Smith, Clytimas v. Walmart
NOT COMPLETE YET

Plaintiff : Clytimas Smith
D/A : August 15, 2013

Exhibit Name	Exhibit Number	Admitted?
SDT		
Letter from DA		
CME Report		
Supplemental Report		
Supplemental Report		
Entire medical file		
Deposition List		
Trial List		
Correspondence to/from DA		
Invoices		
Rate Sheet		

DEFENSE TEAM

1. Part of the Defense team
2. Were you retained by the defense in this case to provide testimony?
3. What were you asked to do in this case?
4. Tina Smith is not your patient
5. You did not treat Tina Smith
6. You were not paid by the Defense to give Tina recommendations to alleviate her pain

7. Defense paid you to do one physical evaluation of Tina, review medical records and diagnostic studies and write a report?

8. Are all of your opinions contained within the reports your office provided to my office during the records custodian deposition?

9. Do you have any opinions that are not contained in those three reports?

QUALIFICATIONS/TREATING PATIENTS

10. Have you gotten any new certifications in the last 5 years?

11. Has what you do in your medical practice changed in the last five years?

12. When a patient comes to your office with a spine injury, how do you conduct the exam?

13. How long do you spend talking to a patient?

14. How long does the physical exam take?

15. What are all of the tests you perform on a patient in your office when they have a neck injury?

    a. GO THROUGH EACH TEST
        i. Name of test
        ii. How it is performed
        iii. Why it is performed
        iv. Why is it important to do that test
        v. What does it mean if it is positive or negative/present or not present

16. When you use the pinwheel for neurological testing, are you expecting the person to feel a sharp sensation or dull sensation?

    a. If dull, does that mean sensation is diminished?

17. If when you do the Babinski test, the toes point up, it is a positive exam?

18. What are all of the test you perform on a patient in your office when they have an injury to their lower back?

    a. GO THROUGH EACH TEST
        i. Name of test
        ii. How it is performed
        iii. Why it is performed
        iv. Why is it important to do that test?
        v. What does it mean if it is positive or negative/present or not present

19. Have you ever operated on a patient who had a painful degenerative disc?

CMES/TESTIMONY PER YEAR

20. You've done 1000s of these types of CMEs during your career

21. Been doing them since 1991

22. What is the average cost of these evaluations?

    a. $1,950.00
        i. Does that include any review of medical records?
            1. How much does it include

23. How much do you charge for review of additional records?

    a. $1,000.00/HR

24. Do you still charge $7,500.00 per day for trial testimony?

25. Over the past 12 years or so, you average 4-5 CMEs per week

26. You do about 200-230 of these evaluations per year

27. In fact, 20-30% of the work you do is being a CME

28. What percentage of expert work do you perform for Defendants vs. Plaintiffs

    a. ROGS SAY 80% Defense

29. You give a lot of deposition and trial testimony, don't you?

30. In fact, You've testified over 100's of times for the defense over the course of your career

31. Since 2018, you've testified in deposition and at trial at least 10 times

32. And every single time it was for the Defense

Use Depo and Trial List:

2018 – 57 depos; 7 Trials
2019 - 44 depos; 3 Trials
2020 – 30 Depos;

Total: 131 depos; 10 trials

33. You would agree that you have been paid millions of dollars by Defense entities to give CME opinions

34. How many times has the Defense counsel's firm had you do a CME on other Plaintiffs over the past 3 years?

NO ACCIDENT RECON AND BIOMECHANICAL TRAINING

35. You have no formal biomechanical training

36. You don't hold any certifications as a biomechanical expert

37. You have never been certified or declared an expert in biomechanical or biomedical expertise

38. You are not offering any biomechanical opinions

39. You are not offering any opinions as to the forces applied to Tina's body when she fell

40. You have no formal accident reconstruction training

41. You don't hold any certifications as an accident reconstructionist

42. You have never been certified or declared an expert in accident reconstruction

43. You are not offering any accident reconstruction opinions

NOT OFFERING AN OPINION ON LIABILITY

44. You are not offering an opinion on liability in this case

NOT OFFERING OPINIONS – COST OF MEDICAL TREATMENT

45. You are not planning to offer any opinions regarding the reasonableness of the cost of Tina's past medical treatment?

