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COUNSEL FOR CLAIMANT: VINCENT J. BONAVENTURA, JR.,
ESQUIRE
Appearing for:
STEPHEN BRUCCOLERI, ESQUIRE
Law Offices of Stephen W.
Bruccoleri
8 Penn Center
1628 JFK Boulevard
Suite 1900
Philadelphia, PA 19103

COUNSEL FOR EMPLOYER: NANCY FARESE, ESQUIRE
Law Offices of David T. Latoff
380 Sentry Parkway
Blue Bell, PA 19422

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FRANK PEREIRA vs. LEAHY TRANSPORTATION, INCORPORATED
B.C. # 3976392

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JUDGE SANTORO:

This is the matter of Pereira versus Leahy Transportation, Judge Pamela Santoro presiding. Presently pending in the system are two petitions. There's a Claim Petition and a Penalty Petition. The Claim Petition alleges a cervical spine, left shoulder, head and left knee injury. It's alleged to have occurred as Claimant was thrown about on a bus. It's alleged that his supervisor, Dave, was informed via text. The job title alleged is a bus attendant. Paragraph 12 indicates an average weekly wage that I ask both Counsels to stipulate either to or provide a Statement of Wages to. Claimant is seeking lost wages and full disability from January 13, 2012, ongoing and medical bills. The Penalty Petition alleges a violation of the Act, and I can say that both petitions were timely answered. Both parties are here; they're represented by Counsel. Could Counsel please identify themselves for the record?

ATTORNEY BONAVENTURA:

Good morning, Your Honor. Attorney Vincent J. Bonaventura, Jr., on behalf of the Claimant, Francis Pereira.

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ATTORNEY FARESE:

Nancy Farese, on behalf of the Defendant.

JUDGE SANTORO:

Thank you both. Good morning to both of you. Any amendments to the pleadings as filed?

ATTORNEY BONAVENTURA:

Not at this time, no, Judge.

JUDGE SANTORO:

Okay. Great. Thank you. Can we swear in the witness?

ATTORNEY BONAVENTURA:

Yes, Your Honor. Thank you, ma'am.

JUDGE SANTORO:

Good morning, sir. Please raise your right hand.

FRANK PEREIRA, HAVING FIRST BEEN DULY SWORN, TESTIFIED
AS FOLLOWS:

JUDGE SANTORO:

Thank you. Keep your voice up nice and loud, otherwise you got to come back. Counsel.

DIRECT EXAMINATION

BY ATTORNEY BONAVENTURA:

Q. Mr. Pereira, we're before the honorable Pamela

1 Santoro, as the Judge for the hearing has indicated
2 today, to present your testimony on a Claim Petition.
3 On any Penalty Petition that has been filed before the
4 Court on your behalf by our law firm against your
5 former employer, Leahy Transportation Company,
6 alleging a work-related injury of January 4th, 2012.
7 I must remind you as the Judge said, please keep your
8 voice up; okay?

9 A. Sure.

10 Q. And tell the truth. You're under oath; okay?

11 A. Yes.

12 Q. What is your full name, sir?

13 A. Francis Wendell Pereira.

14 Q. Where are you currently living?

15 A. 2737 Helen Street, Philadelphia, PA.

16 Q. Okay. Your date of birth?

17 A. 12/29/61.

18 Q. And how old does that make you today?

19 A. Fifty (50).

20 Q. How far did you go in school?

21 A. GED.

22 Q. And what year was that obtained?

23 A. '82.

24 Q. Do you have any advanced degrees in any area?

25 A. No. Studied computer.

1 Q. Okay. How about any technical degrees or any
2 technical advancement in any area?

3 A. Just computers.

4 Q. Okay. Is there any other type of employment
5 you've engaged in throughout your lifetime?

6 A. Many types. Did Santa Claus ---?

7 Q. What did you say?

8 A. Doing Santa Claus work, playing with bands, doing
9 a lot of motivational stuff with kids.

10 Q. Okay. Clown, Santa; things like that?

11 A. Yeah.

12 Q. And how long did you do that?

13 A. The majority of my life.

14 Q. Okay. And are you married?

15 A. Yes, I am.

16 Q. Is your wife here to support you in the courtroom
17 today?

18 A. Yes, she is.

19 Q. Is she behind you?

20 A. Yes, she is.

21 Q. Do you have any children?

22 A. Yes, I do.

23 Q. Is one of your children here to support you here
24 today in Court?

25 A. Yes.

1 Q. Do you have any grandchildren?

2 A. Yes, I do.

3 ATTORNEY FARESE:

4 Your Honor, I have to object to the
5 relevance.

6 JUDGE SANTORO:

7 Ms. Farese, please, please, please, don't
8 elongate my day any longer than it already is by
9 objecting to something like that. I really can see
10 that his wife and his daughter is here.

11 ATTORNEY FARESE:

12 Okay.

13 JUDGE SANTORO:

14 I can see it, and by you objecting you've
15 just elongated this hearing and we don't need it. I
16 see that they're here. I know it's irrelevant and you
17 know it's irrelevant, but by objecting we've just
18 elongated this hearing for both of us. His wife is
19 here and his daughter is here. I get it. If your
20 husband and daughter were here, I would get that, too.
21 I mean, let's move the hearing along. Let's object
22 when it's worth it. Go ahead.

