

Deposition of  
**Kathy Willard**

**Date:** February 6, 2014

**Case:** [REDACTED] v. Patience Ajuzie

Court Reporter: Kayla S. Curry



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IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

████████████████████ )  
 )  
 Plaintiff, )  
 ) CIVIL ACTION FILE  
 vs. ) NO. ████████████████████  
 )  
 PATIENCE AJUZIE, )  
 )  
 Defendant. )  
 )

\* \* \*

The following deposition of KATHY WILLARD was taken pursuant to stipulations contained herein, the reading and signing of the deposition is reserved, before Kayla S. Curry, Certified Court Reporter B-2338 and Notary Public in and for the State of Georgia, on Thursday, February 6, 2014, at 2719 Buford Highway, Atlanta, Georgia, commencing at 2:30 p.m.

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TRANSCRIPT LEGEND:

- [interruption/change of thought]
- ... [Trailing off or did not complete thought]
- (sic) [denotes word/phrase that may seem strange or  
incorrect but has been written verbatim]
- (ph) [phonetically spelled]
- (unintelligible) [not capable of being understood]



1 MR. HIESTAND: You want to read and sign?

2 MS. WILLARD: Uh-huh (affirmative).

3 MR. HIESTAND: Okay. If you would please  
4 swear her in.

5 (Witness sworn.)

6 KATHY WILLARD,  
7 having been first duly sworn, was examined and  
8 testified as follows:

9 CROSS-EXAMINATION

10 BY MR. HIESTAND:

11 Q Ms. Willard, my name is Trevor Hiestand.  
12 We met very briefly before we got started here today,  
13 and as we discussed, I'm sure you've given depositions  
14 like this before; is that correct?

15 A That is correct.

16 Q Do you have an estimate as to how many  
17 depositions you've sat through in your career?

18 A Probably about two a month for the last  
19 thirty years.

20 Q Okay. So you've done more of these types  
21 of depositions than probably anybody else in this room.  
22 So what I would say is this is probably pretty obvious  
23 to you, but if you ever don't understand a question I  
24 have asked you, will you ask me to rephrase it for you?

25 A Yes, sir.

1           Q           Second, for experts -- and it's a little  
2 bit less important in this type of case, but what I  
3 always ask is if I use a term of art that you utilize  
4 in your profession in developing a hypothetical for you  
5 or asking you a question about your opinions, and I may  
6 use that term of art inappropriately or in a way that's  
7 confusing to you, will you let me know and maybe  
8 suggest that my use of that term may be inappropriate?

9           A           Sure.

10          Q           Great. Finally, I understand that you're  
11 going to read and sign this deposition. If at anytime  
12 you want to take a break as we go through this process,  
13 just let us know, we're happy to stop for you.

14          A           Thank you.

15          Q           Let's do this: We're going to first ask  
16 you some questions about what is in your file that  
17 you've utilized in developing your opinions and  
18 conclusions. Before we got started, I made a copy of  
19 what I have been calling your Rehabilitation and Life  
20 Care Plan Concerning [REDACTED] and it appears as  
21 though it's dated October 16th of 2013; is that  
22 accurate?

23          A           Yes, sir.

24          Q           Let me show you this version, which we'll  
25 first mark as Exhibit A.

1 MR. HIESTAND: I know you probably used a  
2 number. I use letters during -- I should have  
3 told you before we got started. I use letters  
4 during depositions. Okay. We'll mark this as  
5 Exhibit A.

6 (Whereupon, the Court Reporter marked  
7 Defendant's Exhibit A for  
8 identification.)

9 Q (By Mr. Hiestand) Okay. And if you  
10 could, just take a look at this and make sure that it  
11 includes all of the sections for your current life care  
12 plan.

13 A Yes, sir, it does.

14 Q Okay. Great. That will be A. Do you  
15 have an extra copy of that of your own if we're  
16 referring to it, or do you prefer to use this version?

17 A No, I have it.

18 Q Okay. Great. That one will leave with  
19 the court reporter. The CV, which is Section III of  
20 Exhibit A, I think you mentioned to me before, it's  
21 still generally current; is that correct?

22 A Yes, sir.

23 Q When you describe to folks that you're  
24 meeting for the first time at a cocktail party or  
25 something like that, what do you tell them that you do?



1           A           I'm a rehabilitation counselor.

2           Q           **And what does that entail? What does**  
3 **that mean?**

4           A           Well, in my work, I work with  
5 catastrophically injured people -- those are generally  
6 spinal cord injuries, severe burns, multiple  
7 amputations, brain injury and total blindness -- to  
8 maximize their recovery in an additional five areas:  
9 Medical, psychological, social, vocational, and  
10 educational.

11          Q           **Okay. Who would be your typical -- I**  
12 **shouldn't say your typical client, but who would be the**  
13 **typical entity or what would be the typical entity or**  
14 **person that would hire you for your work?**

15          A           I get referrals from families.

16          Q           **Uh-huh (affirmative).**

17          A           Probate judges, quite a few, especially  
18 on wards of the court or the state, then attorneys,  
19 school boards, the federal government, state  
20 government, other states, occasionally school boards.  
21 That would be mainly it -- Oh, I'm sorry, and of course  
22 insurance companies.

23          Q           **Okay. [REDACTED] is a Plaintiff in**  
24 **litigation, and you're probably aware that he's**  
25 **involved in litigation. Do you have an estimate as to**

1 **what percentage of your work involves persons that are**  
2 **involved in litigation?**

3 A Usually -- and I say this all the time --  
4 There's usually some sort of legal counsel involved,  
5 whether it's federal or state or Workers' Comp or  
6 certainly civil litigation, like in Social Security  
7 hearings, I'm there with the administrative law judge.  
8 It's not the attorney -- but there are attorneys  
9 involved often. The exception would be just families.  
10 A lot of times I don't even meet the attorneys.

11 Q Okay. Would you say a majority of the  
12 cases that you currently work on involve some form of  
13 litigation?

14 A Or previous litigation, yes.

15 Q Okay. Now, Butler, Wooten & Fryhofer  
16 is -- It's my understanding they're the -- that's the  
17 group that hired you for your work in this case; is  
18 that correct?

19 A Yes, sir.

20 Q Have you done other work for this firm  
21 before?

22 A I have.

23 Q And do you know how many times you've  
24 worked for them before? Or if you have a good  
25 estimate, that's satisfactory.

1           A           I don't have a firm estimate. I would  
2 say to you probably more than five and less than ten.

3           Q           All right. Now, in this case involving  
4 Mr. ██████████ do you know when you were first  
5 contacted to do any work in this case?

6           A           Yes, sir, June the 4th, 2013.

7           Q           All right. Since that time, do you know  
8 approximately how many hours you've spent in developing  
9 your opinions and conclusions to date?

10          A           No, sir, I don't.

11          Q           Do you generally keep track of your hours  
12 that -- or how -- Let me ask you a slightly different  
13 way. How are you being compensated for your work in  
14 this case?

15          A           At \$225 an hour, billable hours.

16          Q           And would that be the same amount that  
17 you would be charging me for your time today?

18          A           Exactly.

19          Q           All right. And do you know how many  
20 hours you've spent doing your work so far in this case?

21          A           I don't.

22          Q           No idea?

23          A           No idea.

24          Q           That's encouraging to Mr. Butler, I'm  
25 sure.

1           A           Well, we bill for the hours, I promise  
2    you.

3           Q           Okay.

4           A           The initial evaluation was back in July.  
5    It continued in September. Home evaluations on two  
6    occasions because there's two separate homes. A  
7    meeting with Dr. Elmers. Dr. Elmers appointment at  
8    Shepherd. Contact with mom, and then telephone contact  
9    with [REDACTED], and then research on all of the life care  
10   plan.

11          Q           Okay.

12          A           So I don't have a firm number. We can  
13    always ask.

14          Q           Have you billed for your time to this  
15    firm so far?

16          A           Absolutely.

17          Q           And how much have you been paid so far?

18          A           I have no idea.

19          Q           Okay. Would that be handled at a  
20    separate department at your --

21          A           Absolutely.

22          Q           Okay. Would you be kind enough to  
23    forward any invoices, either outstanding invoices or  
24    paid invoices, to Mr. Butler so I can just get copies  
25    of those? I'm not asking for anything else other than

1     **just the bare invoices --**

2           A       Right.

3           Q       -- if that's all right.

4           A       Uh-huh (affirmative).

5           Q       All right. Great. Now, having gone  
6 through those preliminaries, why don't we go through  
7 your file. Some of the items I may want to attach as  
8 exhibits to this deposition, and like I said before, we  
9 will mark your originals with exhibit stickers, so you  
10 can hold onto those in your file because I don't want  
11 to take any part of your file --

12          A       Okay.

13          Q       -- and then we can set those aside and  
14 get copies for the court reporter before she leaves so  
15 we know what those are.

16                   Is there some best order to go through  
17 the materials? Obviously, we have your summary of  
18 opinions and conclusions here, marked as Exhibit A, and  
19 that's the October 16th, 2013, Life Care Plan. What  
20 would be the next item in your file?

21          A       The blue notebook that I'm opening now  
22 contains three CDs. It looks like I have number two  
23 out of three. Number One is Piedmont and Shepherd  
24 records. Number Two is Home Health, YMCA, appointment  
25 records, Kaiser, and United Health -- or Union Health,

1 I'm sorry. And I'm going to number this Number Three,  
2 and this is Grady. Number Three is Grady and Shepherd  
3 records.

4 Q Okay. Number One and Three, I understand  
5 would be medical records then for the treatment  
6 provided to [REDACTED] as a result of the accident  
7 that he was involved in in 2010; is that accurate?

8 A Yes, sir.

9 Q How did that information enter into the  
10 development of your opinions and conclusions in this  
11 case?

12 A Of course, not having a thorough  
13 understanding of his injuries and the treatment that  
14 was delivered for those injuries, and you would see  
15 some printed records that correspond with these CDs,  
16 additionally in my file are handwritten notes about  
17 some of those records.

18 Q All right. The second disc you  
19 mentioned, again, were those insurance records  
20 generally, or what were those records --

21 A There was --

22 Q -- on the second disc?

23 A -- there was home health when he was  
24 getting decubitus ulcer treatment at home, his  
25 employment records, childhood Kaiser records, and

1 medical records through preinjury.

2 Q Okay. So all of those discs would  
3 generally contain medical records, either post-accident  
4 or pre-accident?

5 A And employment at YMCA.

6 Q All right. Great. Then you've got some  
7 printed materials that are also in that blue folder;  
8 what are those items?

9 A This is [REDACTED]'s deposition, dated May  
10 the 2nd, 2013.

11 Q Okay. That one I have a copy of, so we  
12 will mark -- not mark that. The -- Did you review any  
13 other depositions in this case to develop your opinions  
14 or conclusions?

15 A No, sir.

16 Q There was a deposition that was just done  
17 of a Dr. Caston (ph). Do you know Dr. Caston? He's an  
18 economist.

19 A I do.

20 Q Do you remember having a conversation  
21 with him maybe by phone or maybe you exchanged e-mails  
22 or something like that?

23 A If Dr. Caston called me, I'm sure he's  
24 correct, he has called me many times over the years,  
25 and if he did, it was clarification on a life care

1 plan --

2 Q Okay.

3 A -- but I don't have any independent  
4 recollection of it.

5 Q And before we move to the other records,  
6 you didn't review his deposition then to prepare for  
7 today's deposition?

8 A I have not.

9 Q Okay. The second group of materials that  
10 you have there in front of you -- or not second -- but  
11 the next group that appear to be marked as Shepherd  
12 records, what are those records?

13 A Exactly, and they came from the CDs, and  
14 some I printed out.

15 Q Okay. So these are just printouts from  
16 those CDs?

17 A That is true.

18 Q Great. Okay. What is the next item that  
19 you have in your file? I see some items that appear to  
20 be in the binder itself in the D rings --

21 A That's --

22 Q -- what you've just put aside.

23 A Oh, I'm sorry, they're more medical  
24 records.

25 Q Those are more medical records, great.



1           A           That's Grady's.

2           Q           **Okay.**

3           A           They're all from the CDs.

4           Q           **I see that you also have a copy of the**  
5 **police report in there.**

6           A           Oh, I'm sure. I wouldn't have noticed  
7 it.

8           Q           **Okay. Would the police report have**  
9 **entered into any of your opinions or conclusions in**  
10 **this case?**

11          A           No, sir.

12          Q           **All right. What's the next item you have**  
13 **in your file?**

14          A           Okay. In my file, I have one note --  
15 This is Grady Health System, and I've pulled that out  
16 because I wanted to clarify with Dr. Elmers that even  
17 though there was a common iliac dissection, that we no  
18 longer needed to do aspirin, and that was confirmed,  
19 and I'll be taking that out of the plan. He's  
20 stabilized, he's not using aspirin, and she agrees that  
21 he can stay off.