46. You're not planning to offer any opinions regarding the cost of any possible future medical treatment

NOT A KNEE SURGEON

47. You don't treat injuries to peoples knees?

48. You don’t perform knee surgery

49. You are not offering any opinions regarding Tina’s knee injuries and medical treatment

NOT A RADIOLOGIST

50. You are not a radiologist

51. You are not a neuroradiologist

52. You are not an interventional radiologist

53. You did not do a residency in radiology

54. You are not board certified in radiology

FUNCTION

55. Doctor, you have no idea about Tina’s level or degree of daily activity before this fall, do you

56. Or AFTER the fall

57. Or Currently

PAIN

58. Pain is something that is real, isn't it?

59. As per what causes pain, what exacerbates pain, you would agree that the patient is in the best position to quantify the pain?

60. And based upon your review of the medical records you were provided, when you look at a diagnostic study, such as an MRI and x-ray, which is the studies you looked at in this case, are you able to see whether or not somebody is in pain by looking at those studies

61. Different people have different levels of pain threshold

62. People with injuries can have good days and bad days

    a. Even after surgery

63. Pain can't be seen on an MRI or an X-ray, correct?

64. MRI doesn’t measure pain

65. X-ray doesn’t measure pain

66. MRI studies don’t show chemical irritation of nerves

67. Chemical irritation of nerves can cause pain

68. Herniated discs don’t have to be painful, right?

69. But, they can be made painful by trauma even if they weren't painful before, right?

70. You don't dispute that Tina has been having pain every day since his fall

71. Are you going to be offering any opinions whether or not Tina sustained pain or had pain from the fall?

SURGERIES IN GENERAL

72. Surgery is never a guaranteed cure all for pain

73. Radicular pain, loss of sensation, positive abnormal findings on MRI can make a person a surgical candidate?

74. After someone has a fusion in there spine, their spine is permanently changed

75. Surgeries typically leave scars

    a. Either small puncture wounds

    b. Sometimes long scars

MRI FINDINGS/DEGENERATIVE ISSUES - GENERAL

76. Medicine is not an exact science

77. People can have degeneration in their spine and not have any pain

78. People can have a herniated disc and not have any pain

79. Just because someone has degeneration in their spine, doesn’t mean they need surgery

80. Just because someone has a herniated disco, doesn't mean they need surgery

81. Bone spurs found on an MRI oftentimes do not cause pain

82. Subsequent trauma can cause the areas where the bone spurs are to move, even slightly, which can cause pain

83. Bone spurs found on an MRI do not always require surgery

84. Its Very Very hard to provide a specific date of a finding on MRI

85. Just because someone has degenerative findings in the spine on MRI doesn't mean the herniations are always degenerative, correct?

ASYMPTOMATIC VS. SYMPTOMATIC/AGGRAVATION

86. People with a problem within their spine can often be asymptomatic, meaning they have no pain, right?

87. Trauma, like falling and hitting the ground, can cause a herniated in the lower back

88. Trauma, like falling and hitting the ground, can cause a herniated in the neck

89. Trauma, like falling and hitting the ground, can cause that pre-existing condition to become symptomatic, correct?

90. If someone has a preexisting condition, such as a herniation, they are more susceptible to injury?

91. People with a problem in their spine are easier to hurt due to a traumatic event like falling?

92. Trauma can aggravate a degenerative condition in the spine and cause them to become painful

93. Trauma can aggravate a degenerative condition in the spine and cause an increase in symptoms

94. Trauma can aggravate a degenerative condition, make it become symptomatic, and require surgery

95. Is that what happened here, that she had an exacerbation of pain as a result of trauma

DISCUSSIONS WITH DEFENSE COUNSEL

96. Discussion with Opposing Counsel

97. Dates/Times/Content

a. 10/11/2019 – Letter to Dr. Grabel requesting CME for 10/30/19 enclosing records
    i. Enclosed MANY records – Use this during negative space
b. 11/12/19 – 5:00PM –Telephone Conference with Marc Greenberg (contained in the invoice)
    i. How long
    ii. Who was there
    iii. What did you talk about
c. 1/7/21 - 2:00PM –Telephone Conference with Marc Greenberg (contained in the invoice)
    i. How long
    ii. Who was there
    iii. What did you talk about