23 ATTORNEY BONAVENTURA:

24 Thank you, Your Honor.

25 BY ATTORNEY BONAVENTURA:

1 Q. Mr. Pereira, are you currently on the employer's
2 books in this case, or have you been terminated? Do
3 you know?

4 A. I don't know.

5 Q. Not sure, okay. When was the last time you
6 physically worked?

7 A. It was on the 11th.

8 Q. The 11th of ---?

9 A. Yeah, January.

10 Q. Yes. You must be clear so the Judge can put
11 together a chronology of the case. Okay?

12 A. Yes.

13 Q. And was that with Leahy Transportation?

14 A. Yes, sir.

15 Q. Okay. Mr. Pereira, we're claiming that a
16 work-related injury took place on or about January 4,
17 2012. Do you kind of agree with that time frame?

18 A. January 4th, yes sir.

19 Q. As alleged in your petition?

20 A. Yes.

21 Q. Okay. With whom were you employed with at that
22 time?

23 A. Leahy Transportation.

24 Q. What was your job title?

25 A. Bus attendant.

1 Q. Okay. Why don't give Her Honor a thumbnail sketch
2 of your job duties and responsibilities as a bus
3 attendant; okay?

4 A. Yes. You sit there and basically watch the
5 special needs children. If they undo their seatbelts,
6 I had to go to reattach their seatbelts. Basically,
7 just keep an eye on them through the course of the
8 run.

9 Q. Okay. And you said run. What does that mean,
10 run?

11 A. All right. The route when you pick up the first
12 to the last student before you take them to school.

13 Q. Was it an all-day thing, or was it a staggered
14 time run?

15 A. A staggered time run.

16 Q. And please tell the Judge what you mean by that?

17 A. Morning run, dropping them off from home to the
18 school, and the noon run from the school to their
19 homes.

20 Q. What were the times of the morning run and the
21 afternoon run?

22 A. Between 6:00 and 9:00 in the morning and between
23 2:00 in the afternoon and 4:00.

24 Q. There was some discussion about your wages being
25 \$250 a week; is that accurate?

1 A. Yes, it is.

2 Q. Okay. Who is your supervisor?

3 A. Dave.

4 Q. Okay. How long have you been employed with Leahy
5 as of January 4th of 2012? I'll make it simpler for
6 you. When did you start?

7 A. September 20th.

8 Q. Of?

9 JUDGE SANTORO:

10 Of what?

11 A. September of 2011.

12 JUDGE SANTORO:

13 What?

14 A. '11.

15 JUDGE SANTORO:

16 '11.

17 BY ATTORNEY BONAVENTURA:

18 Q. Mr. Pereira, where did this accident take place?

19 A. On the bus.

20 Q. Okay. When did the accident take place? What
21 time, morning run or afternoon run?

22 A. It was the afternoon run.

23 Q. Where you on the Philadelphia Streets?

24 A. Yes.

25 Q. And what streets were you on?

1 A. G and Erie.

2 Q. Okay. And was there any other attendants on the
3 bus with you?

4 A. Yes, there's one other attendant.

5 Q. Okay. And I assume he was the driver of the bus?

6 A. Yes, he was.

7 JUDGE SANTORO:

8 Who was the other attendant?

9 A. It was one of the other driver's nieces. I didn't
10 know her by name. She was sitting up in the front
11 seat.

12 BY ATTORNEY BONAVENTURA:

13 Q. Just so maybe we can help the Judge, could you
14 tell us the name of the driver?

15 A. Nicole Johnson.

16 Q. That's the name of the driver?

17 A. Yes.

18 Q. All right. What do you know about Ms. Johnson?

19 A. Ms. Johnson is one of the drivers for the company.

20 Q. Okay. Was that the driver on your day?

21 A. No, my driver was Nicholas.

22 Q. Okay. Could you tell me what you know about
23 Nicholas?

24 A. Nicholas is a ---.

25 JUDGE SANTORO:

1 Wait a minute. Nicole Johnson was the
2 driver?

3 ATTORNEY BONAVENTURA:

4 No, Your Honor.

5 A. The witness, it was her aide. It's a family
6 member.

7 JUDGE SANTORO:

8 You confused me. Who was ---? Go back.

9 ATTORNEY BONAVENTURA:

10 Yes, Your Honor.

11 BY ATTORNEY BONAVENTURA:

12 Q. Who was the driver of the bus, the name of the
13 driver of the bus on your date of the incident? What
14 was that driver's name?

15 A. Nicholas.

16 Q. Okay. Who is Nicole Johnson?

17 A. Nicole Johnson is the witness.

18 JUDGE SANTORO:

19 Who's the witness?

20 A. There's a female witness on the bus at the time.
21 There was me, the female witness and the driver.

22 JUDGE SANTORO:

23 Wait a minute. How can there be a female
24 witness on the bus?

25 A. She's another attendant.

1 JUDGE SANTORO:

2 I thought you said you didn't know the
3 name of the other attendant?

4 ATTORNEY BONAVENTURA:

5 He doesn't.

6 A. I know of her family. I know who she is related
7 to. I don't know her name.

8 ATTORNEY BONAVENTURA:

9 He just referenced the other attendant
10 witness as the relative of Nicole Johnson. He doesn't
11 know the other witness female attendant's name, but he
12 did reference her as Nicole Johnson's relative.
13 That's all.

