. Because you're a party to this action, right?

13 A. Pardon?

14 THE COURT: Do we approach the bench?

15 MR. COULTER: Sure.

16 BY MR. COULTER:

17 Q. Okay. And so. Excuse me.

18 A. Yeah.

19 Q. You're ready to go. And so Mr. Campbell, you --
20 but you still are a plaintiff in this case, right?

21 A. Yes.

22 Q. You're -- you're filed a claim called Loss of
23 Consortium in this case, right?

24 A. Yes.

25 THE COURT: You need to speak up just a little bit, Mr.

1 Campbell. Please, sir.

2 BY MR. COULTER:

3 Q. Make sure Ms. Donna can hear you. You filed a
4 claim for loss of consortium?

5 A. Yes.

6 Q. Meaning that you have lost things because of this
7 accident that you had before the accident versus what
8 happened after the accident, right?

9 A. Yes.

10 Q. Okay. And you mentioned something a minute ago
11 about how y'all can't go hiking now, right?

12 A. Yes. Okay.

13 Q. And then you said, well, it's probably been fine.
14 And then you actually said that's probably been six years ago
15 since you've been hiking?

16 A. Yes.

17 Q. Okay. And that'd been before the accident.

18 A. It was.

19 Q. Right. Because she had a really, really bad back
20 problem.

21 A. She did.

22 Q. Right. And at the time of this, excuse me, I'm
23 sorry.

24 THE COURT: Finish your answer please, sir.

25 MR. COULTER: I'm sorry.

1 THE WITNESS: Which was taken care of.

2 BY MR. COULTER:

3 Q. Oh, okay. But that's fine. But it wasn't at the
4 time of this accident, right?

5 A. Yes.

6 Q. Because what we're trying to do is try to, for
7 your claim, talk about how your wife was before the accident
8 versus how she was after the accident. And at the time of
9 this accident, she was in severe pain from her back.

10 A. Yes.

11 Q. Right?

12 A. That ---

13 Q. Matter of fact, she had daily pain at an 8 out of
14 10, right?

15 A. Yes.

16 Q. She was at the time of this accident without this
17 ever happening, was taking pill -- pain pills at the time of
18 this accident.

19 A. As needed. Yes.

20 Q. Right. Pretty significant.

21 A. Yeah.

22 Q. I mean, you wouldn't take pain pills if you didn't
23 need them.

24 A. Exactly.

25 Q. Okay. And then four months after this accident,

1 four months, she underwent this surgery to her back.

2 A. Yeah.

3 Q. A fusion?

4 A. Yeah.

5 Q. Right.

6 A. Would you please stay to the right? I am deaf of
7 my left ear.

8 Q. Are you? I'm sorry. Sure. Stay to this -- this
9 side.

10 A. Please.

11 Q. Okay. I'll do the best I can. All right. Now,
12 you'd mentioned that your wife would've good days and bad
13 days.

14 A. Yeah.

15 Q. But before this accident, she actually did walk
16 with a limp.

17 A. That a hunched over more than a limp.

18 Q. She never had a limp before this accident.

19 A. A little one from, you know, when the limp wasn't
20 from her hip, it was because the pain that was running down
21 her back. More of a double stepping instead of a limp.

22 Q. Well, I appreciate letting everybody know that,
23 but bottom line is she had a limp before this accident.

24 A. I was a slight one.

25 Q. Okay.

1 A. Slight limp.

2 Q. Okay. And any slight limp she had would've been
3 the result of her low back problem?

4 A. Yes.

5 Q. Okay.

6 A. Before the accident?

7 Q. Excuse me.

8 Q. From before the accident? Yes.

9 A. Right.

10 Q. And -- and the issue with her back and her surgery
11 four months after this accident, you agree that had nothing
12 to do with this accident?

13 A. One more time.

14 Q. Yeah. You agree -- you agree that the back
15 surgery she had four months after this accident, the problem
16 with her back where she was taking pain medication at the
17 time of this accident, the back pain that she had since 2011,
18 six years before this accident that she eventually underwent
19 surgery with, had nothing to do with this accident, did it?

20 A. No.

21 Q. Right. Okay. Now, you worked for Mass
22 Installation, correct?

23 A. Yes.

24 Q. Okay. And we took your deposition back in 2020,
25 which would've been a couple years after this accident.

1 A. Uh-huh.

2 Q. About three years ago now.

3 A. Yeah.

4 Q. Okay. And I think you even said it on direct
5 examination, you're out of the house about 95 percent of the
6 time.

7 A. During the week. Yeah, I'm home -- I'm home on
8 the weekends.

9 Q. Right. And so we're talking about you losing
10 services in your claim and that is your wife doing chores
11 around the house, is what you're asking for? She you're
12 saying she can't do chores around the house. You have to do
13 them.

14 A. Yeah.

15 Q. You're saying you have to cook and she can't.

16 A. Pretty much, yeah.

17 Q. She has to do all the things around the house that
18 she would do before that you can't, you're not able to do now
19 and you have to do them.

20 A. It was, yeah, either me or my daughter when my
21 daughter would --- my daughter pretty much took care of my
22 wife when I wasn't able to be there.

23 Q. But -- but before this accident, in -- since --
24 since this accident, you're out of the house 95 percent of
25 the time a week?

1 A. Yes.

2 Q. Because you go out of state to do your work. Yes.
3 Which means anything that needs to be done in the house
4 during the 95 percent of the time that you're gone is done by
5 your wife.

6 A. She does what she has to, and then when I get
7 home, I do the rest.

8 Q. Okay. So she does everything she needs to do to
9 take care of herself during the week?

10 A. Yes.

11 Q. Without your help.

12 A. The house cleaning? I do when I come on, when I
13 come in on the weekend, the laundry I do when I come in on
14 the weekend, the dishwasher. With the dishwasher, she uses
15 her dishes and she puts them in the dishwasher. I unload the
16 dishwasher when I come home.

17 Q. And -- and that's part of your loss of consortium
18 claim?

19 A. Yes.

20 Q. Okay. All right. And you mentioned the fact that
21 you mentioned you -- you -- you're scared to touch your wife?

22 A. I am.

23 Q. Okay. And what kind of motorcycle do you have?

24 A. I have a Harley Davidson.

25 Q. Okay. What kind of Harley is it?

1 A. It's a Road King.

2 Q. Road King.

3 A. Yes.

4 Q. Okay. And you're able to ride with her?

5 A. I'm able to ride by myself. She's able to ride
6 certain days, rather. I mean, if we schedule a ride, we're
7 going to say we're going to go to -- to Helen. And I've
8 canceled that trip two or three times because she wasn't able
9 to make the trip.

10 Q. Got you.

11 A. I -- I -- the bikes sits more and it gets ridden
12 because there's just no, she can't do it.

13 Q. But you made a conscious decision, you and your
14 wife, actually, three months before I even took your
15 deposition, which was actually a year and a half after this
16 accident happened.

17 A. Uh-huh.

18 Q. Right? Does that sound right?

19 A. It sounds about right. Yeah.

20 Q. A year and a half after this accident happened,
21 you and your wife decided, hey, let's go ahead and buy this
22 Harley and let's go have fun, you and me together on this
23 Harley to take trips.

24 A. Yeah. But a year --

25 MR. COULTER: That's all I've got.

1 THE WITNESS: Oh.

2 THE COURT: You can explain your answer.

3 MR. COULTER: Go ahead.

4 THE COURT: Go ahead.

5 THE WITNESS: But be a -- a year before I bought the
6 Harley, I had Kawasaki Vulcan that we used to ride. So it's
7 not like I just up and decided to buy a bike. I've had bikes
8 my whole entire life and we've always ridden.

9 MR. COULTER: Okay. All right. Thank you.

10 THE COURT: Any re-direct Mr. Nicholson?

11 MR. NICHOLSON: No, sir.

12 THE COURT: Okay. You can step down, sir.

13 Okay. Does the plaintiff have any additional witnesses
14 or evidence?

15 MR. NICHOLSON: I want to make sure that the exhibits
16 is, if we can check that, but other than that, no. I don't
17 have any other witnesses.

18 THE COURT: Okay. All right. Okay, Mr. Coulter?

19 MR. COULTER: I don't have anything at this point.

20 THE COURT: All right. Very good. Thank you. All
21 right. The evidentiary record in this case is now closed,
22 ladies and gentlemen. What we're going to do now is that
23 your lunch should be getting here pretty quickly, pretty
24 soon. We were shooting out at one o'clock and it's almost
25 one o'clock.

1 So when you get your lunch, when enjoy it again, don't
2 start your deliberation still too early. Start talking about
3 this case. And then after you finish your lunch as soon as
4 we can, then we'll get you back out and proceed forward.
5 Okay. So going on back to the jury room, and again, don't
6 start your deliberations or discussions yet. Okay? Let --
7 let's go off the record for just a minute.

8 (Off the record.)

9 THE COURT: And, Mr. Coulter, even though you've
10 indicated that you're not putting up, a case, is there any
11 motions you want to put on the record?

12 MR. COULTER: Judge, the only motion I would put on the
13 record is to the direct verdict on the issue of punitive
14 damages. The statute, I know you're aware of, Judge talks
15 about that the plaintiff must prove by clear and convincing
16 evidence that his harm was, or hers was the result of
17 defendant's willful wanting or reckless conduct. I don't
18 believe that there's any evidence of willful wanting or
19 reckless conduct despite the fact that he may not have had a
20 license

21 THE COURT: Okay.

22 MR. COULTER: At the time. So that -- that would be my
23 basis for making my motion.

24 THE COURT: Okay. All right. Mr. Nicholson, you want
25 put any response on the record concerning that?

1 MR. NICHOLSON: Yes, Judge. What -- what is in the
2 record is obviously is the -- the DUS at the time of the
3 accident and not having a driver's license in 25 years and
4 not having gone through any of the regulations from the
5 highway department for 25 years or -- or done any of the
6 examinations that they would especially the fact that he
7 wears eyeglasses, has never had an eye doctor, has never had
8 any eye test, has never gone through the eye test at the
9 highway department that is, is required to -- that we all
10 have to do to get a driver's license, that he's out driving
11 on a road without having had that test.

12 Although he admits that he wears eyeglasses. This, I
13 think all of that is a conscious disregard for the safety of
14 others. To say, I think to say not would be to say that the
15 Highway Department is irrelevant.

16 THE COURT: Right.

17 MR. NICHOLSON: I mean, it's -- it's -- it's the same as
18 if you had a -- had a -- a -- a 25-year-old kid who's just
19 never gotten a license. I mean, he's only been 10 years
20 without driving. I mean, this guy's been 25 years without
21 having any -- any regulatory control by the Highway
22 department. I think that in itself deserves the charge of
23 punitive damage. Okay.

24 THE COURT: All right. Thank you Mr. Nicholson. let me
25 just go and put on the record, and of course, Ms. Meredith

1 correctly alluded to the gamble. That's kind of the gold
2 standard for punitive damages, but there's also another case,
3 we versus Epstein, which lays things out pretty well. And
4 I've reviewed both those cases. One nothing pre-accident
5 that would justify punitive damages. No evidence of any of
6 the prior situations of his driving and having a seizure. No
7 -- no evidence of a seizure at the time of accident.

8 The nature and extent of the harm to the plaintiff, it
9 was an automobile accident where a person was injured. And
10 that's -- that's the extent of that. You know, and if I were
11 to award punitive to damages in -- in this case, it would
12 almost be like I would need to charge it in just about every
13 automobile accident case. Nothing to indicate that defense
14 should be punished in my opinion. Duration of the conduct
15 was very, very short.

16 It was a quick, it was automobile accident, quick impact
17 no evidence of Mr. Newman's ability to pay. And just this
18 whole, whole case where plaintiffs are wanting punitive
19 damages, I just don't think it rises to the level of clear
20 and convincing evidence. So with all that said the court
21 respectfully denies charge in punitive damages, which in
22 effect grant's defense motion for a directed verdict on the
23 issue of punitive damages. All right, we're going off the
24 record.

25 (Off the record.)

1 THE COURT: I've got a charge that I need to let y'all
2 look at. Make sure you're good with it. Now, concerning --
3 I just don't know what y'all's preference is. I mean, I can
4 do a very simple verdict form, which as to Ms. Campbell we
5 find for her and we are back on the record. And I have
6 provided a copy of my charge to the lawyers and Mr.
7 Nicholson, other than not charging punitive damages, which
8 you have requested several times in this case. Are there any
9 other issues with -- with the charge?

10 MR. NICHOLSON: No other issues, but I would like to
11 renew my motion on punitive damages.

12 THE COURT: Sure.

13 MR. NICHOLSON: I -- I -- I don't think it has to be
14 clear and convincing evidence for you to charge punitive
15 damages. I think the jury has to find that right. But there
16 only has to be a, a much lower level for - for you to charge
17 punitive damages.

18 THE COURT: Okay. All right. Thank you. So noted.
19 Mr. Coulter any -- any exceptions or issues with the charge?
20 And I believe both lawyers, all three lawyers rather have
21 indicated that the -- the basic verdict form is suitable.
22 And there was one correction in the life expectancy table. I
23 didn't have female, I had male, and I just marked through it
24 and just wrote female.

25 So and lastly, and of course I don't have to tell you

1 guys this, but plaintiff opens in full defense well in
2 closing closes in full, and then the plaintiff would have the
3 right to come back in any reply or argument as to any new
4 issues that may are raised by the defense. And I don't put a
5 time limitation on -- on the length of closing arguments.
6 Certainly, I always encourage some brevity which I think is
7 always important, important when you're dealing with -- with
8 juries. But you take the necessary time that you feel like
9 you need to take to -- to properly close on for -- for your
10 sides. Okay? All right.

11 MR. NICHOLSON: We need to set up an easel here. We
12 might do that.

13 THE COURT: Okay. Yeah, go ahead and get set up.
14 Before we bring jury out, we bring the jury up. Ladies and
15 gentlemen, ready to go back? Okay. Let the record reflect
16 the jury is back in. Ladies and gentlemen. Hope you enjoyed
17 your -- your Chick-fil-A. Okay. All right. What we have
18 left to do -- ladies and gentlemen, the lawyers will make
19 their closing arguments to you.

20 The plaintiff will go first and then the defense, and
21 then the plaintiff has the right to go back up and respond to
22 any new matters that maybe are brought out in -- in the
23 defense closing. And then after that's done, we'll either
24 take a break or go straight into the court's charge to you on
25 the law that you are to apply to the facts in this case.

1 This is the last time these fine attorneys have to
2 advocate for their respective clients. So please give them
3 your undivided attention. Thank you.

4 Mr. Nicholson, you ready?

5 MR. NICHOLSON: Yes. May I please the court.

6 THE COURT: Yes, sir.

7 MR. NICHOLSON: Forelady and ladies and gentlemen of the
8 jury, what you know now, after sitting in this courtroom this
9 week, there is nothing that should be scarier than the idea
10 Brian Newman on a highway driving a car. You're looking at
11 him in the rear view mirror. And what you know now is he
12 hadn't had a driver's license in 25 years. 25 years. Now,
13 think about that. He hadn't gone to the highway department;
14 he hadn't had any testing. He hadn't taken -- had to take a
15 driving test or written test, an eye test.

16 He hadn't done anything that would, is required the rest
17 of us to do, to be able to drive on the highways. So you got
18 Brian Newman in the rear view mirror. He wears glasses that
19 he bought at the Dollar General or somewhere at the grocery
20 store. He has never been to an eye doctor, he's never been
21 tested on the eye test with the Highway Department, at least
22 for the last 25 years.

23 Then on top of that, he says, I've got epilepsy and I
24 have -- I have a possibility of having some seizures. And I
25 knew that when I chose to drive without a license. There's

1 nothing really scarier than that thought on the highway.
2 They have admitted liability in this case. And what that
3 means is you don't have to decide whether he's responsible
4 for this accident or not.

5 They've admitted that, and they did that because his
6 conduct is so egregious, they want to cut out that part of
7 this trial. They don't even want you to think about it. And
8 they say, well, let's just move on to damages and we're going
9 to argue about damages. Try to cut the damages down. But
10 his -- think about it, his conduct is extremely outrageous
11 and it's pretty scary that he's on the highway driving around
12 when he thinks he needs to.

13 That's what he said when I -- when I think I need to,
14 when I -- when I really need to, I'll drive, but only when I
15 need to. His testimony was all over the place. You know, he
16 couldn't remember anything. He couldn't remember a few
17 things. One thing you can say about it is probably the least
18 remorseful testimony I've ever heard from somebody in that
19 position. Did you ever have him? Did you ever hear him say,
20 well, I'm sorry, or I wish it hadn't happened, or just, I
21 don't remember how it happened, no remorse whatsoever. And
22 he almost killed these people.

23 MR. COULTER: I'm sorry, Judge, I'm going to have to
24 object to the comment.

25 MR. NICHOLSON: If -- if you'll allow me, I -- I'm not

1 saying he almost killed them in this accident. He pushed
2 them in front of a 18 wheeler. It two seconds later.

3 THE COURT: It's -- it's closing. I usually allow
4 fairly wide latitude in what could be argued. So may -- may
5 continue, Mr. Nicholson.

6 MR. NICHOLSON: He didn't almost kill these people with
7 the injuries they suffered in the accident. I'm not saying
8 that, I'm saying he almost killed these people. He pushed
9 them, he hit them from behind, pushed across traffic. The 18
10 wheeler was coming within a couple of seconds. It happens
11 all the time. This is a serious accident. This is serious
12 injuries. It can be more serious. It probably, it can be
13 more serious the next time he does it. It's very out.
14 Judge, I'm going to have

15 MR. COULTER: To object to that too. He's talking about
16 future conduct that he's claiming could happen. That's just
17 improper. I -- I hate to interrupt in closings, but that's
18 just not proper.

19 THE COURT: Well, again, I allow some wide latitude.
20 This jury is going to, whatever is, is argued in closing from
21 both sides. They're going to use and rely on what they feel
22 like is important and what they may feel like is not
23 important. So, we'll -- we'll allow the jury to decipher
24 through that. And just because I've ruled twice against you,
25 Mr. Coulter, doesn't mean I I'm preventing you from objecting

1 in the future if you feel like you need to may proceed. Mr.
2 Nicholson.

3 MR. NICHOLSON: There's a bit of irony going on here
4 because Mr. Coulter has made statements during this trial
5 made sure to bring out that, Mr. Newman is poor, pitiful guy
6 living from hand to mouth. We shouldn't even be here. Why
7 are we even here? It's not worth giving a verdict against
8 this man. The irony is, you have this lawyer from Greenville
9 who's fighting tooth and nail all through this trial,
10 including through my opening statement. He is fighting tooth
11 and nail for this man. There's got to be a reason.

12 MR. COULTER: I'm sorry, Judge again. Does it make any
13 difference that I'm from Greenville now even though I lived
14 in Greenwood for 13 years?

15 THE COURT: Yeah.

16 MR. COULTER: What's that got to do with it?

17 THE COURT: Yeah. Well, let -- let's try to be careful
18 as far as commenting on -- on the other opposing counsel,
19 whatever they've done. Y'all are both passionate about your
20 cases. I appreciate that. Let's try to stay away from,
21 commenting on opposing counsel.

22 May proceed.

23 MR. NICHOLSON: All right. Let's go to the point that
24 they, they have admitted liability. They're saying Mr.
25 Newman is responsible for this injury in this accident and

1 he's responsible and should pay for any injuries related to
2 the accident that these two people suffered in this accident.
3 Let's think about the facts of the case because I don't want
4 to ignore the facts of this case. This man hit this car from
5 behind, pushed it across the road into the ditch. At some
6 point, almost all the airbags come out. It totals a 2000,
7 1-year-old SUV.

8 And -- and I'm going to show you those pictures again in
9 a few minutes. So we're going to two issues that they -- the
10 judge is going to talk about proximate cause and talk about
11 damages and let me explain that to him a little bit. A
12 proximate cause is, and the Judge will tell you what it is at
13 the end. And you -- you should -- you need to pay attention
14 to him. The approximate cause is they had an accident.
15 You're supposed to consider what injuries are related to the
16 accident. That's what proximate cause is. Were those
17 injuries caused by this accident. That's -- that's an
18 analysis you have to go through.

19 And then you decide what those injuries are and then you
20 decide what the proper damages are during the -- the
21 different elements of damages. So that first analysis is --
22 is proximate cause calls. There are what I -- and talking
23 about proximate cause, I'll tell you up front, and I've said
24 Tracy Campbell has said, and Dan Campbell has said, everybody
25 has said during this whole trial, the back is not related.

1 The back is not related to the accident. We're not claiming
2 the back injury. We're not claiming the back injury.

3 Now, one thing you've heard Mr. Coulter say, officer
4 this trial is, well, it's all with the back. Everything she
5 suffered is a back problem. You know, that's basically what
6 he said through the whole trial. Now, this is -- it's easier
7 for y'all to see if I put it on this reader. You've already
8 seen this plaintiff's Exhibit 1 and you will have it where
9 you can look at it. This is the picture of Tracy Campbell's
10 hip in the week after the accident.

11 I'm just going to lay this on top of it. This is where
12 the cut was, three years later, that's the hip. That's the
13 cut I submit to you. That's not a back injury. Now Mr.
14 Coulter is going to come up here with an exhibit and say,
15 with the EMS -- that when they got to the EMS, she's
16 concerned about her back injury. We know that she admits it,
17 you know, she was getting ready to have surgery. She said,
18 oh hell, I messed up my back again.

19 Unfortunately, she didn't. But her concern for her back
20 when she had the accident, I mean that's what any of us would
21 be concerned about at the time of that accident is that maybe
22 she's messed up her back and I'm very glad she didn't.
23 Another thing that on the proximate cause issue is I don't
24 know how many times I heard during this trial. Three years
25 later, two and a half years later, three and a half years

1 later. And I said to you in my opening statement, I said,
2 why are we here five years later? I can tell you it took
3 three years to figure out what was wrong with her. It took
4 three years and it wasn't because she -- she wasn't trying
5 even with COVID, even during COVID when was -- was in place
6 part of this time, she had to try to get appointments and get
7 there and she made consistent efforts to return to the doctor
8 to follow up, to go to the next doctor if they recommended
9 somebody else.

