In The Matter Of:

[redacted] *vs.*

DONNA TURNER

BARRY F. JEFFRIES, M.D.

March 18, 2016

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IN THE SUPERIOR COURT OF MERIWETHER COUNTY
STATE OF GEORGIA

[redacted]	
Plaintiff,	CIVIL ACTION
vs.	FILE NO.
DONNA TURNER,	2014-CV-0243
Defendant.	

VIDEOTAPE DEPOSITION OF

BARRY F. JEFFRIES, M.D.

Friday, March 18, 2016
10:00 a.m.

2964 Peachtree Road, N.W.
Suite 440
Atlanta, Georgia

Lisa A. Messina, RMR, CRR, CCR-A-421

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Videographer:

Allen Miegel

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(Original Exhibits A through C have been attached to the original transcript.)

(Reporter disclosure made pursuant to Article 10.B of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia.)

THE VIDEOGRAPHER: On the record.

MS. FISHEL: If you'll please swear the witness.

BARRY F. JEFFRIES, M.D.,

having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. FISHEL:

Q. Good morning, Dr. Jeffries. My name is Brandi Fishel. I represent the Defendant in this action, Ms. Donna Turner.

For the record, will you please state your full name.

A. Barry Frederick Jeffries.

Q. Okay. And what is your profession?

A. I'm a diagnostic radiologist.

Q. Okay. And what is your professional address?

A. The building address?

Q. Uh-huh.

A. 6000 Lake Forrest Drive, with two r's in

Forrest, Suite 425, Atlanta, Georgia, 30328.

Q. Okay. And how long have you been a medical doctor?

A. Since 1975.

Q. Okay. In what year did you receive your medical degree?

A. 1975.

Q. Okay. And from what university?

A. University of Kansas.

Q. Okay. And are you licensed to practice medicine in the state of Georgia?

A. Yes.

Q. And how long have you been licensed in Georgia?

A. Since 1981. I guess that's, what, 35 years; 34, 35.

Q. And are you Board certified?

A. Yes.

Q. Okay. Are you Board certified in more than one area?

A. It depends. I'm Board certified in diagnostic radiology with certificates of additional qualifications in neuroradiology and interventional radiology, but that's still all within radiology so I guess just the one.

Q. Okay. And how long have you been Board certified in radiology?

A. Since 1979 when I finished my residency.

Q. Okay. And do you have to take a test every year or every couple of years to keep your certification?

A. I do not. My certificate is lifetime. Younger, newer people going into radiology, they have to take it every ten years. My certificates of additional qualifications, those are time limited and I have retaken them and passed them twice.

Q. Okay.

A. I probably won't take them again because I'm getting close to retirement but...

Q. Okay. And do you have privileges at certain hospitals in the Atlanta area?

A. I do, yes.

Q. Which hospitals?

A. Atlanta Medical Center and Rockdale Medical Center.

Q. Okay. And at one point in your career were you chief of staff at Atlanta Medical Center?

A. Not chief of staff. I was president of the medical staff.

Q. Okay. President of medical staff. All

right. And Atlanta Medical Center, is that designated as a trauma center in the city of Atlanta?

A. Yes. We're a Level 1 trauma center.

Q. Okay. And for the benefit of the jury, will you just explain what your practice as a diagnostic radiologist involves?

A. Well, my practice is basically two parts. On one day -- on some days I do what we call a spine rotation. On other days I do what we call an interventional rotation.

On the spine rotation I will do injections, epidural steroid injections, facet injections, things like that, as well as reading x-rays, CT scans, MR scans, and so forth. On my interventional days I'm actually doing procedures on patients and also reading MR scans, CT scans, and so forth.

All the times when I'm on call or I'm covering an imaging center I'm also reading studies, MR scans and CT scans. The vast majority of my work is obviously reading the studies and then I do the procedures on the side.

Q. Okay. And do you regularly read x-rays and MRIs of patients who've received injuries as a result of some sort of trauma in a car accident?

A. Either injuries or claims of injuries, yes. I mean, that's what I do, that's where -- at the trauma center. The majority of our cases will be related one way or the another to some form of trauma.

Q. Okay. And do you regularly read x-rays and MRIs of patients who suffer from chronic pain or degenerative issues in their spine as well?

A. Yes. I mean, the vast majority of people are going to have arthritis of the spine.

Q. Okay. And would you say the same for a knee or knees?

A. We do -- we see a lot of knees. There's several surgeons that do knee replacements, partial knee replacements, and arthroscopy at the hospital so, yes, we see a lot of chronic knee problems.

MS. FISHEL: All right. At this time I'd like to tender Dr. Jeffries as a medical expert in the field of diagnostic radiology. Do you have any objection?

MR. BUTLER: I don't have any comment right at this time. We may object at trial.

MS. FISHEL: Okay.

Q. (By Ms. Fishel) Dr. Jeffries, due to the nature of your medical practice, would it be a hardship for you to appear as a witness live in trial

in a case that's pending in Greenville, Georgia?

A. Well, it's very difficult. I mean, I don't have an office that I can just shut down, so if I get called I have to shut down the hospital which obviously can't happen. So it's very difficult for me to get away without a whole lot of advance notice and preparation.

Q. Okay. As a part of your work in the medical field, do you often review medical records and diagnostic studies to provide medical consulting for attorneys in cases either in litigation or proceeding to litigation?

A. It's not part of my regular job. I do it after hours, on weekends, and if I get a day off, so I do it routinely but I don't do it as part of my regular job. I work a full regular shift as a radiologist.

Q. Okay. And how long have you been consulting with attorneys on their cases?

A. I've been willing to do it about 28 years.

Q. Okay. And do you also testify sometimes live or, like we are today, on video as an expert witness in cases?

A. Yes. I think about a third of the cases I will be asked to review ultimately end up in some form

of testimony.

Q. Okay. Dr. Jeffries, do you charge a fee for your time in reviewing medical records and providing deposition testimony in litigation cases?

A. Yes.

Q. And how much do you typically charge?

A. $450 an hour.

Q. Dr. Jeffries, at my request you've reviewed some x-rays, MRIs, records, and other documents related to the medical treatment of a patient named [redacted]; is that correct?

A. Yes.

Q. And would the fact that you're being compensated for your time to review her medical records and testify here today, does that effect your opinion or findings with regard to the medical treatment of [redacted]?

A. Well, they won't effect my findings in terms of the studies. I don't have any real opinion on the medical treatment per se.

Q. Okay.

A. I mean, there's a difference between what the surgeons did and what I find on the film.

Q. Okay. Have you ever had an occasion to personally treat [redacted]?

A. Not that I'm aware of, no.
Q. Okay. Is it important as a radiologist or is it necessary for you to personally meet or examine the patient when reviewing the MRI or x-ray studies?
A. No. I mean, what the public has to understand is that I deal with what's going on inside the patient because that's where I'm looking. What they look like on the outside doesn't really matter to me.
Q. Okay. Specifically some of the records that I gave you were records from her treating physician, Dr. Bruce, at Southern Orthopedics. Did you review those records?
A. I did, yes.
MS. FISHEL: Can we go off the record for one second?
MR. BUTLER: Sure.
THE VIDEOGRAPHER: Off the record.
(Off the record.)
THE VIDEOGRAPHER: Back on the record.
Q. (By Ms. Fishel) Okay. Back on the record. All right. Dr. Jeffries, before we went off the record I asked you if you had reviewed the records from the treating physician and eventually surgeon, Dr. Bruce, at Southern Orthopedics.