14 JUDGE SANTORO:

15 So we don't know the witnesses name?

16 ATTORNEY BONAVENTURA:

17 No.

18 JUDGE SANTORO:

19 All we know is that the driver's name was
20 Nicholas?

21 ATTORNEY BONAVENTURA:

22 Correct.

23 A. Yeah.

24 ATTORNEY BONAVENTURA:

25 We'll get those records, Judge. We're in

1 the process of trying to get them. I'm sure there's
2 bus ---.

3 JUDGE SANTORO:

4 I'm just trying to figure out who is who,
5 because you're confusing me.

6 ATTORNEY BONAVENTURA:

7 Okay.

8 JUDGE SANTORO:

9 Because nobody knows who who is, so we
10 don't have a witness name at this point?

11 ATTORNEY BONAVENTURA:

12 No. We have a person, but not a name and
13 we have ---.

14 JUDGE SANTORO:

15 But the person is an unemployed person on
16 this bus with special needs children?

17 ATTORNEY BONAVENTURA:

18 No, she's employed.

19 A. She's employed.

20 ATTORNEY BONAVENTURA:

21 She's another attendant. That's what he
22 testified to.

23 JUDGE SANTORO:

24 She was another attendant?

25 A. Yes.

1 ATTORNEY BONAVENTURA:

2 Yes, Your Honor. We just don't know that
3 other attendant's name.

4 JUDGE SANTORO:

5 Okay.

6 BY ATTORNEY BONAVENTURA:

7 Q. Why don't we do this for Her Honor, now that we're
8 completely on this topic relevant to being on the bus.
9 We have the time of the accident, the date of the
10 accident and the location of the accident. Tell Her
11 Honor what happened.

12 A. Okay.

13 Q. Please be as detailed as possible.

14 A. I was calling to Nicholas; he was looking in the
15 mirror ---.

16 JUDGE SANTORO:

17 Who was looking in the mirror?

18 A. The driver. I was behind him.

19 JUDGE SANTORO:

20 The driver is Nicholas?

21 A. Yes.

22 JUDGE SANTORO:

23 Use names because Ms. Farese needs to
24 know what name.

25 ATTORNEY FARESE:

1 I know that Nicholas is the driver.

2 JUDGE SANTORO:

3 Okay.

4 A. And we were at G Street facing Erie Ave. I was
5 talking to Nicholas. The load was about to change.
6 I was back about three seats behind. And when I
7 turned to get up, he punched the gas. There's tracks
8 right in front. As he was going over, I went
9 airborne, because there's a V on the Avenue that turns
10 to the right. Because I was facing this way doing
11 that.

12 JUDGE SANTORO:

13 What's this way?

14 A. I was facing the back of the bus going to my seat.
15 The bus was going forward. As it turned and I was in
16 the air, I hit my head. I had hurt my shoulder. I
17 went this way and the bus turned ---.

18 JUDGE SANTORO:

19 What's this way?

20 A. To the right.

21 JUDGE SANTORO:

22 So you hit your head and your body went
23 to the right?

24 A. Right. I went down this way and then my whole
25 body went over to the left of the aisle way. And

1 that's where I contained myself. I got back up in the
2 seat, and the witness asked me a couple times, are you
3 all right, sir? And I told her, I said, no, I think I
4 heard something pop. My knee, I landed on the bus
5 this way.

6 JUDGE SANTORO:

7 What's this way? Sir, you don't
8 understand. In nine months from today ---.

9 A. As I was going back ---.

10 JUDGE SANTORO:

11 Wait. It's my courtroom.

12 A. Yes, ma'am.

13 JUDGE SANTORO:

14 Nine months from today I will not know
15 what this is. You have to say I went to the left, I
16 went to the right, and Ms. Farese will not know it
17 unless you give her a description of what happened to
18 you. Saying this and that does not help any of us
19 nine months from now.

20 A. Okay. As I got up, I turned to go back to my seat
21 to the right. I went flying. I went mid-air over the
22 trolley tracks. I landed on my head, neck area. My
23 body twisted this way ---.

24 JUDGE SANTORO:

25 What's this way? What side?

1 A. To the left.

2 JUDGE SANTORO:

3 Okay.

4 A. Okay. As the bus turned this way, my body went
5 ---.

6 JUDGE SANTORO:

7 What way did the bus turn?

8 A. To the right, to the right. And I hit the other
9 seat and slid into the aisle. I regained my
10 composure. I got back up into my seat; I was
11 embarrassed. And I was sure my knee was completely
12 out. And she asked me, sir, ---.

13 JUDGE SANTORO:

14 Who is she?

15 A. The witness. The other attendant had asked me if
16 I was okay. I told her I thought I popped something,
17 my knee's out. And Nick had told me I should've been
18 sitting down, but I told him he should have waited for
19 me to sit down before he took off like that.

20 BY ATTORNEY BONAVENTURA:

21 Q. As a result of this incident, please tell the
22 Court what parts of your body you injured?

23 A. My head, my neck, my back and my knee.

24 Q. Okay. Any shoulder?

25 A. My shoulder.

1 Q. You're pointing to, please, for the Court?

2 A. Left.

3 Q. Okay. How about your right shoulder?

4 A. I landed on this side there.

5 Q. So you're pointing to ---?

6 A. My left side.

7 Q. You're pointing with your hand that you landed on
8 your left side?

9 A. Yeah.

10 Q. Your head made contact with the seat; correct?

11 A. Yes.

12 Q. Okay. Did your neck at all make contact with any
13 parts of the inside of the bus?

14 A. I remember landing, my head turned. I heard a
15 pop. I felt the pain when my knee came across the
16 side of the seat and ---.