10 And I think in a period of about two, two and a half
11 years, she said, I don't know. I mean they want to stick me
12 again, do another MRI go through more therapy. Nothing has
13 helped. And she'd kind of given up hope until she got to see
14 Dr. Loging. So I don't think the three years, I mean, it's
15 -- it is -- it's not her fault she was going to the doctor.
16 And I made a -- I apologize before I got into it because I
17 know it took a long time and probably felt like going to
18 sleep through all of it.

19 But reading medical records is not a sexy thing. I can
20 tell you that. But we went through all those records because
21 I wanted you to see where she went and every time she was
22 complaining and how she went. And you'll have those exhibits
23 every time she went, what she was complaining of and how the
24 hip got worse and worse and worse. So there are a couple of
25 reasons for the three years. Mainly it's a diagnosis

1 problem.

2 Another problem is that it took a while for it to
3 develop to that serious thing where a surgeon probably would
4 say, we need to operate. It's just one of those injuries
5 that happened like that. And -- but she did consistently go
6 to the doctor, follow up and try to find a solution to it.
7 Now, one thing I would say that I think that you would have
8 this same opinion of Tracy Campbell. She's a very determined
9 woman.

10 She's a very resilient woman. She's not somebody who
11 says, you know, I'm just going to give up. I mean, she
12 continued going to work all of this time. You know she
13 continued, you know, she continued trying to have fun with
14 her husband. She didn't give up. She was optimistic. She
15 wanted to get better. This isn't somebody who sat at home
16 and said, well, you know, I got this problem. I -- I don't
17 want to work. You go to work and I'll just sit here and
18 maybe apply for disability or something.

19 She didn't do that. She kept working. You shouldn't
20 hold that against her. Now, one thing that -- one thing that
21 Mr. Coulter has done -- had gone through some of these
22 records and as a good lawyer, and he went through one thing
23 he's going to say on the proximate cause is that, well, the
24 year after or two years after she had a good day, she went to
25 the doctor. And I bring that up because I say she's an

1 optimistic person.

2 She -- she wants to get better. About 200 and something
3 pages of these records, therapy records and everything. Two
4 and -- and out of 200 and something pages, he picked out
5 about four or five where we read from where she was said,
6 well, I'm really not in pain right now. It's gotten a lot
7 better once some of them was with back surgery and some of
8 them is with after the hip surgery. Keep in mind if you
9 remember that, or he rereads them, keep in mind that that is
10 when she was not working.

11 You know, part of the ones after the hip surgery, she
12 was not even weightbearing. So she wasn't doing her job.
13 She wasn't standing up and lifting stuff and doing that. She
14 was not supposed to do anything at that point. And the other
15 thing on the back surgery is that she went to these physical
16 therapy records after the back surgery you go to. And then I
17 think all of you know that, medical -- our medical treatment
18 facilities are very specific.

19 And when you go to one doctor and his specialty is this,
20 or you have directions for something, if you go in to see
21 about a sore throat, they're not going to look at your teeth.
22 They're not going to look at your knee, they're not going to
23 look at your feet. You know, if their purpose is to do
24 something, they're going to do that. They're not going to
25 consider other problems.

1 So when she went through back surgery and she goes there
2 and she says, I'm feeling better, she's talking about her
3 back and amazing. She had amazing recovery from her back.
4 She really had an amazing recovery. Mr. Coulter is intimated
5 that this -- this back problem is really all of her problem.
6 And that continued, but all right, this is exhibit --
7 Plaintiff's Exhibit 27. Now, I'm going to read this to you.
8 Patient presented for follow up and the -- and this is 5/20
9 of 20, this is two years after. And they sent back, really
10 one of the doctors wanted to say, well, is it related to the
11 back? And this is the reason for this treatment.

12 And this letter from Dr. -- Dr. Lyle, "Patient presented
13 for follow up after being seen by a nurse practitioner before
14 with a new MRI of her lumbar spine. She does not have any
15 pain in her back. And she has no classic radicular signs or
16 symptoms in her main complaint as it has been in -- in before
17 this area, swelling on her right thigh laterally. She's had
18 injections in that area and she's had an MRI, which says some
19 tendonitis, but no other significant issues in her right hip.
20 She does not have the same symptoms that she had before in
21 her back.

22 And her -- and her MRI was reviewed and we discussed it.
23 I do not think this is coming from the patient's back. The
24 location of problem is not consistent in her examination is
25 not a consistent with a back problem. This is also not

1 consistent with a sacroiliac issue as well. So that's Dr.
2 Lyle's opinion as to whether these problems she was having in
3 2020 were related to the back. So that's simply not it."

4 So this analysis under the proximate cause, and really
5 she's not claiming a host of problems. She's not saying her
6 whole body was messed up. She had a problem with this hip,
7 with that bruise wall and the treatment and the damages we're
8 talking about are from this hip injury. That's plain and
9 simple. What it is, it's not the back. We're not asking for
10 that. And the problem she's having with the hip are not
11 related to the back.

12 That's why Dr. Lyle gave that opinion. Now, you
13 determined that the hip is relating to the accident. I think
14 it's fairly clear. I don't think there's a question and you
15 determine what the damages are from that. And so you move on
16 to the second analysis, which is what are the actual damages
17 in this case? And I'm going to say -- I'm going to repeat
18 what I said in the opening open. This is about money. And
19 Mr. Coulter can get up all day and say all they want is
20 money. That is all we can do is ask for money.

21 That is all in our society. We can do -- I mean you
22 might want to put him in jail for -- for driving, but that's
23 not what your job is. You can't do that. I mean, there's no
24 other -- there's no other thing we can do. When somebody
25 causes you injury, this is all you can do. So don't let him

1 make you let you think that money is a -- is a dirty thing,
2 that there's some other alternative. There's not another
3 alternative.

4 And I go back and when I said that Mr. Newman is kind of
5 a scary thing that you see him there in the rear view mirror
6 coming down on you. One of the most scary things is that
7 when he doesn't have a license and we don't know about his
8 glasses and he may have a seizure and he hits you and he
9 injures you, then he is going to say, well I don't have
10 anything so you can't get anything from me anyway, that is
11 not an issue for you to consider. And I'd like to explain
12 that a little bit more.

13 MR. COULTER: Judge, could we approach just briefly?

14 THE COURT: Sure.

15 MR. NICHOLSON: Members of the jury, the point I'm
16 trying to make is, what the judge is going to ask you to do
17 is to consider the testimony you've heard and determine what
18 the actual damages are. There -- doesn't matter, defendant,
19 rich, poor, whatever that's not what. They're not asking you
20 to consider that as an element that is not an element for you
21 to consider. Okay? So we move on and -- and the issues that
22 extent is actual damages you have.

23 The judge is going to tell you there are different types
24 of damages, actual damage, that's what we're talking about
25 here and there -- that can be divided into -- into two

1 different categories. One is economic and then later we have
2 non-economic. Let's talk about economic. Number one,
3 Medical bills. All right? And you have an exhibit it will
4 be given, Tracy Campbell testified about this, Plaintiff's
5 Exhibit 29 and it's two pages. First page, second page. And
6 the total of her bill is 57,272. Excuse me, you'll have that
7 to look at. So those are the damages only for the hip, not
8 the back. If the back had been included, we'd probably be
9 thousand dollars in medical bills. She had a fusion back.
10 This is just the hip. 57,272.

11 MR. COULTER: And I'm sorry, Judge, I need it. But you
12 just mentioned that if the back was included, what you said
13 is not and that's \$200,000 of damages, which I think is
14 improper to the jury.

15 THE COURT: Well, I -- I -- I think it's been my
16 understanding everybody's understanding that even though the
17 -- the back has been discussed a lot, but any compensation
18 for the anything related to the bank back is not an issue
19 before the jury. I think I'm correctly stating what has been
20 the -- the position in this case back is out even though back
21 has been referred to, by testimony. And I think if -- if it
22 needs to be referred to in closing, that's fine. But again,
23 ladies and gentlemen, compensation for the back is not an
24 issue before you in this case.

25 MR. NICHOLSON: There should be no question that that is

1 related to the hip. Do you have the records that you have?
2 The doctors that are listed on that list, Dr. Loging, she
3 didn't go to see him for any reason other than (inaudible)
4 the only ones we put in there are the ones where she's
5 treated. So that is a -- that is a firm figure.

6 You have another element At least five months out work.
7 We know if your first pay was \$13 a business (inaudible)
8 there, it's -- she was paid during this time that she used
9 the benefits she had. So those are benefits she doesn't
10 have. And that's for y'all to determine because you can
11 multiply that out and it comes to about \$12,000 that she was
12 not paid through normal means that she had PTO.

13 Now, some of y'all may have jobs that have PTO and you
14 know how that works. You know, that means you use it. You
15 don't go on vacation, you use it, you don't have it for
16 family events or whatever else. So I -- I'm -- that is an
17 economic loss to her and you have to determine what is
18 appropriate to put there because, and I'm -- I'm going to
19 say, you know, we're talking about this paid time off, but
20 the total time she was out of work, you multiply that, it's
21 in that range, okay?

22 Those are actual damages. Now, non-economic are just as
23 real. The Judge is going to tell you that non-economic is an
24 appropriate type of damage to give in this case. And there's
25 several different types of non-economic. One of them is,

1 would be a -- a deformity or a scar. Okay? Now she had a
2 pretty bad deformity for a long period of time. She doesn't
3 have as much of a deformity.

4 Now, she has a scar, seven or eight inch incision and
5 you have (inaudible) as a scar. The scar is obviously
6 permanent up at this point. What you see, and the judge is
7 going to give you a life expectancy table. And as to these
8 non-economic damages in particular, I say you're to consider
9 and the judge says you can consider her life expectancy. We
10 have a table that's in our code book. It's done by actuarial
11 or but you have at age 50, if you live to age 50 as she has
12 and you're a woman is different from men and women, then her
13 life expectancy should be around 32.69 years.

14 It was at least 32 years. So when you're talking about
15 these damages such as deformity or a scar, you're -- if you
16 determine that that is permanent or any kind of this -- this
17 permanent impairment in any way, you're giving her an award
18 that covers the next 32 years because she's got to live with
19 that the rest of her life. She may live 50 years, she may
20 live 20, but we're able to consider that and that's kind of
21 what the figure you put on.

22 So whatever is there is not what she suffered up to this
23 point. It's what she's going to have in the future. So
24 disability, permanent, when I put down a disability,
25 permanent, it's not that she's disabled and could get a

1 social security check or anything like that. We're not
2 saying that, but she has some kind of impairment. And this
3 is to her lower. We said lower extremity, you're talking
4 about your leg. So one leg, you're talking about an
5 impairment to her leg. And her doctor did say that she had
6 an impairment.

7 That's the question I read to you when we -- when we,
8 you were doing the video and you went out and came back and I
9 read the one question and I said, well does she -- after this
10 surgery, does she have some kind of permanent impairment?
11 And she said she would. And I'm going to go into that a
12 little bit more. So that's another element. Pain and
13 sufferance, that's probably a -- a phrase that everybody's
14 heard, but we may not really think about it when we say it.
15 Pain and suffering includes everything.

16 It includes from the point that this car was thrown into
17 the ditch, the airbag went off, that she had any kind of
18 discomfort at that -- at that first moment to the pain and
19 suffering from the hip in the weeks that even led up to the
20 back surgery. But after she gets through the back surgery,
21 the pain and suffering that she develops from having this
22 condition for those three years, first of all it's for those
23 three years that she went through that.

24 I want to I want to go back to plaintiff's Exhibit 28
25 and this, we've already read this once and he made an

1 excision. The mass measured approximately 13 centimeters by
2 15 centimeters. The versa was debrided and excised. Gluteus
3 medias tendon was exposed, it was tendinopathy and fraying as
4 well as a complete tear and detachment of the gluteus
5 insertion. The outer portion of the cancer was rubbing in a
6 suture anchor.

7 And that is a prosthetic device that is a, you know, not
8 a natural thing, it's something that's put into her body to
9 hold the tendon, was inserted, which was then passed through
10 the gluteus tendon and tied down with good repair. So that's
11 kind of what was going on. And when he pulled this out, that
12 measures 13 centimeters by 16 centimeters and 13 centimeters
13 is about five and a half inches. You can multiply it out two
14 and a half.

15 Somebody here I know is in this two and a half
16 centimeters is an inch, five and a half by six. That's what
17 you walked around with for those three years after it
18 developed. I mean, I'm not saying it developed in the first
19 few months, but after it developed for that period of time
20 that you read that in those records, this is what he took out
21 of her. That's what we're talking about.

22 So pain and suffering is -- is going through having that
23 condition, it includes the mental anguish of not knowing what
24 was going on. You know, you heard the testimony about that.
25 It's frustrating if you've -- if you've ever had a -- a

1 medical condition that is, you know, they can't figure out.
2 It's pretty frustrating because you have to keep going back
3 to the doctor and you don't know what's going on.

4 And especially with something like this sitting on your
5 hip, you can think it's cancer, you don't know. And then you
6 have wait two months during COVID to get another appointment
7 to -- to see about it. So that that mental part of it is
8 also part of the pain and suffering. It's the pain and
9 suffering. When you go under anesthesia and you go through
10 surgery for the hip problem, it's getting the cut on the side
11 of you. It's going through the recovery. And I think you
12 heard that the recovery from the hip surgery is worse than
13 the back surgery because it, she had to go non-weightbearing.
14 She took a longer time for that to recover than the back.

15 So all of that goes under pain and suffering. And that
16 went on for a long period of time. It is not her fault, as I
17 said before. So that is an appropriate type of non-economic
18 damage. And then the other one I am going to put down here
19 is general anguish, which is if Lyle already talked about,
20 but this applies to -- to both Tracy and Dan because they
21 were going through it, it changed their lives. It didn't
22 ruin their lives.

23 Like I said, they didn't give up on it. They -- they
24 still tried to have fun, but it, it affected their lives. It
25 changed the way they, they related to each other sexually.

1 Other ways. What they did together, probably what they
2 thought about what they talked about all that time. So you
3 have these two elements of economic damages. You have this
4 of non-economic and you are to consider all that. I mean you
5 can go through these and put a figure on each one or you can
6 just say consider the non -- the economic and put a figure on
7 non-economic. But you're to consider all those different
8 elements.

9 And I strongly ask you to -- to keep in mind that she
10 continues to go through some problems and we -- we talk about
11 this limp. And one thing that that kind of complicates the
12 case is because she did have a -- I don't -- we obviously
13 know that and she had some problem walking towards the back.
14 There are different, there are different reasons that you can
15 have a limb and I don't know whether any of you have had
16 different reasons.

17 I've -- I've had foot surgery, I've had a hip
18 replacement, I've had back surgery and I've limp for many
19 different reasons over many different years. Maybe the foot
20 surgery was worse than any of them, but there are different
21 reasons to limp -- a limp. You know the thing to keep in
22 mind when Mr. Coulter gets up here and starts talking about,
23 oh, the limp was because of the back, Dr. Lyle has said she
24 has no ridiculous symptoms.

25 That means there's no problem with her back that's going

1 down in her legs at this point. So it is that she had a back
2 problem. She probably had both for a little while, but more
3 of a back problem until she had back -- back surgery. And
4 then she developed the problem with the hip, which got worse
5 and worse and worse until it got to be about that sign. So
6 this is an admitted case.

7 Now, this guy barrels down the highway rams in the back
8 of this car and it caused significant injury to the car.
9 We're not talking about property damage, but I want to look,
10 I want you to see these pictures again. There's the back
11 that's away from the impact, but how the front of the car
12 deflected on the back, what was broken on the front of the
13 car, what was crumpled on the front of the car. This
14 accident didn't need to happen. It didn't have to happen.

15 I said that in the opening, Mr. Newman chose to drive
16 under all those conditions and he ended up pushing this car
17 in the ditch, totaling a 2017 car and unfortunately ended up
18 with this injury to the hip that grew into a mass this size.
19 Now, I don't -- I don't always do this, but in this case I
20 want to talk about what a total verdict could be because you
21 have to consider these two non-economic, I mean these two
22 economic elements and these other elements and you know,
23 people talk, oh, I wouldn't do that for a million dollars.

24 Well, you know, this isn't a million dollar case, you
25 know, not appear asking you for a million dollars for this

1 one. She wouldn't either. Is it a \$500,000 case you
2 consider all of these elements? I don't know. Now you say
3 is it a \$100,000 case? Well, we're getting way up there with
4 just the economic damages. It is definitely more than a
5 hundred thousand case. It's definitely more, way more than a
6 \$100,000 case because I don't think an average person would
7 say, I am missing some exhibits.

8 Can you just look at that photograph and you look at
9 that incision and say, what's it worth if you had to go
10 through that along with everything else, you wouldn't do that
11 for 50,000 or a hundred thousand unless your person knew
12 waiting at the blood bank to get some -- a check or
13 something. But the person -- an average person is not going
14 to do that. They're not going to go through all that.
15 They're not going to live with this on the side of their hip
16 for that moment.

17 But with what you have to consider there and what Mr.
18 Newman has done, this is, I say a \$350,000 case. And that's
19 what I'm asking you to give with what all she has gone
20 through. And that's the compensator for all of this. The
21 economic as well as non-economic. The non-economic is a lot
22 bigger element than the -- the economic. It's much bigger
23 than that. And she has to live with what she's got left.
24 She has got to live with that for 32 years and you are to
25 compensate her for the next 32 years for that.

1 So again, I'm not standing up here asking you for a
2 million dollars, I'm not asking you for \$500,000. I'm --
3 I've come up with a figure that I think is rationally related
4 to her testimony, what she's been through, the photos you
5 see. And your -- your duty is to come up with a fair verdict
6 based on your testimony, not considering anything else.
7 Okay. And I trust you with that. Thank you.

8 THE COURT: All right. Thank you Mr. Nicholson. Mr.
9 Coulter, are you ready?

10 MR. COULTER: Yes, sir, I am. Thank you. Thank you
11 Judge. May I please the court.

12 THE COURT: Certainly. Mr. Nicholson, can you take down
13 your ---

14 MR. NICHOLSON: Thank you. Appreciate.

15 THE COURT: --- tripod there.

16 MR. COULTER: I'll keep this, let me just shut, set up
17 real quick here. I'm going to do the best I can. I probably
18 shouldn't use this.

19 MR. NICHOLSON: You need that tripod.

20 MR. COULTER: I got one here, Jeff.

21 MR. NICHOLSON: Oh, okay.

22 MR. COULTER: Didn't good. I've been messing this one
23 up, but I can give it a shot.

24 THE COURT: Just getting your way at all.

25 MR. COULTER: Uh-huh. Okay. So I'm going to have a

1 little bit of a flip chart here eventually, but let me start.
2 I doing what I didn't do before and that is thank you for
3 your time. I won't spend a lot of time doing that because I
4 know you want to be. I know you don't. None of us do. This
5 is a great system and we're trying to do the best we can in
6 this system to get the best we can as far as what justice and
7 reasonable I means.

8 And so I won't spend a lot of time talking about that.
9 But I do appreciate your attention and -- and I will say this
10 I -- I don't want to spend too much more of your time. I
11 don't -- but -- but I hope that, and I've got this blocked
12 off, but I hope you can understand that I've got to spend a
13 little bit more time talking with you all about what we've
14 talked about in this case over just one day, day and a half
15 because this is very important to everybody involved,
16 including Keith. Okay?

17 And -- and I need to spend a little bit of time talking
18 about what the plaintiff's attorney just said. And then I
19 also have to anticipate some things that the plaintiff's
20 attorney might say because he gets to come up one more time
21 and argue because he has the burden of proof. He has to
22 prove the things that he said. Okay? And so I can only
23 address what he's already said and then just suggest some
24 things that he may say again.

25 And a lot of things that the plaintiff's attorney said

1 just a minute ago is that Mr. Coulter will say this, Mr.
2 Coulter will say that. And -- and -- and I will say a lot of
3 things, but I'm also going to try to have you look and admit
4 it. Not about what I'm saying, but what doctors have said.
5 It's not just about what I -- these are things in records and
6 that's really important when we get this. And I -- I
7 apologize.

8 One of the things I apologize for should be many more
9 very clunky presentation that I had when I was reading
10 medical records. It's a horrible thing to have to deal with.
11 Some of you may have experienced dealing with medical
12 records. Mr. Nicholson just made it clear that I live in
13 Greenville. Now -- now I'm sorry that I live in Greenville.
14 I lived here in Greenwood for years and years. I was
15 prosecuting cases right here and for some reason, me living
16 in Greenville means somehow that I don't have an ability to
17 come here into Greenwood and defend somebody who was a human
18 being and a mistake from where shills, I'm sorry about that,
19 if that's the case, okay?

20 But I was here for a long time just to explain my son
21 and my daughter grew up here and went to school here and I'm
22 proud to be back. But this is a lawsuit, obviously the
23 plaintiff's attorney has filed asking for money and wants a
24 judgment for some money based on what these injuries are and
25 these damages are that are being claimed. So I'm going to

1 spend a little bit of time talking about that. Plaintiff's
2 attorney talked, well, so here's the issues. First of all,
3 plaintiff says her hip hurt, she's had terrible pain because
4 of the hip and is still having problems because of that hip.
5 So those are really kind of the whole things you have to
6 think about.

7 And one of the things that the judge will charge you on
8 is that in determining one of the big issues in this case is
9 pain and suffering. She's hurt in an accident. How much was
10 she hurt because of this accident compared to what may have
11 happened before this accident? And the Judge is going to
12 tell you to consider pain and suffering. You should consider
13 the condition of the injured party before the injury as
14 compared with the condition after the injury.

15 And -- and -- and if you think about that, it makes a
16 lot of sense. I mean, if you had -- if you were in really
17 bad shape before an accident getting an accident and it's not
18 a whole lot different after the accident, then there wouldn't
19 be necessarily words if that makes sense. But that's what
20 the judge is going to charge you. And what I would tell you,
21 I think if you remember this, when the plaintiff testified,
22 she said that prior to this accident since 2011, she had been
23 having significant problems with that low back eight to 10 on
24 a daily basis.