A. Yes.
Q. I have given you a stack of those records in front of you. If you will please tell me the first date on the first record that you have there.
A. The first record, the date is December 30th, 2010.
Q. Okay. And what was her chief complaint on the first visit in December of 2010?
A. She had bilateral knee pain, worse on the left.
Q. Okay. And bilateral, that means pain in both knees?
A. Yes.
Q. Okay. And if you'll kind of flip through that record, did the doctor provide an impression or a diagnosis on that visit?
A. His assessment was osteoarthritis of the knees.
Q. Okay. And what is osteoarthritis of the knees?
A. Well, osteoarthritis is a degenerative process. It encompasses multiple different things that are happening but basically you're wearing out the cartilage and the bone is beginning to grind on the bone and over time this can become painful and

debilitating, but that's the primary definition of osteoarthritis. It's a wear-and-tear phenomenon.

Q. Okay. In those records that you have in front of you you have various visit dates. I think the next -- if you'll give me the date on the next one.

A. Next was January of 2011.

Q. Okay. And the next one?

A. Was March of 2011.

Q. Okay. And --

A. You want me to keep going?

Q. Yes, just keep going for us.

A. Then there's one April 6th, 2011; May 19th, 2011; June 2011, and all of these have been for bilateral knee pain. Then on June 30th, 2011, she's going and this time it's for preoperative evaluation for left knee surgery.

Q. Okay. And what knee surgery is that that they're --

A. The left knee.

Q. The left knee. What kind of surgery was it?

A. A left total knee arthroplasty. That's where they remove all of the arthritic part of the bone and replace it with metal and plastic or nylon;

whatever it's made of.

Q. Okay. And based on the review of the records in front of you from Dr. Bruce at Southern Orthopedics, does it appear to you that [redacted] had a long history of pain in both knees?

A. Yes. I mean, she's had it since at least 2010, probably before that, but that's when she went to the doctor.

Q. Okay. And she also had a long history of arthritis in both knees?

A. Yes. That was their belief that was the cause of the pain.

Q. All right. I think we're done with those records for just a minute.

Based on your experience and training and reading all of these MRI scans over the years, do you have any opinions about how trouble or pain in one knee would eventually effect the other knee?

A. Yes. I mean, there's two things that happen. First of all, whatever process is involving the one knee is also going to be involving the other knee. This is why you'll very often see arthritis in both shoulders or both knees or both hands and so forth.

The second thing is, of course, that once

you develop a lot of pain in one area, you tend to favor that area and so you put more weight onto the other area. So the body tries to balance things out but ultimately all it does it hasten the degeneration on the other side as well.

Q. Okay.

A. In other words, you'll be limping supporting more weight on the other leg so it's undergoing more stress than it would have.

Q. And that would be for people who either haven't been in an accident or some sort of trauma and then people who just develop knee pain over time as well?

A. Sure. I mean, you can see it any time you've had a sore muscle, anybody. If they've had a sore muscle or a bruise or something, they tend to leave that area alone until it heals. So, I mean, this happens all the time.

Q. Do you have any opinion about whether or not a person who had a left knee replacement would eventually have to have surgery or replacement on their right knee?

A. I do, yes.

Q. Can you explain?

A. Well, my experience has been that when

they have arthritis bad enough to need the knee replacement on one side, they usually will end up getting it on the other side. Now, the only time that doesn't apply is if the reason they have the arthritis is due to a major trauma or they've had a bunch of fractures and everything was torn apart in that knee or they've had a bad, say, ski injury or something like that. But for the vast majority of people, the conditions that cause the arthritis in the one knee are there for the other knee. It's just a matter of time before it gets bad enough they need the surgery there.

Q. As a part of your review of the records I gave you and the review of the medical records and films for this case, they were given to you in relation to an auto accident that took place on September of 2012. Are you familiar with that accident?

A. The original accident. No, that's a -- wait a minute. That's the original one, yes.

Q. Okay. And did I also give you photos of the accident that happened in September of 2012?

A. Yes.

Q. Okay. Did you also review the accident report from the September 2012 accident?

A. I did, yes.

Q. Okay. Did you also review the films and reports of the MRIs that were taken in January of 2013 at the CDC on Comer in LaGrange, Georgia?

A. Yes.

Q. And just for the benefit of my understanding and the benefit of the jury's understanding, can you explain to the jury what exactly an MRI scan is and what it can show?

A. Well, MR stands for magnetic resonance and what we're basically looking at is the concentration of water in the body and how it's been bound up by the other chemicals. Without going into too much complication, a patient is put into a very strong magnetic field and all the little atoms in the body which act like little magnets, they line up north and south in the magnetic field.

We then apply a radiofrequency pulse to the body to give energy to those atoms and they flip on their side. If anybody's ever had an MR, that's that pounding noise they hear. Once we turn off the radiofrequency the atoms go back to the way they were and they give us back that energy they received and based upon how it's received and how it interrelates with the other energies, we can reconstruct a

computerized picture of the inside of the body.

And so what MR is is it is extremely good at looking at anything that has liquid in it, soft tissues of the body, whereas the other modalities we have, x-ray, are relatively less sensitive. MR is the most sensitive thing we have to look at the structures of the body. It's so sensitive, for example, that if you go out and jog, I can pick up the edema in your muscles after you've run for about 15 minutes.

Q. Okay. Thank you. And the MRI films and reviews that you -- from January of 2013, what part of [redacted] body was the MRI taken of?

A. She had an MR scan of her cervical spine, she had an MR scan of her knee, the right knee.

Q. Okay. And, again, for my benefit and the benefit of our jury, will you please explain what the cervical region of the -- where that is on the body, the cervical region is on the body?

A. Well, the cervical region would be the neck.

Q. Okay. And based on your review of the diagnostic films taken of [redacted], have you formed some opinions about whether or not [redacted] sustained any injuries to her cervical spine resulting from an accident in September of 2012?

A. Yes.

Q. Okay. All right. If you will please describe for the jury what your opinion is as to her cervical spine based on the MRIs that you reviewed.

A. Okay. In her neck she had degenerative -- what we call degenerative desiccation. Degenerative desiccation means that the disk on the MR scan would appear dark and inside the -- the disk has two parts. It has an outer very strong fibrocartilage ring that holds the bones together, so it allows your neck to move without falling apart. Inside that ring, contained by the ring and the bone is a structure called the nucleus pulposus and that is the structure that starts to degenerate over time. It loses its water content.

Desiccation means to dry out. It's not exactly the way a sponge drys out when it loses its water and gets hard, but what happens is the water content in a chemical in the disk goes away over time. If it is accelerated, we call it degenerative desiccation.

Everybody loses a little bit of water as they get older, but cervical disks will lose it much faster than the others. So she had degenerative desiccation at all of the disk levels in her neck as

well as down into the upper part of her thoracic spine. So when I see that, I know that process has been there at least a year because it takes a year for that to show up.

At the same time she had osteophytes. Laymen would call them bone spurs. Osteophytes can form only after a disk begins to bulge or herniates and she had osteophytes at C3-4, C4-5, C5-6, and C6-7 and those take at least a couple of years before I'm going to be able to see them.

So the MR of the neck was done on 1/21/13. That's about five months after the date of the motor vehicle collision, so all of those changes had to have been there before the date of the motor vehicle collision.

And what she has in her neck is simply arthritis of the spine. The technical term is intervertebral osteochondrosis, but that's really a mouthful so doctors call it spondylosis and laymen call it arthritis.

Q. Okay. In your description you used the word degenerative. Would you define that word?

A. Well, degenerative means it's age related and/or wear and tear. I guess the actual term is it should be a wearing, it's an age-related phenomenon,

but in this case it's an actual pathologic process. It's intervertebral osteochondrosis. Some people will develop this even if they haven't really worked their spine very hard.

Q. Okay. And a degenerative injury is something that develops over time and is not caused by a specific action or trauma?

A. Yes. In other words, she's looked this way for years and she'll probably look this way, hopefully no worse, for many years after.