17 JUDGE SANTORO:

18 What knee?

19 A. My left knee.

20 BY ATTORNEY BONAVENTURA:

21 Q. And you had indicated to the Judge you sat back
22 down; is that correct?

23 A. I didn't really --- I sat on the right side, two
24 seats behind the other attendant.

25 Q. Okay. And did you go on with your day?

1 A. Yes, I did.

2 Q. Okay. At any point in time did you notify your
3 boss or supervisor of the incident?

4 A. Yes, I did. I texted Dave about it.

5 Q. You texted. Just so the Court Reporter is clear,
6 you texted, you said, ---

7 A. Yes.

8 Q. --- Dave, about it?

9 A. Yes, I did.

10 Q. And what did you text him.

11 A. I told him that I had fallen on the bus and that I
12 needed to see a doctor. Things were not right. And
13 he was not there at the time, and I had to go see Tim.

14 Q. Okay. Now who is Tim?

15 A. Tim is one of the members of the company that owns
16 --- he's a family member that does the mechanical
17 work.

18 Q. So he's a family member, if I understand your
19 testimony correctly, who has an ownership interest in
20 the company; is that right?

21 A. Yes.

22 Q. And does mechanical work?

23 A. Yes.

24 Q. Okay. And you informed him about this incident?

25 A. Yes, I did.

1 Q. And what date was that, so the Judge knows?

2 A. That was on the 11th.

3 Q. The 11th of what?

4 A. January.

5 Q. Okay. So let me take a step back for a minute so
6 the Judge is clear. We have a one-week gap between
7 January 4th, the date of the incident, and January
8 11th; okay?

9 A. Yeah.

10 Q. Please tell the Judge what happened in the interim
11 during that point in time, especially relevant to your
12 body, how you were feeling and what happened?

13 A. Okay. Well, I was in pain. My knee was really
14 out, and he had just got his license. He tried seven
15 times before he got his license. He failed seven
16 times. I didn't want to get the guy in trouble.

17 Q. Who?

18 A. Nick.

19 Q. The driver?

20 A. Yes.

21 JUDGE SANTORO:

22 Wait a minute. Sustained.

23 BY ATTORNEY BONAVENTURA:

24 Q. Forget about that for a minute. Please tell the
25 Judge how your injuries were faring for one week

1 between the 4th and the 14th when you first
2 notified ---.

3 A. I was dropping things. I was tripping over my own
4 two feet. I didn't know what was wrong.

5 Q. Okay. And what were you feeling?

6 A. Nothing. Numb; pins and needles.

7 Q. What part of your body?

8 A. From my neck down.

9 Q. Okay. You're wearing a brace today?

10 A. Yes.

11 Q. Who gave you that brace?

12 A. The hospital.

13 Q. What hospital?

14 A. Jefferson.

15 Q. Okay. Were you told to wear it?

16 A. At my own discretion. I use it in transit a lot.

17 Q. Okay. In transit, you mean when you go to places
18 here and there?

19 A. Yes.

20 Q. All right. You notified Dave by text. You
21 notified Tim Perneski (phonetic) verbally?

22 A. Yes.

23 Q. And when did you first seek medical treatment for
24 the injuries that you sustained in this incident?

25 A. They told me to go over and see Dr. Popowich.

1 JUDGE SANTORO:

2 Who's they?

3 A. Dave.

4 JUDGE SANTORO:

5 Dave who?

6 A. Dave, my supervisor, told me to see Dr. Popowich.

7 I went to Dr. Popowich and called Dave back and told

8 him I had a ---.

9 ATTORNEY FARESE:

10 Objection.

11 JUDGE SANTORO:

12 Sustained.

13 A. Okay. Extensive nerve damage ---.

14 JUDGE SANTORO:

15 That's sustained.

16 BY ATTORNEY BONAVENTURA:

17 Q. You can't tell ---.

18 JUDGE SANTORO:

19 You can't tell what the doctor said.

20 A. Oh.

21 BY ATTORNEY BONAVENTURA:

22 Q. You can't testify on behalf of the doctor; okay?

23 A. All right.

24 Q. Now, first of all, why did you seek this treatment
25 after a week?

1 A. Because I was dropping things and I was falling.

2 Q. Okay.

3 A. That wasn't normal.

4 Q. Okay. You were sent to Dr. Popowich, who was a
5 work doctor; correct?

6 A. Yes.

7 Q. Did Dr. Popowich examine you?

8 A. Yes.

9 Q. Did Dr. Popowich make any recommendations for any
10 further treatment for you?

11 A. For me to go to an ER.

12 Q. Okay. To an emergency room?

13 A. Yes.

14 Q. Did you go to that emergency room?

15 A. I called the boss and he sent me the next morning.
16 He had Tim Perneski pick me up, take me to a Workman's
17 Comp doctor.

18 Q. So Tim, the part owner or the owner of interest,
19 picks you up, takes you to another doctor?

20 A. Right.

21 Q. Do you remember that doctor's name?

22 A. It began with a B.

23 Q. Does Bollula (phonetic) ring a bell?

24 A. Yes.

25 Q. So you went to see Dr. Bollula, and where was he

1 located?

2 A. He was at Frankford Workman's Comp building.

3 Q. And you went in and presented to him?

4 A. Yes.

5 Q. And then you saw him?

6 A. Yes.

7 Q. Did he make a recommendation ---?

8 A. He ---.

9 Q. Let me finish. Did he make a recommendation for
10 you within that WorkNet area there? The Comp doctors,
11 in other words.