NEGATIVE SPACE

Name	Know them? Spoke to them?	Review Records?
FACT WITNESSES		
Tina Smith		
Benjamin Colon		
Alicea Elizer		
Felicia Hammond		
Horace Manyse		
Frances Jones		
Angie Moody		
Sophia Prince		
Willie Smith		
Lori Soberal		
Jennifer Stover		
Javorous Thompson		
Michael Schwede		
Myrtle Holligan		

MEDICAL PROVIDERS/MEDICAL RECORDS		
Dr. Mark Agresti		
Dr. Alan Bezner		
Dr. Jane bistline		
Dr. Shani Katz		
Dr. Justin Kearse		
Dr. Marion Klein		
Dr. Suneet Kukreja		
Dr. Gus Leotta		
Dr. Edwin Maldonado		
Dr. Charles Matuszak		
Dr. Frank McCormick		
Dr. Pascuale Montesano		
Dr. Brett Schlifka		
Dr. Reid Stone		
Dr. Po-Heng Tsai		
Dr. Richard Sarner		
Dr. Brian Young		
Dr. Chris Thompson		
Dr. Christopher White		
Good Samaritan Medical Center		
JFK Medical Center		
Palms west Hospital		
Wellington Regional Medical Center		
Central Palm Beach surgery Center		
Palm Beach Surgery Center		
Gardens urgent care		
MD now		
Orchid city emergency physicians		
Dr. Merrill Reuter		
Dr. Elizabeth Trinidad		
Dr. Jordan Grable (CME)		
Dr. Mark Agrama		
Dr. John Baker		
Dr. Terry Bachow		
Dr. Gloria Dunkin		
Dr. Brett Fried		

Dr. Robert Friedman		
Dr. Patricia Harding		
Dr. Ross Hauer		
Dr. Richard Hays		
Dr. Alex Hernandez		
Dr. Mashira Jackson		
Dr. Anita Jones		
Dr. David Markowitz		
Dr. Ana Mateo-Bibeau		
Dr. Ekom Nnamdie		
Dr. Olayemi Osiyemi		
Palm Beach Neurology		
Midtown Imaging		
The Imaging Centers		
Dr. Arwyn Raina		
Dr. Lisa Sanchez		
Dr. Jason Sevald		
Dr. Sharma Shekhar		
Dr. Gary Shifrin		
Dr. John Shoosmith		
Palm Beach County fire rescue		
Advanced orthopedics		
Anesthesia services		
Associates MD medical group		
A Visiting Reddy Nurse		
Headache and Pain Center		
Behavioral health of the palm beaches		
Benedictine health system		
Center for bone and joint surgery		
DPM medical		
Gardens urgent care		
Gateway to recovery		
Helix urgent care		
Just for women birth and Health Center		
National orthopedics and neurosurgery		
Spine and orthopedic specialists		
Triple O medical services		
Back Saver		

Palm Beach neurology **Premier research Institute**		
Palm Beach neurosurgery		
South Florida foot and ankle		
OB/GYN specialists		
Interventional pain services		
Backsaver		
DEPOSITION TRANSCRIPTS		
Tina Smith 11/16/17		
Tina Smith 2/1/18		
Michael Schwede		
Benjamin Colon		
Alicea Elizer		
Frances Jones		
Javorous Thompson		
Myrtle Holligan		
Dr. Merril Reuter		
EXPERTS		
Dr. Jeffrey Penner		
PLEADINGS/DISCOVERY		
Interrogatories answered by Plaintiff		
Update Interrogatories Answered by Plaintiff		
Interrogatories answered by Defendant		
Update Interrogatories answered by Defendant		
Amended Complaint		