25 Now mind you, the reason, that's why I would suggest to

1 you that's important, eight to 10 on a daily basis, taking
2 pain medication on a daily basis, okay? Is that now she's
3 saying, and we're going to get into some other medical
4 records now because of this hip surgery, she can't do any of
5 those things that she wants to do, even though she had pain
6 of eight to 10 at the time of this accident, on top of the
7 fact that she was taking pain medication.

8 And the reason I bring that up is because of what I
9 mentioned at the beginning of this case. This is about money
10 and that's why I'm going to spend a little bit more time
11 talking to you about this because a second ago, as I
12 understood plaintiff's attorney, Mr. Nicholson just asked for
13 you all to return an award against my client for \$350,000.
14 \$350,000 based on this accident wherein she was already
15 injured. As a matter of fact, we'll look at the flip chart
16 right now. You hadn't seen this, and I apologize, you're
17 going to have this in the room with you to look at. This is
18 the ER report.

19 Probably should put it up the same. I'm worried I'll
20 mess it up. But anyways, you'll have this in the room with
21 you. This is when the emergency room people came up. She
22 had just been struck. We admit that Keith struck the
23 Campbell vehicle in the back. There's no -- I'm not saying
24 that's not an issue. This certainly is. He made a mistake.
25 He did. And when we look at these -- this ER record and

1 you'll see it, patient stated she was only, and I'm sorry you
2 can't see this real well, she was only having lower back
3 pain, but she has this pain all the time. Her neck feels
4 fine and she can move her lower extremities fine. Now,
5 remember, it's even though Mr. Nicholson came in front of you
6 and said, well, if you were climbing back pain, this would be
7 \$200,000. Why would he throw out a number like that if it
8 has nothing to do with this case?

9 \$200,000 when it says right here, minutes after this
10 accident, no problem with her back other than what she was
11 having before. And he wants to throw out \$200,000 because
12 it's about money and he wants y'all to return the award for
13 350,000 in this case. Plaintiff's attorney mentioned a
14 minute ago about how everybody is concerned about her back
15 being messed up as a result of this accident. And yet here
16 there's no problem with that.

17 They want to bring up this and saying, this is what
18 happened from the time of this accident for the next three
19 years. This on the right hip, no problem here at all. In
20 fact, if we keep looking through this, this is -- and again,
21 this is kind of clunky again, the -- the -- the reason that I
22 look at these medical records and you and I've worked with
23 the solicitor's office every years week after I left the
24 solicitor's office, I started doing this. Guy that I was
25 working with put down a whole block of medical records on my

1 desk and said, start reading.

2 I said, I'm going to hate this job. And for a while I
3 thought, man, maybe I will. But the kind of the thing that I
4 would say about it and that I hope you kind of look at is
5 that when you are in a lawsuit, a person is talking about,
6 again, money. When you're treating with somebody, it's about
7 trying to get better. When you're on a stand testify --
8 testifying in front of a jury about how bad things have been
9 and how horrible my life has been since this accident,
10 wanting money.

11 When you look at these medical records, you start to
12 learn what really was going on at the time I would submit.
13 And so what I ask you to do, again, you're going to have this
14 back with you, this has already been admitted. This is a
15 physical therapy record from October, 2018. And again, this
16 is clunky. I get it. Four months after the accident, she's
17 going to physical therapy. And here's what's important
18 because they -- they're -- they're wanting you to ignore, I
19 believe this aspect. Remember they want to show you this.

20 Tracy is 40, this is in evidence, you're going to get it
21 back there with you. So I'm just going to read it.
22 46-year-old female referred to physical therapy for
23 evaluation and treatment of L5, S1 lumbar fusion. So that
24 was four months after the accident. She underwent that
25 surgery down to her back on September 4, 2018. Again, 14

1 months, four months after this accident, patient has
2 concurrent injury to right lateral hip from that vehicle. So
3 four months after this accident, she underwent the surgery to
4 her back and now she's also going. So she's going through
5 physical therapy for that and apparently some right hip
6 problems, which are clear from here, not from there.

7 Not from there, but from here. Okay? And so we start
8 to look at how things go through physical therapy. And
9 again, medical records. We're not talking about lawsuits,
10 we're not trying to make money, we're trying to feel better.
11 October 30th, four months after the accident, physical
12 therapy, treating for right hip pain contusion, four months
13 after not Mr. Coulter pain is not bad today. It's actually
14 doing a lot better. Keep going.

15 November 15, 2018. So we're talking about right around
16 five months after this accident treatment, not only after the
17 back pain, she underwent the surgery, not related to this
18 accident and also right hip pain contusion. I'm feeling
19 good, I'm good to do everything on my own. Now, reports she
20 doesn't feel like she needs to continue any physical therapy.
21 That's five months after this accident. That's two and a
22 half years before she undergoes this surgery to her right
23 hip. I -- I'm not making that up.

24 Mr. Nicholson can say all the things he wants about Mr.
25 Coulter saying this, this is a medical record from just a few

1 months after this accident, right? Hip pain, contusion,
2 physical therapy. I'm feeling good. I'm good to do
3 everything on my own. I don't feel like I need to continue
4 with physical therapy. I'm not saying that May 29, 2018,
5 this is a year almost after this accident. I'm not saying
6 this, this is a record that's admitted into evidence for your
7 review. Physical -- this is Advanced Spine and Neurosurgical
8 Associates.

9 May 29, 2019, nine months after undergoing surgery to
10 her lumbar spine, not related. She reports she's doing very
11 well is walking from anywhere from three to six miles per
12 day. She reports having lost 30 pounds of weight loss in
13 exercise and states you feels better. No low back pains or
14 complaints of radicular symptoms. That's a year after this
15 accident. And they keep saying, oh, three years. Mind you,
16 by this time she's missed three days of work to the claims to
17 have had this right here for three and a half years.

18 Let's keep going again. Advanced spine and
19 neurosurgical. August 28, 2019. This is a year and two
20 months after this accident. Okay? She reports she's doing
21 very well, return to her usual activities, currently
22 planning, waiting for her daughter, which is wedding. We've
23 established that they say this was going on even though she
24 reports, she reports she's doing very well in return to her
25 usual activities. This only three days of work, I thought I

1 had to note, sorry. So that's -- that's -- so that's what we
2 have for that. And I'll take this down.

3 There is one other part I wanted to mention to you that
4 I will put up on a screen because This is not, this is one of
5 the plaintiff's attorneys exhibits. Let me make sure I get
6 to it on the Elmo. Here I am. Sorry, I thought I had it in
7 front of me. Forgive me, please. And this is Plaintiff's
8 Exhibit. Make sure I got this right. Number 20, this is a
9 medical record from Dr. Timms who is also an orthopedic
10 surgeon. This is dated April 8th of 2019. This is almost a
11 year after the accident. And this orthopedist, Dr. Timms as
12 opposed to Dr. Loging's says, if you look at that bottom
13 highlighted part of the Plaintiff's Exhibit, this is bottom,
14 this is the plaintiff's exhibit.

15 This orthopedist says, "I do not have an explanation for
16 the persistent discomfort. Patient describes and some
17 persistent swelling in this area. Doesn't have any idea."
18 This is two plus years before plaintiff underwent the surgery
19 that she claims is related to this accident. So another
20 orthopedist by the plaintiff's exhibit has no idea why she's
21 got these problems going on. So you did hear though, from
22 Dr. Loging's and you heard his testimony and I don't think
23 that I've seen anything or maybe you all heard or remembered
24 something differently that, that the plaintiff had anything
25 other than a great recovery. I mean we -- we've seen it and

1 I -- I can go through it again and again.

2 Probably won't want to. But the question is a number of
3 things. One, does she continue the plaintiff to have
4 problems which Keith ought to be responsible for. Is Keith
5 responsible for the problems she has right now out? Okay,
6 that's really what it comes down to. And it comes down to
7 what's called and the Judge will charge you on this. I
8 believe it's called proximate cause and that's kind of a
9 goofy thing to say, but a proximate cause means did this
10 accident, cause what the this is kind of in a nutshell, did
11 it cause what they're asking you to award in damages against
12 Keith?

13 Okay, so what monetary award is it that they're asking
14 for that Keith would ultimately be responsible for? All
15 right. And so that's what proximate cause is, because if you
16 have problems before an accident and then problems after, but
17 it's not the relation of this accident, it makes sense, you
18 wouldn't be responsible for that. So the question is one,
19 should Keith be responsible for anything? And I would tell
20 you I do believe that Keith is absolutely at fault for this
21 accident. Doesn't remember it. He's had health issues.

22 Now, is Keith responsible for \$350,000 of damages?
23 That's certainly up to you. But that has to do with what
24 type of problems the plaintiff has now compared to what was
25 before and what is shown in these records as to what is truly

1 going on throughout the time of this lawsuit when we're not
2 necessarily talking about money, but talking about treatment.
3 There was some discussion about lost income. You've
4 already heard, I believe. And again, if I say something
5 that if I say something that, that is different than what you
6 remember, please forgive me. I'm not trying to say things
7 wrong. Even a -- a day of a trial can sometimes can get
8 things wrong. But as I understood, the plaintiff told you
9 when she was on the stand that she really didn't lose any
10 money as a result of this accident.

11 She may not have been at work, but she didn't lose
12 money. The plaintiff's husband is asking for what's called
13 loss of consortium, which is the fact that he no longer gets
14 to appreciate the services of his wife in whatever manner.
15 Even though he is gone 94 -- 95 percent of the time for his
16 job, he's not at home. He's scared to touch her. But at the
17 same time as it's okay that just a few months after this
18 accident, or excuse me, actually a year or two after this
19 accident, they decided to buy Harley and have fun on that,
20 which is fine.

21 And you go, she went to Florida a couple months after
22 the accident, that's fine. Let's just understand what that
23 means. What is the problem after this accident? And that's
24 what's not been established. They tell you all the time, I
25 can't do this, I can't do that. Medical records and

1 everything else suggests differently is what I would say.
2 There is a number that you may consider when you go through
3 the verdict form. The judge is going to give this to you.
4 One thing that it -- this -- the first thing you're going to
5 see, I guess I'll put it up here.

6 THE COURT: And Mr. Coulter, that we made ---

7 MR. COULTER: Yes, sir.

8 THE COURT: --- one mistake as far as naming one of the
9 plaintiffs. We've corrected that what will be handed. So
10 what you're showing them is the uncorrected.

11 MR. COULTER: Okay.

12 THE COURT: So ---

13 MR. COULTER: All right. I don't think it'll be
14 probably too big of a difference here.

15 THE COURT: One place we refer to Mr. Campbell as Tracy.
16 So I made that change.

17 MR. COULTER: Got you. So here is going to be the
18 verdict form. So what you're going to do, and the judge is
19 going to be much more elegant in doing this than me. I'm
20 terrible at this. You are going to go in the jury room in a
21 minute. Again, the plaintiff's attorney's going to come up
22 before you again and argue I -- what I've said is wrong or
23 right or whatever. But you are going to be asked to come up
24 with these awards. And the first, again, I think I mentioned
25 a minute ago, one of the things that you have to determine is

1 whether or not this accident approximately cause the injury
2 that is being discussed. Okay?

3 Meaning again, did this accident because this surgery
4 that occurred three years later, we already know she had the
5 back surgery, which is not related. So the question is, did
6 it cost the injury three years later? Dr. Timms has no idea
7 why it occurred. Dr. Loging's said it did that cost \$57,000
8 essentially for that surgery three years after this accident,
9 after she had gone through physical therapy, was fine, was
10 back to work, was doing everything she needed to do. All of
11 a sudden three years later, she has this problem.

12 So if you believe that this accident caused that
13 problem, then it certainly is reasonable. Like I said, the
14 very beginning, all I-- anybody would want because my client
15 made a mistake. Don't get me wrong, we all make mistakes.
16 We got chewed out last night for not taking out the garbage
17 nasty. My wife was not happy with me. That was a mistake.
18 Nothing like this. But we all make mistakes. The result is
19 what is reasonable if you do.

20 Did he cause these issues three years after this
21 accident, which comes to \$57,000 of treatment costs even
22 though after physical therapy she was fine, was going to work
23 and had no problems at work, was doing everything she needed
24 to do based on these records that you'll see back in the jury
25 room with you. If you believe that, that's fine. Was it

1 reasonable at the very least for her to go back, go do an ER
2 room to be checked out after this accident? Absolutely. So
3 the next question is what's the pain and suffering on that?
4 And if you do believe that this lesion three years afterwards
5 is the result of this. Certainly that's all, that's
6 completely up to y'all.

7 And then what do you think the pain and suffering is
8 above that, even though we know from what the records say, a
9 great recovery, \$350,000. I mean, yeah, I mean, again, I've
10 tried a ton of criminal cases in this courtroom, tons. And
11 those people deserve to be punished when they were guilty.
12 There is not no doubt about that. I get it. When people
13 make mistakes, it's understandable. Should they be punished?
14 That situation? It's about what's reasonable. If a human
15 being makes a mistake and gets an -- I wish no one would be
16 in car accidents. But what's reasonable about that? So I
17 hope you'll consider that. And I appreciate that.

18 THE COURT: Thank you, Mr. Coulter. Mr. Nicholson, do
19 you have any rebuttal argument?

20 MR. NICHOLSON: Yes.

21 THE COURT: Okay. You may proceed.

22 MR. NICHOLSON: I'll be brief.

23 THE COURT: Sure.

24 MR. NICHOLSON: The first thing I would say is Mr.
25 Coulter wants to -- to -- I make Tracy out to be a whiner.

1 And I said this when I talked to you before, this woman is
2 very resilient. I think she's optimistic. I think there are
3 not too many people I see that go through back surgery and
4 say, you know, I'm getting better. I mean, I really, it
5 worked. She went through hip surgery and said, yes, it was
6 -- I was so glad to get it because it helped me and I am
7 better. She admits that on both of them. The curious thing
8 is that the-- the things that he is pointing out in these
9 exhibits, he wants to continue saying the back is not
10 related. The back is not related.

11 All he pulled out was the back stuff. All he pulled out
12 was the back stuff. And he's the one harping on it saying
13 it's not related. This is the therapy from the back. This
14 is -- this is her therapy from the back. You know, all this
15 is, I mean it's -- I -- you know, I can go through the dates.
16 6, 14, 18. That was right after that was the EMS. Now
17 optimum life, 10/25, that's right after the back surgery,
18 10/30/18, 10/30/18. This is right after the back surgery.
19 They're trying to get her to recover from her back. She said
20 the back surgery did.

21 Well, he pointing out the whole thing. He's saying he's
22 proven to you that she did well from the back surgery. So
23 whatever problem she had later was not the back. It's the
24 hip. All of this is from the back surgery. He did not want
25 to read anything to you from any treatment for the hip. He

1 didn't want to -- he didn't want to point pick up any of
2 those and read them just the physical therapy from the back.
3 And she probably was feeling pretty good because she wasn't
4 working and she was probably taking medication. I mean if
5 you've ever had surgery like that, you're taking pain
6 medication and you're going through therapy and you're
7 reporting to the therapist and saying, well how's your back
8 doing? I'm doing well. I feel good.

9 Coming off of back surgery. You know, you go a few
10 weeks and you start feeling better it. So I don't think that
11 proves anything except that she did well from the back
12 surgery. Now, he brought -- brought up the issue of
13 proximate cause. He says, if you find this is related -- if
14 you find that the hip is related to the accident three years
15 later, he keeps saying that it is related. It is related.
16 It was reported in the emergency room an hour after the
17 accident.

18 It was bruised right after the accident. And it took a
19 while for this to develop. I don't know that it was this
20 size the whole time, but it was this size of when she had the
21 surgery when she finally got down to it. So I don't know
22 that I've ever seen a case where the record is so clear that
23 she had complained of it immediately, had a bruise
24 immediately, had consistent treatment, tried to find an
25 answer.

1 Now, he says, well Dr. Timms says, I -- I have no
2 explanation. And he -- if you listen to Dr. Loging's, if you
3 remember Dr. Loging's deposition, he kind of explains it and
4 he doesn't throw Dr. Timms under the bus. He just says they
5 really didn't take a picture of the right spot. They never
6 took a diagnostic picture of the right spot. So that's, I --
7 I think if they had, I think maybe Dr. Timms would've picked
8 up on it.

9 But unfortunately, and that's a mistake somebody made,
10 but that's what she went through. That's what she went
11 through. And it developed to the point that it got that big.
12 And I'm putting this up here, not for the purpose of showing
13 the amounts, but she went to the ER the day of the accident.
14 She went to a family doctor. She went back to the family
15 doctor; she went back to the family doctor. She went to the
16 -- the spine and neurology that is just to be checked out to
17 see if it was related.

18 Those are very minimal cause she ended up at the
19 orthopedic doctor. She continued to go to him -- continued
20 to go to him. We -- we had all those records. HIP is
21 getting worse; mass is getting bigger. You will have all
22 those to look at, goes back for MRIs, even goes to plastic
23 surgery to, but this continues on and on. It is extremely
24 consistent and it -- it is evident that the problem is
25 getting worse and worse.

1 So for him to suggest that it may not be related, it's
2 just kind of ludicrous, that is ludicrous. Now, you do have
3 to put a figure on, you have to determine what all is that,
4 what is that worth? But I -- I don't see any other decision.
5 But the -- the hip is related and we've isolated just the
6 medical treatment related to that, which is a 57,000. Now,
7 one thing I do want to -- I wanted to read something from Dr.
8 Loging's and I don't -- and I'll let you know; you can look
9 at it while I'm reading.

10 What did the MRI show? This is when the correct
11 diagnostic test was done. Basically it showed a severe
12 partial tearing of the gluteus medias tendon at its
13 insertion. On the right was worsened from prior MRI of
14 January 20, 2020. There was some partial tearing to the
15 gluteus minimus, a tear of the labrum and then an adjacent
16 fluid collection between the anterior superior acetabulum and
17 the ellipsis tendon and then chronic partial tear of the
18 hamstring is what it says. So she really had four different
19 problems in that hip. And I said, what would you expect her
20 to have in the future with this right hip area? I mean she
21 could, because she still has tendinopathy of this tendon. I
22 mean, so she could get a re breakdown and re-tear the tendons
23 at some point.

24 She does have a labral tear, which could cause her
25 problems, but most of her pains didn't seem to be related to

1 that. So I -- I read that to you to -- to talk about the
2 seriousness of what he found. I mean that is, you know,
3 we're not talking about what she's complaining about. We're
4 talking about what he found and he was able to fix part of
5 it. He was able to remove this and he was able to fix part
6 of it. He didn't fix all of it.

7 He admits that, but hopefully that won't give her
8 problems in the future. The next hopefully 32 years that she
9 lives. But this is a, this is a serious -- serious case and
10 Mr. Coulter spoke about, I had my list there you're asked to
11 put to give an award. Tracy Campbell and all of her
12 suffering and everything she's been through as to Dan
13 Campbell, it is strictly loss of consortium with him. It's
14 not his injuries from the accident, it's his injuries because
15 of her and that effect on his life.

16 And Mr. Coulter tries to minimize that by saying, well
17 he's not with her, you know, during the week and, and that's
18 the way a lot of couples are. Some people you know aren't
19 together all week long. That doesn't mean their relationship
20 doesn't have a worth, you know, the time that they are
21 together in the time they're able to take vacations. And I
22 think you heard both of them, you know, that's the only time
23 either one of them got really emotional.

24 If you remember the testimony that's -- that's when it
25 hits and they can talk about getting cut and having to go

1 through little pain and all that and they talk about their
2 relationship and how they, you know, I think Dan had a hard
3 time getting through that. Tracy definitely had a hard time
4 getting through talking about that. And it's not easy to
5 talk about that in front of a jury, but Mr. Coulter was
6 trying to minimize that they don't spend much time together
7 anyway, it's kind of ridiculous.

8 Mr. Coulter said, oh I made a mistake last night. I
9 didn't take out the trash. And he kind of, I don't know if
10 he was trying to compare that to what this happened. This is
11 not, I started out by saying this is not a simple mistake.
12 This man made a big mistake. It's not like everybody makes
13 mistakes. The average person doesn't make a mistake like
14 this. They don't choose to drive consistently over 25 years
15 without a license, without having any kind of examination on
16 the eyes knowing that they could have a seizure and there's
17 no evidence that he had a seizure anyway.

18 This is not a simple mistake. So I'm just asking you to
19 give an actual damage that covers all those elements. Give
20 an actual damage award to Tracy Campbell, which is a lot,
21 obviously a lot more serious what she personally went
22 through, but an actual damage award to her and an actual
23 damage award to Dan Campbell. And I will stand behind what I
24 said. I don't think \$350,000 is outrageous if you had to go
25 through all that and not knowing and for it to take three

1 years, it wasn't her fault. It took three years. It was not
2 her fault. She went through a lot. Thank you.

3 THE COURT: All right. Thank you. Ladies and
4 gentlemen, I now will charge you the law that applies to this
5 case. You must consider the charge as a whole and not focus
6 on some portions to the exclusion of others. I remind you
7 that during this trial you and I have had certain duties to
8 perform. As the trial judge, it's been my responsibility to
9 preside over the trial of this case. I also have had the
10 duty to rule on the admissibility of the evidence offered
11 during this trial.

12 You are to consider only the evidence before you. If
13 there was any testimony ordered stricken from the record
14 during this trial, you must disregard that testimony. You
15 are to consider only the testimony which has been presented
16 from the witness stand, any exhibits which have been made a
17 part of the record in this case and any stipulations of
18 counsel. I have the additional duty to charge you the law
19 that applies to this case. It is your duty as jurors to
20 accept and apply.

21 The laws are now stated to you. If you think you have
22 any idea as to what the law is or what the law ought to be
23 and it does not agree with what I tell you, the law is you
24 must forget your idea because you're sworn to accept the law
25 and apply the law exactly as I stated to you. In every case

1 tried in this court before a jury. The jury becomes the sole
2 and exclusive judge of the facts. A trial judge cannot
3 comment on or make any statement about the facts in the case.
4 Since you are the sole judges of the facts.