Q. Okay. And I believe you said it could take over a year to form?

A. Well, the degenerative desiccation I talked about, it's a chemical change in the disks. They did studies. They deliberately damaged the disks and then they saw how long it took before degenerative desiccation would show up and that took at least a year. It may actually take two, three, four years for her to get to this extent, but all I can say is at least a year.

Q. And, like you said, as this accident occurred on September 17th of 2012, it would then be your medical opinion that these processes would have begun forming long before the accident?

A. Yes, they had to. If she had enough

trauma to damage all of these disks, she would have had lots of other findings. I mean, it takes a lot of trauma to injure a disk and all of the disks are abnormal. So there would have been some broken bones, some torn muscles, ligaments if she'd actually injured something.

Q. Okay. And can you tell based on looking at an MRI scan whether or not the degenerative process or arthritis can be aggravated by a traumatic injury or event?

A. It depends on what you mean by aggravated. Now, the term that -- the way it's usually used in medicolegal cases is they say that they had no pain before and then they have pain afterwards and, therefore, it's aggravated. In that sense, I have no way to evaluate. That's simply a subjective complaint of pain.

But in terms of aggravated in the sense made worse, yes, I can see that. There should be something to make it worse, some bleeding, some edema, a new fracture, a torn ligament. Something should show up to show me that it's been made worse.

Q. Okay. And her MRI of her cervical spine had no evidence of bleeding, bruising, fracture, any other type of traumatic injury?

A. Correct. It looked as if she'd never been in an accident at all.
Q. And you looked at the photos of the accident?
A. Yes.
Q. And the accident report?
A. Yes.
Q. Okay. I'm going to hand you --
MS. FISHEL: There's a copy of the photos for you.
MR. BUTLER: Thank you.
MS. FISHEL: And an accident report for you.
THE WITNESS: Okay.
Q. (By Ms. Fishel) If you'll just briefly look at those photos again to refresh your recollection.
A. All right.
Q. Okay. And based on your review of those photos and the police report, have you formed an opinion as to whether or not the physical findings of the MRI of her cervical spine could have been caused by an accident with the referenced photos and police report?
A. Yes.

Q. Okay. And what is that opinion?
A. My opinion is that the MR shows no evidence of an injury caused by this accident or actually any type of accident. She has arthritis of the spine.
Q. Okay.
A. I mean, there's just no injury there.
Q. All right. And let's shift gears a little bit and talk about her right knee injury at this time.
A. Okay.
MS. FISHEL: There's some more records for you.
Q. (By Ms. Fishel) Dr. Jeffries, again, I provided this to you before then, but just to refresh your recollection I just gave you the ER records that were taken from [redacted] treatment in the emergency room on the day of the accident in September of 2012.
A. Okay.
Q. If you'll take a look at I believe it's the second page called the Physician Documentation Report --
A. All right.
Q. -- and do you see any indication on that page of what kind of injury she was being treated for

in the emergency room that day?

A. Well, her chief complaint was upper back pain and that's actually the only complaint she's making that I see in the report.

Q. Okay. And do you see in that report any kind of x-rays or radiology reports?

A. They did take an x-ray of her chest.

Q. Okay. They took an x-ray of her chest?

A. Yes.

Q. Did they take an x-ray of her right knee?

A. No.

Q. In your experience as a physician who works in a hospital that's a trauma center, would you expect an ER physician to take an x-ray of the right knee if the patient was complaining of right knee pain in the emergency room?

MR. BUTLER: Objection; calls for speculation.

THE WITNESS: Yes. I mean, emergency room physicians are spring-loaded. If a patient comes in after a motor vehicle collision and complains of pain, that area will be evaluated one way or the other. At our hospital they usually will get a CT scan or something like that, but for an extremity they will often just get an x-ray.

Q. (By Ms. Fishel) And based on your review of the diagnostic films taken of [redacted], have you formed some opinions about whether or not [redacted] sustained any injuries to her right knee resulting from the accident on September of 2012?

A. Yes.

MS. FISHEL: Okay. Let's go off the record.

THE VIDEOGRAPHER: Off the record.

(Off the video record.)

MR. BUTLER: Let me speak before you go on. I don't know what medical records the defense intends to show right now. To the extent they weren't subject to a proper notice of intent to introduce, we'll object to them. I notice that the records on the screen are not the ones in my hand. I'm not sure where they came from.

Also, to the extent it matters, again, I don't know what is going to be showed, I object to the admission or display to the jury of any records that contain collateral source information. I see that the paper I have in my hand that Ms. Fishel has just handed me says Medicaid of Georgia right there on the first page, so at least this has not been redacted.

MS. FISHEL: That wasn't admitted. It was just used for his recollection. I don't plan on admitting the ER information and, if I did, I would take the insurance information off.

This is the MR report. This is all from your discovery, from Chris's discovery where we got from his records. This is the MR images from the MRI report. They were provided on a disc from Chris that were provided in discovery responses and that's where we got them. We will proceed.

THE VIDEOGRAPHER: Back on the record.

Q. (By Ms. Fishel) Using the pictures of the MRI scan, before we get started can you tell me what patient's images are on the screen? Whose images are those?

A. All right. So for the jury's benefit, I'm going to use the arrow marker and up here I'm pointing to "Patient's Name," it says [redacted]. Over on the other side it says "CDC on Comer" and the date of the examination is January 21st, 2013.

Q. Okay. And that is an MRI of what part of her body?

A. This would be an MR scan of her right knee.

Q. Okay. And using the films, if you'll just give your opinion as to what those films show you and what you interpreted.

A. All right. I'm going to move the picture here for a minute and go over to this picture here. I'm now using the arrow to outline a triangular-shaped structure which is dark. This is what a normal meniscus would look like. We're looking at the front part of the meniscus on the medial or inside part of her knee.

As we move the pictures and follow the arrow, you now see the back part of this meniscus and you see a little bit of signal in the middle of it, a little bit -- it's not a nice sharp point here, it's a little irregular. This is consistent with degeneration, myxoid degeneration or a small tear.

Then we go to the other side of her knee. We're now going to the outside part of her knee and you can see a dramatic difference. Remember how in this area there was a nice little triangle. Now it's all irregular. There's a white line in the middle. It looks like there's fragments. This would be a tear.

And as we go to the back side, this is where the arrow is on the back side of her knee, you

can see this meniscus is also irregular. They don't have that nice triangular shape.

As we go out to the extreme outer part of the meniscus -- remember, it's shaped like a C -- you can see how this tear goes all the way through the meniscus. This is the same appearance that she had back on the MR a year or so later.

This study shows that the ligaments of the knee -- this structure here would be the anterior cruciate ligament, this would be the posterior cruciate ligament -- they're intact. And then it also shows the fact that you have basically bare bone here. There's no cartilage here. You have bare bone here. The cartilage is all eroded from her bone here and we're seeing -- you can see how the bone, instead of it being nice and smooth it's all kind of irregular and you have some edema underneath it.

All of this is reactive changes to osteoarthritis of the knee. If you look behind it, you also have the same changes on the back of the knee. She has fluid, that's this white material here, and that's related to the meniscal tears, the arthritis of the knee and so forth.

Another view -- let's see if I can get this here. We're now looking at what is called a

T1 weighted image. You can clearly see the meniscus has lost its normal triangular dark shape. This is a chronic tear. The same thing would apply.

Here you can very clearly see how all the bone is just irregular. There's just no cartilage here on top of this bone. This should normally be -- see this little thin area of gray. That thin layer of gray should be all around knee but it's not present.

So this patient just has a lot of arthritis involving the knee, she has arthritis involving the patella -- actually, it's osteochondritis involving the patella, she has torn menisci, and this is all part and parcel of osteoarthritis.