22          Q           **So in other words, the provision you have**  
23 **in your life care plan for aspirin purchases over his**  
24 **lifetime would need to be redacted?**

25          A           Yes.

1           Q           **Great. Okay.**

2           A           Let's see -- I tend to write tons of  
3 handwritten notes, and these are handwritten notes  
4 corresponding to the medical records and the employment  
5 records.

6           Q           **Okay. What I would like to do is mark  
7 all of your handwritten notes collectively as Exhibit  
8 --**

9                       MR. HIESTAND: I think we're to B.

10                      THE COURT REPORTER: Yes.

11                      MR. HIESTAND: Yep. And if we can, we'll  
12 just mark that top page.

13                      (Whereupon, the Court Reporter marked  
14 Defendant's Exhibit B for  
15 identification.)

16           Q           **(By Mr. Hiestand) Again, these will not  
17 leave your possession. They're going to go out with  
18 you, but let's go ahead and have all of those notes  
19 copied and attached to this deposition as Exhibit B.**

20           A           Perfect.

21           Q           **All right. And I'm assuming you utilize  
22 those notes in order to synthesize your opinions and to  
23 get some sort of an order, and then your opinions,  
24 which would have been contained within your handwritten  
25 notes, would also be expressed in your life care plan,**

1 **which is Exhibit A?**

2 A That's true. Of course, I've spoken to  
3 Malcom since I wrote this, and there's a handwritten  
4 note of a telephone conversation with [REDACTED].

5 Q **When is this subsequent conversation with**  
6 **[REDACTED]?**

7 A January 31st, 2014.

8 Q **So this would have been about a week or**  
9 **so ago?**

10 A True.

11 Q **What was the substance of that**  
12 **conversation?**

13 A Well, I knew that [REDACTED] was still  
14 troubled by a decubitus ulcer, this time on the right  
15 side, caused by a shower chair initially back in May of  
16 last year, and I wanted to know where that was and what  
17 was happening with that. His uptime was limited to six  
18 hours a day with weight shifts, of course, and that he  
19 was at his mom's house and continued to have difficulty  
20 with negotiating her house. He didn't remember his  
21 next appointment at Shepherd. It is in the Wound  
22 Clinic. It's March the 12th of this year, and I'll be  
23 attending that to see where that decubitus is.

24 Q **How were you able to confirm that date of**  
25 **that next appointment at the Wound Clinic?**

1           A           I called Shepherd.

2           Q           Okay. And you've mentioned that he did  
3 not know the date of his next appointment. Was it a  
4 situation -- and this is based on your conversation  
5 with him -- was it a situation where the appointment  
6 had not yet been set, or he couldn't find the  
7 confirmation of it or --

8           A           He just didn't have it in front of him.  
9 Of course, when you leave Shepherd and you check out,  
10 you're immediately given your next appointment date --

11          Q           Sure.

12          A           -- and --

13          Q           Okay.

14          A           Yeah, these are all mixed with mom --  
15 [REDACTED] at his aunt's house, records, additional notes  
16 and records. Mike McCord from my office -- I asked him  
17 to attend to Dr. Elmer's appointment, as well as a  
18 review, and analyze [REDACTED]'s mother's house. I went to  
19 the aunt's house, and so there's notes in Mike's hand,  
20 as well as mine. There are notes of meetings with  
21 [REDACTED] and the dates associated.

22          Q           All right.

23          A           And then there's my initial -- there's my  
24 initial interview with [REDACTED].

25          Q           Well, let's do this: The notes that are

1 on the yellow lined paper, and let's mark those  
2 collectively as B, which we've already marked this  
3 other item, which is on a different type of paper and  
4 it's titled again client -- client evaluation. We'll  
5 mark that as C to the deposition, and as we go through  
6 your deposition, of course, if you ever need to refer  
7 to your notes to get a date or something, feel free to  
8 do so.

9 (Whereupon, the Court Reporter marked  
10 Defendant's Exhibit C for  
11 identification.)

12 Q (By Mr. Hiestand) Have we now marked all  
13 of your notes from your file, or are there others?

14 A There is a one-page listing of dates of  
15 contact with [REDACTED] and his mom and Dr. Elmers.

16 Q Did you prepare that sort of as a cheat  
17 sheet for today?

18 A Exactly.

19 Q Okay. Yeah, why don't we set that aside  
20 --

21 A Okay.

22 Q -- and we'll -- may or may not mark that.  
23 Let's hold on that for a moment.

24 A Okay.

25 Q What other notes do you have?

1           A           These are, again, redundant because I've  
2 had to go back through the records in preparation for  
3 today, so there are more medical records almost like  
4 exactly what's in the file.

5           Q           Okay. And this set of notes that we've  
6 just referred to, these were something that you  
7 prepared very recently just to have a quick reference  
8 for the purposes of today?

9           A           Yes.

10          Q           Would you mind if we were to mark those  
11 collectively as Exhibit D, all of those notes?

12          A           No problem.

13                   (Whereupon, the Court Reporter marked  
14 Defendant's Exhibit D for  
15 identification.)

16          Q           **(By Mr. Hiestand) Great.**

17                   MR. BUTLER: If y'all will hang on just a  
18 second, I'll bring some paperclips --

19                   MR. HIESTAND: Okay.

20                   MR. BUTLER: -- to keep order.

21                   THE WITNESS: Oh, thank you.

22                   (Whereupon, there was a brief recess.)

23          Q           **(By Mr. Hiestand) All right. We have**  
24 **marked now notes. We -- What else do you have in your**  
25 **file?**

1           A           Okay. We have an area that we call  
2 correspondence and they are letters and a professional  
3 service agreement.

4           Q           **Can we mark those collectively as**  
5 **Exhibit E?**

6           A           Yeah.  
7                        (Whereupon, the Court Reporter marked  
8 Defendant's Exhibit E for  
9 identification.)

10          Q           **(By Mr. Hiestand) And may I take a look**  
11 **at those?**

12          A           Sure.

13          Q           **Thank you. And the professional services**  
14 **agreement is one prepared by your firm and confirms the**  
15 **\$225 per hour rate?**

16          A           That's true.

17          Q           **Okay.**

18          A           And maybe you could put that in.

19          Q           **This was --**

20          A           Uh-huh (affirmative).

21          Q           **-- this item --**

22          A           In there where --

23          Q           **-- goes with E?**

24          A           Uh-huh (affirmative).

25          Q           **At the back?**

1           A           Yeah, that'd be fine.

2           Q           Okay. Okay. Great. That's E. We can  
3 keep that together.

4           A           Next, I have a copy of the life care  
5 planning charts dated 10/15/13, and on the top of it  
6 I've written Dr. Elmers, and this is the set of charts  
7 that Dr. Elmers and I went over. There's some  
8 handwriting on those.

9           Q           Why don't we mark that as F then? It  
10 sounds like you used the information from Defendant's  
11 Exhibit F to finalize the life care plan chart, which  
12 is Exhibit 2 in Defendant's Exhibit A; is that  
13 accurate?

14          A           Yes, sir.

15                   (Whereupon, the Court Reporter marked  
16 Defendant's Exhibit F for  
17 identification.)

18          Q           (By Mr. Hiestand) Great.

19          A           Next we have -- This is a Shepherd  
20 printout, the current meds and past meds for [REDACTED] --

21          Q           Okay.

22          A           -- and then we also have the Shepherd  
23 script pad for Lortab.

24          Q           All right. Would that be all of the  
25 Shepherd prescription materials? I was going to mark



1    **them all collectively as Exhibit -- I guess we're up**  
2    **to G -- but, you know, if -- I just want to make sure**  
3    **all of them are together in kind of a group.**

4                    **(Whereupon, the Court Reporter marked**  
5                    **Defendant's Exhibit G for**  
6                    **identification.)**

7            A        In terms of current, and medical records  
8    certainly have many, many --

9            Q        **(By Mr. Hiestand) Sure.**

10           A        -- pages --

11           Q        **Sure.**

12           A        -- of scripts.

13           Q        **Okay. Great. Thank you.**

14                    **What's the next item you have, please?**

15           A        Let's see, there is a fax -- It's a copy  
16    of what we have -- a blank copy of what we have in the  
17    correspondence, so it's redundant. I'm sorry.

18           Q        **Would you be all right with including**  
19    **this with the correspondence, which was marked as**  
20    **Exhibit E?**

21           A        Yes.

22           Q        **Is that all right? Shall we put it with**  
23    **E?**

24           A        Yes.

25           Q        **Does that make sense?**

1 A Uh-huh (affirmative).

2 Q Okay. Now, I see that it looks  
3 duplicative.

4 A Uh-huh (affirmative).

5 Q What else do you have?

6 A We have a typed three-page review of  
7 medical records, with the medical records received on  
8 June 4th, 2013, and that was the first set of medical  
9 records received.

10 Q So this is your summary that you  
11 prepared?

12 A Actually, it was one of the nurse's in  
13 the office.

14 Q Okay.

15 MR. HIESTAND: Well, why don't we mark  
16 that as Defendant's Exhibit H.

17 (Whereupon, the Court Reporter marked  
18 Defendant's Exhibit H for  
19 identification.)

20 A And then the final is a medical records  
21 received listing. As we receive different records at  
22 different times, we have an ongoing list.

23 Q (By Mr. Hiestand) And we'll mark that as  
24 I.

25 (Whereupon, the Court Reporter marked

1                   **Defendant's Exhibit I for**  
2                   **identification.)**

3           A           I additionally brought just for -- oh,  
4 I'm sorry, I didn't know that was back there -- I  
5 additionally brought the Consortium For Spinal Cord  
6 Injury Medicine Practice Guideline -- Clinical  
7 Guidelines on Attendant Care Hours and Needs Based on  
8 Level of Injury, just as an example today. Certainly,  
9 Dr. Elmers and I, and all the physicians at the  
10 Shepherd Center, adhere to this Consortium Guideline.

11           **Q           (By Mr. Hiestand) When was that**  
12 **Guideline published?**

13           A           Let's see, 1999.

14           **Q           Has there been any type of update since**  
15 **1999 that is commonly used by you --**

16           A           No.

17           **Q           -- for this purpose?**

18           A           No.

19           **Q           Okay. And I asked a compound question.**  
20 **Are there any updates to that guideline?**

21           A           Not to my knowledge, no.

22           **Q           Okay. And I do see -- And we'll go to it**  
23 **in just a moment, but at one point there is an itemized**  
24 **listing of anticipated home health care and needs, and**  
25 **I'm going to anticipate that that guide that you just**

1 referred to may have been a source for that  
2 information.

3 A Yes.

4 Q Okay.

5 A Well, not a source, but a helper.

6 Q Okay.

7 A The only other thing is a stub of a check  
8 that I wrote to Dr. Anna Elmers for her consult time.

9 Q Okay. And that's for \$750?

10 A Exactly.

11 Q We do not need to mark that, but would  
12 that have been a cost that you initially would have  
13 fronted and then would have been passed on to Butler,  
14 Wooten & Fryhofer?

15 A Yes.

16 Q All right. And what is -- The \$750  
17 represents how much time in consultation?

18 A One hour, for all the doctors at the  
19 Shepherd Center.

20 Q Okay. Now, have we gone through every  
21 item in your file?

22 A Yes, sir.

23 Q All right. Great. Again, as I stated  
24 before -- oh, yes, go ahead --

25 A Sorry.

1           **Q           That's all right.**

2           A           We skipped right over that. There is a  
3 cover sheet that is an information sheet in my office,  
4 as well as a sheet of paper that has [REDACTED]'s name and  
5 his mother's address, cell phone number, e-mail  
6 address, date of birth, and there is a sheet that we  
7 compile in my office, it's called a contact sheet, and  
8 it talks about the vendors and suppliers for services,  
9 where they are located, and their telephone numbers.