5 Do not think by anything I've said during this trial
6 that I have any opinion about the facts in this case. The
7 law does not allow me to have an opinion about the facts in
8 this case. As already been stated, the burden of proof in
9 this case is on the plaintiff's by a preponderance of the
10 evidence. A preponderance of the evidence simply means the
11 greater weight of the evidence. It is evidence which as a
12 whole shows that the facts ought to be proved is more likely
13 true than not true. And this can be best illustrated by a
14 set of scales when the case begins.

15 The scales are even after all the evidence has been
16 presented. If the scales remain even or if they tip even
17 slightly in favor of the defendant, then the plaintiffs have
18 failed to meet the burden of proof and would not be entitled
19 to recover in this case. If on the other hand the scales tip
20 even slightly in favor of the plaintiffs -- the plaintiffs
21 would have met the burden of proof and you should return a
22 verdict for the plaintiffs.

23 The preponderance of the evidence is not determined by
24 the number of witnesses. Instead it must be determined by
25 the greater weight of all the evidence. Now, there are two

1 types of evidence generally presented during a trial that
2 being direct evidence and that being circumstantial evidence.
3 Direct evidence is the testimony of a person who claims to
4 have actual knowledge of a fact such as an eyewitness is
5 evidence which immediately establishes the main fact to be
6 proven. Circumstantial evidence is a proof of a chain of
7 facts and circumstances indicating the existence of a fact is
8 evidence which immediately establishes collateral facts from
9 which the main fact may be inferred.

10 Circumstantial evidence is based on inference and not on
11 personal knowledge or observation. It is proof that does not
12 actually establish the fact in question, but that asserts or
13 describes something else from which you may either reasonably
14 infer the truth of -- of the fact or at least reasonably
15 infer an increase in the probability that the fact is true.
16 The circumstantial evidence be sufficient to warrant the
17 finding of a fact. The circumstances must lead to that fact
18 with reasonable certainty.

19 The facts and circumstances should be considered in
20 light of ordinary experience and common sense. The existence
21 of a fact cannot be based on speculation, surmise or
22 conjecture. The law makes absolutely no distinction between
23 the weight or value be given to either direct or
24 circumstantial evidence, nor is a greater degree of certainty
25 required of circumstantial evidence in that of direct

1 evidence.

2 The Madam forelady and ladies and gentlemen of the jury
3 necessarily you must determine -- determine the credibility
4 of witnesses who have testified In this case credibility
5 simply means believability. It becomes your duty as jurors
6 to evaluate the evidence and determine which evidence
7 convinces you it is true.

8 In determining the believability of witnesses who have
9 testified in this case. You may believe one witness over
10 several witnesses or several witnesses over one witness. You
11 may believe a part of the testimony of a witness and reject
12 the remaining part of the testimony of that same witness.
13 You may believe the testimony of a witness in its entirety or
14 reject the testimony of a witness in its entirety. You may
15 consider whether the witness has any interest in the result
16 of the trial, whether the witness is prejudice towards either
17 the plaintiff or plaintiffs or the defendant.

18 The opportunity for the witness to have seen the matters
19 and things about which the witness may testify and the way
20 the witness acts on the witness stand. Now, as I explained
21 to you either yesterday or Tuesday concerning expert
22 witnesses, I think it was yesterday, the rules of evidence
23 ordinarily do not permit witnesses to testify to opinions or
24 conclusions. An exception to this rule exists for witnesses
25 we call expert witnesses.

1 A witness who by education and experience has become an
2 expert in some art, science, or profession, may give an
3 opinion as to the subject the witness claims to be an expert
4 in and may also give the reasons for the opinion. You should
5 consider any expert opinion given by a witness and like any
6 other evidence, give it the weight you think it deserves. If
7 you decide that an expert witness's opinion is not based on
8 sufficient education and experience, or if you decide that
9 the reasons given in support of the opinion are not sound or
10 that the opinion is outweighed by other evidence, you may
11 disregard the opinion entirely.

12 Expert witness's testimony to be given no greater weight
13 than that of other witnesses simply because the witness is an
14 expert. And you do not have to accept an expert's opinion
15 even though it is uncontradicted. Also, as I explained
16 yesterday during the trial of this case, certain deposition
17 testimony has been presented to you by video. Such testimony
18 is entitled to the same consideration and insofar as possible
19 is to be judged as your credibility and weighed by you in the
20 manner as with other evidence.

21 Now, the plaintiff's claim that defendant was negligent
22 and should compensate the plaintiffs for the injury suffered
23 as a result of the defendant's negligence. In order to prove
24 that the defendant was negligent, plaintiff must prove by a
25 preponderance, a greater weight of the evidence of following

1 things. First, the defendant owed the plaintiff a duty of
2 care. This is a question that is not in dispute. Defendant
3 breached the secondly, the defendant breached the duty of
4 care by a negligent act or omission. And this is a question
5 that is not in dispute.

6 Negligence means that a person has done something that a
7 reasonable person would have, would not have done or has
8 failed to do something that a reasonable person would've
9 done. In the same situation, the plaintiff must prove by a
10 preponderance of greater way of the evidence that she
11 suffered damages as a result of the defendant's breach of
12 duty. Finally, the plaintiff's must prove by a preponderance
13 of greater way of the evidence that the damages were
14 approximately caused by the defendant's breach of duty.

15 Approximate cause is something that produces a natural
16 chain of events, which in the end brings about the injury, is
17 the direct cause of the injury. To prove that the
18 defendant's negligence approximately caused the plaintiff's
19 injury, the plaintiff must first prove causation. In fact,
20 this is proven by showing that the injury would not have
21 occurred but for the defendant's negligence.

22 Must also be proven legal cause. Legal cause is proven
23 by showing that the injury was foreseeable. This means that
24 the injury occurred as a natural and probable consequence of
25 the defendant's negligence. Plaintiff must prove that some

1 injury from the defendant's negligence was foreseeable but
2 does not have to prove that the particular injury that
3 occurred was foreseeable. However, the defendant cannot be
4 held responsible for things which cannot be expected to
5 happen. A proximate cause does not mean the only cause. The
6 defendant's act can be approximate cause of the defendant's
7 injury at if it was at least one of the direct concurring
8 causes of the injury.

9 Now, ladies and gentlemen, I'm going to talk about
10 actual damages that relates only to the plaintiff, Tracy
11 Campbell. If you decide that the plaintiff is entitled to a
12 verdict on damages, your next step would be to decide how
13 much money the defendant would have to be required to pay.
14 Actual damages are to compensate the plaintiff for the
15 plaintiff's injuries or loss and to put the plaintiff as near
16 as possible in the same position that the plaintiff was in
17 before the incident occurred.

18 In other words, actual damages would be the actual
19 losses and expenses which the plaintiff has suffered.
20 Because of the defendant's negligence, personal injuries, the
21 plaintiff must prove that expenses caused by the injury were
22 necessary and reasonable. Actual damages for a plaintiff who
23 has been physically injured include pain and suffering both
24 past and future, as well as mental anguish, impairment of
25 health or physical condition and disfigurement.

1 The plaintiff may also claim lost wages due to the
2 absence from work. In determining the amount of compensation
3 for personal injuries, it is proper to consider past and
4 present aspects of the injury. This would include physical
5 pain and suffering. Expenses incurred for medical necessary
6 medical treatment, loss of time and income which resulted
7 from the impairment of the ability to work and earn a
8 livelihood, loss of enjoyment of life suffered as a result of
9 the injury and any other losses which are reflected by the
10 character of the injury.

11 The injured party may recover for those future damages
12 that are reasonably sure to result from the injuries. The
13 principle under underlying compensation for future damages is
14 that only one action can be brought and therefore only one
15 recovery had it's proper to include in the estimate of future
16 damages. Attention to the plaintiff's ordinary business and
17 pain and suffering, which will with reasonable certainty
18 result. Pain and suffering.

19 Pain and suffering is a material element of damages on
20 damages on which a recovery may be based. The plaintiffs is
21 entitled to compensation for her suffering directly resulting
22 from the wrongful acts of the defendant. An award for pain
23 and suffering compensates the injured person for the physical
24 discomfort and the emotional response to this sensation of
25 pain caused by the injury itself. In making an estimate of

1 damages to be awarded for pain and suffering, you may
2 consider one, the nature and extent of the injuries and the
3 suffering occasion by them and its duration or perspective
4 duration.

5 Two; the age health habits and condition of the injured
6 party before the injury as compared with her condition
7 afterwards. Three. The plaintiff's use sedatives and other
8 drugs to relieve pain in their effect. And four in the
9 aggravation of preexisting disorders by the instant in
10 question, pain and suffering has no market price. They are
11 not capable of exact measurement and there's no fixed rule or
12 standard whereby damages for them can be measured.

13 The amount of damages to be awarded for pain and
14 suffering must be left to the judgment of you the jury.
15 Additionally, you may include such pain, such damage for pain
16 and suffering as it is reasonably certain will of necessity
17 result in the future from the injury. Future pain and
18 suffering on the part of the plaintiff and consequence of the
19 injury constitutes a proper element of the damages which may
20 be allowed provided there is some reasonable certainty that
21 such pain and suffering result.

22 Impairment. Impairments are further defined as
23 conditions that interfere with an individual's activities of
24 daily living, loss of enjoyment of life, loss of enjoyment of
25 life. Compensates the plaintiff for limitations on the

1 plaintiff's ability to participate in and derive pleasure
2 from the normal activities of daily life.

3 Mental suffering. Mental suffering, apprehension,
4 shock, bright, emotional upset, humiliation and anxiety
5 either present or expected in the future can be properly
6 considered as an element of damages. The -- the amount of
7 damages for mental suffering cannot be exactly measured.
8 Prospective damages, a plaintiff is never entitled to recover
9 conjectural or speculative damages. But if you find the
10 plaintiff is entitled to a verdict for actual damages, your
11 verdict may include an amount to cover any past, present, or
12 future damages which were approximately caused by the
13 defendant.

14 Any future damages must be reasonably certain to occur
15 in the future as a result of the defendant's acts. Actual
16 damages -- damages may not be proven to a mathematical
17 certainty or be based on evidence of the precise amount of
18 damages the plaintiff has suffered. Instead, the evidence
19 must allow you to determine what amount of damages is fair,
20 just and reasonable.

21 Future damages, and future damages must be reasonably
22 calculated to have resulted from the alleged injury or damage
23 sustained in this case. Future damages must be based on
24 their present cash value. Now, let me talk to you about the
25 life expectancy table. If you find that the plaintiff was

1 permanently injured as a result of the defendant's actions,
2 you must then decide how, if at all, that injury will affect
3 the rest of the plaintiff's -- plaintiff's life. A person's
4 life expectancy is determined by a life expectancy table,
5 which is part of the laws of this state.

6 The life expectancy table is only an estimate of the
7 probable average remaining length of the life of all persons
8 in our state of given age. The plaintiff is a 50-year-old
9 female with a life expectancy according to the life
10 expectancy table of 82.69 years. This fact is to be
11 considered by you all with all other facts and circumstances
12 and evidence bearing on the plaintiff's life expectancy,
13 including occupation, habits, and health at the time of the
14 injury and deciding the amount of damages to be awarded to
15 the plaintiff.

16 Now, let's talk about loss of consortium and the claim.
17 This only relates to Daniel Campbell. The plaintiff, Daniel
18 Campbell is claiming loss of consortium. This is a claim for
19 loss of the services society and companionship of a spouse.
20 Law provides quote, any person may -- may maintain an action
21 for damages arising from an intentional or tortious violation
22 of the right to the companionship aid, society and services
23 of his or her spouse. Loss of consortium or rises out of the
24 special relationship between a husband and one consortium
25 refers to the conjugal fellowship of husband and wife and the

1 right of each to the company society, cooperation, affection
2 and aid of the other and every conjugal relationship.

3 Loss of consortium includes several elements. One,
4 support and services provided by the other spouse. Two,
5 love, three, companionship four, affection, five, society,
6 six, sexual relations, seven, comfort eight solace nine
7 guidance. In order to prevail it in an action for loss of
8 consortium, the plaintiff must prove the defendant's
9 liability for the spouse's injuries and damages as well as
10 damages to the plaintiff resulting from the spouse's injury.
11 So all of this to be proven by a preponderance or greater
12 weight of the evidence.

13 And determining the amount of damages for loss of
14 consortium, you may consider one, the nature and extent of
15 the spouses services prior to the incident. Two acts of
16 affection, love, sexual relations performed, and the extent
17 to which the injury sustained in the instant incapacitated
18 the acts or services from being performed. You provide the
19 defendant's conduct resulted in the plaintiff's loss of
20 consortium. You are to determine the value of such loss from
21 the evidence in the case and also based it upon your own
22 observations, experiences, and knowledge that you applied to
23 the facts and circumstances of this case.

24 Now, Madam Forelady, ladies and gentlemen, the jury,
25 there are several possible verdicts in this case. I've

1 actually put three and there's, there's actually four. Let
2 me just mark through that and I'm going to give you a copy of
3 this charge that I've just read to you cause I realize that
4 it is a lot that I've just given to you. A verdict for each
5 plaintiff and or for the defendant. And all 12 of you must
6 agree unanimously to the verdict that you award in this case
7 cannot be based on sympathy, passion for prejudice, motion,
8 or any other consideration not in evidence in this case.

9 And Madam Forelady, when the jury agrees on the verdict,
10 you'll sign your name and I got a verdict form that I think
11 maybe one of the lawyers showed you. And I'm going to come
12 down and show you how to complete. It's very easy but knock
13 on the door and form the bail that a verdict has been
14 reached. Now, if at any time a division in your vote occurs,
15 the court does not want to know the actual split at any time
16 if a split or division in the vote occurs. Ma'am Clerk,
17 would you print out that for form for me, please? Okay,
18 thank you.

19 THE CLERK: Yes, sir.

20 THE COURT: Okay, this is -- is called a verdict form.
21 It's got the caption of the capital puzzle simplified caption
22 of the case, Campbell versus Newman. This is the case
23 number. All right, you are to -- to take a look at Tracy
24 Campbell's claim first. And number one says as to the claim
25 of Tracy Campbell, we the jury unanimously fine. You'll put

1 your initials there for the plaintiff and award her X number
2 of dollars actual damages or as to the claimant Tracy
3 Campbell.

4 We the jury is absolutely fine for the defendant. You,
5 if that's your verdict, then you put your initials there.
6 Okay? And then you'll look at Daniel Campbell's claim and
7 it's listed the kind the same way as to the claim of Daniel
8 Campbell. We, the jury unanimously bind which initials there
9 for the plaintiff and award him X number of dollars actual
10 damages or as to the claim of Daniel Campbell. We, the jury
11 is absolutely fine for the defendant and you'll put your
12 initials there. Okay? And you'll sign it. It's already
13 been dated for you.

14 Now, I want all 14 of you to go back to the jury room.
15 Do not begin your deliberations yet. I just need to talk one
16 final time with the lawyers to make sure that we don't need
17 to correct or change or amend the charge that I just read to
18 you. I don't anticipate we'll have to, but I want to talk
19 with them one more -- one more time. If I do not, then all
20 of the exhibits in this case along with the verdict form and
21 my charge will be brought back to you by the bailiffs. And
22 that'll be your queue for two things to happen. One -- two
23 alternates. Need to exit the jury room and come back out for
24 further instructions. And two, begin your deliberations at
25 that time. Don't start yet. Okay? So all 14 of you go back

1 to the jury room, please. Other than what's been noted on
2 the record, does the plaintiff have any exceptions to the
3 court's charge?

4 MR. NICHOLSON: No exceptions.

5 THE COURT: And other than what's been noted on the
6 record, does the defense have any exceptions? Okay. All
7 right. Very good. All right. We'll go off the record and
8 let's just make sure that we got ---

9 (Off the record.)

10 THE COURT: And let's just make sure that we got -- all
11 right. This is what I'm going to tell the jury in response
12 to the question that we've just discussed. And I want to
13 make sure that both sides are agreeing with this. Ladies and
14 gentlemen, with respect to your question marked as Court's
15 number 1, the plaintiff has alleged her medical expenses are
16 57,272.52. With respect to medical expenses, that is the
17 only thing you are to consider. Plaintiff good with that?
18 Is that a yes?

19 MR. NICHOLSON: Yes, sir.

20 THE COURT: And defense?

21 MR. COULTER: Yes.

22 THE COURT: Okay. That's what we're going to do. Let's
23 bring the -- the jury out very briefly. Okay.

24 (Jury enters courtroom.)

25 THE COURT: Okay. Let the record reflect the jury's

1 back in. Ladies and gentlemen, with respect to your question
2 that I have marked as Court's Exhibit number 1, the plaintiff
3 has alleged her medical expenses are \$57,272.52. With
4 respect to medical expenses, that is the only thing you are
5 to consider. That said, go back to your jury room and
6 continue your work and deliberations, please. All right.
7 Let the record reflect the jury is back out. Madam Forelady,
8 I have the verdict form in my hand. I've not looked at it
9 yet. But you have reached a verdict in this case; is that
10 correct?

11 JUROR NUMBER 103: Yes, sir.

12 THE COURT: And is your verdict you unanimous among the
13 12 of you?

14 JUROR NUMBER 103: Yes, sir.

15 THE COURT: Okay. All right. Madam Clerk, could you
16 publish the verdict, please.

17 THE CLERK: Campbell versus Newman, 2019 (inaudible).
18 As to the claim of Tracy Campbell. We, the jury, unanimously
19 find for the plaintiff and award her \$50,000 in actual
20 damages. As to the claim of Daniel Campbell, we, the jury,
21 unanimously fine for the plaintiff zero amount dollars.
22 Signed by Forelady, dated 6/1/23.

23 THE COURT: Okay. Ladies and gentlemen, if -- if that
24 was, and is your verdict signify by raising your right hand
25 please? All right. Let -- let the record reflect 12 hands

1 have been raised.

2 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT

3 05:24 P.M.)

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CERTIFICATE OF TRANSCRIBER

I, NATASHA BARRIENTOS, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 8 of Greenwood County, South Carolina, on the 1st Day of June, 2023.

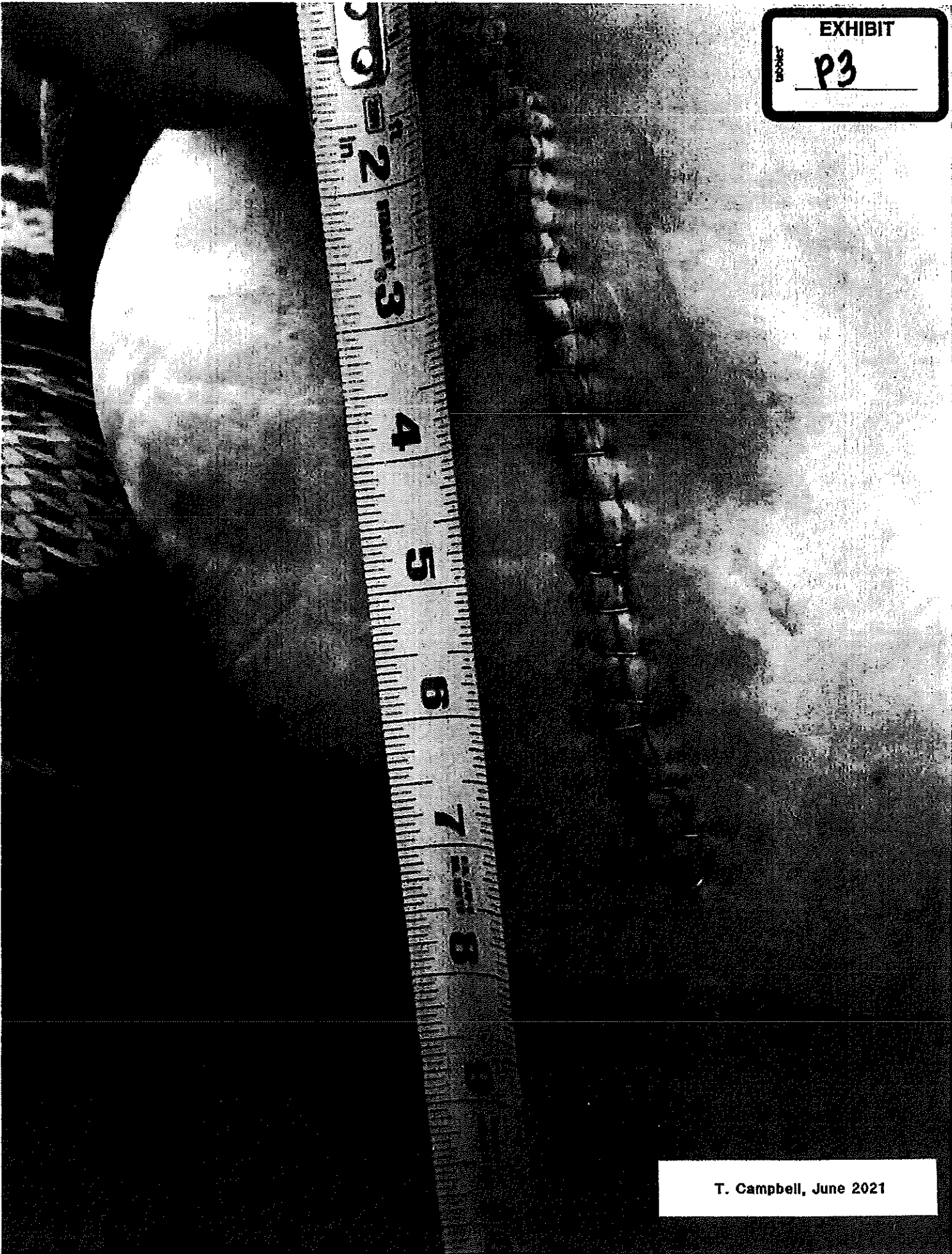
I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 12, 2024

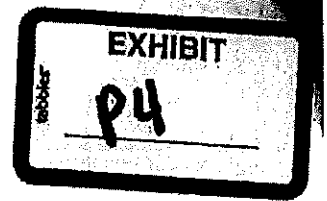
Natasha Barrientos

Transcriber

EXHIBIT
P3



T. Campbell, June 2021



T. Campbell, March 2023

ED Notes

ED Provider Notes by John Robinson, MD at 6/14/2018 9:14 PM

Author: John Robinson, MD

Service: (none)

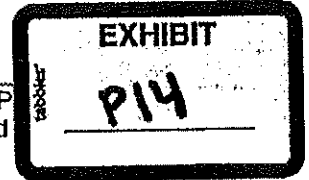
Author Type: P

Filed: 6/14/2018 10:20 PM

Date of Service: 6/14/2018 9:14 PM

Status: Signed

Editor: John Robinson, MD (Physician)



EMERGENCY DEPARTMENT NOTE
SELF REGIONAL HOSPITAL
1325 SPRING STREET
GREENWOOD, SC 29646^[JR.1]
6/14/2018^[JR.2]

CHIEF COMPLAINT^[JR.1]

Chief Complaint

Patient presents with

- Motor Vehicle Crash

front seat restrained driver, car was tboned, est speed 50mph, c/o back pain & bilateral hip pain^[JR.2]

HISTORY OF PRESENT ILLNESS^[JR.1]

Tracy J Campbell^[JR.2] is a^[JR.1] 45 y.o. female^[JR.2] who presents to the ED for evaluation injuries from a motor vehicle crash. ~~Patient was thrown forward and is now complaining of neck, back pain, bilateral hip pain, and left lower rib pain. Patient is ambulatory and able to walk with a limp which is chronic because she has chronic low back pain and she believes with a limp from that from chronic disc disease in her back. Patient denies striking her head, denies loss of consciousness and denies headache at this time. Patient has no other complaints or injuries. Patient has been able to ambulate even with hip pain.~~ Patient did not hit her head but was thrown forward and is now complaining of neck, back pain, bilateral hip pain, and left lower rib pain. Patient is ambulatory and able to walk with a limp which is chronic because she has chronic low back pain and she believes with a limp from that from chronic disc disease in her back. Patient denies striking her head, denies loss of consciousness and denies headache at this time. Patient has no other complaints or injuries. Patient has been able to ambulate even with hip pain.