Then this picture here, this shows the hallmark findings of osteoarthritis and that would be this -- you can see this piece of bone coming out here, this is called an osteophyte, little bone beaking out over here, it should be nice and rounded, and these are the findings of osteoarthritis.

Q. Okay. All right.

MS. FISHEL: Back off the record.

THE VIDEOGRAPHER: Off the record.

(Off the record.)

THE VIDEOGRAPHER: Back on the record.

Q. (By Ms. Fishel) Based on your review of the MRI films of [redacted] knee, can you please describe your opinion for the jury as to what the results of the MRI were on her knee?

A. Well, the MR scan of her knee demonstrates or it demonstrated that she had tears of the lateral meniscus. They were quite extensive. They went from the front all the way to the back. She also had a subtle tear involving the posterior horn or the back side of the medial meniscus which would be on the inside of the knee.

The menisci or two little C-shaped cartilage that sit on the inside and the outside of the bone, that allows the femur to sit on top of the tibia and have a place to articulate. It helps distribute weight.

At the same time, the MR scan showed erosion of the cartilage, primarily in the area of the trochlear, which is the cartilage in the center of the thighbone, the tibia, which is where the patella slides up and down, as well as erosion of the cartilage of the patella itself. There was also some cartilage erosion overlying the medial and lateral condyles of the knee but not as severe. Then she had bone spurs arising primarily from the medial femoral

condyle and all of these things represent osteoarthritis of the knee with the related associated changes of osteochondritis, meaning bone and cartilage involvement of the patella and the trochlear groove.

The meniscal tear is just part of the degenerative process. It may have predated the osteoarthritis, it may be related to it. I think it's just part and parcel with it.

Q. Okay. Thank you. And you mentioned osteophytes and bone spurs. What are those?

A. Well, the osteophyte is where the bone actually -- I showed a picture of it, although the jury may not see it. The bone spur is a piece of bone that sticks out from where it normally would be.

If you've ever driven a car in the snow and you see how you get that -- the white ice mushes up behind your bumper, that irregular-shaped thing that sort of clumps behind your wheel, you may not see it that much in the South, I could be wrong, but when you see that clumped-up ice like that, that's very much what an osteophyte looks like. It's just an abnormal growth of bone that grows out from where there would normally not be bone present.

Q. Okay. And is that a symptom of arthritis?

A. It's not a symptom, it's a sign of it. In

other words, we can see it and it means arthritis.

Q. Okay. And arthritis, could that be caused by a trauma or an auto accident?

A. Well, if you damage -- if you tear the cartilage, if you damage the cartilage or you fracture the bone, ultimately you can get posttraumatic arthritis, but the vast majority of arthritis is going to be related to age, what you've done for a living, what you've done for fun, weight-related factors, congenital, your genetic predisposition to get it. In a patient like this where she's also had the same problems in the other knee, it's almost 100 percent it's going to be related to arthritis.

Q. And you mentioned that there was a horizontal tear in the lateral meniscus?

A. Yes.

Q. Describe for me what part of the knee the meniscus is in.

A. Okay. Well, if you have the tibia, which is a bone that comes up and it's flat, and then you have the femur which comes down and it has kind of a rounded surface and the reason it's rounded is so you can -- your leg can bend. The round part just pivots. But if you just had the round part sitting on top of the bone, it would be a very small surface area

pushing on the bone. That wouldn't be good. You'd wear the bone out very quickly.

So what nature does is they put in these little menisci in between and the menisci being triangular shaped, they fill in the spaces and it helps distribute the weight of the femur and so this is why if you weigh a lot more, you're putting more pressure on the bone than you are engineered to have. The end result is you start to get osteoarthritis.

If you bend too much, the meniscus in the back begins to deform and that's where you get the tears and that's where you most often will see the tears, in the back of the meniscus from bending and lifting. That's why it's an age-related thing. The more you lift and bend, the more likely you are to have a tear.

Q. Okay. And a meniscus tear, that can happen over time with degeneration?

A. Yes. The vast majority is going to be age related over time.

MR. BUTLER: Objection; leading.

Q. (By Ms. Fishel) And would you be able to tell the difference on an MRI whether the meniscus tear was from degeneration or a traumatic injury?

A. Probably not directly. You would have to

look for the secondary signs. In other words, a meniscus tear is simply a tear. It's really a descriptive term. It doesn't mean it's been torn by anything. It's just what we see as the cleft, it looks like a tear.

To tell that it's traumatic you'd want to see something else. You'd have to obviously have history of trauma and then you'd want to see the more likely things to happen along with it. You'd want to see torn ligaments, you'd want to see fractures, a big joint effusion. Those are the things that happen in trauma.

For example, when you see a skier rip out their knee skiing, they never tear the meniscus. They rip out their ligaments because these are the rigid structures. When you see a football player injured and carried off the field, he's always torn a ligament, he's not torn his meniscus.

The meniscus is relatively insensitive to a single isolated trauma. It's more of a chronic thing. It's possible to tear a meniscus, but you're going to have to have a lot of other things going on with it.

Q. Okay. And what is your opinion from the MRI scan of January 2013 as to the cause of the tear

in [redacted] meniscus?

A. I think it's age-related arthritic. I mean, she had the same problem in the other knee.

Q. Okay. And about how long would you estimate that the degenerative process for her knee took to get to where it was on the day of the MRI?

A. Well, I don't have any good indicators like degenerative desiccation to go on. She's had this for years. She's had it at least as long as the other knee and the other knee, it had probably been present for years before that. She'd probably had it 15 to 20 years, but the actual number I just don't know.

Q. And as the accident in this case occurred on September 17th, 2012, is it your opinion that these processes had to have started forming sometime before that?

A. Yes. I mean, she had complaints of knee pain long before that.

Q. And the same question I asked with the cervical spine, can the degenerative process and arthritis in the knee be aggravated by some sort of traumatic event or accident?

A. Theoretically, in terms of if they had complaints of pain they can say, yes, it hurts more.

I have no way to assess whether that's accurate or not. I would look for the same things -- in other words, this is her baseline. It's like my gray hair. If I get in an accident, the fact that I have gray hair doesn't matter. You're going to look for trauma on top of that, blood in my hair, something like that.

Same thing for the knee. She's got arthritis of the knee. That's her baseline. So for her to have a traumatic injury, I'd have to see something on top of that that tells me it's traumatic.

Q. And did you see any evidence of a traumatic injury on those MRI films of her knee?

A. No, I did not.

Q. And can you state with a reasonable degree of medical certainty that any pain [redacted] would have been having in her right knee would be caused by degenerative changes?

A. That would be my opinion. She was complaining of it before and she's still complaining of it.

Q. And is it your opinion with a reasonable degree of medical certainty that [redacted] suffered no acute or traumatic injury to her right knee as a result of the auto accident that took place on September of 2012?

MR. BUTLER: Objection; leading.

THE WITNESS: Based upon the imaging study I see no evidence of an acute injury. Whether or not she had a skin bruise or something, I don't know.

MS. FISHEL: That's all I have at this time.

MR. BUTLER: All right. Give me a second to get organized and then I'll ask you a few questions.

THE VIDEOGRAPHER: Off the record.

(Off the record.)

THE VIDEOGRAPHER: Back on the record.

CROSS-EXAMINATION

BY MR. BUTLER:

Q. Good morning. My name is Jeb Butler. I represent [redacted] --

A. Good morning.

Q. -- in this case and I have a few questions for you.

When did you examine [redacted]?

A. You mean reviewing the images? The initial time I looked at it would have been --

Q. No, no, no, that's not what I mean. What I mean is when did you sit down with the patient in

this case, [redacted]?