10           **Q           These would be the same vendors or**  
11 **providers that are listed in the life care plan,**  
12 **correct?**

13           A           That is true.

14           **Q           Okay. What else?**

15           A           And there is a release of information  
16 form signed by [REDACTED].

17           **Q           May we mark all of those items**  
18 **collectively as Exhibit J? And that may be the last**  
19 **exhibit.**

20           A           I think we're running out of stuff.

21           **Q           Okay.**

22                        **(Whereupon, the Court Reporter marked**  
23 **Defendant's Exhibit J for**  
24 **identification.)**

25           **Q           (By Mr. Hiestand) Great. Have we now**

1 covered everything in your file?

2 A Yes, sir.

3 Q Okay. Let's do this: You know, it's  
4 easiest for me to go through your life care plan  
5 somewhat sequentially and ask you some questions about  
6 that. Obviously, on the first page we have -- it's  
7 just a title page, and second page table of contents,  
8 then we go to Section I. In your business, what is the  
9 purpose of Section I? What is the intention of that  
10 section?

11 A Well, Section I, of course, is the  
12 narrative report. It needs to give information on the  
13 identity of the patient, the referral information,  
14 where did the case come from. The medical history is  
15 gleaned from the medical records. Current functioning  
16 is based on my assessment. Then we also deal with  
17 educational and vocational data, education -- excuse  
18 me, emotional data and rehabilitation planning.  
19 Section II are life care planning charts.

20 Q Okay. Let's start with looking at the  
21 narrative itself, and the October 16th, 2013 -- oh, it  
22 is numbered, okay, I see. On the first page, under  
23 referral information, there's reference to meeting at  
24 the home -- meeting at the home of [REDACTED]'s  
25 mother, his aunt, and the Shepherd Center. And you

1 mentioned that Mr. McCord, of your office, had also  
2 assisted you. Tell me again which ones did you  
3 personally attend, as opposed to Mr. McCord.

4 A Sure.

5 Q You know what I'm wondering -- Since  
6 we've got -- kind of got your file out of order, would  
7 it be most beneficial to you to go ahead and get copies  
8 and then allow you to put your file back together?

9 A Yeah, that would be great.

10 MR. HIESTAND: Why don't we do that. Why  
11 don't we take just ten minutes --

12 MR. BUTLER: Sure.

13 MR. HIESTAND: -- so copies can be made.  
14 That way, you can get your stuff together  
15 because I certainly don't want you to have to --  
16 You'll want to get your file into the order that  
17 you like, I totally understand. So why don't we  
18 take a short break, and we'll get started when  
19 everybody is ready.

20 THE WITNESS: Sure.

21 (Whereupon, there was a brief recess.)

22 MR. HIESTAND: Okay. Let's go ahead, and  
23 we'll go back into the rehab and life care plan.  
24 Are you all set?

25 THE WITNESS: Uh-huh (affirmative).

1           Q           (By Mr. Hiestand) All right. I was  
2 asking you: As far as visits to home of the mother,  
3 Ms. [REDACTED], home of the aunt, [REDACTED], and visits to  
4 the Shepherd Center, do you remember or do you know  
5 which portions you handled, as opposed to Mike McCord,  
6 of your office?

7           A           Yes. I did the initial evaluation on  
8 July the 18th, and then Mike met with [REDACTED] and Dr.  
9 Elmers on September the 23rd. He did the home  
10 evaluation on September the 26th at the mother's. I  
11 went to Aunt [REDACTED]'s on October the 7th. I met with  
12 Dr. Elmer's on October the 15th, and then mom and I had  
13 contact on October the 16th, and then most recently  
14 [REDACTED] and I on January 13th.

15           Q           The October 16th contact with [REDACTED]'s  
16 mother, what was that all about?

17           A           He's a very young man, and what I wanted  
18 to know when [REDACTED] was -- her perception of how he was  
19 doing.

20           Q           What did she tell you?

21           A           Well, I can quote her. In essence, what  
22 she said was he didn't want to be paralyzed and that he  
23 wanted to be normal, was her word, tried to be normal,  
24 and that he was in and out of depression. Her opinion  
25 was he needed psychological help. I asked her if he



1    seemed more dependent, less independent post-injury,  
2    and she said, yes, he's more dependent, he can't direct  
3    his own care.  He was refusing to let her see his  
4    wound, and he was very private about his body.  She  
5    perceived that he didn't want her to worry.  I did some  
6    education on what a decubitus ulcer could do, and mom  
7    said he won't listen to his mother, he needs a case  
8    manager, he needs transportation, and he needs more  
9    help.

10           Q           Okay.  I know that you had an opportunity  
11    to review the deposition that I took of [REDACTED].  
12    As far as you personally having face-to-face contact --  
13    I don't mean by telephone or e-mail -- but face-to-face  
14    contact with [REDACTED] when did that occur?

15           A           I had contact with him on September the  
16    23rd and then again on October the 7th.

17           Q           And how much time would you estimate you  
18    spent with him face-to-face total, between those two  
19    visits?

20           A           Well, we can look at the billing that  
21    we've requested, but --

22           Q           Just roughly?

23           A           I would say probably about six hours.

24           Q           All right.  And what was the purpose of  
25    those visits?

1           A           See how he was functioning, what he knew,  
2           what his aspirations were, how he's handling his  
3           impairment and where we could help.

4           Q           When you said see what his function is,  
5           do you mean that you would have -- meet him in his home  
6           and say, hey, show me your morning routine or that sort  
7           of thing?

8           A           Well, we've already got the records from  
9           Shepherd, and we've got his stem scores and all that,  
10          plus he's a para, and I know what he should be able to  
11          do, and I confirmed, you know, anything that he was  
12          having trouble with. Again, we have a lot of notes  
13          about it. I'm looking at his environment, how he's  
14          handling his environment, and what he wants to do with  
15          who he is and where he wants to go.

16          Q           As you know, the immediate period after  
17          getting an injury like this is the most difficult  
18          generally for a lot of folks, or do you disagree with  
19          that?

20          A           I think it comes in waves.

21          Q           Okay. How do you feel -- and this is  
22          just the general view of how [REDACTED] is doing --  
23          How do you feel that he's doing with this adjustment to  
24          his new disability?

25          A           In my 42 years in rehabilitation, most

1 young people -- and I define that as probably anybody  
2 less than 25 -- most young people have a real  
3 difficulty in understanding that this is permanent and  
4 that they have to recognize a need throughout the day  
5 to take care of things. I think that's very common,  
6 and I understand that. You just don't want to be  
7 paralyzed, and with that in mind, I think he's doing  
8 fine. He needs time. What we want to do in rehab is  
9 give him the support he needs without pooh-poohing  
10 anything, not putting him down, not trying to make  
11 decisions for him, but being supportive in helping him  
12 come to the right decisions.

13 Q Okay. Let me go to page two, and I'm  
14 going to be skipping over quite a bit of your report --

15 A Sure.

16 Q -- only because a lot of this medical  
17 history I already have --

18 A Uh-huh (affirmative).

19 Q -- but you had referenced in page two in  
20 that first paragraph that Mr. [REDACTED] had returned to  
21 Clark Atlanta University as a freshman and had control  
22 of both bowel and bladder at the time of this  
23 outpatient appointment. Later on, there's -- is there  
24 some reference that he may have stopped going to school  
25 at Clark Atlanta?

1           A           Yes, and, of course, this is what he was  
2     telling Dr. Elmers at the time. We know --

3           Q           **Okay.**

4           A           -- we know he has neurogenic bowel and  
5     bladder, and he was just not -- he is able to void  
6     some, he just doesn't have complete emptying, and it's  
7     not recommended that he abstain from catheterizing. He  
8     certainly has a problem with constipation, as well as  
9     diarrhea. We want him on a regular bowel program.  
10    Yes, he went to Clark Atlanta, and he did attend  
11    classes. His uptime was restricted with the decubitus  
12    ulcer and he needed to be off his backside.

13          Q           **Okay. We'll come back to that in just a**  
14    **moment. Let's go to page three of this narrative, and**  
15    **I'm going to the second paragraph -- or the first full**  
16    **paragraph. You state, Mr. [REDACTED] continues to be seen**  
17    **at the Shepherd Center by Dr. Anna Elmers. Do you know**  
18    **how often he is supposed to be going there?**

19          A           Well, he's going to the Wound Clinic on  
20    an every-other-month and sometimes every-week basis.  
21    He's supposed to see Dr. Elmers twice a year.

22          Q           **All right. And is it your understanding**  
23    **that he is continuing to be seeing Dr. Elmers twice a**  
24    **year?**

25          A           I know that he went for a period of time

1 that he wasn't very regular, but he was going to the  
2 Wound Clinic and didn't understand that those are two  
3 different needs.

4 Q Dr. Elmers is the physiatrist; is that  
5 correct?

6 A She is.

7 Q Okay. Then you have in that same area he  
8 is in a wheelchair -- he is wheelchair dependent and  
9 has no lower extremity bracing. Would this refer to  
10 any types of orthotics, for example?

11 A That's true.

12 Q Now, is it your understanding that he  
13 does any type of walking at all?

14 A No. He was in the E-Stim Program or  
15 E-Legs Program, as they all it, and it's an artificial  
16 type of walking. He was found not to be functional.  
17 There is no recommendation and a life care plan to  
18 continue with anything other than recreational walking.  
19 You'll see in the life care plan their KAFOs. There's  
20 not a recommendation for a rolling walker. He wasn't  
21 found safe without stand-by assist, but he can stand if  
22 he has KAFOs. It's just not functional standing.

23 Q When you say recreational standing, what  
24 did you mean by that?

25 A Well, you know, if you get in a standing

1 frame, there's medical benefit, but there's also  
2 emotional benefit. The medical benefit is elimination,  
3 respiration, and certainly skin integrity. Same thing  
4 with KAFOs. I would just say to you the emotional  
5 benefit of getting upright is recreational.

6 **Q Okay. Then you mentioned in this same**  
7 **paragraph he is not in therapy. What kind of therapy**  
8 **did you need?**

9 A Physical or occupational --

10 **Q All right.**

11 A -- or speech or anything else.

12 **Q And how about currently? I know that**  
13 **you've had some subsequent interviews. Is he currently**  
14 **in any type of physical or occupational therapy?**

15 A No, he goes to ProMotion, which is the  
16 gym at Shepherd that is available at a fairly nominal  
17 fee, and it is recommended that he have evaluations to  
18 keep up the exercises that they teach him to do in the  
19 gym. He goes to swimming in the indoor swimming pool.  
20 There is access to lifeguards that understand paralysis  
21 in that environment, you know. So he's using the  
22 facilities that we are very fortunate to have here in  
23 Atlanta.

24 **Q All right. But that would be the limit**  
25 **of any type of -- and I hate you use going to the gym**

1 as therapy, but that would be the limit of any type of  
2 therapy that he would be --

3 A Right.

4 Q -- attending now?

5 A Yes.

6 Q All right. Current functioning, a lot of  
7 this -- You know, again, I'm skipping over just because  
8 of my familiarity with some of this, but there's a  
9 reference to -- you know, he reports an increase in  
10 pain if he sits in his wheelchair long and he feels  
11 that his uptime in the wheelchair is six to  
12 seven hours; was that as of October 16th of 2013?

13 A Yes, sir.

14 Q And how -- And then I think you earlier  
15 mentioned that that may have changed because of an  
16 ulcer that he may have now.

17 A Well, he had the ulcer then, too.

18 Q Okay. I'm sorry.

19 A Yeah, so he's had the ulcer since May of  
20 last year.

21 Q All right. So if we're talking about any  
22 ulcer that he had in May, any episodes that he's had of  
23 a pressure sort of an ulcer, the last one known to you  
24 would have been one that began in May of 2013?

25 A That's true.

1           Q           **Great. Okay. Now I understand.**

2                       **So as of October of 2013, his uptime in**  
3 **the wheelchair was six or seven hours. Based on your**  
4 **work with other folks with paraplegia, how would you**  
5 **characterize that amount of up -- and uptime I'm**  
6 **understanding is meaning how much time he can spend**  
7 **sitting in his chair, correct?**

8           A           That's true.

9           Q           **Okay.**

10          A           And it doesn't mean that it can be  
11 continual. Sometimes you have to break that down to  
12 three in the A and three in the P, but I have people  
13 that are restricted to a hospital bed on their stomach  
14 for extended periods of time.

15          Q           **Because of pressure sores or ulcers?**

16          A           Yes, and --

17          Q           **Is that right?**

18          A           -- osteomyelitis.

19          Q           **Sure, sure.**

20          A           Yeah, and they're waiting for surgery and  
21 waiting for the bone to clear, and then after surgery  
22 if we are afraid that there's going to be sloughing.