HOW INJURY OCCURED		
VIDEO OF FALL		
ANY SURVEILLANCE OF TINA		

98. Can a fall cause (GO THROUGH ALL OF TINA'S COMPLAINTS)
    a. Go through which are neurological

TINA'S		
COMPLAINTS/DIAGNOSES		
Lower back pain		
Neck pain		
Headaches		
dizziness		
Upper back pain		
Middle back pain		
Radiating pain into the shoulder		
Numbness into the leg and toes		
Numbness in the hands		
Hip pain		
Knee pain		
Broken fingers		
Problems sleeping		
Bulging disc		
Protruding discs		
Annular tear		
Chronic pain		
Accelerates degenerative condition		
Cause an asymptomatic condition to become symptomatic		
Cause bone spurring over time		
Cause facet hypertrophy over time		
Decreased left L4 patellar reflex - +1/2	IS THIS A NEUROLGICAL ISSUE? CAN IT BE CAUSED BY TRAUMA?	
Decreased muscle strength – Decreased Left L4 anterior tibilais muscle strength 3/5	IS THIS A NEUROLGICAL ISSUE? CAN IT BE CAUSED BY TRAUMA?	

    i. NEUROLOGICAL – diminished muscle strength on left L4 anterior tibialis 3/5

ii. NEUROLOGICAL – diminished deep tendon reflex at L4 patellar - +1/2

b. Dr. Maldonado – 9/6/13
   i. Decreased ROM in lower back with pain
   ii. Decreased ROM in neck with pain
   iii. Diminished strength in the lower leg 4/5 Quad; 4/5 Dorsi Flexion;

99. You are aware, Tina complained of (GO THROUGH ALL OF TINA'S COMPLAINTS) as a result of the fall

MRI STUDIES

100. GO THROUGH EACH FINDING ON MRI AND ASK:

a. Those conditions are subject to aggravations as a result of a fall

Page in PDF Med Chron Page 12 starts The Imaging Centers Imaging	Study	Treating Radiologist	Dr. Penner	Dr. Grabel	
	8/27/13 – MRI Lumbar	Sarner: **1.** L5-S1, central disc herniation abutting the ventral thecal sac. **Bilateral facet joint fluid may represent inflammation or irritation**, **2.** L4-L5, posterior disc herniation and annular tear mildly inverting the ventral thecal sac. **Posterior ligamentous hypertrophy**. Bilateral facet joint fluid may represent inflammation or irritation. There is foraminal narrowing. **3.** L3-L4, posterolateral disc bulges with mild bi-foraminal narrowing. **Facet joint fluid may represent inflammation or**		1. L5-S1 – Desiccation or small protrusion or bulge at L5-S1 barely indenting the thecal sac 2. L4-5 Desiccation at L4-5 with annular tear and bulge at L4-5;	

		irritation. Mild facet ligamentous hypertrophy. **4.** L1-L2 and L2-L3, **facet joint fluid may represent inflammation or irritation**.		3. L3-S1 - Facet hypertrophy at L3-S1	
796	9/18/13 – MRI Left Knee	Partial-thickness tears of the lateral patellar facet cartilage deep infrapatellar bursitis thickened ACL which may relate to ligament sprain or partial tear grade one signal posterior horn of medial meniscus	Dr. Penner read this as an MRI of the right knee. He claims there are no problems at all in the right knee. It is "atraumatic MRI right knee"		
	4/09/14 MRI Cervical Spine	Dr. Young **1.** Findings consistent with spasm. **2.** C2-3. No HNP or stenosis. **3.** **C3-4. Disc bulge with posterior annular tear**. **4.** **C4-5. Posterior disc herniation**. **5.** C5-6. Disc bulge. **6.** C6-7. Disc bulge. **7.** C7-T1. No HNP or stenosis.		Minimal bulging or protrusions at C3-4, C4-5, C5-6, and C6-7 without stenosis or neural compression. **Does not mention annular tear**	
	7/6/15 MRI Lumbar	Sarner: **1.** No significant interval change since 8/27/2013 when taking into account differences in positioning, technique and equipment. **2.** L5-S1 posterior disc herniation **impinging upon** the ventral thecal sac and **S1 nerve roots asymmetric to the left**. This is not significantly changed. **3.** L4-5 posterior disc herniation and **annular tear impinging** upon the		L4-5 Desiccation with annular tear and bulge that barely indents the thecal sac. L5-S1 bulger or mild protrusion without stenosis.	