REVIEW OF SYSTEMS

No headache, chest pain, shortness of breath, abdominal pain, upper extremity pain, or any lower extremity pain below the hips. No nausea vomiting fever chills sweats, the rest of the review of systems has been reviewed is otherwise unremarkable

PAST MEDICAL HISTORY REVIEWED

MEDICAL^[JR.1]

Past Medical History:

Diagnosis

Date

SURGICAL^[JR.1]

Past Surgical History:

Procedure

Laterality

Date

- CYST REMOVAL^[JR.2]

Campbell, Tracy J



Progress Notes Encounter Date: 6/22/2018

Anderson B Funke, MD

Family Medicine

Expand All Collapse All

Office Visit Note

6/22/2018

Subjective:

Subjective

Tracy J Campbell is a 45 y.o. female with a chief complaint of Motor Vehicle Crash (hip pain)

Patient presents for a new problem

HPI:

Patient was involved in a motor vehicle collision. ~~She was not wearing a seat belt.~~ Restrained passenger. Reviewed ER records. Had xrays. Hip hurts. Not getting better. Sharp pain, hurts to walk, put pressure against. Back pain is stable and not affected by accident.

Review of Systems

Constitutional: Negative for chills and fever.

Respiratory: Negative for chest tightness and shortness of breath.

Cardiovascular: Negative for chest pain.

Gastrointestinal: Negative for abdominal pain.

Musculoskeletal: Positive for arthralgias and back pain.

Skin: Negative for wound.

Neurological: Negative for weakness.

Reviewed patient's current medications, past medical history, social history, family history as documented elsewhere in chart.

Current Outpatient Prescriptions

Medication	Sig	Dispense	Refill
• cholecalciferol, vitamin D3, (VITAMIN D3) 2,000 unit	Take 1 capsule (2,000 Units) daily.	100 capsule	3
• cyclobenzaprine (FLEXERIL) 10 mg tablet	Take 0.5 tablets (5 mg) by mouth 3 (three) times a day as needed for muscle spasms for up to 30 doses.	30 tablet	0

• nabumetone (RELAFEN) 500 mg tablet	TAKE ONE DAILY BY MOUTH TWICE DAILY AS NEEDED FOR MILD PAIN	30 tablet	3
• traMADol (ULTRAM) 50 mg tablet	Take 1 tablet (50 mg) by mouth every 6 (six) hours as needed for moderate pain or severe pain for up to 10 days.	20 tablet	0
• prednISONE (DELTASONE) 10 mg tablet	Take 1 tablet (10 mg) by mouth 3 (three) times a day for 5 days. Take with food	15 tablet	0

No current facility-administered medications for this visit.

Past Medical History:

Diagnosis Date

[REDACTED]

Past Surgical History:

Procedure Laterality Date

• CYST REMOVAL

Family History

Problem	Relation	Age of Onset
• Cancer <i>leukemia</i>	Mother	
• Cancer <i>lung</i>	Father	
• Cancer	Other	

reports that she has quit smoking. She has never used smokeless tobacco. She reports that she does not drink alcohol or use drugs.

Allergies

Allergen	Reactions
• Adhesive <i>Adhesive tape</i>	
• Other <i>Strawberries, and walnuts</i>	

Objective:

BP 122/78 | Pulse 86 | Ht 1.6 m (5' 3") | Wt 97.8 kg (215 lb 8 oz) | LMP 06/12/2018 | BMI 38.17 kg/m²

Objective

Physical Exam

Constitutional: She appears well-developed and well-nourished.

HENT:

Head: Normocephalic.

Cardiovascular: Normal rate and regular rhythm.

Pulmonary/Chest: Effort normal and breath sounds normal.

Abdominal: She exhibits no distension and no mass. There is no tenderness.

Musculoskeletal: She exhibits tenderness. She exhibits no edema or deformity.

Marked tenderness right troch bursa and hip stiff some. SLR neg.

Neurological: She is alert.

Skin: Skin is warm and dry. No rash noted.

Psychiatric: She has a normal mood and affect. Judgment normal.

Nursing note and vitals reviewed.

Results for orders placed or performed in visit on 05/03/17

Comprehensive Metabolic Panel (CMP)

Result	Value	Ref Range
Calcium	8.4 (L)	8.5 - 10.0 MG/DL
Total Protein	7.0	6.4 - 8.2 GM/DL
Albumin	3.4	3.4 - 5.0 GM/DL
Bilirubin, Total	0.3	0.2 - 1.0 MG/DL
Alkaline Phosphatase	60	33 - 105 IU/L
AST	16	7 - 40 IU/L
Glucose	75	74 - 106 MG/DL
BUN	13	7 - 18 MG/DL
Creatinine	0.71	0.55 - 1.02 MG/DL
Sodium	143	136 - 145 MMOL/L
Potassium	4.2	3.5 - 5.1 MMOL/L
Chloride	111 (H)	98 - 107 MMOL/L
CO2	26	21 - 32 MMOL/L
Globulin	3.6	1.5 - 4.0 GM/DL
OSMOLALITY, Calculated	284	
Anion Gap	8.0	

ALT	21	5 - 50 IU/L
eGFR African American	>60	>60 ML/MIN/1.73 M*2
eGFR Non-African American	>60	>60 ML/MIN/1.73 M*2
EGFR Notes	SEE NOTES	
TSH (Thyroid Stimulating Hormone)		
Result	Value	Ref Range
TSH	0.85	0.36 - 3.74 uIU/ML

No results found for this or any previous visit (from the past 168 hour(s)).

Assessment/Plan:

MVC (motor vehicle collision), sequela

- SMG Ref to Ortho/Orthopedic Surgery; Future; Expected date: 07/06/2018

Contusion of right hip, sequela

- SMG Ref to Ortho/Orthopedic Surgery; Future; Expected date: 07/06/2018

[REDACTED]

- SMG Ref to Ortho/Orthopedic Surgery; Future; Expected date: 07/06/2018

Other orders

- prednisONE (DELTASONE) 10 mg tablet; Take 1 tablet (10 mg) by mouth 3 (three) times a day for 5 days. Take with food

Steroids. Ortho referral.

Return if symptoms worsen or fail to improve, for scheduled follow up.

Office Visit
on
6/22/2018

Progress Notes

Progress Notes by Gregory Stuart McLoughlin, MD at 7/12/2018 1:10 PM

Author: Gregory Stuart McLoughlin, MD Service: (none)

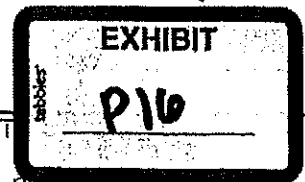
Author T

MD
Filed: 7/12/2018 1:21 PM

Encounter Date: 7/12/2018

Status: Signed

Editor Gregory Stuart McLoughlin, MD (Physician)



ADVANCED SPINE AND NEUROSURGICAL ASSOCIATES

115 Academy Avenue
Greenwood, Sc 29646

MRN: 974038054

Encounter Date: 7/12/2018

Patient Information

Tracy J Campbell
221 Williams Hilltop Rd
Ninety Six SC 29666-8837
45 y.o.
9/25/1972

Subjective

She returns to clinic for follow-up. I sent her for a discogram and it was positive L5-S1 with lesser pain at L3-4 and L4-5 per pain management notes. She was involved ~~recently in a motor vehicle accident~~ and since then her back pain really has not gotten much worse but she started experiencing right leg pain. This localizes to the right hip area with radiation posteriorly to the posterior calf. Nothing in the foot.

Objective

Her gait is antalgic, favoring her right leg. She was able to get up on the examination table quite easily, with no motor deficits in the lower extremities. There was some diminished sensation to the lateral malleolus on the right compared to the left. Other groups were symmetrical. Reflexes are present and symmetric in both lower extremities.

Vitals

Vitals:

BP: 120/60
Pulse: 76

Assessment/Diagnosis

1. Lumbar radiculopathy

Plan/Discussion

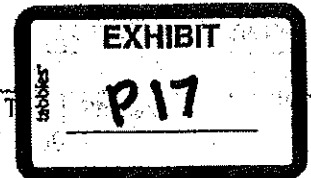
I organize an MRI scan. I like to see the status of her disc space at this time as it is been approximately 1 year since her last MRI scan. As well, she has started experiencing but could be radicular pain following the MVA. I will see her back in the clinic after.

Progress Notes

Progress Notes by Anthony R Timms, MD at 7/16/2018 9:00 AM

Author: Anthony R Timms, MD Service: (none)
Filed: 7/16/2018 12:39 PM Encounter Date: 7/16/2018
Editor: Anthony R Timms, MD (Physician)
Procedure Orders:

Author T
Status:



1. Large Joint Arthrocentesis [119088614] ordered by Anthony R Timms, MD at 07/16/18 1010

Arthrocentesis, Large Joint

Date/Time: 7/16/2018 10:10 AM

Performed by: TIMMS, ANTHONY R

Authorized by: TIMMS, ANTHONY R

Consent given by: Patient

Indications: Osteoarthritis and pain

Procedure Details:

Location: Hip

Site: R greater trochanteric bursa

Needle size: 22 G

Approach: Lateral

Local anesthesia used?: Yes

Local anesthetic: Lidocaine (Xylocaine) 1% without epinephrine, ethyl chloride spray and bupivacaine (Marcaine) 0.25% without epinephrine

Medications: 2 mL betamethasone acetate-betamethasone sodium phosphate 6 mg/mL

Patient tolerance: Patient tolerated the procedure well with no immediate complications^[TC.1]

Electronically Signed by Anthony R Timms, MD on 7/16/2018 12:39 PM

Attribution Key

TC.1 - Tara Childress on 7/16/2018 10:10 AM

Progress Notes by Anthony R Timms, MD at 7/16/2018 9:00 AM

Author: Anthony R Timms, MD Service: (none)
Filed: 7/16/2018 12:39 PM Encounter Date: 7/16/2018
Editor: Anthony R Timms, MD (Physician)

Author Type: Physician
Status: Signed

Office Visit Note^[TC.1]

7/16/2018^[AT.1]

Subjective:^[TC.1]

Subjective Tracy J Campbell^[AT.1] is a^[TC.1] 45 y.o. female^[AT.1] presents today for^[TC.1] Pain of the Right Hip^[AT.1]

HPI:^[TC.1] Planing of right hip pain after car crash. She localizes the pain laterally.

Progress Notes (continued)

Progress Notes by Anthony R Timms, MD at 7/16/2018 9:00 AM (continued)

She also states that she is having some back and leg issues is been told that she needs some lumbar spine surgery but that is being evaluated and treated by the appropriate physician she states.^[AT.2]

- ~~SMG Ref to Ortho/Orthopedic Surgery~~
2. MVC (motor vehicle collision), sequela
 3. Confusion of right hip, sequela

SMG Ref to Ortho/Orthopedic Surgery
Large Joint Arthrocentesis
SMG Ref to Ortho/Orthopedic Surgery
SMG Ref to Ortho/Orthopedic Surgery

Allergies

Allergen	Reactions
• Adhesive Adhesive tape	
• Other Strawberries, and walnuts	

Family History

Problem	Relation	Age of Onset
• Cancer leukemia	Mother	
• Cancer lung	Father	
• Cancer	Other	

Past Surgical History:

Procedure	Laterality	Date
• CYST REMOVAL		

Past Medical History:

Diagnosis	Date
• Depression	
• Obesity ^[AT.1]	

Review of Systems

Musculoskeletal: Positive for arthralgias, gait problem and joint swelling.
All other systems reviewed and are negative.

Objective:^[TC.1]

Ht 1.6 m (5' 3") | Wt 97.5 kg (215 lb) | BMI 38.09 kg/m²^[AT.1]

Physical Exam:^[TC.1] EYES-PERRL,EOMI..

NO INCREASED RESPIRATORY EFFORT NOR SHORTNESS OF BREATH.
ALERT,ORIENTED X THREE.MOOD,AFFECT APPROPRIATE.

Right LE

Skin:no erythema,rashes,lesions,nor wounds.

Progress Notes (continued)

Progress Notes by Anthony R Timms, MD at 7/16/2018 9:00 AM (continued)

Lymph: no popliteal; nor inguinal adenopathy.

Sensory: no peripheral no dermatomal pattern of sensory loss.

Vasc: dorsalis pedis palpable. good capillary refill all digits.

Motor: no isolated nor asymmetric muscle atrophy

Reversal hip is good no pain is produced.

There is exquisite tenderness over the lateral hip in the area of the trochanteric bursa. Gluteus medius area seems to be nontender.^[AT.3]

Imaging Results:^[TC.1] Outside x-rays see radiology report^[AT.2]

Procedures^[TC.1]

Assessment ^[AT.1]

Assessment/Plan:^[TC.1]

Right hip trochanteric bursitis. My recommendation her request injected right trochanteric bursa with local anesthetic steroid mixture under sterile conditions. Should calm it down dramatically. We will check her back as needed.

This note is generated from voice recognition software and may contain errors or inaccurate verbage.^[AT.2]

Electronically Signed by Anthony R Timms, MD on 7/16/2018 12:39 PM

Attribution Key

AT.1 - Anthony R Timms, MD on 7/16/2018 12:39 PM

AT.2 - Anthony R Timms, MD on 7/16/2018 10:09 AM

AT.3 - Anthony R Timms, MD on 7/16/2018 12:38 PM

TC.1 - Tara Childress on 7/16/2018 9:00 AM

Campbell, Tracy J (MRN # 974038054 / HAR # N/A) DOB:
09/25/1972

Encounter Date: 10/24/2018

Progress Notes

Progress Notes by Anthony R Timms, MD at 10/24/2018 9:00 AM

Author: Anthony R Timms, MD

Service: (none)

Filed: 10/24/2018 12:14 PM

Encounter Date: 10/24/2018

Editor: Anthony R Timms, MD (Physician)

Auth
Stat



Office Visit Note

10/24/2018

Subjective:

Subjective Tracy J Campbell is a 46 y.o. female presents today for Follow-up of the Right Hip

HPI: Right trochanteric bursa injection on 7-16-18. States the steroid shot into the right trochanteric bursa area did nothing that she is complaining of enlarging increasingly painful mass in this area 7 weeks out surgery of her lumbar spine.

1. ~~Right trochanteric bursa injection~~

Allergies

Allergy	Reaction
Adhesive	Adhesive tape
Other	Strawberries, and walnuts

Adhesive

Adhesive tape

Other

Strawberries, and walnuts

Family History

Problem	Related	Age of Onset
Cancer	Mother	
Cancer	Father	
Cancer	Other	

Cancer

Mother

leukemia

Cancer

Father

lung

Cancer

Other

Past Surgical History:

Procedure	Location	Date
CYST REMOVAL		

CYST REMOVAL

Past Medical History:

Diagnosis	Date
~~Diagnosis~~	

~~Diagnosis~~

Review of Systems

Objective:

Ht 1.613 m (5' 3.5") | Wt 98.4 kg (217 lb) | BMI 37.84 kg/m²

Physical Exam: EYES-PERRL, EOMI..

Progress Notes (continued)

Progress Notes by Anthony R Timms, MD at 10/24/2018 9:00 AM (continued)

NO INCREASED RESPIRATORY EFFORT NOR SHORTNESS OF BREATH.

ALERT, ORIENTED X THREE. MOOD, AFFECT APPROPRIATE.

Antalgic gait right

Right LE

Skin: no erythema, rashes, lesions, nor wounds.

Lymph: no popliteal; nor inguinal adenopathy.

Sensory: no peripheral no dermatomal pattern of sensory loss.

Vasc: dorsalis pedis palpable, good capillary refill all digits.

Motor: no isolated nor asymmetric muscle atrophy

Right trochanteric bursa area is enlarged now I cannot feel a mass per se although it is definitely very large and she feels like there is a linear bone mass.

Motion hip causes no groin pain

Imaging Results: x

Procedures

Assessment

Assessment/Plan:

Enlarging mass right hip.. MRI with contrast to assess this mass. This will need to be delayed until her lumbar fusion has healed because the presence of the hardware.

Electronically Signed by Anthony R Timms, MD on 10/24/2018 12:14 PM

Encounter-Level Documents:

There are no encounter-level documents.

Order-Level Documents:

There are no order-level documents.

Lab Orders & Results

No orders or results found

Patient Demographics

Name	Patient ID	SSN	Sex	Birth Date
Campbell, Tracy J	974038054	xxx-xx-3890	Female	09/25/72 (46 yrs)
Address	Phone	Email	Employer	
221 WILLIAMS HILLTOP RD	864-915-8846 (H) 864-915-8846 (M)		GREENWOOD REGIONAL REHAB	

Progress Notes (continued)

Progress Notes by Anthony R Tinans, MD at 2/4/2019 4:30 PM (continued)

Timeout: prior to procedure the correct patient, procedure, and site was verified

Indications: Pain

Procedure Details:

Location: Hip

Site: R greater trochanteric bursa

Needle size: 22 G

Approach: Lateral

Local anesthetic: Bupivacaine 0.25% without epinephrine, ethyl chloride (cold spray) and lidocaine 1% without epinephrine

Anesthetic total (ml): 4

Medications: 2 mL betamethasone acetate-betamethasone sodium phosphate 6 mg/mL
Right amount (ml): 6

Patient tolerance: Patient tolerated the procedure well with no immediate complications

RIGHT HIP TROCH INJECTIONI

ASSESSMENT/PLAN:

Think essentially the trochanteric bursitis on the right is the issue that was seen with the swelling here. Had previous injection did not help but I think we should try it again. Thus my recommendation and the patient's request we reinjected right trochanteric bursa with local anesthetic steroid mixture under sterile conditions. Active as tolerated.

5 can carefully discussed with her no signs of infection or tumor

Orders:

Orders Placed This Encounter

Procedures

- Large Joint Arthrocentesis

This order was created via procedure documentation

Follow Up:

Return if symptoms worsen or fail to improve.

Medications and Orders (continued)

Other Orders

No orders found

Laboratory Results

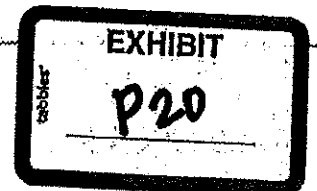
No results found

MAR: All Meds and Admins

(There are no med orders for this encounter)

Radiology, ECG/EMG, and Cardiac Results

No results found



Progress Notes

Progress Notes by Anthony R Timms, MD at 4/8/2019 1:30 PM

Author: Anthony R Timms, MD

Service: —

Author Type: Physician

Filed: 4/8/2019 1:55 PM

Encounter Date: 4/8/2019

Status: Signed

Editor: Anthony R Timms, MD (Physician)

SMG Orthopaedic Associates of the Lakelands-

PROVIDER: Dr. Timms

Date of Encounter: 4/8/2019

PATIENT INFORMATION:

Name: Tracy J Campbell Age: 46 y.o. Sex: female DOB: 9/25/1972

MRN: 974038054 PCP: ANDERSON B FUNKE, MD

PREVIOUS ASSESSMENT/PLAN: 2/4/19

Think essentially the ~~trochanteric bursa~~ the right is the issue that was seen with the swelling here. Had previous injection did not help but I think we should try it again. Thus my recommendation and the patient's request we reinjected right trochanteric bursa with local anesthetic steroid mixture under sterile conditions. Active as tolerated.

5 can carefully discussed with her no signs of infection or tumor

Chief Complaint

Patient presents with:

- Right Hip - Follow-up

HPI:

Tracy J Campbell is a 46 y.o. female who presents today with mom she states that she was asked to come back in for a longer about a comment when she described as some persistent swelling in the right trochanteric slightly posterior area.

We discussed the MRI gone over the MRI findings up: In this area and did not see any type of tumor hematoma with fat necrosis etc.

HPI

1. ~~trochanteric bursa~~

Progress Notes (continued)

Progress Notes by Anthony R Timms, MD at 4/8/2019 1:30 PM (continued)

ORTHO EXAM:

Right LE

Skin: no erythema, rashes, lesions, nor wounds.

Lymph: no popliteal; nor inguinal adenopathy.

Sensory: no peripheral no dermatomal pattern of sensory loss.

Vasc: dorsalis pedis palpable, good capillary refill all digits.