23                       You know, again, and I was very pleased  
24 when I talked to [REDACTED] January the 31st because he  
25 said to me -- I asked him what his uptime was, and he



1 said six hours, and he said, but I know with weight  
2 shifts. And so, you know, it's not like you can just  
3 be in your chair for six hours and go and not be aware  
4 of the fact that you have a pressure ulcer that, in  
5 fact, needs management throughout the day.

6 Q Is it your impression that his uptime or  
7 sitting time in his wheelchair is primarily limited  
8 because of the ulcer?

9 A Yes.

10 Q All right. All right. Going to the  
11 bottom paragraph on page three, you reference Mr. [REDACTED]  
12 as independent in activities of daily living if he's in  
13 an accessible environment. That sounds pretty obvious.  
14 I mean, if you were to drop me -- for the purpose of  
15 the record, I use a wheelchair -- if you were to drop  
16 me over the side of a steep mountain, I'd probably be  
17 pretty limited in a lot of my activities. What did you  
18 mean by that sentence?

19 A Well, in Aunt [REDACTED]'s home, the bathroom  
20 that [REDACTED] uses --

21 Q I'm sorry, at whose home?

22 A Aunt [REDACTED].

23 Q Aunt [REDACTED]. Thank you.

24 A Yeah, and I know my report says [REDACTED].  
25 That's a typo. I must have dictated it wrong. It

1 wouldn't be a typo; I said it wrong. Her name is  
2 [REDACTED].

3 Q Well, in the first paragraph it says  
4 [REDACTED]

5 A Yeah. There was something I wrote --

6 Q I will understand. It's the only aunt  
7 that would be referenced anywhere so --

8 A On page four, it says Ms. [REDACTED]

9 Q Oh, okay.

10 A That is [REDACTED].

11 Q Okay.

12 A I don't know where that came from, but in  
13 the bathroom that [REDACTED] has access to, it is so narrow  
14 that he has to be perpendicular to the sink, and he can  
15 catheterize into the sink, but he can access far enough  
16 to get to the commode, and there's no bars around  
17 there. In his mother's house, and you'll see [REDACTED]'s  
18 drawings of the bathroom area, there is enough room.  
19 So it depends on what environment he's in that he can  
20 be more independent than others.

21 Q And that takes us to my next set of  
22 questions, which begins on page four of six. He cannot  
23 -- top line -- He cannot exit his mother's home  
24 independently. Mr. [REDACTED]'s mother lives in a  
25 single-level ranch with a basement, and the kitchen

1 door is inaccessible, but the front door of the house  
2 has a front stoop, and family and friends can lift Mr.  
3 [REDACTED] in his wheelchair in and out of the house. Is  
4 there a reason why there hasn't been any effort to  
5 provide a ramp to get in and out of his mother's house?

6 A I don't know if they had a sheet of  
7 plywood at one time or whatever, but at this time  
8 there's no ramp there, and I don't know if it's a  
9 funding issue. I know that when I asked about the  
10 modifications to Aunt [REDACTED]'s house, which are much  
11 more substantial. They turned the garage into a room  
12 for him. He said, well, that was all the money we had.  
13 So -- And he stays there when his mom is at work.

14 Q Stays where?

15 A At Aunt [REDACTED]'s -- Aunt [REDACTED]'s so he can  
16 exit it. The rise is only six to eight inches at the  
17 front stoop.

18 Q Of his mother's home?

19 A At his mother's home.

20 At Aunt [REDACTED]'s, it's a garage entrance  
21 with a door made into it, so he can go right in and  
22 out, and does, and -- but the bathroom is not fully  
23 modified there, and that's why I put in the life care  
24 plan two to three modification -- or evaluations for  
25 modifications because he's got Aunt [REDACTED]'s house,

1 Mama's house --

2 THE WITNESS: God bless you.

3 MR. HIESTAND: Thank you.

4 A -- and then he would like to get his own  
5 place.

6 Q (By Mr. Hiestand) Uh-huh (affirmative).

7 A So...

8 Q Without waiver of any collateral source  
9 objections, et cetera, but do you have an understanding  
10 as to whether Mr. [REDACTED] has health insurance coverage?

11 A Well, we know he's got Medicaid and  
12 Medicare.

13 Q Why -- Do you know -- It concerns me that  
14 we were talking about only, and the record will reflect  
15 I'm putting only in quotes, because a six- or  
16 eight-inch step is --

17 A Big.

18 Q -- is big, but easily remedied by a  
19 relatively simple ramp.

20 A True.

21 Q And I'm wondering why somebody with  
22 health insurance coverage would not have a ramp  
23 available to them for that six or eight-inch step; does  
24 that make sense?

25 A Yes, it does, but Medicare and Medicare

1 -- I'm sorry, Medicare and Medicaid don't pay for any  
2 architectural renovations.

3 Q It would pay for like a folding portable  
4 ramp, though --

5 A I --

6 Q -- you know, a steel folding portable  
7 ramp.

8 A Well, I have it in the life care plan --

9 Q Right.

10 A -- but I have never seen that happen.

11 Q Really? Okay. Are you aware of Mr.  
12 [REDACTED] having any type of additional healthcare  
13 coverage, such as, you know, Blue Cross Blue Shield or  
14 something of that nature?

15 MR. BUTLER: I'll object to this line of  
16 questioning. It's calling for speculation  
17 beyond the scope of the Witness.

18 Q (By Mr. Hiestand) To the extent you  
19 know.

20 A Okay. I don't know that he has other  
21 health insurance. I know that when I was appalled at  
22 the shape of his wheelchair, and the wheel was falling  
23 off, and he took some spills, and Aunt [REDACTED] was saying  
24 this had gone on for a month now, and I said who is  
25 going to pay to get -- and you'll see in my notes where

1 I -- but he wasn't -- you know, there's an allotment,  
2 and he wasn't eligible for an allotment yet for repairs  
3 to the wheel -- for durable medical equipment because  
4 the equipment wasn't that old, but it needed  
5 maintenance.

6 Q Okay.

7 A And it hadn't been maintained. So he has  
8 a wheel falling off and he has -- and it falls off  
9 regularly -- and then he also has a handlebar that's  
10 broken off.

11 Q Do you know why that wheel -- Is it an  
12 axle, you know -- you know how locking axles work --

13 A Yeah.

14 Q Is it that --

15 A No, it's not --

16 Q -- the axles failed?

17 A -- no, it's not the axle. It is simply  
18 the front caster has been broken off. The metal is  
19 broken, and they can stick it back on there, but it  
20 doesn't stay.

21 Q The front caster?

22 A Yes.

23 Q I mean, not that there's a rear caster, I  
24 guess.

25 A But -- Right.

1 Q Right. Okay.

2 A But you know what I'm talking about.

3 Q I do. Yeah.

4 A And so it's -- I've forgotten if it's  
5 right or left, but it was -- it won't stay, so he's  
6 taken some, you know, spills, and he probably hit  
7 something hard enough going down a hill or a ramp or  
8 whatever and broke that off, and -- but, you know, you  
9 have to maintain your equipment, and that means -- and  
10 that's why when you're discharged from the Shepherd  
11 Center, they give you the contact information for your  
12 wheelchair vendor to make sure that maintenance keeps  
13 on.

14 Q Okay. Let me move on through your  
15 narrative report. On page four, there is -- this is  
16 about automobile -- driving an automobile. He does not  
17 know how to drive an automobile. There's a reference  
18 to he had a -- he had a learner's permit at sixteen.  
19 He has not been assessed for driving with hand controls  
20 but does indicate an interest in learning to drive a  
21 modified vehicle. Does he have access to a motor vehicle  
22 -- Obviously, he would need to have the appropriate  
23 controls, but --

24 A Right.

25 Q Does he have access to an automobile?

1 A No.

2 Q Not through his mother or his aunt?

3 A Well, his mother has a vehicle. It is  
4 not an automatic.

5 Q Okay. That's right.

6 Okay. Next paragraph after that, Mr.  
7 [REDACTED] is dependent on others for cooking, cleaning,  
8 shopping, transportation, ordering of supplies and  
9 equipment, and to negotiate curbs and steps. Now, I  
10 understand the negotiating curbs and steps. It  
11 oftentimes will require assistance, but when I read  
12 this, having deposed him, he's an intelligent young  
13 man, you'll agree with -- you'll agree with that?

14 A I think he's of average intelligence,  
15 yes.

16 Q Okay. Well, at least agree he's of  
17 average, if not better intelligence?

18 A (Witness nods head affirmatively.)

19 Q And when I see that he needs -- How  
20 literal do you mean that he's dependent on others for  
21 these activities? I mean, it's one thing to say -- And  
22 what I'm getting at is this: To say he can't, you  
23 know, boil himself a pot of water to make Ramen  
24 noodles, I would think that there's something other  
25 than something physical going on. If on the other hand



1 you're saying, you know, if it's a really heavy pot,  
2 then to get it from the --

3 A No.

4 Q -- stove over to the sink -- Okay, maybe  
5 I understand what you mean. What do you -- When you  
6 have a broad statement like that --

7 A And I certainly don't want to imply that  
8 going shopping in the future is something he won't be  
9 able to do. At this time, based on where he is, he is  
10 dependent on others for transportation. In an  
11 accessible environment, with modifications to the  
12 kitchen and some safety concerns and some training,  
13 some occupational therapy in the kitchen environment,  
14 he should be able to cook and be independent in that  
15 activity.

16 At this time, at Aunt [REDACTED]'s, he has to  
17 commando crawl up the steps to get to the main level of  
18 the house. He's in the basement. The kitchen is not  
19 accessible; it's a galley kitchen. I have --  
20 Personally, I haven't been to his mom's. Mike McCord  
21 went there. And some of this could be emotional. I  
22 often call it emotional arresting. When you're  
23 eighteen years of age and something really, really bad  
24 happens to you, it's hard to continue to mature for a  
25 while, and there's a period of greater dependency, and

1 certainly his mom has seen that, and his aunt has seen  
2 that. Understandable. Nothing out of the ordinary.

3 I think an accessible environment with  
4 only occasional assistance, as we said, two hours a  
5 day, making beds, certainly the -- one of the biggest  
6 problems is doing any cleaning above waist high, you  
7 know, when you're doing a lot of reaching to dust or to  
8 do those sorts of things. I think that he will be  
9 independent, but he's just not there now.

10 Q And part of that is based on the  
11 emotional arrestment that you've talked about, and  
12 would another part of that be the general  
13 inaccessibility of his living arrangements?

14 A Absolutely.

15 Q If I'm understanding you correctly, would  
16 it be your opinion that potentially if he was in a more  
17 wheelchair-accessible environment that he would be  
18 independent in the cooking, cleaning, shopping,  
19 ordering of supplies and equipment?

20 A Right. I think he will get there. What  
21 I can't share with you -- because I don't know how long  
22 it's going to take, and I've seen young people take a  
23 long time -- but he is fine with saying to mom, you get  
24 my medications, you get my supplies and order them, and  
25 it's just being -- wanting -- you know, a bad thing

1 happened to him, and he just wants to be taken care of  
2 a little bit.

3 Q Would you also agree there's a certain --  
4 I hate to use the term responsibility -- that it would  
5 be encouraged for caregivers to also encourage  
6 independence?

7 A True. I --

8 Q Translation: Why don't you go get your  
9 -- Why don't you go get those towels from -- you know,  
10 et cetera -- why don't you order the supplies, that  
11 sort of thing. You understand what I mean?

12 A Yes, and I think that there will come a  
13 time for that. I know it seems like he's been in that  
14 chair for a while, but it hasn't been long.

15 Q Okay. All right. In the fourth  
16 paragraph now, on page four, we talk about independent  
17 weight shifts with depression maneuvers.

18 A (Indicating.)

19 Q Yeah, you're doing dips. In other words,  
20 you're pressing yourself up using -- and I am familiar  
21 with that. What does that mean, depression maneuver,  
22 though? Is that the same thing?

23 A It's the same -- Yeah.

24 Q Oh, okay.

25 A Yeah. Different --

1 Q I had never heard that term.

2 A -- different systems call it different  
3 things.

4 Q Okay.

5 A Here at the Shepherd Center, we call it  
6 depression maneuvers.

7 Q Okay. And his ulcer, stage three  
8 decubitus ulcer, what's your current understanding of  
9 the status of that ulcer, or at least as of today; do  
10 you know?