A. I never -- radiologists don't ever examine a patient.

Q. Did you ever talk to her on the phone?

A. No, not that I'm aware of.

Q. Did you ever talk to her friends and family about what happened to her and how she was acting before and after this wreck?

A. No, I did not.

Q. Well, did you ever speak to her to get her history, like what she thought about what happened here?

A. No.

Q. Did you ever ask her how she was feeling, how her knee felt before versus how it felt after this wreck?

A. No.

Q. Did you ever talk to her about the pain she experienced as a result of this wreck?

A. No.

Q. All you did in this case, as I take it, was to review someone else's medical records; is that right?

A. I reviewed them, yes. What I also did was reviewed the images which is what I do.

Q. So you reviewed the images, the records from West Georgia, which was the ER, I think, and from Dr. Bruce maybe among other things; is that right?

A. Correct.

Q. But never actually saw [redacted] or talked to her?

A. I saw her through her films. That's how I would normally see a patient.

Q. Did you ever put your hands on her knee like doctors do?

A. That wouldn't do me any good.

Q. You didn't do that, did you?

A. That's correct.

Q. I take it that you will not be coming to court in Greenville, Georgia. Is that right?

A. Most likely not. It would be very difficult.

Q. Okay. I'll ask you all my questions now since it doesn't appear from what you've said likely that you'll be in court.

We're here in Atlanta taking this deposition, right?

A. Yes.

Q. Now, you have a plane for when you have to leave Atlanta, right?

A. I have a small plane I use, yes.
Q. And you use that to travel to cases?
A. I use it for a lot of things. I use it for Angel Flights, I use it to fly on vacation, I use it just to fly around for fun. I usually don't charge when I fly somewhere.
Q. And you use it to travel for cases, don't you?
A. Sure, rather than drive. I mean, I fly for fun. I don't charge for my time when I fly.
Q. I'll ask you more about charging for your time a little bit later. Well, let's get to it now.
You have done a whole lot of these legal reviews, haven't you?
A. Yes.
Q. You've made a whole lot of money doing these legal reviews for defense lawyers and insurance companies; isn't that right?
A. It depends on your definition of a lot. I think it's a lot, yes.
Q. And they keep hiring you because you keep telling them what they want to hear; isn't that true?
A. Sometimes I don't tell them what they want to hear, but they do keep hiring me, yes.
Q. The insurance companies keep sending

business to you; isn't that right?

MS. FISHEL: Objection.

THE WITNESS: They do send cases, yes.

Q. (By Mr. Butler) And that's business to you, right?

A. It's business, yes.

Q. They've hired you over and over again?

A. Sometimes. Sometimes they only hire me one time.

Q. Well, isn't it true that you've conducted over 2,000 of these legal reviews?

A. I think that's probably fair, yes.

Q. And isn't it also true that 98 percent of the time your legal reviews have been done for an insurance company, a lawyer working for an insurance company, or a defendant in a personal injury case?

MS. FISHEL: Same objection.

THE WITNESS: In terms of the number of cases, that would be correct.

Q. (By Mr. Butler) I'm going to ask it a different way because of the objection.

Isn't it true that 98 percent of the time your legal reviews have been done on behalf of a defendant in a personal injury case?

A. Well, what I usually say is greater than

95 percent has been at their request. In terms of actual testimony, it's maybe 99 percent of the times I've been asked to testify. I usually don't get asked to testify when I find an injury.

Q. Well, let me show you a transcript and this will be from a case called Curtis against Whitney. I've only got two copies so I'm going to have to review it before I hand it to you. I've given one to your lawyer.

MS. FISHEL: I'm going to object to relevance.

MR. BUTLER: Okay.

Q. (By Mr. Butler) The first thing I'll ask you is, isn't this transcript from the State Court of Cobb County here in Georgia?

A. That's what it says, yes.

Q. And, in fact, if you open it up, you'll see that it's your testimony?

A. Well, I'll take your word for it, sure.

Q. All right. Go to Page 30, please.

A. Okay.

Q. Look at Page 30, Line 17, and please read for us Page 30, Line 17, to 31, Line 3.

MS. FISHEL: Again, I'm going to object to relevance. This is a different case, has nothing

to do with the facts at issue in this case. It's a completely different accident, a completely different injury.

THE WITNESS: Line 17?

Q. (By Mr. Butler) Page 30, Line 17, to Page 31, Line 3.

A. Okay. So this is a question. "Well, in fact, of the 2,300 reviews you've done over your career, 98 percent of them have been for a defendant in a personal injury case or an insurance company or a lawyer for an insurance company; isn't that correct." And then my answer was, "You guys always ask me questions differently. I have to think a minute. You're talking about personal injury?" "Yes." I go, "Okay. Yes."

And then the question was, "I want to make sure I ask it right. Yeah." And I go, "Yes, in gross numbers of cases that would be correct.

Q. All right, thank you. Now, you actually read a little snippet in there I was going to ask you about anyway.

At that time you estimated you'd done 2,300 of these legal reviews; is that right?

A. Right.

Q. And that was when, I think December of

2013 maybe?

A. Correct.

Q. All right. How many have you done since then?

A. No way of knowing. The number I recently gave was maybe 2,500. I mean, the number I don't know, it's just a guess, 2,500, so I'll say 2,500 now.

Q. You said a minute ago when the defense lawyer was asking you questions that about one-third of the time these things went to testimony. Do you recall saying that?

A. I think so. I think so on average, yeah.

Q. So if you've done 2,500 of these legal reviews, that would mean you've testified something like 833 times?

A. It's probably not that high. I think it's more like maybe around 600. That's a number I put out. It may be higher. Again, I don't know.

Q. Well, 2,500 divided by three would be a little over 833. Do you agree?

A. You're trying to put precise numbers to something that is based upon an estimate, so anything I say may be wrong. I'll say -- I'll agree to whatever you want. It doesn't really matter to me. If you want to say a third, then 800, fine, it's 800,

but I don't know that and I'm going to say in front of the jury I don't know if that's true or not.

Q. One-third of 2,500 is 833. That was the question I asked you. Do you agree?

A. Well, I'll agree with the math, yes. It's actually 833-1/3.

Q. We talked about money earlier and I think you agreed that you've made a bunch of money doing the legal reviews; is that right?

A. I've made quite a bit, yes.

Q. What do you charge per hour?

A. I think I said earlier $450 an hour.

Q. Isn't it true you've charged as much as $1,000 per hour?

A. Yes, when I get called to trial and another radiologist has to cover. Remember, I can't just close an office like many of the clinicians can, so when I get called in trial I have to pay another radiologist to cover me, so you're really paying two people. You're only paying me the $500 an hour.

Q. So that's when you charge a thousand dollars an hour?

A. Well, my group charges it. You're paying my group for that time.

Q. Isn't it true that you've made over

$2 million doing these legal reviews like you're doing here today?

A. Over 28 years, yeah.

Q. Actually, it was $2 million as of 2011; isn't that right?

A. If that's what the numbers add up to. I mean, I don't keep track of that.

Q. Well, if I tell you that's what you testified --

A. Then I'll agree to it if I testified to it. I don't know what it's based on, I don't recall, but if I said that, fine.

Q. Okay. How much money have you made doing these legal reviews for defense lawyers since 2011?

A. Maybe -- since 2011 maybe $800,000 or $900,000 maybe.

Q. Okay.

A. You have to understand those numbers include everything. It includes medical malpractice when I do plaintiff's cases, cases where I do Medicare fraud for the federal government, and cases for the state, so it's not just personal injury, the dollar amounts.

Q. We talked about that 98 percent earlier, right?

A. No. You talked about 98 percent of personal injury cases. Now you're talking about the money. The money also includes testimony I do for the federal government, the state, and personal -- and medical malpractice cases. The money is not separated out.