Motor: no isolated nor asymmetric muscle atrophy

Trochanteric bursa area of the right knee is swollen and tender gluteus medius area does not seem to be tender. Hip motion does not create any groin pain whatsoever. No ecchymosis. No fluctuance

Imaging Impression:

Right hip did not show any masses. There is a little bit hard to tell if a contrast was injected not the patient seemed to think it was but there is no postcontrast reported. Discussed the patient we could repeat it with contrast although I do not think that would be fruitful to consider that and let us know Procedures

ASSESSMENT/PLAN:

No significant findings on hip MRI by history there is some contusion and bruising there and the bruising has resolved

I do not have explanation for the persistent discomfort and patient describes is some persistent swelling in this area.

Patient may be active as tolerated

Follow Up:

Return if symptoms worsen or fail to improve.

Electronically Signed by Anthony R Timms, MD on 4/8/2019 1:55 PM

History & Physicals

No notes of this type exist for this encounter.

Call Information

	Provider	Department	Center
4/8/2019 1:30 PM	Anthony R Timms, MD	Smg-Orthopaedics	SMG

Reason for Call

Generated by SRC95911 at 2/17/20 2:41 PM

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Admission (continued)

Complaint	None
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Progress Notes**Progress Notes by Anderson B Funke, MD at 8/16/2019 3:15 PM**

Author: Anderson B Funke, MD

Service: —

Author Type: Physician

Filed: 8/16/2019 4:19 PM

Encounter Date: 8/16/2019

Status: Signed

Editor: Anderson B Funke, MD (Physician)

Office Visit Note

8/16/2019

Subjective:

Subjective Tracy J Campbell is a 46 y.o. female with a chief complaint of Hip Pain (Right, radiates down leg some)

Patient presents for follow-up of a new problem

HPI:

She is still having pain with her right hip. She saw the orthopedist back in January. She had an MRI which showed some gluteus medius tendinitis as well as some fluid in her trochanteric bursa. She has had the trochanteric bursa injected twice. She is not getting a lot better. She still having a fair amount of pain in the area. She had back surgery a year ago which is done great. Back is not hurting. No fevers or chills. The pain in her leg is sharp as well as dull. Is worse with use. She is on her feet a lot. The pain does not radiate. Tylenol is not doing a whole lot.

Review of Systems

Constitutional: Negative for chills and fever.

Cardiovascular: Negative for leg swelling.

Gastrointestinal: Negative for abdominal pain.

Musculoskeletal: Positive for arthralgias and myalgias.

Neurological: Negative for weakness and numbness.

Reviewed patient's current medications, past medical history, social history, family history as documented elsewhere in chart.

Current Outpatient Medications

Medication	Sig	Dispense	Refill
• calcium carbonate (CALCIUM 600 ORAL)	Take by mouth		
• cholecalciferol, vitamin D3, (VITAMIN D3) 2,000 unit	Take 1 capsule (2,000 Units) daily.	100 capsule 3	
• thiamine (vitamin B-1) 100 mg tablet	Take 100 mg by mouth daily.		
• docusate sodium (COLACE) 100 mg capsule	Take 1 capsule (100 mg) 2 (two) times a day for 7 days. (Patient not taking: Reported on	14 capsule 0	

Progress Notes (continued)

Progress Notes by Anderson B Funke, MD at 8/16/2019 3:15 PM (continued)

- 11/13/2018)
- HYDROcodone-acetaminophen (NORCO) 5-325 mg per tablet Take 1 tablet by mouth every 8 (eight) hours as needed for moderate pain Max Daily Amount: 3 tablets 21 tablet 0

No current facility-administered medications for this visit.

Past Medical History:

Diagnosis	Date
• Depression	
• Non-alcoholic fatty liver disease	
• Hypertension	
• Chronic pain	
• Anxiety	

Past Surgical History:

Procedure	Laterality	Date
• CYST REMOVAL		

Family History

Problem	Relation	Age of Onset
• Cancer leukemia	Mother	
• Cancer lung	Father	
• Cancer	Other	

reports that she has quit smoking. She has never used smokeless tobacco. She reports current alcohol use. She reports that she does not use drugs.

Allergies

Allergen	Reactions
• Adhesive Adhesive tape	
• Other Strawberries, and walnuts	

Objective:

BP 142/84 | Pulse 85 | Ht 1.6 m (5' 3") | Wt 88.6 kg (195 lb 7 oz) | SpO2 97% | BMI 34.62 kg/m²

Objective Physical Exam

Constitutional: She appears well-developed and well-nourished.

HENT:

Progress Notes (continued)

Progress Notes by Anderson B Funke, MD at 8/16/2019 3:15 PM (continued)

Head: Normocephalic.

Pulmonary/Chest: Effort normal. Musculoskeletal:

Comments: Fairly significant tenderness over the right trochanteric bursa as well as tenderness along her gluteus maximus. Hip with good range of motion. Straight leg raise is negative. Back nontender.

Neurological: She is alert.

Skin: Skin is warm and dry. No rash noted.

Psychiatric: She has a normal mood and affect. Judgment normal.

Nursing note and vitals reviewed.

**Results for orders placed or performed in visit on
09/26/18**

Comprehen Metabolic Panel (CMP)

Result	Value	Ref. Range
Sodium	143	136 - 145 mMol/L
Potassium	3.8	3.5 - 5.1 mMol/L
CO2	27	21 - 32 mMol/L
Anion Gap	8.0	6.0 - 16.0 mMol/L
BUN	9	7 - 18 mg/dL
Glucose	92	74 - 106 mg/dL
Calcium	8.9	8.5 - 10.1 mg/dL
AST	18	7 - 40 IU/L
ALT	30	5 - 50 IU/L
Alkaline Phosphatase	102	50 - 136 IU/L
Protein, Total	7.7	6.4 - 8.2 gm/dL
Albumin	3.3 (L)	3.4 - 5.0 gm/dL
Bilirubin, Total	0.3	0.2 - 1.0 mg/dL
Globulin	4.4 (H)	1.5 - 4 gm/dL
Chloride	108 (H)	98 - 107 mMol/L
Creatinine	0.75	0.55 - 1.02 mg/dL
Osmolality Calc	283.3	
eGFR	>60	>60 mL/min/1.73 m ²
eGFR African American	>60	>60 mL/min/1.73

SMG-FHC GREENWOOD
116 Venture Court
GREENWOOD SC 29649-8558

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Enc. Date: 8/16/2019

Progress Notes (continued)

Progress Notes by Anderson B Funke, MD at 8/16/2019 3:15 PM (continued)

m*2

Magnesium (Mg)

Result	Value	Ref Range
Magnesium	2.2	1.8 - 2.4

mg/dL

No results found for this or any previous visit (from the past 168 hour(s)).

Assessment/Plan:

~~Acute traumatic lacerations of right hip~~

- SMG Referral to Sports Medicine; Future; Expected date: 08/30/2019
- HYDROcodone-acetaminophen (NORCO) 5-325 mg per tablet; Take 1 tablet by mouth every 8 (eight) hours as needed for moderate pain Max Daily Amount: 3 tablets

~~Contaminated lacerations of right hip~~

- SMG Referral to Sports Medicine; Future; Expected date: 08/30/2019
- HYDROcodone-acetaminophen (NORCO) 5-325 mg per tablet; Take 1 tablet by mouth every 8 (eight) hours as needed for moderate pain Max Daily Amount: 3 tablets

Short course of Lortab. Sports medicine referral. Some stretching exercises demonstrated. Use ice to the area for acute pain.

Return for scheduled follow up.

Electronically Signed by Anderson B Funke, MD on 8/16/2019 4:19 PM

Encounter-Level Documents:

There are no encounter-level documents.

Order-Level Documents:

There are no order-level documents.

Lab Orders & Results

No orders or results found

Patient Demographics

Name	Patient ID	SSN	Gender/Identity	Birth Date
Campbell, Tracy Joan	974038054	xxx-xx-3890	Female	09/25/72 (46 yrs)
Address	Phone	Email	Employer	
221 WILLIAMS HILLTOP RD NINETY SIX SC 29666-8837	864-915-8846 (M) 864-915-8846 (H)	—	GREENWOOD REGIONAL REHAB 1530 PARKWAY GREENWOOD SC	

Generated by SRC98267 at 4/29/20 4:56 PM

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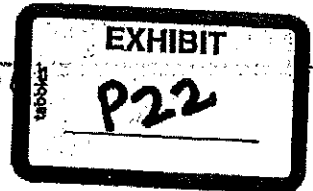
SRH-MONTGOMERY CTR-SM
155 Academy Ave
GREENWOOD SC 29646-3869

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Acct #: 50000979009
Enc. Date: 8/29/2019

Progress Notes (continued)

Progress Notes by Daniel Drechsler, MD at 8/29/2019 2:15 PM (continued)

Rt hip pain s/p MVA about a year and a half ago. She was sent to have an



HPI:

Tracy J Campbell 46 y.o. female presents for initial consultation to the sports medicine clinic for evaluation of R hip pain.

Onset: About 1 year ago (June 2018), [REDACTED] Pain worse since back to work since January.

Location: R lateral hip

Duration: Constant, though waxes and wanes in intensity

Context: MVC with residual mass on lateral aspect of R hip. Previous lower back surgery with rods, screws, nerve stimulator.

Alleviating Factors: norco will ease pain, though not entirely eliminate pain. Mild relief with tylenol

Aggravating Factors: Direct pressure, walking

Related Symptoms: No paresthesias

Type/Quality of pain: Constant dull ache, with intermittent stabbing/sharp and throbbing

Severity: 9/10 at worst, 3/10 currently

Current Treatments: none

Prior Non-Interventional Therapies: none

Medications: Norco, tylenol

Other Modalities: none

Prior Interventional Therapies: Low back surgery

Review of Systems

Constitutional: Positive for fatigue. Negative for chills and fever.

Musculoskeletal: Positive for arthralgias, back pain and gait problem. Negative for myalgias.

Neurological: Negative for weakness and numbness.

PMH:

Past Medical History:

Diagnosis	Date
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	
[REDACTED]	

Meds:

Current Outpatient Medications:

- calcium carbonate (CALCIUM 600 ORAL), Take by mouth, Disp: , Rfl:
- cholecalciferol, vitamin D3, (VITAMIN D3) 2,000 unit, Take 1 capsule (2,000 Units) daily., Disp: 100 capsule, Rfl: 3

Progress Notes (continued)

Progress Notes by Daniel Drechsler, MD at 8/29/2019 2:15 PM (continued)

- docusate sodium (COLACE) 100 mg capsule, Take 1 capsule (100 mg) 2 (two) times a day for 7 days. (Patient not taking: Reported on 11/13/2018), Disp: 14 capsule, Rfl: 0
- HYDROcodone-acetaminophen (NORCO) 5-325 mg per tablet, Take 1 tablet by mouth every 8 (eight) hours as needed for moderate pain Max Daily Amount: 3 tablets, Disp: 21 tablet, Rfl: 0
- thiamine (vitamin B-1) 100 mg tablet, Take 100 mg by mouth daily. , Disp: , Rfl:

Allergies:

Allergies

Allergen	Reactions
• Adhesive Adhesive tape	
• Other Strawberries, and walnuts	

Surgical History:

Past Surgical History:

Procedure	Laterality	Date
• CYST REMOVAL		

FH: Reviewed and noncontributory

Social history: reports that she has quit smoking. She has never used smokeless tobacco. She reports current alcohol use. She reports that she does not use drugs.

OBJECTIVE

Vital signs: BP 122/77 | Pulse 84

Physical Exam

Constitutional: She is oriented to person, place, and time. She appears well-developed and well-nourished. No distress.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Conjunctivae are normal. No scleral icterus.

Cardiovascular: Normal rate.

Pulmonary/Chest: Effort normal. No respiratory distress. **Musculoskeletal:**

Comments: Pain with palpation of lateral aspect of right hip. Specifically, she is more tender to palpation slightly more lateral and posterior to greater trochanter than on the greater trochanter itself. Does have slight tenderness and tightness since with extremes of internal rotation and hip flexion.

Neurological: She is alert and oriented to person, place, and time.

Skin: She is not diaphoretic.

Psychiatric: She has a normal mood and affect.

Vitals reviewed.

Procedure:

none

Imaging:

Progress Notes (continued)

Progress Notes by Daniel Drechsler, MD at 8/29/2019 2:15 PM (continued)

Reviewed MRI from 1/22/19. In office ultrasound shows tendinopathy of insertion of gluteus medius with calcific disease at the same insertion site.

ASSESSMENT / PLAN

Assessment:

Tracy J Campbell is a 46 y.o. female who presents to the Sports Medicine Clinic with right hip pain. This is been ongoing for over a year since MVC in June 2018. MRI obtained in January 2019 with evidence of gluteus medius tendinopathy as well as moderate fluid in trochanteric bursa. Exam consistent with a tendinopathy of the gluteus medius. In office ultrasound confirmed adenopathy at this location. Patient amenable to prolotherapy of this tendon with subsequent physical therapy. We will follow-up in procedure clinic next week.

Plan:

1. Diagnostic/Workup: In office ultrasound compared to MRI imaging obtained in January 2019 confirm gluteus medius tendinopathy.
2. Medications: None
3. Therapy: We will prescribe physical therapy for gluteus medius strengthening following prolotherapy
4. Referrals: None at this time
5. Interventions: None at this time. To undergo prolotherapy at procedure clinic next week
6. Follow up: Procedure clinic in 1 week.

Daniel T Drechsler, MD
Resident Physician
Montgomery Center for Family Medicine
Self Regional Healthcare

08/29/19 4:36 PM

- ~~1. Tendinopathy of right gluteus medius~~
- SMG Referral to Sports Medicine
 - ~~2. Trochanteric bursitis~~
 - SMG Referral to Sports Medicine

Please note that some or all of this record was generated using voice recognition software. If there are any questions about the content of this document, please contact the author as some errors in transcription may have occurred.

Electronically Signed by Daniel Drechsler, MD on 8/29/2019 4:37 PM

Encounter-Level Documents:

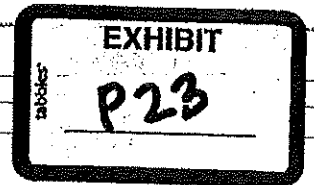
There are no encounter-level documents.

Order-Level Documents:

There are no order-level documents.

Guarantor Account (for Hospital Account #50000988080) (continued)

Name	Relation to Pt	Service Area	Active?
Campbell, Tracy Joan	Self	SRH	Yes
Address	Phone		
221 WILLIAMS HILLTOP RD NINETY SIX, SC 29666-8837	864-915-8846(H)		



Coverage Information (for Hospital Account #50000988080)

F/O Payor/Plan	Present #
UNITED HEALTHCARE/UNITED HEALTHCARE	
Subscriber	Subscriber #
Campbell, Tracy Joan	970250216
Address	Phone
PO BOX 740800 ATLANTA, GA 30374-0800	877-842-3210

Consent Form Information

Received
9/4/2019

Admission

Complaint
None

Progress Notes

Progress Notes by Daniel David Divilbiss, MD at 9/4/2019 2:45 PM

Author: Daniel David Divilbiss, MD	Service: —	Author Type: Physician
Filed: 9/9/2019 4:31 PM	Encounter Date: 9/4/2019	Status: Signed
Editor: Daniel David Divilbiss, MD (Physician)		

I observed and evaluated the procedure performed on this patient. I agree with the resident's findings, documentation and plan of care.

Electronically Signed by Daniel David Divilbiss, MD on 9/9/2019 4:31 PM

Progress Notes by Benjamin Seth Goodroe, MD at 9/4/2019 2:45 PM

Author: Benjamin Seth Goodroe, MD	Service: —	Author Type: Resident Physician
Filed: 9/4/2019 4:01 PM	Encounter Date: 9/4/2019	Status: Signed
Editor: Benjamin Seth Goodroe, MD (Resident Physician)		

PROCEDURE NOTE

Ultrasound guided right gluteus medius injection

Diagnosis: Gluteus medius tendinopathy, right

Procedure Description:

After obtaining written and informed consent the patient was placed in the left lateral supine position. Ultrasound was used to identify the gluteus medius insertion on the left.

After the area was cleaned with chloraprep a 22 gauge 4 inch needle was used to enter the tendon using a needle in plane approach. After a negative aspiration a mixture of 5 ml of 1% lidocaine without epinephrine, 2 mL of dextrose and 0.25 ml of dexamethasone 4mg/ml were injected under direct visualization via ultrasound with fenestration of the needle through the tendon.

Campbell, Tracy Joan (MR # 974038054) Printed at 4/16/20 3:08 PM

Progress Notes (continued)

Progress Notes by Benjamin Seth Goodroe, MD at 9/4/2019 2:45 PM (continued)

The patient tolerated the procedure without complication. The needle was removed intact and a bandaid was applied. The patient was observed in the room for an appropriate amount of time and then discharged.

Findings:

The patient noted immediate improvement in pain following the procedure

Plan: The patient will follow up in 4 weeks for a recheck, physical therapy to begin in 1 week

The above note was dictated using voice recognition software, thus there may be some discrepancies in this dictation. Please contact the above physician with any questions

Electronically Signed by Benjamin Seth Goodroe, MD on 9/4/2019 4:01 PM

Admission (continued)

Complaint	None
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Progress Notes

Progress Notes by Anderson B Funke, MD at 11/18/2019 10:15 AM

Author: Anderson B Funke, MD Service: — Author Type: Physician
 Filed: 11/18/2019 11:30 AM Encounter Date: 11/18/2019 Status: Signed
 Editor: Anderson B Funke, MD (Physician)

Office Visit Note

11/18/2019

Subjective:

Subjective Tracy J Campbell is a 47 y.o. female with a chief complaint of Hip Pain (x1wk// right)

Patient presents for follow up of chronic medical problems.

HPI:

~~Right hip tendinopathy and trochanteric bursitis~~ Saw sports medicine. Had injection and ultrasound. Really has not gotten any better. Is been doing therapy. Developed some muscle spasms in the leg about a week ago. They really hurt. Her back's doing fine.

Review of Systems

Constitutional: Negative for chills and fever.
 Cardiovascular: Negative for leg swelling.
 Gastrointestinal: Negative for abdominal pain.
 Musculoskeletal: Positive for arthralgias and myalgias.
 Neurological: Negative for weakness and numbness.

Reviewed patient's current medications, past medical history, social history, family history as documented elsewhere in chart.

Current Outpatient Medications

Medication	Sig	Dispense	Refill
• calcium carbonate (CALCIUM 600 ORAL)	Take by mouth		
• cholecalciferol, vitamin D3, (VITAMIN D3) 2,000 unit	Take 1 capsule (2,000 Units) daily.	100 capsule	3
• HYDROcodone-acetaminophen (NORCO) 5-325 mg per tablet	Take 1 tablet by mouth every 8 (eight) hours as needed for moderate pain Max Daily Amount: 3 tablets	21 tablet	0
• thiamine (vitamin B-1) 100 mg tablet	Take 100 mg by mouth daily.		
• docusate sodium (COLACE) 100 mg capsule	Take 1 capsule (100 mg) 2 (two) times a day for 7 days.	14 capsule	0

Campbell, Tracy Joan (MR # 974038054) Printed at 4/29/20 4:56 PM

Page 36

Progress Notes (continued)

Progress Notes by Anderson B Funke, MD at 11/18/2019 10:15 AM (continued)

(Patient not taking:
Reported on
11/13/2018)
• tiZANidine (ZANAFLEX) 4 mg tablet Take 1 tablet (4 mg) 30 tablet 2 by mouth 3 (three) times a day as needed for muscle spasms

No current facility-administered medications for this visit.

Past Medical History:

Diagnosis	Date
Depression	
Metal bone fixation hardware in place	
Chronic pain	
Trauma	
Spinal stenosis	

Past Surgical History:

Procedure	Laterality	Date
• CYST REMOVAL		

Family History

Problem	Relation	Age of Onset
• Cancer leukemia	Mother	
• Cancer lung	Father	
• Cancer	Other	

reports that she has quit smoking. She has never used smokeless tobacco. She reports current alcohol use. She reports that she does not use drugs.

Allergies

Allergen	Reactions
• Adhesive Adhesive tape	
• Other Strawberries, and walnuts	

Objective:

BP 124/89 | Pulse 76 | Ht 1.6 m (5' 3") | Wt 88.4 kg (194 lb 14.2 oz) | BMI 34.52 kg/m²

Objective Physical Exam

Constitutional: She appears well-developed and well-nourished.

Progress Notes (continued)

Progress Notes by Anderson B Funke, MD at 11/18/2019 10:15 AM (continued)

HENT:

Head: Normocephalic.

Pulmonary/Chest: Effort normal.

Musculoskeletal:

Comments: Fairly significant tenderness over the right trochanteric bursa as well as tenderness along her gluteus maximus. Hip with good range of motion. Straight leg raise is negative. Back nontender.

Neurological: She is alert.

Skin: Skin is warm and dry. No rash noted.

Psychiatric: She has a normal mood and affect. Judgment normal.

Nursing note and vitals reviewed.

**Results for orders placed or performed in visit on
09/26/18**

Comprehen Metabolic Panel (CMP)

Result	Value	Ref Range
Sodium	143	136 - 145 mMol/L
Potassium	3.8	3.5 - 5.1 mMol/L
CO2	27	21 - 32 mMol/L
Anion Gap	8.0	6.0 - 16.0 mMol/L
BUN	9	7 - 18 mg/dL
Glucose	92	74 - 106 mg/dL
Calcium	8.9	8.5 - 10.1 mg/dL
AST	18	7 - 40 IU/L
ALT	30	5 - 50 IU/L
Alkaline Phosphatase	102	50 - 136 IU/L
Protein, Total	7.7	6.4 - 8.2 gm/dL
Albumin	3.3 (L)	3.4 - 5.0 gm/dL
Bilirubin, Total	0.3	0.2 - 1.0 mg/dL
Globulin	4.4 (H)	1.5 - 4 gm/dL
Chloride	108 (H)	98 - 107 mMol/L
Creatinine	0.75	0.55 - 1.02 mg/dL
Osmolality Calc	283.3	
eGFR	>60	>60 mL/min/1.73 m ²
eGFR African	>60	>60

SMG-FHC GREENWOOD
116 Venture Court
GREENWOOD SC 29649-8558

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Enc. Date: 11/18/2019

Progress Notes (continued)

Progress Notes by Anderson B Funke, MD at 11/18/2019 10:15 AM (continued)

American mL/min/1.73
m²

Magnesium (Mg)

Result	Value	Ref Range
Magnesium	2.2	1.8 - 2.4 mg/dL

No results found for this or any previous visit (from the past 168 hour(s)).