11 A Well, it's still there. It -- When he --  
12 we were chatting last, on January the 31st, he said  
13 good news, they're telling me I won't have to have  
14 surgery, which is good news. I have not seen recent  
15 measurements to compare going back. I do plan on  
16 attending his next appointment and really get those  
17 measurements, as well as see how it's progressing and  
18 what it looks like, and that's -- I'm sorry -- in  
19 March, March the 12th.

20 My understanding -- and I've seen -- I  
21 put a new shower chair for him in the plan. The shower  
22 chair he has is just a bench with no padding.

23 Q A hard plastic --

24 A Yeah.

25 Q -- blow-molded plastic?

1 A Yeah.

2 Q **Yeah.**

3 A And he was getting out, and it scraped  
4 his right hip, and he didn't pay attention to it, and  
5 then that's how he got the right-sided decubitus ulcer.

6 Q **All right. Are you aware of any other  
7 health complications he's had, other than the ulcers  
8 which you've described?**

9 A [REDACTED] has back pain. It's usually  
10 seeming to be activity related, and if he does too much  
11 or is on the go too much or whatever, then he has more  
12 pain.

13 Q **This would be above the level of his  
14 injury?**

15 A Yes.

16 Q **Yes.**

17 A Yes. And then he has had some problem  
18 with shoulder pain. You know, he's just getting to the  
19 point where he's understanding why weight shifts are  
20 important and everything else. We're just going to  
21 have to watch him on this. He doesn't want to be  
22 paralyzed. He doesn't want anybody to notice that he's  
23 paralyzed, that he's doing anything different. I gave  
24 him a little lesson on how to look cool when you're  
25 doing a weight shift, you know, try to posture yourself

1 a little bit --

2 Q I suggest just lunge at somebody, like  
3 you're taking a swing at them -- No, I'm kidding. I  
4 don't really do that.

5 A I don't know if you know Dr. Lin at the  
6 Shepherd Center, and he's a para, and he always looks  
7 like he's stretching, but what he's doing is a weight  
8 shift, and [REDACTED] had no idea that's what Dr. Lin was  
9 doing. And so we've talked -- but we need to do more  
10 work. It's going to take time.

11 Q Is he -- he, [REDACTED], taking any  
12 medications to prevent, you know, any prophylactic  
13 medications to prevent UTIs?

14 A No, and, of course, we do not recommend  
15 that, except just increasing your water if you get  
16 smelly or discolored. He is using Colace --

17 Q Do you --

18 A -- for his bowel --

19 Q And let me go back to the UTI issue. Do  
20 you mean you don't recommend that for him specifically,  
21 or that's not recommended for any new paras?

22 A I -- Certainly I have had paras who took  
23 prophylactic antibiotics. That is not recommended in  
24 the field. Of course, we develop resistant bugs that  
25 way. We don't want to do that. We want to treat as

1 many UTIs as possible without medication.

2 Q Sure.

3 A And he's had two UTIs since the injury,  
4 so that's pretty good. He's using red rubber, and he's  
5 reusing those, rather than straight caths.

6 Q All right. Going now to page five of  
7 your narrative, there is a reference to -- under  
8 Educational and Vocational Data -- [REDACTED] has most  
9 recently performed at the [REDACTED] in New York  
10 City; do you know when that was that he went?

11 A I'm sorry, I know it's in my notes, but I  
12 don't remember. Certainly, it was sometime in October.

13 Q Of 2013?

14 A Yes, yes.

15 Q All right. And --

16 A Well, maybe November, but --

17 Q Do you know with which group he traveled?  
18 This would have been after I deposed him, so --

19 A Right. I don't think it was a group. I  
20 think he auditioned individually, and he told me he did  
21 not get booed off the stage, and so he was proud of  
22 that.

23 Q And do you know how he traveled to New  
24 York City?

25 A I'm sorry, he might have told me. I

1 don't remember.

2 Q If it was like driving --

3 A Air.

4 Q -- or flight --

5 A I don't remember.

6 Q Do you know if he's flown in an airplane  
7 since his injury?

8 A I remember in his deposition he had not,  
9 but I don't know if he went to New York that way or  
10 not.

11 Q All right. Then there is, towards the  
12 end of that paragraph, at this time Mr. [REDACTED] indicates  
13 that he wants to pursue performing arts and not return  
14 to school?

15 A Yes.

16 Q What's your understanding of his current  
17 thinking on why he does not want to return to school?

18 A [REDACTED] had a -- and I don't know if he's  
19 correct in this -- a lot of talent -- God-given talent,  
20 and I don't think he wants to give up on it, and he  
21 thinks by this time he would be in New York and being  
22 in plays and being in musicals, and I think emotionally  
23 he needs to go ahead and try.

24 Q Okay. If we say he's chasing a dream --

25 A I don't know. I mean, it seems like even



1 when he was in high school, his teachers would hire him  
2 out, you know, so obviously he had to have some talent.

3 Q Yeah.

4 A They had to notice that. He's been to  
5 the [REDACTED] Obviously, he's got some talent.

6 Q And when I say chasing a dream, I don't  
7 mean that's not --

8 A A pipe dream.

9 Q -- a good thing.

10 No, I don't mean a pipe dream. I mean,  
11 in other words, he -- it's your impression, based on  
12 your conversations with him, that this is a good  
13 opportunity for him to chase his -- chase what he can  
14 do with his talents, as opposed to more formal  
15 schooling?

16 A Well, unfortunately -- and I don't fully  
17 understand why he doesn't want to go back to college,  
18 and I'm assuming some of it's emotional, but then he  
19 was -- at one time, he was talking about going to  
20 barber school, and I actually talked to Dr. Elmers  
21 about that, could we put him in a wheelchair with a  
22 standing feature, and I recognize he wouldn't be as  
23 productive as another hair stylist. He's not -- He'd  
24 have to let go of his tools of the trade, in order to  
25 maneuver around the customer, but I wouldn't want to

1 dash that, either, for him, but he did not go to the  
2 technical school for that, did not start at all because  
3 he has another decubitus, and then he said he had that  
4 shot at ██████, and it seemed like, okay, I've got to  
5 -- I've got to pursue this more. I recognize fully the  
6 probability of success in dance and musicals is cut  
7 down considerably by his injury.

8 Q And it was low pre-injury, too --

9 A Yeah, but --

10 MR. BUTLER: Objection, calls for  
11 speculation, beyond the scope of this Witness.

12 Q (By Mr. Hiestand) You know what I mean?

13 A Well, yeah.

14 Q Making it big in the entertainment world.

15 A I think the whole thing about being  
16 recognized by people in the industry, it seems to me,  
17 and I know nothing of performing, but it seems to me he  
18 had a better shot than most of us would have.

19 Q Okay. Just to finish out that line of  
20 questioning, based on your, you know, investigation of  
21 his medical background and having interviewed him and  
22 spoken with his physiatrist, was there anything about  
23 his disability that he has that was preventing him from  
24 going back to school where he was attending at the time  
25 of his injury?

1 A His decubitus ulcer.

2 Q All right. With the exception of that --

3 A Oh, I'm sorry.

4 Q -- anything else?

5 A Yes. Only that.

6 Q Okay. Just that?

7 A Uh-huh (affirmative).

8 Q In other words, there wasn't anything  
9 about it's not accessible, they weren't going to  
10 welcome me there, I can't go to that school in a  
11 wheelchair? There was none of those factors?

12 A I have no knowledge of that.

13 Q All right. Under Emotional, the  
14 Emotional section beginning on page five, at the end,  
15 emotional/psychological counseling is an anticipated  
16 need for Mr. [REDACTED], as well as vocational counseling in  
17 the next one to two years. Is this a general  
18 recommendation you would have anybody -- for anybody  
19 his age with the onset of paraplegia, or is this  
20 specific to Mr. [REDACTED]?

21 A Well, the only thing I would say to you  
22 about emotional counseling, as a professional  
23 counselor, I'm not recommending counseling to him right  
24 now.

25 Q Okay.

1           A           We need to put it off a bit. He would  
2 not be accepting of it yet.

3           Q           Going to the page six of six, I am going  
4 to the second paragraph, Mr. [REDACTED] will need to obtain  
5 a learner's permit and participate in driver's  
6 training, and I'm focused on that because I think you  
7 and I agree in Atlanta, as in a lot of places, for  
8 somebody with paraplegia to be able to drive  
9 independently is very important; would you agree?

10          A           It's a must.

11          Q           Yes. And then you've mentioned that he  
12 will need to be advised in the type of car he can  
13 utilize with hand controls. Do you mean automatic  
14 transmission?

15          A           Well, he would like to have a Jeep.

16          Q           And the step in and out -- and I say  
17 step, here I am reaching with my arm to pull myself up  
18 and out. You know, it might work for a little while,  
19 but when you're 45, 46, repetitive pulling yourself in  
20 and out of an SUV type or a Jeep, it's probably not a  
21 good idea?

22          A           Exactly, and --

23          Q           Okay.

24          A           -- and what we do at the Shepherd Center  
25 is give him a list of vehicles that are recommended.

1 Q Are these sedans?

2 A Well, generally speaking.

3 Q Coupes?

4 A Coupes.

5 Q That's okay.

6 A Coupes, yeah, generally, but we do try to  
7 think about a young man. You know, we don't -- We try  
8 to think about what's cool, you know, and --

9 Q My first car was a 1984 Nissan Sentra, so  
10 I might be the wrong person to ask about --

11 A Is that cool? I don't know.

12 Q It's very uncool.

13 A Uncool.

14 Q Yeah. It's very uncool.

15 A I don't even know what --

16 Q That's all right, but --

17 A But the good news, the Shepherd -- I'm  
18 sorry, the Shepherd Driving Center, they have young  
19 people that know what's cool.

20 Q Okay. Okay. Then you come into the  
21 area, and I know we're going to get into this more when  
22 we're going through your -- I call it the grid. What's  
23 the technical term for Section II?

24 A Life care plan.

25 Q That's the life care plan itself?

1 A Uh-huh (affirmative).

2 Q So in other words, Part I is the  
3 narrative describing the rationale underlying it, and  
4 Section II is the actual life care plan?

5 A Yes, sir.

6 Q When we get to the life care plan, there  
7 is the breakdown of what he will need now, as opposed  
8 to what he's going to start to need at age 48, I think.

9 A 48, at thirty years post-injury.

10 Q Okay.

11 A He was 18.

12 Q Tell me -- And in the narrative, you talk  
13 about a preponderance of dysfunction beginning at  
14 twenty years post-injury, and I did look at the  
15 literature that you attached to that, but yet you've  
16 utilized sort of a thirty-year post-injury for some of  
17 these changes in function. Why?

18 A Dr. Elmers and I discussed this. If we  
19 live the life care plan and give him the right kind of  
20 follow-up and assistance, we're hoping that he'll stay  
21 independent longer. I don't -- I mean, I understand  
22 the literature, and I've been very thankful to know  
23 most of these people that have done the work in it. I  
24 would say to you that we're hoping that with better  
25 equipment for spinal cord injured people.

1           Q           **You mean products that may come up in the**  
2 **future or if --**

3           A           Right.

4           Q           **-- we developed --**

5           A           Uh-huh (affirmative).

6           Q           **-- different materials, lighter, stronger**  
7 **materials?**

8           A           Exactly.

9           Q           **Yeah.**

10          A           Then maybe those statistics will change  
11 over time. Actually, they say the decline starts at  
12 about eighteen years post-injury, and, of course, there  
13 are a lot of areas of concern, but what we're seeing  
14 now is the people with spinal cord injury at the  
15 paraplegic level generally have the same life  
16 expectancy if, in fact, they have access to the health  
17 care they need, and so --

18          Q           **You're getting into the areas I was**  
19 **hesitating to ask you about, which was life expectancy,**  
20 **but go ahead.**

21          A           I understand why.

22          Q           **Yeah, yeah.**

23          A           Yeah. No, actually, it's good news  
24 nowadays.

25          Q           **Good.**

1           A           You know, I've worked with spinal cord  
2 injured people for forty-two years, and it wasn't as  
3 good news forty-two years ago. It is very good news  
4 today, as long as people have access to the health care  
5 they need.