Q. All right. Well, let me ask you this.

Do you have any reason to disagree with the personal injury legal reviews netting in 2012 approximately $164,000?

A. Probably. If that number is my yearly amount, there's all sorts of other stuff in there. I don't break it down.

Q. Do you have any reason to disagree with $288,000 in 2013?

A. If you're saying it's based on personal injury, yes.

Q. Do you any reason to disagree with $297,000 in 2014?

A. If you're saying it's based upon personal injury alone, yes, because it includes everything.

Q. Did it keep going up after 2014? I don't have your figures for 2015.

A. It went down 2015, I think. I think the final tax return will be less than it was for the year

before. It goes up and down.

Q. Well, while we're talking about money, isn't it true that your job here and the reason you've been hired in this case is to keep [redacted] from getting much money?

A. I have no idea what the basis of the case is. My job -- the American College of Radiology is very specific about the purpose of an expert witness. My job is to educate the jury as to what the films show and then they will make the decision if that's relevant or not. I'm just telling them this is what the x-ray shows.

Q. Well, now, you just spent a lot of time talking with the defense lawyer about how this wreck didn't cause the injury. You remember that, right?

A. That's the same thing I'd tell the ER doctor. If I saw these films I'd say there's no injury on this film. The exact same thing I'm telling the jury I'd tell the ER.

Q. You do remember saying that the wreck didn't cause the knee injury. You remember that, right?

A. Well, there's no injury there. That's the whole point.

Q. You do remember saying that?

A. Yes.

Q. And the point of that -- you've testified, I think we've said, 800-something times, somewhere in that neighborhood?

A. Probably. I mean, it's the best guess we can give, sure.

Q. You know why the defense lawyer wants you to say that, don't you?

A. I know what they want me to say. That doesn't mean I'm going to say it.

Q. You know the reason is so the jury won't award much money to [redacted]. You know that's the whole goal here, don't you?

A. Well, I also know that you want to say what you're saying so they'll award money. I mean, it's a silly question. I mean, I understand that, sure.

Q. And those are the folks who keep hiring you, right?

A. They ask me to review the cases, yes.

Q. Over and over again, right?

A. Yes.

[redacted]

[redacted]

[redacted]

[redacted]

Q. You said when the defense lawyer was asking you questions that you had -- and I think I made this exact quotation, I may have written it down wrong -- "no opinion on the medical treatment per se"?

A. Correct. I'm not a surgeon.

Q. What does that mean? What did you mean when you said that?

A. Exactly what it is. If the surgeon says he feels he should operate for this and it will help her, then that's his decision. I have no opinion upon that.

Q. So you have no quarrel with Dr. Bruce's decision to conduct a surgery in this case, in other words?

A. No. She's already had a knee replacement on one side which worked quite well. It makes perfect sense she'll have one on the other side. She opted to go for an arthroscopy instead, which I found interesting, but that was her choice.

Q. Now, you know Dr. Bruce is the doctor who has tried to help [redacted], don't you?

A. Yes.

Q. I mean he's the doctor who put his hands on her and talked with her and provided the treatment that he thought was best, right?

A. Correct. That's his job. He's the treating physician.

Q. Now, do you know -- did you know that Dr. Bruce has said that in 2011, that is, before this 2012 car crash, [redacted] did not have a torn meniscus?

A. Well, he didn't do an MR scan before that date so he had no way of knowing. He can say that --

Q. That's wasn't my question.

Did you know that Dr. Bruce said that in 2011 before this car crash [redacted] did not have a torn meniscus?

A. I was not aware of that, but, as I said, he has no way of knowing that. He never did an MR. He didn't look.

Q. Did you know that Dr. Bruce said that before this wreck injections were sufficient to handle [redacted] right knee problems?

A. I remember reading she was getting injections.

Q. Did you know that Dr. Bruce has said that after this wreck injections were no longer sufficient to handle [redacted] right knee problems on an ongoing basis?

A. I think he said that after the second

wreck, not the first wreck.

Q. Did you know he said that about the first wreck, the September wreck that we're here about today?

A. I'm not aware of that, no.

Q. Did you ever call up to ask him?

A. No. There would be all sorts of HIPAA violations if I did.

Q. You reviewed all the medical records, right?

A. Because they're given to me with the HIPAA clearance, but for me to call Dr. Bruce and ask him to talk about his patient, he wouldn't be allowed to do that so I don't waste my time.

Q. Did you ask for a HIPAA clearance to talk to Dr. Bruce?

A. In terms of reading the films I don't need it, sir.

Q. Did you ask?

A. No, I did not.

Q. You talked about the emergency room when the defense lawyer was asking questions -- asking you questions, right?

A. Yes.

Q. Now, you talked about what happened in the

emergency room. Do you remember talking about that?

A. I only read the part from the report. I didn't really talk much about what happened.

Q. Well, you said that there was no x-ray done of the right knee in the emergency room and for that reason there must not have been any right knee injury. Do you remember saying that?

A. I said most likely that's correct.

Q. In fact, you said you knew that because the doctors in that emergency room were "spring-loaded"?

A. Yes.

Q. Who were the doctors in that emergency room?

A. Doctors in the emergency room, that's the way they are. Now, I don't know that personal doctor; of course not.

Q. You don't know -- you don't have any idea who those doctors were, do you?

A. That's correct.

Q. In fact, you suggested to the jury when the defense lawyer was asking you questions that [redacted] did not report right knee pain when she was at West Georgia Health. Do you remember saying that?

A. To the doctor, yes.
Q. Well, let me show you a record here. This is one that the defense lawyer did not go over with you but it's in the stack that she handed me and I'm going to mark it as Plaintiff's Exhibit B.
(Plaintiff's Exhibit B was marked.)
Q. (By Mr. Butler) Now, this record is from, and I've highlighted it here, September 17, 2012. Is that right?
A. Yes.
Q. And then it goes on to say, doesn't it, on the other side -- I've highlighted this, too -- "Patient reports right shoulder and right knee pain post MVC that occurred approx three hours ago."
Did I read that correctly?
A. Yes. I think that's a nursing note.
Q. Yeah. And MVC, that stands for motor vehicle collision, doesn't it?
A. Correct, yes.
Q. Now, we'll rip that page out. I've marked it as Plaintiff's Exhibit B for the record and I'll put it in the court reporter's stack here.
I want to show you some other records that the defense lawyer went over with you and we'll do these pretty fast. I'm going to keep the highlighting

that was already in the documents.

The first record I'm going to show you is from December 30 of 2010. I've circled that here, right?

A. Okay.

Q. That would be before this car wreck obviously?

A. Yes.

Q. And it says here, "The patient is here today with complaints of bilateral knee pain, worse on the left than on the right."

A. Yes.

Q. Did I read that correctly?

A. Yes.

Q. Okay. Bilateral means both knees, right?

A. Yes.

MR. BUTLER: That's going to be Plaintiff's Exhibit C.

(Plaintiff's Exhibit C was marked.)

Q. (By Mr. Butler) All right. I'm going to show you another record. This is from August 8th, 2013, right? I've circled that. Do you see that?

A. Okay.

Q. That would be after this wreck, of course, correct?

A. Yes.
Q. And here it says that [redacted] "presents complaining of right knee pain of about a month duration. She was in an MVA on September 9, 2013" --
MS. FISHEL: I have to correct you. I believe that record says July 9th of 2013.
MR. BUTLER: You are correct. Well, strike that.
Q. (By Mr. Butler) You talked with the defense lawyer about the police report. Do you remember that?
A. Yes.
Q. What are you doing with the police report?
A. The police report gives me the mechanism of injury, whether airbags went off, which gives me some idea of force if they do go off, and whether there's a complaint of injury at the time.
Q. You mentioned mechanism of injury. Tell us what you know about the mechanism of injury in this case.
A. Well, it was an impact to the right rear quarter panel which means that she was subjected to a slight rotational force -- I'm not sure how to describe it -- in a clockwise manner.