12 A. He looked at me and sent me right next door to the
13 ER room, Torresdale Hospital.

14 Q. Okay. So now we're at the emergency room in
15 Torresdale, Frankford Hospital in Aria; correct?

16 A. Right.

17 Q. Were any tests performed?

18 A. They did a CAT scan.

19 Q. Did they immediately do a CAT scan?

20 A. Yes, they did, in which ---.

21 Q. I don't want to know the results; okay?

22 A. Okay.

23 Q. After that CAT scan was completed, okay, did you
24 stay at that facility or were you sent to another
25 hospital?

1 A. I was then sent to Jefferson Hospital.

2 Q. So subsequent to the CAT scan, if I understand you
3 correctly, so the Judge is clear, they --- whatever
4 they said, whatever the results of the CAT scan were
5 they were, but then you were shipped to Thomas
6 Jefferson University ---

7 A. Yes.

8 Q. --- Hospital; is that correct?

9 A. Yes.

10 Q. Did you go by ambulance or helicopter ---

11 A. Ambulance.

12 Q. --- or how? So you're transferred by ambulance?

13 JUDGE SANTORO:

14 Don't talk over each other, guys.

15 A. Yes.

16 JUDGE SANTORO:

17 She's going to have trouble if you guys
18 keep talking over each other. I know ---.

19 ATTORNEY BONAVENTURA:

20 We're almost done, Judge, ---

21 JUDGE SANTORO:

22 Okay.

23 ATTORNEY BONAVENTURA:

24 --- because the medical portion is
25 developing and that's kind of where we are.

1 JUDGE SANTORO:

2 Yeah, I just don't want you talking over
3 each other.

4 ATTORNEY BONAVENTURA:

5 Yes, Your Honor.

6 JUDGE SANTORO:

7 Because it's hard for the Court Reporter
8 to do that. I know you're both very excited, but
9 let's make sure that my Court Reporter gets a clear
10 record. Thank you very much.

11 BY ATTORNEY BONAVENTURA:

12 Q. Okay. We're at Jefferson; correct?

13 A. Yes.

14 Q. Did you go through the emergency room?

15 A. They took me in and the next thing I know, they
16 had me lined up for surgery.

17 Q. Okay. So let's take a step back. Were you
18 admitted to the hospital?

19 A. Yes, I was.

20 Q. Okay. Do you remember what day you were admitted
21 to the hospital?

22 A. The 12th.

23 Q. Okay. So this is the same day ---

24 A. Yeah.

25 Q. --- you went to the emergency room?

1 A. Right.

2 Q. All right. So you're admitted to Thomas Jefferson
3 University Hospital, and how long were you there?

4 A. I was there until the 19th.

5 Q. Okay.

6 A. Eight days.

7 Q. January 19th?

8 JUDGE SANTORO:

9 How many days?

10 A. Eight.

11 BY ATTORNEY BONAVENTURA:

12 Q. Okay. Now, while you were at Thomas Jefferson
13 University Hospital, you indicated there was a surgery
14 performed. Please tell the Judge to what part of the
15 body the surgery took place, and if you just have
16 knowledge of what was done.

17 A. They removed C-5 and C-6, replaced it with
18 titanium and cadaver bones for a fusion, which I'm
19 waiting for it to finish taking effect now.

20 Q. Okay. The records say that surgery took place on
21 January 17th of 2012. Does that sound about right?

22 A. Yes.

23 Q. Okay. Do you know who performed the surgery?

24 A. Dr. Jack Jallo.

25 Q. Dr. Jack Jallo. Is he an orthopedic surgeon?

1 A. Yes.

2 Q. Okay. So you're in the hospital for eight days
3 from the 12th to approximately the 19th, and you have
4 a surgery to your cervical spine as you've indicated
5 to the Court. Okay. And then you were discharged on
6 January 19th; is that correct?

7 A. Yes.

8 Q. All right. And did you go back home?

9 A. Yes.

10 Q. All right. Did you follow up with any doctors or
11 did someone come out to your home?

12 A. I had them come to my home. I had a nurse who
13 came out three times, and the physical therapist came
14 out three times.

15 Q. Okay. So we had six home visits to you so far; is
16 that correct?

17 A. Yes.

18 Q. And that's on or about ---?

19 ATTORNEY BONAVENTURA:

20 Please forgive me, Judge and Nancy.

21 BY ATTORNEY BONAVENTURA:

22 Q. Subsequent to January 19th of 2012; is that
23 correct?

24 A. Yes.

25 Q. All right. Did you have any follow-up visits with

1 Dr. Jallo, who was the orthopedic surgeon who
2 performed --- let me finish, who was the orthopedic
3 surgeon who did your surgery; is that correct?

4 A. (Indicates yes).

5 JUDGE SANTORO:

6 Was that a yes?

7 A. Yes.

8 BY ATTORNEY BONAVENTURA:

9 Q. Approximately when was the first visit with him?

10 A. That was February.

11 Q. All right. Did he make any recommendations for
12 you at that particular time?

13 A. No, not ---.

14 Q. Not at that time?

15 A. I had a post, which was in April.

16 Q. Okay. So what I hear you saying is that you had a
17 visit after the February visit?

18 A. Yes.

19 Q. Did he examine you?

20 A. Yes.

21 Q. Speak to you about the surgery?

22 A. Yes, he did.

23 Q. Schedule any additional visits?

24 A. Yes, he did for October.

25 Q. Okay. And so you have an October visit coming up?

1 A. Yes.

2 Q. Okay. And it's our understanding that this was a
3 fusion; correct?

4 A. Yes, it was.

5 Q. All right. Were you referred to any other
6 doctor ---?

7 A. I ---.

8 Q. Let me finish --- in the interim of seeing, or at
9 the same time or contemporaneously of you seeing
10 Dr. Jack Jallo?