6           Q           **Maintain a healthy weight?**

7           A           Right.

8           Q           **Maintain activity?**

9           A           Oh, yeah.

10          Q           **See doctors as appropriate? That sort of**  
11 **thing?**

12          A           Yeah.

13          Q           Okay. Now, last paragraph, research has  
14 shown at the average rate of employment after a spinal  
15 cord injury is approximately thirty-five percent, and I  
16 read the literature, I saw that. Probably of  
17 substantial gainful employment throughout Mr. [REDACTED]'s  
18 work life is poor. Is that based on just the stats  
19 that, you know, if we look at statistically he's not  
20 going to be in the third, or is there something  
21 specific about Mr. [REDACTED] that leads you to this  
22 conclusion that his probability of substantial gainful  
23 employment in his work life is poor?

24          A           Well, and other literature, of course,  
25 points to the folks that really make it -- and



1 sustained employment, not in and out of the  
2 workforce -- are the folks that have greater than a  
3 college degree and specialized training, allowing a  
4 career path that's very clear with not very much  
5 deviation.

6 I know from [REDACTED] -- from talking to  
7 [REDACTED], he said, you know, I was good at dance, I was  
8 good at music, I could get by on some of the academics,  
9 but where -- his claim to fame was the performing arts,  
10 and he -- I'd like to say that he would continue to  
11 have jobs forever here and there, sustained activity, I  
12 don't see that yet. I'm not giving up on him --

13 Q Sure.

14 A -- but I don't see that yet. You know,  
15 statistically, I think the work by Dr. Gamboa would say  
16 that he'll work seven years out of his work life, based  
17 on his injury. I'd like him --

18 Q Cumulatively, in total --

19 A Yeah.

20 Q -- yeah.

21 A Yeah. I don't -- Rehabilitation, by its  
22 very nature, is positive. You know, I'd like for him  
23 to do better. I don't know if I can count on him to  
24 make the money to pay the light bill.

25 Q Okay. All right. We've covered then

1 Part I, and just on the scholarly literature that  
2 you've attached to that. A lot of it, I notice, is  
3 research or more accurately publications -- sorry, that  
4 kind of exceed the aging with the spinal cord injury.  
5 Am I right, a lot of this is from the '90s --

6 A Well, Dr. Menter did a lot of this in --  
7 starting in the '90s and went on. And I am very sorry  
8 and have to apologize, I meant for my secretary to  
9 cover the site on this and print that, and she did not,  
10 and I have handwritten that on this page where you  
11 could look up all the literature associated with that.

12 Q Oh, I was able to find it actually --

13 A Oh, good. Okay.

14 Q -- yeah, online. Yeah.

15 A Okay. Good.

16 Q Yeah, so I did -- I did --

17 A I thought --

18 Q But --

19 A Yes, I did start in the '90s, and most  
20 recently you'll see updated literature and Life Care  
21 Planning and Case Management Handbook with Roger Weed  
22 and Debbie Berens. The third edition came out two  
23 years ago, again, citing this data and going on from  
24 there. It's consistently seen the same way.

25 Q Okay. Great. So even though a lot of

1 this analysis that we've been looking at is from the  
2 '90s, it's still current insofar as it's still -- what  
3 I mean, it's still accurate?

4 A It is accurate -- It is accurate.

5 Q Okay. Great. Let's go now to the  
6 Section II of your -- the actual life care plan itself.  
7 Now, some of these I don't have a lot of questions  
8 about, but some of them I just want to ask for some  
9 clarifications, and, again, I will go through these  
10 with you sequentially, starting with page one.

11 Home accessibility specialist. What is a  
12 home accessibility specialist?

13 A Well, we're very fortunate here in Metro  
14 Atlanta to have CATEA. CATEA is at Georgia Tech. They  
15 use doctoral level students to do a home evaluation, no  
16 modification, but drawing the plans to modify an  
17 environment, to make it as accessible as possible. We  
18 also have All In One Accessibility. That's in  
19 Marietta. It's a private company. It does the same  
20 thing. They're engineers. You'll see a price  
21 difference. CATEA, which is the Center for  
22 Accessibility --

23 Q C-A-T-E-A?

24 A Yes.

25 Q Uh-huh (affirmative).

1           A           -- charges \$600 for the evaluation  
2 through Georgia Tech. All In One Accessibility is  
3 \$1,000 evaluation.

4           Q           And would these be situations where he's  
5 either -- he, Mr. [REDACTED], is either moving to a new home  
6 and wants to know what do I have to do to make this  
7 accessible for me, or potentially even building a new  
8 house and he wants to know what has to be built into  
9 it?

10          A           Right, and, of course, you get real  
11 plans, and they will help you work out what it's going  
12 to cost because modifications can cost more than the  
13 value of the house.

14          Q           And you have listed, as far as the  
15 frequency or the replacement rate, two to three  
16 occurrences. Now, would this refer to for his mother's  
17 home and his aunt's home?

18          A           Yes, and potentially his own home.

19          Q           Okay. If he were to move now, for  
20 example?

21          A           Which he would like to do. He wants --  
22 You know, he would like to do that. And I'd say five  
23 or more evaluations over his lifetime.

24          Q           Would these be moves, for example?

25          A           Exactly.

1           Q           Okay.  Would you agree with me that in  
2   some circumstances, somebody who has paralysis, who has  
3   paraplegia, let me be precise, as opposed to tetra or  
4   quadriplegia, but would you agree with me that anybody  
5   with paralysis that they may be in a position to do  
6   some of that work themselves that would be taken by a  
7   home accessibility specialist?

8           A           If they are mechanically inclined and if  
9   they are so inclined by nature of personality.

10          Q           Okay.  I've moved probably twelve times,  
11   and I have never heard of a home accessibility  
12   specialist, so that's why I ask, but I'm not saying my  
13   circumstance is like anybody else's, but I --

14          A           I would agree.

15          Q           -- you know, that's why I ask.

16                      Okay.  Physiatrist.  Minimum of two times  
17   a year, and that's for his lifetime, correct?

18          A           Right, and I say minimum.  Of course,  
19   he'll see Dr. Elmers if there's a problem, not wounds,  
20   because we have a separate clinic for that, but, you  
21   know, if he breaks a limb, shoulder, elbows, wrists are  
22   painful, then he will see Dr. Elmers more.  This is a  
23   wellness plan.  This is saying, okay, we're trying to  
24   keep him as healthy and as well as possible and avoid  
25   complications if we can.  He needs to see Dr. Elmers

1 twice a year.

2 Q Under physical therapist, the purpose --  
3 and I've got the frequency there -- but the purpose is  
4 to monitor his home exercise -- monitor a home exercise  
5 program. What home exercise program is [REDACTED]  
6 utilizing now, or what's your understanding of the home  
7 exercise program that he should be utilizing?

8 A It actually -- It's a misnomer in the  
9 field. We write HEP, home exercise program, all the  
10 time. That home exercise program for him is in the gym  
11 at the Shepherd Center, and I'm very appreciative --  
12 You know, he follows what they tell him to do in the  
13 evaluation there. I don't have all that equipment in  
14 his individual plan. He can go to the Shepherd Center,  
15 socialize with other guys and gals that are paralyzed  
16 and gain greater knowledge of his disability, in that  
17 environment. So home exercise program is a term we  
18 use, meaning any exercise program, not done in a  
19 physical therapy unit.

20 Q I see. So the physical therapist may be  
21 there to monitor the exercise program that he has at  
22 the Shepherd Center or at an LA Fitness, if he's so  
23 inclined, that sort of thing?

24 A Yeah. Well, we do evaluations every two  
25 to three years, and these are evaluations, and write a

1 program for him to use, whether he wants it at LA  
2 Fitness or at the Shepherd Center.

3 Q All right. Going now to page two. I  
4 think we've covered -- you know, you've got a  
5 vocational specialist. You've already described for  
6 me, I believe, and correct me if I'm wrong, but you've  
7 already described for me what his current thinking is  
8 regarding vocational aspirations?

9 A Yes, sir, and I had made an addendum or a  
10 correction on my plan. I want to push this back.  
11 Instead of starting this year, I want to start next  
12 year, with the idea of the vocational specialist.

13 Q But it would still be just the one visit?

14 A Yeah, yeah.

15 Q Okay. So whether it's 2014 or next year,  
16 2015, it's still -- you're still recommending a one  
17 time --

18 A Right, but I just don't think he's ready  
19 yet.

20 Q Why is he not ready yet?

21 A Again, he needs to explore himself. He  
22 needs to get healing from this current decubitus, and  
23 he's not ready.

24 Q Again, I'm skipping over some of these.

25 Page three, the case manager rehab counselor, what

1 would that individual be providing that would not be  
2 provided by the other providers that are listed in this  
3 plan?

4 A Well, case managers, of course, our  
5 primary job is to teach a person to be their own case  
6 manager. And his mother is a very caring, loving  
7 mother, but she's got a 21-year-old who doesn't want to  
8 listen to her, and I said to her, well, perhaps case  
9 management would help teach him how to schedule at  
10 Shepherd. It can be confusing, you know, you've got  
11 all these clinics to go to, and which clinic do you  
12 need, and who are you going to go see, teach him what  
13 his medications are for, why he should take them, and  
14 I've only given him this for twelve months, one year.

15 He's bright enough, in one year, we can  
16 teach him, but he's resisted, like everybody does,  
17 learning about paraplegia. You don't want to know this  
18 stuff because you don't want to be there.

19 Understandable, so -- and I said months may not run  
20 consecutively, and that's why I said it's ending over  
21 his lifetime. I'm just saying twelve months over his  
22 whole lifetime.

23 Q Okay.

24 A We might do a month here or there, or  
25 let's say when he's thirty he wants to talk about



1 making a baby. Well, he'd call back the case manager  
2 and they would work that out together.

3 Q Okay. Does your office do this type of  
4 work?

5 A We do.

6 Q Okay. When you say \$80 per unit, is that  
7 per hour? What does that mean?

8 A It is, and you'll --

9 Q Okay.

10 A -- see in the comments column, unit cost  
11 per hour.

12 Q Okay. And is that what your office  
13 charges for this type of work per hour?

14 A We do.

15 Q All right. Gym membership, I saw that,  
16 \$32. I will tell you that sounds pretty reasonable for  
17 Shepherd.

18 A Yes.

19 Q I was surprised to see that because I  
20 know LA Fitness is 30.

21 A Right, and the --

22 Q Or it was.

23 A -- right, and the equipment there is  
24 really --

25 Q Specialized.

1 A -- specialized.

2 Q Yeah. I've still got you on the clock,  
3 so I'm going to ask you for my personal -- Can anybody  
4 go and --

5 A Yes.

6 Q -- sign up at Shepherd? Could I, without  
7 a doctor's --

8 A Absolutely.

9 Q Really?

10 A Yes.

11 Q Okay. Unfortunately, you have to drive  
12 off of, you know --

13 A It's --

14 Q -- Peachtree. It's not --

15 A -- it's not good.

16 Q No. Okay. Now, psychologist, you have  
17 that is unknown at this time, so this -- as far as when  
18 that would be beginning, the psychologist -- treatments  
19 with a psychologist?

20 A That's true. I would want the case  
21 manager to be able to call that sometime in the next  
22 twelve months. He's not ready -- He's just -- He  
23 rejects the idea that he needs any help. He rejects  
24 it. He's paralyzed, you know, somewhat.

25 Q All right. Wound Clinic I've got, and

1 that's a kind of a per-occurrence. Hopefully, he won't  
2 need it ever again after this current round, but that's  
3 to be determined, accurate? Or are you look at some  
4 sort of -- statistically, somebody with his type of  
5 injury --

6 A Well, now, statistically, they would say  
7 definitely, and in Dr. Art Simon, who directed the  
8 surgery that was done on [REDACTED], and who up until  
9 recently had that clinic, would say definitely he'll  
10 have another surgery over his lifetime, but he's  
11 looking at it from a statistical basis. But I would  
12 also say to you, anyone that has had a flap surgery or  
13 multiple wounds is much more likely than the guy who  
14 has never had it.

15 Q Okay. Now, going forward to page four,  
16 which is the equipment, manual wheelchair. I've got  
17 the replacement rate, and I can only speak anecdotally  
18 about the five to seven years. I guess it depends on  
19 how well you take care of it, et cetera. Some people  
20 can go through wheelchairs every two years and --

21 A Yeah, and we actually have a formula for  
22 it in the field of rehabilitation, and it depends on  
23 how bad your spasticity is, whether you ride a school  
24 bus. You know, there's a lot of parameters, but --

25 Q Riding a school bus, really? Because of

1 **the vibrations or --**

2 A No, they tend to manhandle the people in  
3 the chairs too much, and they pull them apart.

4 Q Okay.

5 A But five to seven years. When it's a  
6 backup chair for a power chair, statistically, you  
7 should get seven to ten years.