Assessment/Plan:

Anterior bursitis of right hip

- SMG Ref to Ortho/Orthopedic Surgery; Future; Expected date: 12/02/2019

Anterior bursitis of right gluteus

- SMG Ref to Ortho/Orthopedic Surgery; Future; Expected date: 12/02/2019

Muscle spasms

- tIZANidine (ZANAFLEX) 4 mg tablet; Take 1 tablet (4 mg) by mouth 3 (three) times a day as needed for muscle spasms

Orthopediatric referral. Zanaflex for muscle spasms.

Return if symptoms worsen or fail to improve.

Electronically Signed by Anderson B Funke, MD on 11/18/2019 11:30 AM

Encounter-Level Documents:

There are no encounter-level documents.

Order-Level Documents:

There are no order-level documents.

Lab Orders & Results

No orders or results found

Patient Demographics

Name	Patient ID	SSN	Gender Identity	Birth Date
Campbell, Tracy Joan	974038054	xxx-xx-3890	Female	09/25/72 (47 yrs)
Address	Phone	Email	Employer	
221 WILLIAMS HILLTOP RD NINETY SIX SC 29666-8837	864-915-8846 (M) 864-915-8846 (H)	—	GREENWOOD REGIONAL REHAB 1530 PARKWAY GREENWOOD SC	

Progress Notes (continued)

Progress Notes by Anthony R Timms, MD at 12/27/2019 2:00 PM (continued)

Author: Anthony R Timms, MD

Service: —

Author Type: Physician

Filed: 12/27/2019 3:43 PM

Encounter Date: 12/27/2019

Status: Signed

Editor: Anthony R Timms, MD (Physician)

SMG Orthopaedic Associates of the Lakelands

PROVIDER: Dr. Timms

Date of Encounter: 12/27/2019

EXHIBIT

P25

PATIENT INFORMATION:

Name: Tracy Joan Campbell Age: 47 y.o. Sex: female DOB: 9/25/1972

MRN: 974038054 PCP: Anderson B Funke, MD

PREVIOUS ASSESSMENT/PLAN: 4/8/2019

No significant findings on hip MRI by history there is some contusion and bruising there and the bruising has resolved

I do not have explanation for the persistent discomfort and patient describes is some persistent swelling in this area.

Patient may be active as tolerated

Chief Complaint

Patient presents with:

- Right Hip - Follow-up

HPI:

Tracy Joan Campbell is a 47 y.o. female who presents today with right trochanteric bursitis pain. She states that the shot and physical therapy did not help. she has been going to a sports medicine doctor that has been giving her injections with ultrasound and she states that she has a very angry gluteas meatus tendon. She has had apparently at the sports medicine clinic under ultrasound guidance and injection into the gluteus medius tendon itself she states that did not help. I discussed with her the previous MR showed pretty mild tendinitis if that shot did not help it probably is not a source of pain she does state that the mass laterally is enlarging

HPI

1. ~~trochanteric bursitis~~
2. Contusion of right hip, sequela
3. MVC (motor vehicle collision), sequela

MRI Hip Right with and without Contrast
CANCELED: MRI Hip Right with Contrast
MRI Hip Right with and without Contrast
CANCELED: MRI Hip Right with Contrast
MRI Hip Right with and without Contrast
CANCELED: MRI Hip Right with Contrast

Past Medical History:

Diagnosis

- Depression
- Metal bone fixation hardware in place

Date

Progress Notes (continued)

Progress Notes by Anthony R Timms, MD at 12/27/2019 2:00 PM (continued)

Sensory: no peripheral no dermatomal pattern of sensory loss.

Vasc: dorsalis pedis palpable. good capillary refill all digits.

Motor: no isolated nor asymmetric muscle atrophy

Motion of the right hip does cause some mild lateral pain she denies any groin pain whatsoever there is a larger mass right at the area of the greater trochanter on the right much larger than the left it is mildly tender gluteus medius area really cannot be differentiated both from body habitus and the soft tissue enlargement here.

Straight leg raise on the right is extremely positive

Imaging Impression:

NONE TODAY

Procedures

ASSESSMENT/PLAN:

#1 I think the biggest source of pain is the spine issues I think she needs to be reevaluated by the spine clinic and/or spine surgeon.

2. There is asymmetry to the hips and a little enlarged. She is quite concerned that this is cancer she feels like it continues to enlarge so we need to go ahead and get an MRI with contrast of this right lateral hip mass

Follow Up:

Return for f/u after mri.

Electronically Signed by Anthony R Timms, MD on 12/27/2019 3:43 PM

History & Physicals

No notes of this type exist for this encounter.

Call Information

	Provider	Department	Center
12/27/2019 2:00 PM	Anthony R Timms, MD	Smg-Orthopaedics	SMG

Reason for Call

Right Hip - Follow-up

Call Documentation

No notes of this type exist for this encounter.

Health Maintenance

Progress Notes (continued)

Progress Notes by Anthony R Timms, MD at 2/10/2020 9:00 AM (continued)

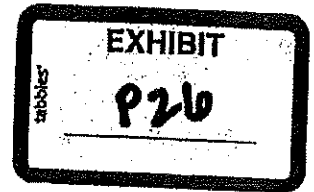
SMG Orthopaedic Associates of the Lakelands

PROVIDER: Dr. Timms

Date of Encounter: 2/10/2020

PATIENT INFORMATION:

Name: Tracy Joan Campbell Age: 47 y.o. Sex: female DOB: 9/25/1972
MRN: 974038054 PCP: Anderson B Funke, MD



PREVIOUS ASSESSMENT/PLAN:

Chief Complaint

Patient presents with

- Right Hip - Follow-up

HPI:

Tracy Joan Campbell is a 47 y.o. female who presents today with follow-up MRI of the right hip reveal persistent gluteus medius tendinitis compared with the previous MRI. Again no occult fractures no avascular necrosis

HPI

1. Strain of gluteus medius of right lower extremity, initial encounter

Past Medical History:

Diagnosis

Date

- Depression
- Total hip fixation hard to place
- Cervical
- Lumbar
- Hip

Past Surgical History:

Procedure

Laterality

Date

- CYST REMOVAL

Current Outpatient Medications:

- calcium carbonate (CALCIUM 600 ORAL), Take by mouth, Disp: , Rfl:
- cholecalciferol, vitamin D3, (VITAMIN D3) 2,000 unit, Take 1 capsule (2,000 Units) daily., Disp: 100 capsule, Rfl: 3
- docusate sodium (COLACE) 100 mg capsule, Take 1 capsule (100 mg) 2 (two) times a day for 7 days. (Patient not taking: Reported on 11/13/2018), Disp: 14 capsule, Rfl: 0

Progress Notes (continued)

Progress Notes by Anthony R Timms, MD at 2/10/2020 9:00 AM (continued)

- HYDROcodone-acetaminophen (NORCO) 5-325 mg per tablet, Take 1 tablet by mouth every 8 (eight) hours as needed for moderate pain Max Daily Amount: 3 tablets, Disp: 21 tablet, Rfl: 0
- thiamine (vitamin B-1) 100 mg tablet, Take 100 mg by mouth daily. , Disp: , Rfl:
- tiZANidine (ZANAFLEX) 4 mg tablet, Take 1 tablet (4 mg) by mouth 3 (three) times a day as needed for muscle spasms, Disp: 30 tablet, Rfl: 2

Allergies:

Adhesive and Other

Review of Systems

Musculoskeletal: Positive for arthralgias.

Right hip

All other systems reviewed and are negative.

Physical Examination:

Body mass index is 34.37 kg/m².

General: No acute distress noted.

HEENT: PERRL and EOM intact

Pulmonary: breathing comfortably.

Cardiovascular: Regular rhythm by palpation of distal pulse, normal color and temperature, no concerning varicosities on symptomatic side.

Psychiatric: well oriented, normal mood and affect.

ORTHO EXAM:

Right LE

Skin: no erythema, rashes, lesions, nor wounds.

Lymph: no popliteal; nor inguinal adenopathy.

Sensory: no peripheral no dermatomal pattern of sensory loss.

Vasc: dorsalis pedis palpable. good capillary refill all digits.

Motor: no isolated nor asymmetric muscle atrophy

Motion of the right hip does cause some mild lateral pain she denies any groin pain whatsoever there is a larger mass right at the area of the greater trochanter on the right much larger than the left it is mildly tender gluteus medius area really cannot be differentiated both from body habitus and and the soft tissue enlargement here

Right leg raise is negative straight leg raise

Imaging Impression: mri done on 1/20/20

Compared with the previous MRI done in January 2019, the right gluteus minimus and gluteus medius tendonitis as well as the surrounding bursitis is essentially unchanged.

Procedures

ASSESSMENT/PLAN:

Still gluteus medius tendinitis repeat injection is discussed she states they really have not helped. No fracture no arthritis no AVN is carefully gone over with her.

SMG-ORTHOPAEDICS
102 Gregor Mendel Cir
GREENWOOD SC 29646-2315

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Enc. Date: 2/10/2020

Progress Notes (continued)

Progress Notes by Anthony R Timms, MD at 2/10/2020 9:00 AM (continued)

Weight loss hip abductor exercises intermittent anti-inflammatories and icing may be active as tolerated

Follow Up:

Return if symptoms worsen or fail to improve.

Electronically Signed by Anthony R Timms, MD on 2/10/2020 2:13 PM

History & Physicals

No notes of this type exist for this encounter.

Call Information

	Provider	Department	Center
2/10/2020 9:00 AM	Anthony R Timms, MD	Smg-Orthopaedics	SMG

Reason for Call

Right Hip - Follow-up

Call Documentation

No notes of this type exist for this encounter.

Health Maintenance

	Date Due	Completion Dates
PAP SMEAR	09/25/1972	---
Tdap	09/25/1983	---
Mammogram	09/25/2012	---

Encounter Status

Closed by Anthony R Timms, MD on 2/10/20 at 14:13

Care Advice Given

No Care Advice given for this encounter.

Follow-up and Disposition History

02/10/2020 0926 - Victoria Griffin, CST

Dispositions: Return if symptoms worsen or fail to improve.

Encounter-Level Documents:

Generated by SRC95911 at 2/17/20 2:41 PM

Page 34

Campbell, Tracy Joan

MRN: 974038054

Office Visit 5/20/2020

Advanced Spine And
Neurosurgical Associates

Provider: Lal, Sumeer, MD (Neurosurgery)

Primary diagnosis: Right hip pain

Reason for Visit: Follow-up

Progress Notes

Lal, Sumeer, MD (Physician) • Neurosurgery

ADVANCED SPINE AND NEUROSURGICAL ASSOCIATES
115 Academy Avenue
Greenwood, Sc 29646



MRN: 974038054

Encounter Date: 5/20/2020

Patient Information

Tracy Joan Campbell
221 Williams Hilltop Rd
Ninety Six SC 29666-8837
47 y.o.
9/25/1972

Chief Complaint

Follow-up (review MRI, per Dr. Lal)

Subjective

Patient presenting for follow-up after being seen by our nurse practitioner before with a new MRI of her lumbar spine. She does not have any pain in her back and she has no classic radicular signs and/or symptoms and her main complaint as it has been in before this area of swelling on her right thigh laterally. She has had injections in that area and she is had an MRI which shows some tendinitis but no other significant issues in her right hip.

She does not have the same symptoms that she had before in her back and her MRI was reviewed and we discussed it

Objective

Prior demonstrates a good fusion at L5-S1 some adjacent level early facet hypertrophic changes but nothing significant

Palpable areas of tenderness in the thigh no issues with motor or sensory findings.

Vitals

Vitals:

05/20/20 1325
BP: 116/76
Pulse: 72
Temp: 98.3 °F (36.8 °C)

Assessment/Diagnosis**1. Right hip pain****Plan/Discussion**

I do not think this is coming from the patient's back the location of the problem is not consistent in her examination is not consistent with a back problem

This is also not consistent with a sacroiliac issue as well.

We discussed options

Patient is going to continue with orthopedics

End of Encounter Meds**Outpatient Encounter Medications as of 5/20/2020**

Medication	Sig	Dispense	Refill
• calcium carbonate (CALCIUM 600 ORAL)	Take by mouth		
• HYDROcodone-acetaminophen (NORCO) 5-325 mg per tablet	Take 1 tablet by mouth every 8 (eight) hours as needed for moderate pain Max Daily Amount: 3 tablets	21 tablet	0
• naproxen (Naprosyn) 500 mg tablet	Take 1 tablet (500 mg) by mouth 2 (two) times a day with meals	60 tablet	2
• thiamine (vitamin B-1) 100 mg tablet	Take 100 mg by mouth daily.		
• tiZANidine (ZANAFLEX) 4 mg tablet	Take 1 tablet (4 mg) by mouth 3 (three) times a day as needed for muscle spasms	30 tablet	2
• cholecalciferol, vitamin D3, (VITAMIN D3) 2,000 unit	Take 1 capsule (2,000 Units) daily. (Patient not taking: Reported on 4/22/2020)	100 capsule	3
• docusate sodium (COLACE) 100 mg capsule	Take 1 capsule (100 mg) 2 (two) times a day for 7 days. (Patient not taking: Reported on 11/13/2018)	14 capsule	0

No facility-administered encounter medications on file as of 5/20/2020.

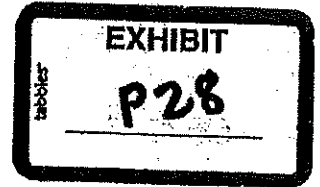
Signatures

SUMEER LAL, MD
5/20/2020



Palmetto
Bone & Joint, P.A.

Clinton Office: 229-4 Highway 10 East, Clinton SC 29324 Phone: (864) 833-1111 Fax: (864) 833-1111
Newberry Office: 2895 Rhoad Street, Suite 105, Newberry SC 29108 Phone: (803) 321-6234 Fax: (803) 321-6250
Chapin Office: 104 Ellen Road, Chapin SC 29019 Phone: (803) 941-8095 Fax: (803) 941-6088



Date of Exam 6/22/2021
Patient Name TRACY CAMPBELL
DOB 09/25/1972
Provider James Loging, MD

History
Chief Complaint:

History of Present Illness (Hip)

The patient is a 48 year old female who presents following up mri results with complaints of pain and tenderness in the right hip that occurs during activities. The onset was sudden with injury which occurred on 6/14/2018. The injury occurred in a MVA. She had an MRI in 2019 and 2020 as well as an ultrasound. She has had multiple injections with no improvement, last one being last year. She went to physical therapy for a period of time that aggravated her symptoms. Hard for her to lay on her right side when sleeping. She had back issues two years prior to the accident and was already scheduled for surgery when the accident occurred. She is continued to have hip problems since this injury. She has large deformity over the right hip which is very painful to her. All the pain is located laterally and over the area of the mass from her injury.

Allergies

LATEX

Medications

promethazine 25 mg tablet 1 every six hours 25 0 y
hydrocodone-acetaminophen 7.5-325 mg tablet 1-2 every four hours 42 0 y

Diagnosis

M70.61 Trochanteric bursitis, right hip
R22.41 Localized swelling, mass and lump, right lower limb
M25.551 Pain in right hip

Plan

Hip

Patient is status post motor vehicle accident with development of right hip pain and mass that has been persistent since injury. Patient has been through extensive therapy as well as multiple injections without any relief. It is clearly evident that the patient had a Meral lesion over the right hip which is left with significant deformity and mass as a result. The pathology/diagnosis was explained to the patient including the treatment options. The treatment options include NSAID, an MRI arthrogram, and possibly surgery. The surgical options include arthroscopic or open surgery. I explained the benefits and complications of the various options. We discussed the options and we will start the treatment with arthroscopic surgery. We again went over the treatment benefits and complications. We have scheduled the surgery. The problem that the patient has is directly related to her motor vehicle accident.

James Loging, MD

Electronically signed on 6/22/2021 4:38 PM

CAMPBELL, TRACY

DOS: 06/22/21

Dr: LOGING, JAMES A

Age: 48 F

Acct: 004678

DOB: 09/25/1972

PREOPERATIVE DIAGNOSIS: Right Hip Hematoma/Mass and gluteus Insertional tearing

POSTOPERATIVE DIAGNOSIS: Right Hip Hematoma/Mass and gluteus Insertional tearing

PROCEDURE:

Excision of Right Hip Mass, Complex 13cmX15cm (CPT 27045)
Right hip gluteus Insertional tendon repair (CPT 28916)

SURGEON: Dr. James Loging, M.D.

ASSISTANT: Victoria Roberts, PA-C

ANESTHESIA: General

ESTIMATED BLOOD LOSS:
Less than 10 mL

TOURNIQUET TIME: See anesthesia record

IMPLANTS: Smith and Nephew Anchor X 1

COMPLICATIONS:
None

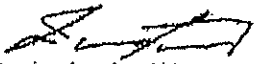
ROLE OF ASSISTANT DURING SURGERY: Surgical assistant was utilized during surgery. Assistant participated with positioning of the patient, prepping and draping, surgical retraction, suction and irrigation, as well as suturing and wound closure assistance. The operative surgeon was present for all crucial portions of the case.

STATEMENT OF MEDICAL NECESSITY: patient presents with persistent mass on the lateral aspect of hip. Patient has tried conservative treatment. Pain is persisted as well as increased size of mass. Patient wished to proceed with excision.

DESCRIPTION OF PROCEDURE: The patient was taken to the operating room and placed in supine position on the operating room table. After general endotracheal anesthesia was obtained, Patient was placed in a lateral decubitus position. The patient's right lower extremity was prepped and draped in a normal sterile fashion. Incision was made over the mass area and dissection was carried down through subcutaneous tissue. The mass had a distinct thickened scar layer around it and this was excised throughout its entirety. The remainder of the mass was completely excised. The mass measured approximately 13 cm x 15 cm. The bursa was debrided and excised. Gluteus medius tendon was exposed. There was tendinopathy and fraying as well as a complete tear and detachment of the gluteus insertion. The outer portion of the greater trochanter was roughened and a suture anchor by Smith & Nephew was inserted which was then passed through the gluteus tendon and tied down with good repair.

The wound was irrigated copiously normal saline. 15 French Hemovac drain was placed. The wound was closed with 0 Vicryl suture, 2-0 Monocryl and staples. Sterile dressing was applied. Patient was discharged to recovery area in stable condition.

POSTOPERATIVE PLAN: Patient to be discharged home. Non-weightbearing Follow-up in 2 weeks.

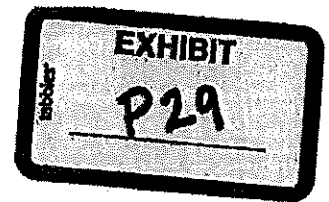

James Loging, MD

Electronically signed on 6/22/2021 4:38 PM

CAMPBELL, TRACY
DOS: 06/22/21
Dr: LOGING, JAMES A
Age: 48 P

Acct: 004678

DOB: 09/25/1972



Tracy Campbell

Date of Incident: 6/14/2018

CHARGES FOR MEDICAL TREATMENT

<u>Date of Service</u>	<u>Provider Name</u>	<u>Charges</u>
6/14/2018	Greenwood County EMS	\$623.92
	Self Regional Healthcare ER	\$2,915.29
	ECC Physicians of SRH	\$305.00
	Upper Savannah Radiology	\$222.00
6/22/2018	Family Healthcare (Dr. Funke)	\$142.00
8/16/2019	Family Healthcare (Dr. Funke)	\$142.00
11/18/2019	Family Healthcare (Dr. Funke)	\$142.00
7/12/2018	Advanced Spine & Neurology	\$65.00
4/22/2020	Advanced Spine & Neurology	\$90.00
5/20/2020	Advanced Spine & Neurology	\$90.00
7/16/2018	Orthopaedic Assoc. of the Lakelands (hip injection)*	\$419.00
10/24/2018	Orthopaedic Assoc. of the Lakelands	\$142.00
2/4/2019	Orthopaedic Assoc. of the Lakelands	\$335.00
4/8/2019	Orthopaedic Assoc. of the Lakelands	\$142.00
12/27/2019	Orthopaedic Assoc. of the Lakelands	\$142.00
2/10/2020	Orthopaedic Assoc. of the Lakelands (MRI follow up)	\$142.00
7/31/2018	MRI - The Imaging Center (low back)	~~\$2,796.94~~
	Upper Savannah Radiology	\$262.00
1/22/2019	Imaging Center of SRH (MRI of hip)	\$3,584.54
	Upper Savannah Radiology	\$252.00
1/20/2020	SRH (MRI hip)	\$2,153.30
1/21/2020	SRH Radiology (MRI-hip)	\$212.00
5/5/2019	Piedmont Plastic Surgery	~~\$275.00~~
8/29/2019	Montgomery Center for Family Medicine - Dr. Divilbliss	\$226.00
	SRH fee for 8/29/19 at MCFM	\$20.00
9/4/2019	Montgomery Center for Family Medicine (u/s)	\$184.00
	SRH fee for 9/4/19 at MCFM	\$91.00
9/18/19 - 10/7/19	Optimum Life Center of SRH (Physical Therapy)	\$1,136.76

10/16/19 - 11/13/19	Optimum Life Center of SRH (Physical Therapy)	\$1,696.20
5/13/2020	SRH - MRI of back (to rule out referred hip pain)	~~\$1,587.56~~
5/13/2020	SMG Radiology	\$225.00
4/26/2021	Palmetto Bone & Joint (Dr. Loging)	\$286.00
4/26/2021	Palmetto Bone & Joint (radiology charge)	\$129.00
5/24/2021	Palmetto Bone & Joint (Dr. Loging)	\$245.00
6/22/2021	Surgery - Dr. Loging's Physician fees	\$9,598.00
7/8/2021	Palmetto Bone & Joint (post op follow up with PA)	\$0.00
7/19/2021	Palmetto Bone & Joint (PA visit)	\$150.00
8/9/2021	Palmetto Bone & Joint (radiology)	\$129.00
10/11/2021	Palmetto Bone & Joint (Dr. Loging)	\$245.00
10/11/2021	Palmetto Bone & Joint (radiology)	\$129.00
12/13/2021	Palmetto Bone & Joint (Dr. Loging)	\$245.00
12/13/2021	Palmetto Bone & Joint (radiology)	\$129.00
5/19/2021	MRI @ The Imaging Center	\$1,587.56
6/22/2021	Chapin Orthopaedic Surgery Center (facility fee)	\$14,426.00
6/22/2022	Anesthesia Group	\$1,400.00
Aug 2021-Nov 2021	PT @ Optimum Life of SRH	\$5,490.89
8/15/2022	Dr. Loging (recheck for persistent soreness)	\$245.00
"	Dr. Loging (rad.)	\$129.00
9/1/2022	MRI - hip (Self Regional - facility fee)	\$1,587.56
9/1/2022	Radiology fee (MRI of hip)	\$135.00
9/15/2022	Dr. Loging (follow up after MRI)	\$225.00