11 A. My wife set me up with an appointment with
12 Dr. Dworkin.

13 JUDGE SANTORO:

14 Wait a minute, say that again?

15 A. Dr. Dworkin.

16 ATTORNEY BONAVENTURA:

17 Gerald Dworkin.

18 JUDGE SANTORO:

19 Spell it for the court reporter.

20 ATTORNEY BONAVENTURA:

21 Yes, ma'am. D-W-O-R-K-I-N. And that's

22 G-E-R-A-L-D, Gerald E. Dworkin.

23 JUDGE SANTORO:

24 Thank you.

25 BY ATTORNEY BONAVENTURA:

1 Q. How many times did you see Dr. Dworkin?

2 A. Two times.

3 Q. Okay. When was the first time you saw him?

4 A. It was at the end of April.

5 Q. All right. What the nature of that visit?

6 A. A consultation.

7 Q. All right. He spoke to you?

8 A. Yes, he did.

9 Q. You provided him a comprehensive history of the
10 facts of the incidents?

11 A. Yes.

12 Q. Meaning what happened?

13 A. Yes.

14 Q. Okay. Did you tell him the parts of your body
15 that were hurting?

16 A. Yes.

17 Q. Okay. And did he make any recommendations for
18 further treatment for you?

19 A. Yes.

20 Q. And what were they?

21 A. He's doing an EMG.

22 Q. All right. Was that EMG performed?

23 A. Yes.

24 Q. Did he perform it?

25 A. Yes, he did.

1 Q. Do you have a memory of approximately when that
2 was performed?

3 A. Two weeks ago.

4 Q. Okay. Fair enough. Do you have a subsequent
5 visit with him?

6 A. Next week.

7 Q. Okay.

8 A. Can I stand up for a second?

9 Q. Yeah, go ahead.

10 A. Thanks.

11 Q. Are you okay?

12 A. Yeah.

13 Q. Just tell me when you're okay?

14 A. All right.

15 Q. Where are you now with your treatment? And let's
16 just start with Dr. Jallo first, your first orthopedic
17 surgeon?

18 A. Waiting for my fusion to finish fusing.

19 Q. So in other words, you're just waiting for the
20 surgery to settle, from what you understand?

21 A. Yes.

22 Q. Is that the same theory with Dr. Dworkin?

23 A. He's still running additional tests.

24 Q. Okay. And what additional tests is he running?
25 Do you know?

1 A. EMGs.

2 Q. A repeated EMG?

3 A. Yeah, he only did my arm so far. He has to do my
4 legs and all.

5 Q. Okay. Fair enough. As you sit here today, are
6 you taking any medications?

7 A. No.

8 Q. Okay. Have you been prescribed any medications?

9 A. No.

10 Q. All right. As far as you know, your employer is
11 not paying for any of these medical bills; ---

12 A. No.

13 Q. --- correct?

14 JUDGE SANTORO:

15 Wait a minute. Say that again.

16 BY ATTORNEY BONAVENTURA:

17 Q. The employer is not paying for any of these
18 medical bills; ---

19 A. No.

20 Q. --- is that correct? All right. As you sit here
21 today, why don't we give the Judge just some idea of
22 what you're going through, with regard to your every
23 day daily activities? How about walking? Let's start
24 with the simplest things.

25 A. No, I can't. I can do most about a hundred feet a

1 day.

2 Q. Okay.

3 A. Basically.

4 Q. How about standing?

5 A. I can stand 10, 15-minute intervals, then I have
6 to sit down. Sometimes I have to lie down.

7 Q. Do you suffer from sleep disturbances ---

8 A. Yes, I do.

9 Q. --- as a result of these injuries?

10 A. Yes, I do.

11 Q. Okay. And how does it affect you?

12 A. I'm up every hour, hour and a half. I wake up. I
13 have to stand up. I have to run back and forth to the
14 bathroom.

15 Q. Have you explained all these physical limitations
16 to your physicians?

17 A. Yes, I have.

18 Q. Okay. Have they recommended any course of
19 treatment, such as physical therapy or things of that
20 nature?

21 A. Not yet. Still waiting for the rest of this stuff
22 to ---.

23 Q. The fusion?

24 A. Yes.

25 Q. Which you referred to.

1 A. Yes.

2 Q. Okay. Frank, you worked your whole life?

3 A. Yes, I have.

4 Q. And you were gainfully employed your whole life?

5 A. Yeah.

6 Q. Do you want to go back to work?

7 A. Yeah.

8 Q. Are you physically able to go back to work ---

9 A. No.

10 Q. --- at this point? All right. Can you go back to
11 work and do your job duties and responsibilities as a
12 bus attendant for Leahy Company right now?

13 A. No.

14 Q. Okay. As you sit here today, do you believe you
15 could participate in any type of gainful employment
16 whatsoever?