		thecal sac and **L5 nerve roots with disc material extending interiorly**, posterior to the superior endplate of L5. Biforaminal disc bulge. Facet hypertrophy. Mild central canal narrowing, not significantly changed. **4.** L3-4 posterolateral disc bulge. Mild facet hypertrophy, right greater than left. **5.** L3-4, L2-3, L1-2 facet joint fluid may represent inflammation, irritation or synovitis. **6.** Bilobed 2.1cm cystic lesion right kidney, not identified on previous MRI exam for which an ultrasound of the right kidney is recommended as follow-up.			
801	12/17/15 – MRI Right Knee	Edema and contusion underlie the tibal spine; ACL laxity and increased signal suggesting ligament sprain Focal free margin tear of the posterior horn of the medial meniscus Displaced meniscal fragment MCL – Edema consistent with Sprain Displaced meniscal fragment from the posterior horn of the medial meniscus	No changes since prior MRI of September 18, 2013. **Except there is no MRI of the right knee September 18, 2013's**		
	1/9/16 X-Ray Cervical			Bone Spurring C3-4, C4-5, AND c5-6.	

	1/9/16 MRI Lumbar	Sarner: No significant interval change since 7/6/15 **1.** L5-S1 posterior disc herniation, asymmetric to left, impinging upon the thecal sac and S1 nerve roots, left greater than right. **2.** L4-5 posterior broad-based disc bulge and annular tear partially effacing the thecal sac. Superimposed right posterolateral and right foraminal disc protrusion and right foraminal narrowing. Right lateral recess stenosis. Left foraminal disc bulge.		**No change since prior study???** L4-5 Annualr tear and bulging disc without stenosis. Facet hypertrophy at L3-S1.	
	1/9/16 MRI Cervical	Sarner: **1.** Straightening of the normal cervical lordosis, not significantly changed. **2.** C2-3 posterior disc bulge new since prior exam 4/09/2014. **3.** C3-4 posterior disc protrusion impinging upon the ventral thecal sac, new since 4/09/2014. **4.** C4-5 posterior midline disc protrusion is not significantly changed since 4/09/2014. **5.** C5-6 posterior disc bulge is not significantly changed.		**No change since prior study???** Straightening of cervical lordosis. Minimal bulging or protrusion at C3-C7.	
	1/19/16 - MRI of the right knee	I cannot find this MRI in our medical records	Unchanged with prior MRI of the right knee		
	1/31/17 – X-Ray of			Some Spurring and endplate	

	lumbar spine			changes at L4-5 and L5-S1.	
806	3/7/17 - MRI of the left knee	Comparison study to the September 18, 2013 study grade 2 chondromalacia in the lateral patellar facet with multiple partial-thickness tears of the lateral patellar facet cartilage Baker's cyst appears slightly increased since prior study deep infrapatellar bursitis similar with prior study thickened ACL with laxity suggesting ACL sprain lateral meniscus exhibits grade one signal in the posterior horn	Normal MRI of the left knee		
808	3/7/17 - MRI of the right knee	Joint effusion appears slightly increased when compared to the prior study mild increased signal in the patellar cartilage increased in the size of the Baker's cyst when compared to the prior study evidence of contusion/stress reaction involving the medial femoral condyle 3 mm osteochondral defect identified within the medial femoral condyle mild degree of prepatellar edema tear of the inferior surface of the posterior horn of the medial meniscus	Atraumatic right knee MRI when compared to previous MRIs taken December 17, 2015		

	2/27/18	Dr. Young: **1.** C2-3, disc bulge similar to prior study. **2.** C3-4, disc bulge similar to prior study. **3.** C4-5, there is a posterior midline disc herniation similar to prior study. **4.** C5-6, there is a posterior midline disc herniation on axial image #12. This appears present on prior image #13 at the site of prior annular tear/fissure. **5.** C6-7, disc bulge similar to prior study. **6.** C7-T1, no HNP or stenosis. **7.** No abnormal enhancement seen on the sagittal or axial views to suggest infection or tumor.		Minimal bulging C3-C7.	
	2/27/18	Dr. Young: **1.** T12-L1, no HNP or stenosis. **2.** L1-2, no HNP or stenosis. **3.** L2-3, no HNP or stenosis. **4.** L3-4, posterolateral bulge with facet spurring, similar to prior study. **5.** L4-5, posterolateral herniation with annular tear/fissure eccentric to the right, similar to prior study.		Minimal bulge or protrusion at L5-S1 with stenosis and without neural compression; L4-5 early desiccation and annular tear and disc bulge “barely seen indenting the thecal sac”. L3-4 bulge. Facet hypertrophy at L3-S1.	