Q. Where was her right leg when this collision occurred?

A. Probably attached to her pelvis. I have no idea. I'm assuming it was placed over the accelerator pedal.

Q. Why do you assume it was placed over the accelerator pedal?

A. If she's driving the vehicle I don't know where else that leg would be. Now, if she's a passenger, it was probably in the foot well. She may have had it raised. I mean, I have no idea.

Q. Do you know whether she was the driver or the passenger?

A. Not that I recall. I'd have to look at --

Q. So you don't know whether her foot was on the accelerator, on the floorboard, hanging loose, or on the brake pedal?

A. That's correct.

Q. Now, if [redacted] says that she had pain in her right knee after this 2012 wreck that she did not have before this 2012 wreck, are you telling the jury that she's lying?

A. I have no way to assess that.

Q. In fact, you said a few times you have no way to evaluate the pain at all?

A. That's correct.
Q. Now, pain's important, isn't it?
A. Can be, sure.
Q. It's not pleasant to live with pain, is it?
A. No, it's not.
Q. That's a part of this law case, isn't it?
A. I had assumed we're looking for injuries but pain is part of that, yes.
Q. Pain is something people don't like to have to endure; isn't that correct?
A. There are exceptions, but you are correct. The vast majority of normal people do not like pain.
Q. Do you have any reason to suggest that [redacted] likes the pain in her right knee?
A. Clearly not. She's having a lawsuit.
MR. BUTLER: Thank you. No further questions.
MS. FISHEL: Give me just a minute. I have a couple. Off the record.
THE VIDEOGRAPHER: Off the record.
(Off the record.)
THE VIDEOGRAPHER: Book the record.
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REDIRECT EXAMINATION

BY MS. FISHEL:

Q. All right, Dr. Jeffries. These again are the records from Dr. Bruce at Southern Orthopedics. I have just handed you a stack of them. I believe it is -- you can go through and look -- it's the records from 2010 all the way until 2011.

A. They keep moving the dates around on me. Hold on just a minute. Actually -- well, where is the date on this thing. Yes, 8/9/11.

Q. And is there any --

A. I'm sorry. I have one that goes to 9/30/11 as well.

Q. Okay. And all those records that you have there, do they reference -- do they reference bilateral knee pain?

A. They mainly reference left -- right knee pain. The earlier one is bilateral. Then after the surgery mainly it's the right knee.

Q. The left knee or the right knee?

A. Well, before surgery -- let's see. Worse on the left. So before -- she had surgery on the left knee but she had pain in both knees. Then after she had the surgery on the left knee, she then had mainly right knee pain.

Q. Okay.

A. And the records state she was doing well with the right knee and had some left knee -- I get confused; the other knee pain.

Q. Okay. And if this accident was in September of 2012, all of those records that you have right now, they predate that accident?

A. Except for the ones in -- yes, they all predate.

Q. Okay. I'm going to hand you another part of those medical records that is dated April 30th of 2013.

A. Okay.

Q. And, again, as the accident in this case happened in September of 2012, that record right there would be from a visit after the accident in September of 2012?

A. Yes. It's dated April 30th.

Q. If you could please tell me what the chief complaint and the present impression of the patient says on that report.

A. The chief complaint is just a follow-up of her left knee surgery so it's really not a complaint. It's just a follow-up.

Q. Does that record indicate that she's

having any right knee problems?

A. No. They mention that "The patient reports she was doing well. She denied any pain in her knee. She's doing normal activities and using a cane for ambulation."

Q. Okay.

A. Then under the "Impression" they said, "Osteoarthritis of the left knee status post total knee replacement." There's no mention of anything relative to the right knee.

Q. And the date of that record was again?

A. April 30th, 2013.

Q. Okay. And I'm going to hand you a couple of records now. Again, these are from the same records from the same orthopedic, Dr. Bruce.

What is the date on that first one?

A. This would be August 8th, 2013.

Q. Okay. If you'll please read for me what it says there in the chief complaint or the impression of the patient.

A. Well, the chief complaint would be right knee pain. Then the description was, "She presents complaining of right knee pain of about a month duration. She was in an MVA on 7/9/13. X-rays were taken in the ER. Complains of persistent anterior

knee pain. The pain is worse with weight-bearing."

Q. And the next date of visit there, what is the date of that one?

A. This one is dated September 10th, 2013.

Q. Okay. And, again, if you'll just read for me the chief complaint and the doctor's impressions of why she's there.

A. The chief complaint is still right knee pain. "She was seen initially a month ago after an MVA on 7/9/13. X-rays from the ER demonstrated no fracture but she did have moderate degenerative changes present."

Q. Okay. And the next date of the record?

A. This is September 13th, 2013.

Q. Okay. And if you'll again tell me what she's presenting to Dr. Bruce that day for.

A. Apparently it's to evaluate MRI results. "She has persistent right knee pain since a motor vehicle accident on 7/9/13. Her x-rays demonstrate no fracture but or some degenerative changes." I guess that's a typo. "Pain is not improved with conservative measures including Depo-Medrol and exercises."

Then under his impression -- well, he then goes on to, "MR films and report are reviewed.

There's a tear of the lateral meniscus and possible medial meniscus tear. Degenerative changes to the medial and lateral compartments, worse in the trochlear groove." And his impression was lateral meniscus tear and osteoarthritis of the knee.

Q. Okay. And all of the records that you have there are from either before the accident in 2012 and then after a subsequent accident in 2013. Do any of those records, if you'll -- again, if you need to flip through them, please do -- do any of those reference an accident in September of 2012?

A. No, they do not.

Q. Does it appear to you based on the review of Dr. Bruce's records that he treated her at all for any injury resulting from an accident in 2012?

A. Not based on his reports, no -- on his records, no.

Q. Okay. Thank you. I'm going to hand you -- again, these were already placed in evidence when Dr. Bruce testified. This is the operative report from a surgery he subsequently performed on -- I believe it's Defendant's Exhibit 2 already. If you'll just tell me what he describes as the cause or the reason that she needed surgery.

MR. BUTLER: Hang on just a second. Do I

have a copy of that over here?

MS. FISHEL: It's not. It should have been in the stack that I gave you. If not, I'll get you one.

MR. BUTLER: Okay. I'll just look at it after this if I need to. Proceed.

THE WITNESS: His preoperative diagnosis was a torn lateral meniscus and a possible torn medial meniscus. After he did the surgery his diagnosis was a torn lateral meniscus and chondromalacia of the right knee.

And then under "Findings" he states, "The patient had a degenerative tear of the lateral meniscus and Grade 2 chondromalacia in the lateral compartment. The anterior cruciate ligament was intact. The medial compartment was intact."

Q. (By Ms. Fishel) Okay. And is it your opinion -- do you have an opinion about whether or not a degenerative -- I'm sorry, I'm struggling with that word today -- degenerative tear of the meniscus, could that be caused by an auto accident?

A. Extremely unlikely as an isolated event.

[redacted]

[redacted]

[redacted]

But only in the modern era where we've had CT and MR have we been able to look inside a patient to see what's really going on and, as a result, there are many times physical examination, clinical history is totally irrelevant.

I find things that are totally unexpected. The example I usually give is the situation of a guy who was involved in a motor vehicle collision and clinical history, physical examination, everybody was saying it was related to the accident. The guy had a fracture, et cetera, et cetera.

They gave me the films an hour -- I'm sorry, a year and a half after all of this had been going on, asked me to look at it and say would I settle once and for all was there a fracture and my -- after looking at the film it didn't take me long to call the guy up and say, look, we've got a real problem here. First of

all, the guy does have a fracture but the problem is the reason he has a fracture, he has a cancer that everybody's missed and that's what caused the fracture.