17 A. No.

18 Q. Do you want to?

19 A. Yeah.

20 Q. If you could, would you?

21 A. Yeah.

22 Q. All right. Let's talk about some prior injuries;
23 okay? You're claiming a neck injury in this incident.
24 Did you ever hurt your neck prior to this incident?

25 A. No.

1 Q. You're claiming you hurt your head in this
2 incident. Did you ever hurt your neck --- head prior
3 to this incident?

4 A. No.

5 Q. You're claiming you hurt your knees in this
6 incident. Did you ever hurt your knees prior to this
7 incident?

8 A. No.

9 Q. Okay. How about your low back, did you ever hurt
10 your low back prior to this incident?

11 A. Maybe years and years ago.

12 Q. Well, please tell the Judge what years and years
13 ago?

14 A. Okay. I had fallen in a sewer by my dad's
15 newspaper stand.

16 Q. When?

17 A. Back in '88, '89.

18 Q. Okay. Did you treat for those injuries?

19 A. Yeah.

20 Q. All right. Were you healed?

21 A. Yeah.

22 Q. Go on with your life?

23 A. Yeah.

24 Q. Any limitations?

25 A. No.

1 Q. Okay. Were you involved in any prior
2 motor-vehicle accidents?

3 A. No.

4 Q. Were you involved in any prior slip-and-fall
5 accidents?

6 A. In 2004, being Santa Clause at the Palisades
7 Center, the garage downstairs was caving in and I fell
8 in one of the holes.

9 Q. All right.

10 A. I broke my right ankle.

11 Q. So at that Palisades Center may I assume or guess,
12 please forgive me, that that's in New York?

13 A. Yeah.

14 Q. Palisades, New York?

15 A. Yes.

16 Q. Playing Santa Claus?

17 A. Yes.

18 Q. And you broke your right ankle?

19 A. Yes.

20 Q. In 2004?

21 A. Yes.

22 Q. Did you treat for that injury?

23 A. Yes.

24 Q. Are you claiming that you injured your right ankle
25 in this incident?

1 A. No.

2 Q. Okay. So far as we sit here today before the
3 Judge, one last question regarding your medical
4 status. You're basically on hold, if I understand you
5 correctly?

6 A. Yes.

7 Q. Okay. Sir, I'm putting a document before you that
8 I have shared a copy with opposing Counsel, and I
9 would like to mark it C-1 for identification purposes.
10 It is captioned Contingent Fee Agreement. Do you
11 recognize that document?

12 A. Yes.

13 Q. Is that your signature contained within ---

14 A. Yes, it is.

15 Q. --- that document? Let me finish. And it's in
16 scripted February 7th of 2012. Did you write that
17 there?

18 A. Yeah.

19 Q. Okay. And do you agree that any compensation ---
20 in other words, we would receive 20 percent of
21 whatever gross amount of money is obtained in this
22 case, if any?

23 A. Right.

24 Q. Do you agree with that?

25 A. Yeah.

1 Q. Do you accept that?

2 A. Yeah.

3 ATTORNEY BONAVENTURA:

4 Nothing further, Judge.

5 JUDGE SANTORO:

6 Thank you. Would you like to give me

7 C-1? Any objections to C-1?

8 (Claimant's Exhibit One marked for
9 identification.)

10 ATTORNEY FARESE:

11 No objection.

12 ATTORNEY BONAVENTURA:

13 I'm sorry.

14 JUDGE SANTORO:

15 Just let it sit there. See, I'm actually
16 paying attention.

17 ATTORNEY BONAVENTURA:

18 Thank you, Your Honor. I'm sorry.

19 JUDGE SANTORO:

20 It's not a problem. I just want to make
21 sure I get everything from you guys. I protect my
22 lawyers. Cross today?

23 ATTORNEY FARESE:

24 Yes, Your Honor. The Claim Petition
25 that's been filed does not list the low back as one of

1 the injuries that Claimant is seeking to have to be
2 compensable. I'm assuming that that is to be amended
3 to include low back injury.

4 A. I just found out ---.

5 JUDGE SANTORO:

6 No, no, no. Don't talk.

7 ATTORNEY FARESE:

8 I just need to know for IME purposes.

9 ATTORNEY BONAVENTURA:

10 Yes. As a prophylactic measure, yes. We
11 just have to fine-tune it. Yes.

12 JUDGE SANTORO:

13 Amend your answer, Ms. Farese, to deny?

14 ATTORNEY FARESE:

15 Yes.

16 JUDGE SANTORO:

17 Thank you.

18 ATTORNEY FARESE:

19 Thank you, Judge.

20 JUDGE SANTORO:

21 You may Cross Examine.

22 ATTORNEY FARESE:

23 Thank you.

24 JUDGE SANTORO:

25 Just let me document my file. Okay.

1 Thank you.

2 ATTORNEY FARESE:

3 Thank you.

4 CROSS EXAMINATION

5 BY ATTORNEY FARESE:

6 Q. On the date that you were injured, sir, what type
7 of bus were you driving? And by that, I mean were you
8 driving a shorter bus, a long bus?