Total Medical Bills

\$57,272.52

Initial Assessment											
Category	Comments										
Neurological	<table border="1"> <tr> <th>Abnormalities</th><th></th></tr> <tr> <td>Right Leg</td><td>No Abnormalities</td></tr> <tr> <td>Pulse</td><td>+ Radial: 2+ Normal</td></tr> <tr> <td>Capillary Refill</td><td>Not Assessed</td></tr> <tr> <td>Neurological</td><td>No Abnormalities</td></tr> </table>	Abnormalities		Right Leg	No Abnormalities	Pulse	+ Radial: 2+ Normal	Capillary Refill	Not Assessed	Neurological	No Abnormalities
Abnormalities											
Right Leg	No Abnormalities										
Pulse	+ Radial: 2+ Normal										
Capillary Refill	Not Assessed										
Neurological	No Abnormalities										

Assessment Time: 06/14/2018 19:45:00

Narrative
Medic 2 called to the above location for a MVA on arrival id above pt alert with patent airway sitting in the passenger side front of a small car that was struck in the right rear moderate damage noted to the car pt airbags deployed also , pt na LOC noted pt was restrained also , pt stated she was only having pain in her lower back , but she has this pain all the time pt stated that her neck feels fine and she can move her lower extremities also , pt's pelvis intact as well , pt stated she did not want to be placed onto a Long Spine Board because she would have to lay flat and it would irritate her back as well pt placed and secured to the stretcher also and pt's vitals were taken above pt Lung Sounds were clear and equal bilateral with equal chest rise and fall pt sensations were present as well in all extremities also , pt pupils were pearl also pt's abdomen no pain noted with me , no Obvious Trauma noted to the PT , I called Report to RN at Self Regional in the Triage Area

Specialty Patient - Motor Vehicle Collision			
Patient Injured	Yes	Law Enforcement Case #	
Vehicle Type	Automobile	Collision Indicators	None
Position in Vehicle	Front Seat - Right Side	Damage Location	Right Rear
Seat Row	1	Airbag Deployment	Air Bag(s) Deployed - Side Deployed, Front Deployed
Weather	Clear	Safety Devices	Shoulder Belt Only Used, Shoulder and Lap Belt Used
Extrication Required	No	Extrication Comments	
Estimated Speed	50mph/80 kph	Extrication Time	

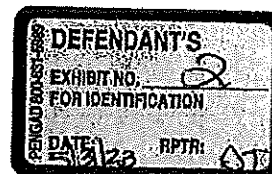
Specialty Patient - Trauma Criteria			
Anatomic	None	Trauma Activation	No
Physiologic	None	Time	
Mechanical	None	Date	
Other Conditions	None	Trauma level	Undesignated
		Reason Not Activated	

Specialty Patient - CDC 2011 Trauma Criteria			
Vital Signs	None	Trauma Activation	No
Anatomy of Injury	None	Time	
Mechanism of Injury	None	Date	
Special Considerations	None	Trauma level	Undesignated
		Reason Not Activated	

Incident Details		Destination Details		Incident Times	
Location Type	Street or Highway	Disposition	Transported No Lights/Siren	PSAP Call	
Location	hwy 225 and florida ave	Transport Due To	Patient's Choice	Dispatch Notified	19:23:00
Address	hwy 225 and florida ave	Transported To	Self Regional Healthcare ER	Call Received	19:23:00
Address 2		Requested By	Bystander	Dispatched	19:23:00
Mile Marker		Destination	Hospital	En Route	19:25:00
City	Greenwood	Department	Emergency Room	Resp on Scene	19:34:00
County	Greenwood	Address	1325 Spring St	On Scene	19:34:00
State	SC	Address 2		At Patient	19:37:00
Zip	29646	City	Greenwood	Care Transferred	
Medic Unit	Medic 2	County	Greenwood	Depart Scene	19:47:00
Medic Vehicle	4-A	State	SC	At Destination	19:53:00
Run Type	911 Response	Zip	29646	Pt. Transferred	19:53:00
Priority Scene	Emergent	Zone	Zone 3	Call Closed	19:55:00
Shift	C Shift	Condition at Destination	Unchanged	In District	20:20:00
Zone	Zone 2	Destination Record #		At Landing Area	
Level of Service	Advanced Life Support	Trauma Registry ID			
EMD Complaint	Traffic Accident	EMD Card Number			

Crew Members		
Personnel	Role	Certification Level
RICKETTS, LESLIE	Lead	EMT-Paramedic (South Carolina) - SC011161
MILLER, JAMES	Driver	EMT-Paramedic (South Carolina) - SC010968

Run Number: 3507515
Hospital Chart Number: 1
Patient Number: 1



SRH-THERAPY OLC
115 ACADEMY AVE
GREENWOOD SC 29646

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Acct #: 50000434462
Enc. Date: 10/25/2018

Outpatient Referral - Other Orders (continued)

Laboratory Results

No results found

MAR: All Meds and Admins

(There are no med orders for this encounter)

Radiology, ECG/EMG, and Cardiac Results

No results found

Progress Notes

Progress Notes by Paysinger, Tina, PT at 10/25/2018 8:45 AM

Author: Paysinger, Tina, PT	Service: —	Author Type: Physical Therapist
Filed: 10/25/2018 7:19 PM	Encounter Date: 10/25/2018	Status: Signed
Editor: Paysinger, Tina, PT (Physical Therapist)		
Related Notes: Original Note by Paysinger, Tina, PT (Physical Therapist) filed at 10/25/2018 6:57 PM		
Cosigner: Mounts, Wayne S, PA at 10/26/2018 11:28 AM		

SRH OPTIMUM LIFE CENTER
115 Academy Avenue
Greenwood SC 29646-3869
Office Phone: 864-725-7088

Physical Therapy Initial Evaluation

Patient Name: Tracy J Campbell
MRN: 974038054 DOB: 9/25/1972 Age: 46 y.o.
Date: 10/25/2018

Time in: 8:45 am Time out: 9:45 am
Treatment Time: 60 minutes Total Timed Codes: 20 minutes

Medical history and medication were reviewed before treatment.
The patient has read and signed the Patient Rights and Consent for treatment forms, has been reviewed by the evaluating therapist, and is on file.
Patient identifier (DOB, name photo ID confirmed)

Precautions: R hip pain/contusion, allergy to adhesive tape

Treatment Guidelines: 6 weeks post L5-S1 fusion. Evaluate and Treat for Pain control, Stretching, Strengthening, Core conditioning, Spine stabilization, Postural correction & Instruction in home exercise program; modalities as indicated; Progress to HEP

Allergies:

Allergies

Allergen	Reactions
• Adhesive	
Adhesive tape	

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SRH-THERAPY OLC
115 ACADEMY AVE
GREENWOOD SC 29646

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Acct #: 50000434462
Enc. Date: 10/25/2018

Progress Notes (continued)

Progress Notes by Paysinger, Tina, PT at 10/25/2018 8:45 AM (continued)

- Other
Strawberries, and walnuts

Diagnosis:

1. Acute right-sided low back pain with sciatica, SMG Ref to Physical Therapy (Opt Life)
sciatica laterality unspecified

Subjective:

History of present illness: Tracy is a 46 y.o. female referred to physical therapy for evaluation and treatment of L5-S1 lumbar fusion performed on Sept 4, 2018. Pt has concurrent injury to R lateral hip from MVA.

Mechanism of injury/date of onset: sept 4, lumbar fusion L5-S1

Medical Management: surgery, meds

Pain Present: Current: 3/10, Best: 3/10, Worst: 6/10

Pain location: left low back, pt denies leg pain since her surgery

Aggravating Factors: bending, lifting, walking on hard floors, laying flat on the bed

Relieving Factors: ice machine,

Previous Function: Independent with all activities

Current Function: Minimum assistance to don socks only. other ADL's all slow but indep.

Functional Capacity : full time job working at GRRH - janitorial duties - involves a lot of pushing/pulling, lifting up to 20 pounds, etc.

Education Level: High School Diploma

Questionnaires: The Oswestry Disability Index (ODI) is used to assess symptoms and severity of low back pain in terms of disablement and the degree to which back or leg pain impacts functional activities.

Revised Oswestry Disability Index: Impairment score: 40%

Patient Rehabilitation Expectations/ Goal: I need to be able to touch my toes, lifting, be able to return to PLOF

Patient/caregiver is aware of and understands his/her diagnosis and prognosis. Yes -

Any current Home Exercise Program: No - walking

Objective:

Generated by SRC96061 at 7/7/20 4:23 PM

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SRH-THERAPY OLC
115 ACADEMY AVE
GREENWOOD SC 29646

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Acct #: 50000434462
Enc. Date: 10/25/2018

Progress Notes (continued)

Progress Notes by Paysinger, Tina, PT at 10/25/2018 8:45 AM (continued)

Range of Motion/Strength:

Lower Extremity Strength:

Action	MMT Right	MMT Left
Hip Flexion	4+	4
Hip Abduction	4+	4+
Hip Adduction	4+	4+
Knee Extension	4+	4+
Knee Flexion	4+	4+

Gait: wearing back brace, lateral lean with hip hike, decreased R pelvic mobility (due to car accident in July - ongoing hip pain), short stride, decreased hip flexion

Lumbar Spinal Range of Motion:

Action	AROM %
Flexion	50 with pulling
Extension	10 with pain
Rotation R	NT
Rotation L	NT
Side bending R	NT
Side bending L	NT

Palpation: Soft tissue mass present on R lateral hip just below greater trochanter - painful per pt with activity but gentle palpation was okay.

Posture: WFL but guarded.

Sensation: intact to light touch (had R radicular pain prior to surgery)

Today's treatment:

Therapeutic exercises: 20 min

Supine marching with bracing, supine leg extensions with brace, glute sets (knees bent), and knee fall-outs. Pt had some increased soreness with supine leg extension on second set so advised pt to only perform one set of 10 reps at home.

Home Exercise Issued: Yes - written HEP issued to pt.

Patient/Family Education: Yes

Patient understanding of home exercise program: Good

Assessment

Patient Problems/ functional deficits: Tracy J Campbell is a 46 y.o. female who presents to physical therapy with complaints of Low back pain consistent with referral diagnosis. Pt no longer complains of radicular pain at this time. Tracy biggest complaints are bending, lifting, walking on hard floors, laying flat on the bed, and unable to push/pull or lifting in order to return to work.

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SRH-THERAPY OLC
115 ACADEMY AVE
GREENWOOD SC 29646

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Acct #: 50000434462
Enc. Date: 10/30/2018

Medications and Orders (continued)

Your Current Medications Are (continued)

cholecalciferol, vitamin D3, (VITAMIN D3) 2,000 unit	Take 1 capsule (2,000 Units) daily.
docusate sodium (COLACE) 100 mg capsule	Take 1 capsule (100 mg) 2 (two) times a day for 7 days.
thiamine (vitamin B-1) 100 mg tablet	Take 100 mg by mouth daily.
baclofen (LIORESAL) 10 mg tablet (Discontinued)	Take 1 tablet (10 mg) by mouth 3 (three) times a day as needed for muscle spasms.
HYDROcodone-acetaminophen (NORCO) 5-325 mg per tablet (Discontinued)	Take 1 tablet by mouth every 8 (eight) hours as needed for moderate pain or severe pain. Taper down over 2 weeks Max Daily Amount: 3 tablets

Upcoming Administrations

None

Clinical Orders

No orders found

All Orders and Results

No orders and results found

All Orders

No orders found for this encounter

Other Orders

No orders found

Laboratory Results

No results found

MAR: All Meds and Admins

(There are no med orders for this encounter)

Radiology, ECG/EMG, and Cardiac Results

No results found

Progress Notes

Progress Notes by Paysinger, Tina, PT at 10/30/2018 10:30 AM

Author: Paysinger, Tina, PT	Service: —	Author Type: Physical Therapist
Filed: 10/30/2018 11:13 AM	Encounter Date: 10/30/2018	Status: Signed
Editor: Paysinger, Tina, PT (Physical Therapist)		

SRH OPTIMUM LIFE CENTER
115 Academy Avenue
Greenwood SC 29646-3869
Office Phone: 864-725-7088
Physical Therapy Daily Treatment Note

Patient Name: Tracy J Campbell

MRN: 974038054

DOB: 9/25/1972

Age: 46 y.o.

Date: 10/30/2018

Generated by SRC96061 at 7/7/20 4:23 PM

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SRH-THERAPY OLC
115 ACADEMY AVE
GREENWOOD SC 29646

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Acct #: 50000434462
Enc. Date: 10/30/2018

Progress Notes (continued)

Progress Notes by Paysinger, Tina, PT at 10/30/2018 10:30 AM (continued)

Time in: 10:30 am

Time out: 11:13 am

Treatment Time: 43 min

Total Timed Codes: 43 min

Patient Identifier (DOB, name photo ID confirmed)

Tracy J Campbell has been seen for a total of 3 visit(s).

Precautions/Contraindications: R hip pain/contusion, allergy to adhesive tape

Subjective:

Pain is not bad today. It's actually doing a lot better. I'm counting down the days until I get my new bed - 9 days. It dawned on me this morning that I haven't taken a muscle relaxer in while and if I take one before bed I'll probably sleep better and quit waking up with muscle spasms.

Diagnosis:

	ICD-9-CM	ICD-10-CM
1. Acute right-sided low back pain with sciatica, sciatica laterality unspecified	724.2 724.3	M54.40

Objective:

No new objective measurements taken.

Treatment:

Therapeutic Exercise: 43 min

Exercise/Activity	Date:	10/26/2018	10/30/18
Supine single leg extensions	20	25	
Supine Brace with marching	20	x25	
Knee fall outs	20	x25	
glute sets	20x3H	25x3H	
Sit to stands	2x10	x25	

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SRH-THERAPY OLC
115 ACADEMY AVE
GREENWOOD SC 29646

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Acct #: 50000437649
Enc. Date: 11/15/2018

Medications and Orders (continued)

Your Current Medications Are (continued)

cholecalciferol, vitamin D3, (VITAMIN D3) 2,000 unit	Take 1 capsule (2,000 Units) daily.
docusate sodium (COLACE) 100 mg capsule	Take 1 capsule (100 mg) 2 (two) times a day for 7 days.
thiamine (vitamin B-1) 100 mg tablet	Take 100 mg by mouth daily.
baclofen (LIORESAL) 10 mg tablet (Discontinued)	Take 1 tablet (10 mg) by mouth 3 (three) times a day as needed for muscle spasms.
clotrimazole-betamethasone (LOTRISONE) cream (Discontinued)	Apply topically 2 (two) times a day.
fluconazole (DIFLUCAN) 150 MG tablet (Discontinued)	Take 1 tablet (150 mg) by mouth daily. 1 pill today then 1 pill in 2 days
HYDROcodone-acetaminophen (NORCO) 5-325 mg per tablet (Discontinued)	Take 1 tablet by mouth every 8 (eight) hours as needed for moderate pain or severe pain. Taper down over 2 weeks Max Daily Amount: 3 tablets

Upcoming Administrations

None

Clinical Orders

No orders found

All Orders and Results

No orders and results found

All Orders

No orders found for this encounter

Other Orders

No orders found

Laboratory Results

No results found

MAR: All Meds and Admins

(There are no med orders for this encounter)

Radiology, ECG/EMG, and Cardiac Results

No results found

Progress Notes

Progress Notes by English, Haley, PT at 11/15/2018 7:30 AM

Author: English, Haley, PT	Service: —	Author Type: Physical Therapist
Filed: 11/15/2018 8:12 AM	Encounter Date: 11/15/2018	Status: Signed
Editor: English, Haley, PT (Physical Therapist)		

SRH OPTIMUM LIFE CENTER

115 Academy Avenue

Greenwood SC 29646-3869

Office Phone: 864-725-7088

Physical Therapy Reevaluation/Discharge Note

Patient Name: Tracy J Campbell

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SRH-THERAPY OLC
115 ACADEMY AVE
GREENWOOD SC 29646

Campbell, Tracy Joan
MRN: 974038054, DOB: 9/25/1972, Sex: F
Acct #: 50000437649
Enc. Date: 11/15/2018

Progress Notes (continued)

Progress Notes by English, Haley, PT at 11/15/2018 7:30 AM (continued)

MRN: 974038054 DOB: 9/25/1972 Age: 46 y.o.

Date: 11/15/2018

Time in: 0730

Time out: 0812

Treatment Time: 42 min

Total Timed Codes: 42 min

Patient identifier (DOB, name photo ID confirmed)

Tracy J Campbell has been seen for a total of 5 visit(s).

Precautions/Contraindications: R hip pain/contusion, allergy to adhesive tape

Subjective:

"I'm feeling good. I'm starting to do a little more at home, and this is day 4 without the belt." Reports 1/10 pain on arrival, "but most of it happens when I'm done." States worst pain is 6/10 at night when she is laying in bed. "I'm good to do everything on my own now." Reports she doesn't feel like she needs to continue with PT.

Diagnosis:

	CD-9-CM	CD-10-CM
1. Acute right-sided low back pain with sciatica, sciatica laterality unspecified	724.2	M54.40
	724.3	

Objective:

Bilateral LE strength: 5/5 MMT except for right hip flexion 4+/5 MMT

Lumbar ROM: flexion 80%, extension 25%, bilateral SB 75%

Posture: able to sit and stand upright without verbal cueing

Observations: level pelvic landmarks in standing

Treatment:

Therapeutic Exercise: 41 min

Exercise/Activity	Date:	10/30/18	11/01/18	11/6/18	11/09/18	11/13/18	11/15/18
	10/26/2018						

Campbell, Tracy Joan (MRN # 974038054 / HAR # N/A)
DOB: 09/25/1972

Encounter Date: 05/29/2019

Progress Notes

Progress Notes by Eldson, Sheila G, NP at 5/29/2019 2:30 PM

Author: Eldson, Sheila G, NP	Service: —	Author Type: Nurse Practitioner
Filed: 5/29/2019 2:49 PM	Encounter Date: 5/29/2019	Status: Signed
Editor: Eldson, Sheila G, NP (Nurse Practitioner)		

ADVANCED SPINE AND NEUROSURGICAL ASSOCIATES

115 Academy Avenue
Greenwood, Sc 29646

MRN: 974038054

Encounter Date: 5/29/2019

Patient Information

Tracy J Campbell
221 Williams Hilltop Rd
Ninety Six SC 29666-8837
48 y.o.
9/25/1972

Chief Complaint

9-month postop follow-up

HPI

Patient is here for 9-month postop follow-up after undergoing L5-S1 posterior lumbar interbody fusion by Dr. Lal. She reports she is doing very well and is walking anywhere from 3 to 6 miles per day. She reports having lost 30 pounds with weight loss and exercise and she states that she feels better. No low back pain or complaints of radicular symptoms.

Subjective

Review of Systems

Constitutional: Positive for activity change.

Musculoskeletal: Negative for back pain.

Neurological: Negative for weakness and numbness.

Physical Exam

Sitting comfortably in the room. Arises from seated position at difficulty. Nonantalgic gait. No motor deficits.

Radiology

X-rays reviewed demonstrate her hardware is intact no evidence of hardware failure and no evidence of graft migration. Radiology report pending.

Vitals

Vitals:

	05/29/19 1409
BP:	124/78
Pulse:	(I) 109

Campbell, Tracy Joan (MRN # 974038054 / HAR # N/A)
DOB: 09/25/1972

Encounter Date: 08/28/2019

Progress Notes

Progress Notes by Eidson, Sheila G, NP at 8/28/2019 1:30 PM

Author: Eidson, Sheila G, NP

Service: —

Author Type: Nurse Practitioner

Filed: 8/28/2019 1:41 PM

Encounter Date: 8/28/2019

Status: Signed

Editor: Eidson, Sheila G, NP (Nurse Practitioner)

ADVANCED SPINE AND NEUROSURGICAL ASSOCIATES

115 Academy Avenue

Greenwood, Sc 29646

MRN: 974038054

Encounter Date: 8/28/2019

Patient Information

Tracy J Campbell

221 Williams Hilltop Rd

Ninety Six SC 29666-8837

46 y.o.

9/25/1972

Chief Complaint

12 Month postop follow-up

HPI

Patient is here for 12-month postop follow-up after undergoing a L5-S1 lumbar fusion by Dr. Lal. She reports she is doing very well and returned to her usual activities. Currently planning waiting for her daughter.

Subjective

Review of Systems

Constitutional: Positive for activity change.

Musculoskeletal: Positive for arthralgias. Negative for back pain.

Neurological: Negative for weakness and numbness.

Physical Exam

Sitting comfortably in the room and arises from seated position at difficulty. Nonantalgic gait. Good lumbar range of motion.

Radiology

XR Spine Lumbar 2 or 3 Vw

Status: Final result

Study Result

PROCEDURE:

XR SPINE LUMBAR 2 OR 3 VW 8/28/2019.

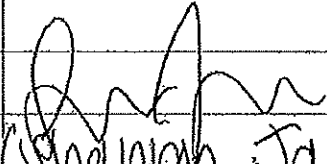
REASON FOR EXAM:

Other specified postprocedural states

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The jury would like to request
confirmation of whether the amounts
shown on P29, to the total of
\$ 57,272.52, are amounts already
PAID out of pocket, by the
Plaintiffs. Or, were the totals
BILLED and reimbursed in part
by related insurance coverage or
other sources?


(Shannon James)