		6. L5-S1, posterior disc herniation eccentric to left impinging on the anterior thecal sac and S1 nerve roots, similar to prior study. **7.** Cystic lesion in the right kidney. I could not exclude some degree of enhancement postcontrast, although there is some motion degradation. A followup ultrasound is therefore suggested.			
	10/7/19	Dr. Sarner: **1.** C2-3, posterior bulge impinging upon the thecal sac, similar to the prior exam. **2.** C3-4, posterior midline disc herniation partially effacing the thecal sac, new since prior examination. **3.** C4-5, posterior midline disc herniation approximating the ventral cervical spinal cord, mild ventral cord flattening. This has progressed significantly since the prior exam. **4.** C5-6, posterior disc herniation with mild ventral cord flattening, increased since prior exam. **5.** C6-7, posterior disc bulge, increased since prior exam with greater posterior wall convexity.			

		6. C7-T1, posterior annular bulge, new since prior exam.			

101. Your position as the Defense doctor is that none of the findings on the MRIs were caused by the fall

102. You've been given lots of records, thousands of pages, are you aware of

a. any medical treatment to Tina's neck before the fall?

b. Any treatment to her lower back before the fall?

103. Before the fall, did Tina ever have any complaints of pain in her neck?

104. Before the fall, did Tina ever have any complaints of pain in her lower back?

105. Before the fall, did Tina ever see a doctor for complaints of pain in her neck?

106. Before the fall, did Tina ever see a doctor for complaints of pain in her lower back?
107. Before the fall, did Tina ever have an MRI of her neck?

108. Before the fall, did Tina ever have an MRI of her lower back?

109. Before the fall, did Tina ever have any injections to her neck?

110. Before the fall, did Tina ever have any injections to lower back?

111. Before the Fall, was Tina ever recommended to have surgery to her lower back?

112. Before the Fall, was Tina ever recommended to have surgery to her neck?

VIDEO OF FALL

113. What is your understanding of how Tina was hurt?

114. You've seen the video of Tina falling in the Walmart store, right?
a. WATCH VIDEO OF TINA FALLING

ULTIMATE OPINION

115. In all the cases in your list of trial and deposition testimony where you testified as a CME doctor, did you ever testify, in even one case, that the Plaintiff's injuries were, in fact, caused by the accident they were in?

116. The majority of cases you do a CME, you find that there is not an injury, correct?

117. Do you have an independent recollection of performing the CME on Tina?

118. You conducted your CME physical exam about than 6 years and 3 months after Tina fell, right?

November 13, 2019

119. She had already gone to over 320 medical appointments related to the fall
   a. Had **3** admissions to the Emergency Room
   b. Had over 90 orthopedic appointments
   c. Had over 75 appointments for depression due to her pain
   d. Had over 120 chiropractic appointments
   e. Had **11** MRIs
   f. Had **5** Cervical Epidural Injections
   g. Had **9** lumbar Epidural Injections
   h. Had **4** knee injections
   i. Had 2 Surgeries to her lower back surgery
   j. Had 2 Medical branch nerve blocks
   k. Had **2** knee surgeries

120. Its your opinion that Tina, at most, had a sprain/strain because of the fall?

121. And that at most, she needed a couple of months of chiropractic treatment?

122. Now that you've seen her fall, does that affect your opinion in any way?

123. The Defense firms that hire you each year pay you a lot of money, don't they?

P.26, Lines 13-15 (Valente's deposition)

124. In fact, you've been paid $100,67.76 by Walmart's Defense law firm CMEs over the last three years

125. You've even been paid by another Defense entity over $1M for all of the CMEs you did from 2011-2013

CME EXAMINATION

126. Did Tina answer all of your questions?

127. What tests did you perform during the physical examination?

    a. Findings?