8 Q Okay. Back to the wheelchair, you've got  
9 a per unit charge for the Quickie GT. Did you choose  
10 the Quickie GT model because that's what he's using  
11 now?

12 A And that's what was prescribed for him,  
13 yes.

14 Q Okay. And I ask this just because I've  
15 had, you know, four different brands, I think, over my  
16 lifetime, and each time, I think, it's just a little  
17 bit better because I know a little bit more about what  
18 I like.

19 A Well, and that's why I put a range of  
20 dollars --

21 Q Yeah.

22 A -- because, you're right, there are a lot  
23 of different models. This is what was prescribed for  
24 him when he left Shepherd. Just like a gel cushion was  
25 prescribed for him when he left Shepherd, and then they

1 went to a ROHO. So you're exactly right, you may go  
2 through a different need at a different time in your  
3 life or a different comfort or whatever, and that's why  
4 there is a range in dollars.

5 Q Okay. Okay. The vendor you've chosen,  
6 Numotion, why Numotion?

7 A That's who supplies his chair now.

8 Q Okay. In other words, that's not  
9 somebody that you usually -- Is that somebody you --

10 A No. I mean, there's --

11 Q Sportaid -- There's --

12 A Oh, no, no, this is a local vendor of a  
13 Quickie, and that's the ones that, you know --

14 Q Sportaid is actually not that far from  
15 his house. It's in --

16 A Really?

17 Q -- Loganville. Yeah --

18 A Well --

19 Q -- and the -- Go ahead. I'm sorry.

20 A -- we've got a lot of vendors. This is  
21 just the one that was supplying his chair when he left  
22 Shepherd.

23 Q Okay. You did not personally pick  
24 Numotion?

25 A Oh, no.

1 Q I will mention that the per unit cost  
2 seemed high for a Quickie GT, unless there were certain  
3 special modifications or he has to have the newest  
4 carbon fiber guards or something. You know, there are  
5 various modifications --

6 A Right, oh, yeah.

7 Q -- that would boost it. I'm just saying,  
8 you know, you can get a Quickie GT for \$1,600 at  
9 Sportaid, and you've got a per cost of 2,000 to 2,500.  
10 So would you agree there may be some variability in  
11 this cost, depending on the particular vendor?

12 A Sure.

13 Q Okay.

14 A And it could go much higher than 2,500.

15 Q Yeah.

16 A This is a --

17 Q And forty years in the future, they may  
18 have some new technology for a manual chair, which is  
19 the greatest thing ever because it's like being  
20 weightless, but it costs \$10,000, you know?

21 A Oh, absolutely.

22 Q So -- Okay. The manual wheelchair  
23 maintenance, I understand, unless, of course, if he's  
24 able to do his own maintenance.

25 A So far, he has not shown knowledge or

1 inclination.

2 Q Okay. Portable ramps, we talked about.  
3 Now, the power mobility -- I've seen -- This is  
4 starting at age 48, and as I'm interpreting this, this  
5 is with an assumption that he will be able to use a  
6 manual wheelchair for the first thirty years of his  
7 disability, and then somewhere around age 48 is when he  
8 may need to start using a power wheelchair?

9 A Right.

10 Q Accurate?

11 A Absolutely.

12 Q Okay. Likewise, at that stage, there  
13 will be less wear and tear on a manual wheelchair  
14 because he's not using the manual wheelchair full time;  
15 therefore, the replacement rate is lower?

16 A Exactly.

17 Q Got it.

18 A May I make a correction on page five?

19 Q Yes, please. On five? Yes, that's the  
20 next page. Okay.

21 A When he was first leaving Shepherd, he  
22 came away with the Jay Lite. He is now in a ROHO. The  
23 dollar amount is correct for the ROHO cushion --

24 Q Okay.

25 A -- but they didn't take out the word Jay

1 Lite and put ROHO in its place.

2 Q Now that makes sense because I looked up,  
3 of course, a Jay Lite, and I'm like, oh, my gosh,  
4 that's --

5 A It's about 250.

6 Q You've got twice as much as it should be.  
7 But which ROHO; do you know?

8 A I don't remember.

9 Q It's the --

10 A I have not seen his actual script, and  
11 I've looked at his cushion, it was in good shape, but I  
12 don't remember --

13 Q You know how ROHO's --

14 A Oh, yeah.

15 Q -- main deal is the air pockets they --

16 A Sure.

17 Q -- use, but ROHO now also does have the  
18 gel cushions. You're referring to the --

19 A Air.

20 Q -- air? Okay.

21 A Yes.

22 Q All right.

23 A And that's based on the fact that he's  
24 had skin breakdown twice and a flap.

25 Q Right. Okay. Going next to the page



1     **six, orthotics and prosthetics, the KAFOs. How often**  
2     **would he be -- And these are knee-ankle-foot orthotics,**  
3     **right?**

4             A           Right?

5             Q           Okay. How often would -- do you suspect  
6     **he would be using those?**

7             A           I only put one to two occurrences over  
8     his lifetime.

9             Q           Okay.

10            A           In my experience -- I mean, he wants them  
11   very much. He very much wanted to stand. Dr. Elmers  
12   agreed, let's give him a set, but he's not going to be  
13   functional standing. He's not going to really  
14   ambulate, so we said one to two occurrences over his  
15   entire lifetime.

16            Q           Okay. I also -- I'm going forward now to  
17   **page seven --**

18            A           Uh-huh (affirmative).

19            Q           -- the roll-in shower chair, beginning at  
20   **age 48. Is this also a -- based on an assumption that**  
21   **beginning at that age his ability to transfer from his**  
22   **regular chair, be it manual or power, would become**  
23   **limited and, therefore, he may be better served by a**  
24   **roll-in chair into a roll-in shower type arrangement?**

25            A           Absolutely, and safety, which is always

1 our number one concern.

2 Q All right. Page eight, the patient  
3 lifter. Is that like a Hoyer lift you're talking  
4 about?

5 A Exactly. Hoyer is a brand name, yes.

6 Q Yeah, but -- Okay. And, again, that's  
7 beginning at age 48, for the reasons that we have just  
8 discussed with regard to the roll-in shower chair?

9 A Exactly.

10 Q Next page, page nine, adaptive aids,  
11 reacher, bathing and dressing aids, timer, and mirror.  
12 You've got a -- And then I'm just -- the pricing, the  
13 per unit --

14 A If you will, it's an allowance.

15 Q Okay.

16 A You don't have to replace your mirror  
17 every year, but -- but --

18 Q Nor would your mirror be 50 to \$75.

19 A No, no. Right. And so everything that  
20 you would see in the Sammons catalog or the Patterson  
21 catalog, if it's going to make -- And this is every two  
22 to three years, 50 to \$75 -- are the people that I've  
23 known who have been attorneys who are paralyzed. They  
24 say, what, I only -- They always think I'm cheap on  
25 that, but if you watch out for your equipment, you

1 should be able to use it.

2 Now, a reacher at the Shepherd Center can  
3 be, you know, almost \$25. It depends on where you  
4 purchase it, too.

5 Q Right. What -- I mean, what type of  
6 bathing or dressing aids would you be anticipating that  
7 [REDACTED] may require?

8 A Dressing aids -- You've seen -- You've  
9 took his deposition. [REDACTED] is a tall young man.

10 Q Uh-huh (affirmative).

11 A And anything that's going to help him get  
12 on his shoes independently, any -- I don't care what  
13 kind. He can cross one leg over another, but he has  
14 some -- I forget which hip it is -- some discomfort  
15 when he does that. So there's some dressing aids that  
16 he can use that makes that a little bit easier. I want  
17 him to be independent.

18 Q Okay. Going to page ten, the coudé  
19 catheters. You've got a per unit cost. What is --  
20 That doesn't mean -- What does that mean, per unit?

21 A If you'll look in the comments column,  
22 unit cost per month. So that's \$50 --

23 Q I'm sorry. Okay. That's -- Okay. Ten  
24 per month. So ten costs \$50 --

25 A Yeah.

1 Q -- am I reading that right?

2 A Yeah, very cheap, compared to --

3 Q That's -- Wait.

4 A Well, you get to reuse them, unlike a  
5 straight fourteen French. So --

6 Q Right, but you can get a hundred --  
7 They're like \$1.25. You've got it like they're \$5  
8 each, right?

9 A Yes.

10 Q You can get them for \$1.25, but this is  
11 from Shepherd, I see. Would you also agree this is a  
12 category where, depending on the vendor, that these  
13 costs may be lower?

14 A That is true, but I --

15 Q Okay.

16 A -- would say to you the coudé, rather  
17 than the other one, costs more. So I'm talking about a  
18 coudé red rubber.

19 Q Oh, yeah, so am I.

20 A Okay.

21 Q You can get a -- Yeah, at -- Just at  
22 Sportaid, fantastic, they're local, they deliver.  
23 They're out of Loganville, and, I mean, they've got all  
24 the name brands, so it's not like it's cheap.

25 A Okay. Good.

1 Q Yeah, their awesome.

2 A Uh-huh (affirmative).

3 Q Okay. I'm now going to Medications,  
4 beginning on page eleven. And, again, for the  
5 antibiotics, this is when he does have a UTI, for  
6 example? But he's --

7 A Absolutely.

8 Q -- but he's not taking them  
9 prophylactically on --

10 A He is not.

11 Q -- a regular basis?

12 A And he is off the aspirin.

13 Q And he's off the aspirin.

14 Okay. I know that it's because you've  
15 got some clarification from his doctor. Do you know  
16 when he stopped using aspirin therapy?

17 A He stopped using it before Shepherd knew  
18 about it, so it was certainly before September of last  
19 year.

20 Q Okay. Lortab, that's a hydrocodone. In  
21 this day and age, we always have to ask: How long do  
22 you think he's going to be taking Lortab? And I say,  
23 how long do you think. I'm asking you based on what  
24 you know about his, you know --

25 A I think that he will take it on and off

1 throughout his life -- or some other pain medication,  
2 on and off throughout his life. I think there's going  
3 to be times where the back hurts, the shoulder hurts,  
4 and it will come on and off.

5 Q Okay. Did any of his medical providers  
6 also provide -- Is that based on information that -- I  
7 don't mean from his records, but based on interviews  
8 you may have had with his physiatrist, for example, or  
9 --

10 A Yeah, and they're continuing to write  
11 scripts for it.

12 Q Okay. All right. Let's skip over to  
13 page -- Yes, thirteen, this is Home Care. Domestic  
14 assistance beginning at age -- beginning 2013,  
15 beginning now, for the rest of his life, two hours a  
16 day of domestic assistance?

17 A Yes. I know he's getting more than that  
18 now, but based on the guidelines for spinal cord  
19 injury, the recommendation is two hours a day, and that  
20 is for domestic assistance, not personal assistance.

21 Q Yeah, you're talking about somebody to,  
22 like --

23 A Do your laundry, do your ironing --

24 Q Right.

25 A -- arrange your closet, clean your

1 shelves, clean out your refrigerator, you know.

2 Q Would this be another one of those  
3 categories where it would be highly dependent on his  
4 level of independence?

5 A And his environment. Again,  
6 statistically, there are people -- And the way they  
7 write it, you know, it can be up to many more hours a  
8 day -- and I've lost the booklet right this minute.

9 Q For paraplegia?

10 A Yeah, even paraplegia.

11 Q Okay.

12 A And then with aging, we look at a loss of  
13 function in the upper extremities. We never expect  
14 [REDACTED] to be totally dependent on another, even as a  
15 person who is not independent in transfers. We've got  
16 him two to eight hours a day after age 48, but, again,  
17 we're talking about domestic assistance, and that can  
18 be something that a wife would perform if he married.  
19 But if he doesn't marry -- Actually, they go from zero,  
20 no time at all, to fifteen hours a day as the range on  
21 average.

22 Q And you say they -- Again, for the  
23 record, you're referring to the outcomes following  
24 traumatic spinal cord injury, clinical practice  
25 guidelines for healthcare professionals?

1 A Exactly.

2 Q Okay. So there's a range of zero to  
3 fifteen, and you picked two. Why?

4 THE WITNESS: Excuse me. May I have more  
5 water?

6 MR. BUTLER: Yes.

7 A That is the recommended amount. They say  
8 the range may be from zero to fifteen hours a day. The  
9 recommended rate for a healthy paraplegic at T1-T2 is  
10 two hours a day, domestic assistance.