So what I'm saying is in spite of all that history and all the physical exam and all the stuff these people did, the imaging study showed what was really wrong with him and so I see this all the time. Every patient that comes in the emergency room complains of an injury. It's my job to say whether they do or don't have an injury. I'm actually looking at them.

What they tell me is irrelevant. If they say I have no pain and I see a fracture, I'm going to say there's a fracture. If they say I have pain and I don't see a fracture, I'm going to say there's no fracture. I mean, that's my job.

Q. (By Ms. Fishel) Okay. Plaintiff's counsel asked you a couple of questions about testifying on behalf of the defense and presenting testimony at trial. Do you also testify for other people? Do other people besides defense attorneys hire you?

A. Yes.

Q. And you mentioned the state, the federal government?

A. And some plaintiff's cases as well.

Q. Okay. And even though you're testifying on behalf of the defendant today, as you just stated, you do have -- you have testified on behalf of a plaintiff before?

A. At their request, yes.

Q. Okay. And do you ever have occasion when you are asked to review evidence on behalf of a defendant and you come to a conclusion that is unfavorable to the defendant?

A. Yes.

Q. And in those situations are you still paid by the defense for your time?

A. Yes. I mean, whether I get paid is irrelevant upon my findings. I mean, that's a condition of me doing the review. I mean, I don't do a lien, I don't do a -- obviously I don't do a contingency fee. I just charge by the hour.

Q. Okay. And have I ever taken your deposition before?

A. No. This is the first time we've met.

Q. And has my co-counsel, Michael Moore, ever taken your deposition before?

A. No.
Q. All right. Just a couple of more questions. I want to get back to the medical reason that we're here today, the important stuff.
Based on your experience and the review of the records and films, do you have an opinion as to the reasonable degree -- with a -- excuse me. Let me rephrase that.
Based on your experience and your review of these records and films, do you have an opinion to a reasonable degree of medical certainty as to the cause of [redacted] cervical spine pain or her neck pain?
A. Yes.
Q. And what is that opinion?
A. She has arthritis of the neck and that can cause pain.
Q. Okay. And based on your experience and your review of the records and films in this case, do you have an opinion to a reasonable degree of medical certainty as to the cause of [redacted] right knee pain?
A. Yes.
Q. What is that opinion?
A. She has arthritis of the knee and that can

cause pain.

Q. Okay. And, Dr. Jeffries, do you have an opinion as to whether the accident that occurred on September 12th -- September 17th, 2012, caused any of the problems you observed when you looked at the MRIs of [redacted] neck and right knee?

A. I do have an opinion, yes.

Q. And what is that opinion?

A. There are no findings on the film to suggest they were related to a trauma.

Q. Okay. And having reviewed the medical records and films of [redacted], are the opinions and findings that you have given today, are they based on a reasonable degree of medical certainty?

A. Yes. That's how I would have read the studies if they were presented to me without a history of an accident.

MS. FISHEL: Okay. Thank you. That's all I have.

RECROSS-EXAMINATION

BY MR. BUTLER:

Q. The defense lawyer asked you some questions about a collision that occurred on July 9, 2013. Do you remember those questions?

A. Yes.

Q. And then went through a bunch of records that she specified were from either before the 2012 collision that we're here about today or from after the 2013 collision from July of that year, right?

A. Yes.

Q. Now, there is a record from between those times, right?

A. I guess.

Q. That's all right. I'll show it to you. There was an MRI taken in January of 2013, right?

A. Yes.

Q. And that MRI concluded that there was a tear in [redacted] meniscus; isn't that right?

A. Yes.

Q. Now, the defense lawyer asked you some questions about working for plaintiffs. Do you remember those questions?

A. Yes.

Q. Isn't it true that in 25 years of testifying only twice have you said an injury was caused by the collision?

A. When I've testified. It's actually probably about four times now. But in terms of -- in the times when I have found an injury usually they settle the case so I didn't testify.

Q. I'm going to ask you --
A. The cases that I'm referring to, I'm talking about that's when I was retained by the plaintiff when they asked me to testify about that.
Q. Well, we'll just read the testimony. I'll go back to that Crisp against Whitney case where you testified in front of that jury up in Cobb County.
MS. FISHEL: Again, same objection; that it's a different case, it's different facts, different injury, has nothing to do with the reason we're here today. Relevance.
Q. (By Mr. Butler) Now, I'll ask you to read with me as I read this. I'm going to read Page 30, Line 9, to Page 30, Line 12.
Question: "In over 25 years you have testified that an injury" -- strike that.
Question: "In over 25 years, two times you have testified that an injury was related to a collision?"
Answer: "They usually don't send me the films when they know there's been injury, that's correct."
Did I read that correctly?
A. Yes. I'll stand by that. The answer is actually about four now.

MR. BUTLER: Still no further questions.

MS. FISHEL: I just have one follow-up question. If you'll hand me that MRI report there that you just referred to.

FURTHER DIRECT EXAMINATION

BY MS. FISHEL:

Q. That's the MRI report that he referred to just a few minutes ago that happened after the accident in September of 2012. The MRI was taken in January of 2013; is that correct?

A. Yes.

Q. Okay. And as you just indicated, it does show that there is a meniscus tear; is that correct?

A. Yes.

Q. Okay. And do you have an opinion as to whether that tear was caused by trauma or was it caused by degenerative arthritis?

A. It's usually degenerative arthritis. I mean, meniscal tears are almost always going to be related to arthritis.

MS. FISHEL: Okay. That's it. No further questions.

MR. BUTLER: Nothing further.

THE VIDEOGRAPHER: Off the record.

(Deposition concluded at 11:45 a.m.)

(Pursuant to Rule 30(e) of the Federal Rules of Civil Procedure and/or O.C.G.A. 9-11-30(e), signature of the witness has been waived.)

CERTIFICATE OF COURT REPORTER

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was reported as stated in the caption and the questions and answers thereto were reduced to writing by me; that the foregoing 78 pages represent a true, correct, and complete transcript of the evidence given on Friday, March 18, 2016, by the witness, Barry F. Jeffries, M.D., who was first duly sworn by me.

I certify that I am not disqualified for a relationship of interest under O.C.G.A. 9-11-28(c); I am a Georgia Certified Court Reporter here as an independent contractor of JPA Reporting, LLC who was contacted by Brandi E. Fishel to provide court reporting services for the proceedings; I will not be taking these proceedings under any contract that is prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C. of the Rules and Regulations of the Board; and by the attached disclosure form I confirm that neither I nor JPA Reporting, LLC are a party to a contract prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C. of the Rules and Regulations of the Board.

This 18th day of March, 2016.

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LISA A. MESSINA
CERTIFIED COURT REPORTER
GEORGIA CERTIFICATE NO. CCR-A-421

DISCLOSURE OF NO CONTRACT

I, Lynn Pyles, do hereby disclose pursuant to Article 10.B of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia that JPA Reporting, LLC was contacted by the party taking the proceedings to provide court reporting services for these proceedings and there is no contract that is prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C. of the Rules and Regulations of the Board for the taking of these proceedings.

There is no contract to provide reporting services between JPA Reporting, LLC or any person with whom JPA Reporting, LLC has a principal and agency relationship nor any attorney at law in this action, party to this action, party having a financial interest in this action, or agent for an attorney at law in this action, party to this action, or party having a financial interest in this action. Any and all financial arrangements beyond our usual and customary rates have been disclosed and offered to all parties.

This 18th day of March, 2016.

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LYNN PYLES, FIRM REPRESENTATIVE
JPA REPORTING, LLC

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