128. You wouldn't expect to find spasm almost 8 years after an injury, right?

129. Tenderness is a subjective response to an objective maneuver by a physician, correct?

130. She had a lot of guarding because of pain, what do you mean?

131. Left-sided neck pain with flexion, extension, lateral turning and head tilt.

132. Complained of pain in her neck, mid back, and lower back.

133. Could not feel the pinwheel during your neurological exam

    a. Describe the test
    b. Why done
    c. Why important

134. Switched to Safety Pin

        i. Describe the test
        ii. Why done
        iii. Why important

OPINIONS – GO THROUGH MEDICAL TREATMENT

135. Do you agree that Tina suffered any type of injury when she fell?

    a. Sprain/Strain

136. Do you know when that Sprain/Strain went away?

137. A Sprain/Strain could last days, to weeks, to even months

138. You agree that a condition can become a "chronic" condition is it lasts 3 months;

    a. 6 months?

139. A herniated disc can cause chronic pain

140. Can you say with certainty that Tina did not experience pain when she fell?

141. You know Tina still complains of pain because of the fall, right?

142. Its been almost 8 years and she is still in pain, can you state within a reasonable degree of medical certainty when she will not have pain anymore?

143. Go through the Med Chron and point out the Neck Complaints

144. Go through the Med Chron and point out the Low Back Complaints

a. Dr. Thompson 8/16/13 visit:
    i. Decreased ROM in lower back and knee
    ii. Spasm and tenderness to palpation of lumbar spine
    iii. Midline and joint line tenderness
    iv. Positive Kemp's test bilaterally
    v. Positive SLR testing bilaterally
    vi. Valgus and Varus Stress test positing for pain in left knee; negative for right knee
    vii. NEUROLOGICAL – diminished muscle strength on left L4 anterior tibialis 3/5
    viii. NEUROLOGICAL – diminished deep tendon reflex at L4 patellar - +1/2
b. Dr. Maldonado – 9/6/13
    i. Decreased ROM in lower back with pain
    ii. Decreased ROM in neck with pain
    iii. Diminished strength in the lower leg 4/5 Quad; 4/5 Dorsi Flexion;

AGGRAVATION OF PREEXISTING CONDITION

145. You believe Tina's conditions in her neck and back are degenerative, right?

a. They pre-existed the fall?

146. Tina's pre-existing condition made her more susceptible to injury

147. Do you agree that her fall could have aggravated those preexisting conditions?

l. Even if just temporarily?

148.

OPINIONS – REASONABLE TO HAVE INITIAL TREATMENT

149. It was reasonable for her Tina to go to West Palm Hospital right after the fall, right?

a. You would agree that the evaluation and treatment she received at the Emergency room was medical necessary and causally related to the fall

150. It was reasonable for her to be treated by the doctors at the emergency room, right?

b. That treatment at the hospital was medically necessary and causally related to the fall

151. It was reasonable for her to have the diagnostic studies at the hospital, right?

c. Those studies were medically necessary and causally related to the fall

152. It was reasonable for her to be treated by a chiropractor after the fall, at least for up to a couple months, right?

153. It was reasonable for her to have the initial MRI to her lower back?

154. It was reasonable for her to see an orthopedic doctor after the MRI of her lower back

155. Was it reasonable for her to have lower back surgery with Dr. Reuter?

a. Why or why not? Go Develop this.
b. Did she need it because of the fall?
    i. If not, why did she need it?

156. Was it reasonable for her to undergo neck surgery with Dr. Trinidad?

157. Was it reasonable for her to undergo endoscopic lumbar discectomy with Dr. Trinidad?

158. Should the doctor's have performed any of these surgeries on Tina? Whether related to the fall or not?

INVOICES/PAYMENTS

159. Invoices:

d. Invoice 8/16/19 - $1,950.00 ($1,000.00 per hour)
e. Invoice 11/12/19 - $500.00 – **FOR TELEPHONE CONFERENCE at 5:00 PM**
f. Invoice 11/13/19 - $1,750.00 – For Additional Review of Records and Diagnostics
g. 12/28/20 - $500.00 – **FOR TELEPHONE CONFERENCE at 2:00 PM**
h. Plus Depo Prep and any other charges?

160. You've been paid a total of $3,700.00 for the CME and review of all records
161. You've been paid a total of $1,000.00 for telephone conferences with Defense Counsel
162. You've been paid $4,700.00 to give your opinion to the Defense already and you have are still owed _____

163. How long did the CME take?

b. Question session
c. Physical Examination