11 Q (By Mr. Hiestand) They didn't have a  
12 breakdown for somebody with an L level?

13 A Sure.

14 Q They did?

15 A Oh, yeah, they have all levels.

16 Q Okay. What level is his injury?

17 A He's --

18 Q L?

19 A No, he's T --

20 Q Hold on.

21 A -- T1.

22 Q Really?

23 A T1 to T2.

24 Q It is --

25 MR. BUTLER: Why don't you check your



1 records?

2 Q (By Mr. Hiestand) -- according to this,  
3 L4.

4 A I'm sorry, Dr. Elmers, on her last  
5 assessment --

6 Q Gave a T12.

7 A L1.

8 Q Do me a favor, go to your -- This is now  
9 part one of the Exhibit A, on page two of six --

10 A Right.

11 Q -- and it says at the top, diagnosed an  
12 L4 vertebral body fracture.

13 A Right.

14 Q And then about halfway down, it says his  
15 diagnosis was of a T12 spinal cord injury.

16 A At that particular time, and then if  
17 you'll go on down, he's classified as an L1 ASIA-C.

18 Q Right. So --

19 A That's his current classification.

20 Q -- L level?

21 A Right.

22 Q Okay.

23 A Absolutely.

24 Q Back to what we were talking about --

25 A Uh-huh (affirmative).

1 Q -- do they have a recommendation for home  
2 health care for somebody with an L level injury?

3 A Absolutely.

4 Q And what is that, please?

5 A I'm sorry, we were -- obviously, Dr.  
6 Elmers and I were reading it wrong. They said one hour  
7 a day.

8 Q Okay. So if we're looking at page  
9 thirteen, under the amount of domestic assistance,  
10 would you then recommend an amendment to your home care  
11 -- or, excuse me, to your life care plan to reflect one  
12 hour per day to age 48?

13 A If he can get there. He's not there now  
14 because we know that. He's dependent on others. If he  
15 can get there, and I'm not giving up on him, but he's  
16 not there yet. When I thought of two hours, I thought,  
17 well, you know, that would be a great goal. I thought  
18 that was a good goal for him. I still think that's a  
19 good goal for him.

20 Q And for him to have that as a goal, how  
21 much of that is dependent on -- Let me figure out a  
22 good way to state this. He's got an ulcer condition  
23 right now, which is obviously interfering with his  
24 independence. Let's take that out of the equation.  
25 Let's say he heals from that and he's back to, you

1 know, L1 paraplegia without any additional  
2 complications. Are you -- Would you, at that time,  
3 suggest that a good goal for him would be two hours --  
4 only needing two hours of domestic assistance?

5 A Yeah, I think it's a good goal for him.

6 Q As opposed to no domestic assistance, for  
7 example?

8 A I think that there are very, very few  
9 people I know as a paraplegic that don't depend on  
10 someone else throughout the day, whether it's a spouse  
11 or a parent, and I would think that [REDACTED] had achieved  
12 a great deal if all he needed was two hours a day. And  
13 I'll give you another problem. We have a difficulty in  
14 hiring anybody for one hour a day.

15 Q Okay.

16 A I believe it's a great goal, and  
17 certainly this is his life care plan. I tried to look  
18 at consortium stuff and all that, but the other part of  
19 it is I would be just tickled if he was able to achieve  
20 that level of independence.

21 Q Going to House and Yard Maintenance.  
22 That, I kind of understand, especially since you have  
23 dependence upon maintenance. So if he's living at a  
24 detached single-floor ranch with half an acre of land,  
25 there's going to be more needed than if he's living in

1 **a high-rise condo, for example?**

2 A Uh-huh (affirmative), exactly.

3 Q **Okay. Going then to Skilled Nurse Visit,**  
4 **this is specifically for the wound care issue?**

5 A Yes, and when I originally wrote this and  
6 presented it to Dr. Elmers, I said three to six. She  
7 said, no, this is never going to heal in three to six,  
8 and she made it six to nine, and you'll see six to nine  
9 throughout, and, unfortunately, my office didn't take  
10 off that three. So --

11 Q **Okay. So it should --**

12 A -- it should be six to nine.

13 Q **Got you. Okay. But, again, assuming**  
14 **that the pressure is -- yeah --**

15 A Yeah, you're exactly right. Without a  
16 pressure sore, he would not need that skilled care.

17 Q **All right. How do you address the**  
18 **question of, you know, we have these assessments of**  
19 **what it's going to cost for some of this medical care**  
20 **or some of this medical -- like, you know, a renal**  
21 **ultrasound, \$500, for example -- you know, the**  
22 **difficulty of anticipating what these things are going**  
23 **to cost when he's 68, for example? How do you address**  
24 **that, you know --**

25 A I can't, and that's why a medical

1 economist has to look at this. There's no way -- You  
2 know, I remember the first wheelchair I ever purchased  
3 for somebody and what it looked like, you know, and --

4 Q What year would that have been?

5 A -- what it cost.

6 Excuse me?

7 Q What year would that have been?

8 A 1971.

9 MR. BUTLER: I'm going to object to this  
10 line of questioning. It's beyond the scope of  
11 the Witness.

12 A But I would depend on a medical  
13 economist.

14 Q (By Mr. Hiestand) Okay. Would a medical  
15 economist be somebody different than say Dr. Caston?

16 A Oh, no, he's a medical economist.

17 Q Okay.

18 A He understands inflation rates of medical  
19 equipment.

20 Q And I understand the van with lift  
21 beginning at 48 because of anticipated limitations in  
22 mobility --

23 A Yes, sir.

24 Q -- and the ability to transfer in and out  
25 -- independently transfer in and out of a sedan or a

1 coupe or something like that.

2 A Right.

3 Q Okay. Now, I think -- we got almost to  
4 the last page, page sixteen, the Housing Modifications.  
5 Is this a cost for modifying his mother and his aunt's  
6 home?

7 A No. Actually --

8 Q What do these represent?

9 A This is a one-time allotment over the  
10 course of his entire lifetime, and it's exactly the  
11 same amount of money that we allot to our men and women  
12 who are wheelchair dependent through the VA System. We  
13 give \$64,960 in a one-time allotment. I'm not  
14 recommending he spend it all in one place, you know.

15 Q I see. So that money would stretch out  
16 of, you know, your first house, maybe all you need is a  
17 ramp, great. Next house, which is a little bit bigger  
18 because you've got a family now, you may need to widen  
19 this bathroom, you may need to do something with these  
20 doors, et cetera.

21 A Exactly.

22 Q All right. And, again, that \$64,960 is a  
23 VA -- That number comes from what a veteran may  
24 receive?

25 A Yes.

1           **Q           Are there yearly adjustments to that**  
2 **based on construction or housing costs?**

3           A           We went a long time without any  
4 adjustments. This adjustment is as of last year, but I  
5 can't tell you how long it was at \$50,000, and the cost  
6 of everything has gone up, and that didn't go up.

7           **Q           Page seventeen, the wound flap. Now, if**  
8 **I'm recalling, to date, wound flap surgery has not been**  
9 **recommended for Mr. [REDACTED]?**

10          A           That's his understanding.

11          **Q           Okay. And your understanding?**

12          A           From him, yes. I will know more when I  
13 go to the Wound Clinic with him in March.

14          **Q           If, let's say, at the Wound Clinic visit**  
15 **in March, they still say, yes, he does not need wound**  
16 **flap surgery, would you still be leaving this item in**  
17 **his life care plan, or would you at that point revisit**  
18 **this?**

19          A           Well, I put it in here with unknown  
20 beginning -- you know, it's blank.

21          **Q           Right.**

22          A           I pray he never gets another wound, but  
23 if he does, he's going to need some money to handle  
24 that, and this is how much it costs, but I don't have  
25 frequency, so Dr. Caston can't actually put it in his

1 dollar averaging, or whatever he calls it. You know,  
2 so it's not included, but it's an enormous amount of  
3 money and, unfortunately, [REDACTED] has already had two  
4 wounds, and he's only 21 years of age. I didn't feel  
5 like I could leave it out at anytime.

6 Q Okay. Have we, now that we've gone  
7 through it, fully covered your life care plan?

8 A Yes, sir.

9 Q Have we fully covered all of your  
10 opinions and conclusions, which we've developed in this  
11 case?

12 A As far as I --

13 Q Which you have developed, I apologize.

14 A Uh-huh (affirmative), as far as I know.

15 Q Okay. Have you been asked to prepare any  
16 opinions or conclusions that you have not yet  
17 completed?

18 A No, sir.

19 Q Is it your understanding that the purpose  
20 for which you are retained by Plaintiff's counsel in  
21 this case has been fulfilled, at least as of now?

22 A I'm continuing to have contact with  
23 [REDACTED] and his mom, and will do that, and I'm not  
24 saying they retained me to do that, but I will -- I  
25 will be doing that -- I will make sure that I share



1 with this law firm where we are on this decubitus  
2 ulcer.

3 **Q Okay. Or if there are any other**  
4 **modifications to your life care plan that you've not**  
5 **today mentioned, such as, you know, it's not**  
6 **three-six-nine months, it's six to nine months?**

7 A Yeah, and I think just to be clear, I  
8 mean, these are small little things --

9 **Q Right.**

10 A -- but just to be clear, I'm going to  
11 probably have this retyped so we -- you know, that  
12 three-six-nine -- It sounds like a song, rather than,  
13 you know, anything else -- and just make that clear.

14 **Q All right. How many times have you**  
15 **testified at trial, approximately?**

16 A The first time I testified at trial was  
17 in the early '80s. I would say since then, probably,  
18 on average, six to eight times a year.

19 **Q Throughout the country?**

20 A In the last ten years, I've tried to  
21 restrict everything to the Southeast. It's not fun  
22 traveling anymore.

23 MR. HIESTAND: Okay. I have no further  
24 questions for you.

25 THE WITNESS: Thank you.

1 MR. HIESTAND: Thank you.

2 MR. BUTLER: No questions.

3 (Deposition concluded at 4:30 p.m.)

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1 DEPOSITION OF KATHY WILLARD

2

E R R A T A S H E E T S

3

I do hereby certify that I have read all questions propounded to me and all answers given by me on the 6th day of February, 2014, taken before Kayla S. Curry, and that:

4

5

6

- 1) There are no changes noted.
- 2) The following changes are noted:

7

Pursuant to Rule 30(7)(e) of the Federal Rules of Civil Procedure and/or the Official Code of Georgia Annotated 81A-130(B)(6)(e), both of which read in part: Any changes in form or substance which you desire to make shall be entered upon the deposition...with a statement of the reasons given...for making them. Accordingly, to assist you in effecting corrections, please use the form below:

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Page No. \_\_\_\_ Line No. \_\_\_\_ should read:

13

14

And the reason for the change is:\_\_\_\_\_

15

16

Page No. \_\_\_\_ Line No. \_\_\_\_ should read:

17

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And the reason for the change is:\_\_\_\_\_

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Page No. \_\_\_\_ Line No. \_\_\_\_ should read:

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6 Page No. \_\_\_\_ Line No. \_\_\_\_ should read:

7 \_\_\_\_\_  
8 \_\_\_\_\_

8 And the reason for the change is: \_\_\_\_\_

9 \_\_\_\_\_

10

11 If supplemental or additional pages are necessary,  
12 please furnish same in typewriting annexed to this  
13 deposition.

13

14 \_\_\_\_\_  
KATHY WILLARD

15 Sworn to and subscribed before me,  
16 This the \_\_\_\_ day of \_\_\_\_\_, 2014.

17 \_\_\_\_\_

18 Notary Public.  
19 My commission expires: \_\_\_\_\_

19

20 IN THE CASE OF:  
[REDACTED] vs. PATIENCE AJUZIE  
21 In the Superior Court of Fulton County  
Civil Action File Number [REDACTED]

22 Taken before Kayla S. Curry  
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C E R T I F I C A T E

STATE OF GEORGIA )

COUNTY OF MORGAN )

I hereby certify that the foregoing deposition was taken down by me, as stated in the caption; and the questions and answers were reduced to print by me; that the foregoing pages 3 through 97 represent a true, correct, and complete transcript of the evidence given on February 6, 2014, by the Witness, KATHY WILLARD, who was first duly sworn by me; that I am not a relative, employee, attorney or counsel of any of the parties; am not a relative or employee of attorney or counsel for any of said parties; nor am I financially interested in the action.

This, the 22nd day of February, 2014.

  
\_\_\_\_\_  
Kayla S. Curry  
Certified Court Reporter  
Georgia License No. B-2338



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