9 A. We were in a small bus.

10 Q. In the small bus. Approximately how many
11 passengers fit in the smaller bus?

12 A. How many fit in a smaller bus?

13 Q. If you can approximate?

14 A. I have no idea.

15 Q. Okay.

16 A. Twelve (12), 15.

17 Q. And as I understand your testimony, you were an
18 attendant. There was another attendant there;
19 correct?

20 A. Yes.

21 Q. The bus driver?

22 A. Yes.

23 Q. Were there any other employees in the bus at that
24 time?

25 A. No.

1 Q. And you said that you were injured on the p.m.
2 route; correct?

3 A. Yes.

4 Q. Where any children present on the bus at that
5 time?

6 A. No.

7 Q. I just want you to describe it a little bit. You
8 said the bus went forward and you went airborne;
9 correct?

10 A. Yes.

11 Q. Over how many seats did you actually go past?

12 A. I made my way past two seats and the third seat,
13 as I was trying to go into it, and he hit the trolley
14 tracks when I went airborne. I went up over into the
15 seat.

16 Q. So you went about three seats?

17 A. Yes. There's a heater back there. That's why I
18 mainly go back to where the heater was on the floor.

19 Q. And you indicated there was a witness on the bus
20 that saw this occur; correct?

21 A. Yes.

22 Q. And did you say anything to this witness at that
23 time that you had injured your neck?

24 A. She asked me was I okay, sir. She asked me about
25 four or five times and I explained to her my knee

1 really hurt. I think something popped.

2 Q. Okay. Did you say you hurt your neck to the
3 witness?

4 A. No, I did not say I hurt my neck. I said
5 something popped, because I heard it pop.

6 Q. And you're talking about your knee; correct?

7 A. Or my neck. The pain was just excruciating. My
8 knee --- I didn't even know about my neck until I went
9 to the doctor, to the hospital. Then they tell me I
10 had a broken neck. I didn't even know it. All I know
11 is my whole body --- everything started falling apart.
12 I'm dropping coffees. I tripping over my feet, like
13 this. I'm falling down. I didn't know what's wrong.
14 I was getting afraid. And I got a hold of work; they
15 sent me to Dr. Popowich, who told Dave I had extensive
16 nerve damage, I should go to the ER. As I go to the
17 ER and they came out telling me that I have a broken
18 neck.

19 ATTORNEY FARESE:

20 Your Honor, I'd just object.

21 JUDGE SANTORO:

22 Sustained.

23 ATTORNEY BONAVENTURA:

24 Do your best. Try not say what other
25 doctors say. Just answer Ms. Farese's question; okay?

1 A. Okay.

2 ATTORNEY BONAVENTURA:

3 That's called hearsay. We talked about
4 that.

5 A. All right.

6 JUDGE SANTORO:

7 Both sides will have an opportunity to
8 have the doctors testify, but, sir, you cannot testify
9 to medical opinions.

10 A. Oh, okay.

11 JUDGE SANTORO:

12 So the attorneys will do their job and
13 take the doctor's deposition. Your attorney will have
14 a chance to take his doctor's deposition. Ms. Farese
15 will have a chance to take hers. But what we need to
16 do is not say what other people said.

17 A. Okay.

18 JUDGE SANTORO:

19 This is the one time where LA Law
20 applies.

21 A. I like to work.

22 JUDGE SANTORO:

23 So if you've ever watched LA Law and they
24 say hearsay or whatever, this is the one time it
25 really does apply. This is a real courtroom, it's a

1 real Judge and I can't have you saying what your
2 doctor said. It's their job to do that; okay?

3 A. Okay.

4 JUDGE SANTORO:

5 So if you could just stick to what they
6 did as opposed to what they said, we'll be okay.

7 A. Okay.

8 JUDGE SANTORO:

9 She's going to have more questions for
10 you.

11 BY ATTORNEY FARESE:

12 Q. My only question, sir, is what body parts did you
13 tell the witness on the bus you injured? You said you
14 heard something pop. Are you talking about your knee?

15 A. That was it. So I said to her --- because I was
16 trying not to cry, it hurt so bad.

17 Q. Okay. So as I understand it, you didn't tell her
18 about any of the other injuries that you later --- any
19 of the other injuries; correct?

20 A. Nothing, no.

21 Q. And you continued to work between January 4th,
22 2012, until January 11th, 2012; is that correct?

23 A. Yes.

24 Q. And you continued to work your regular job duties
25 during that period of time; is that correct?

1 A. Yes, I did.

2 Q. You worked both runs; is that correct?

3 A. Yes, I did.

4 Q. Did you seek any medical treatment at all between
5 that period of time, from any physician?

6 A. No. My knee had hurt, but I didn't want Nick to
7 get into trouble, because he's a nice little guy. And
8 he took seven times to get his test right.

9 Q. Did you receive any medical treatment, sir?

10 A. No, not until I went to work after that weekend,
11 because that weekend was basically when I fell apart.
12 I went into work the following week, and that's when I
13 got a hold of Dave.

14 Q. And you were referred to Dr. Popowich; is that
15 correct?

16 A. Yes, I was.

17 Q. And why were you referred to Dr. Popowich?

18 A. That's the work doctor. He told me to go to see
19 Popowich. I went over there and Dr. Popowich called
20 him back and told him I had ---.

21 OFF RECORD DISCUSSION

22 BY ATTORNEY FARESE:

23 Q. Is Dr. Popowich with WorkNet --- WorkHealth,
24 rather?

25 A. I have no idea.

1 Q. Were you sent for drug testing on January 12th,
2 2012?

3 A. Yeah.

4 Q. And did you refuse to take the drug testing at
5 that time?

6 A. No, I took the test.

7 Q. The first time you were sent for a drug testing,
8 you took the drug test at that point, the first time?

9 A. Yeah. The Workers' Comp doctor took a drug test.

10 Q. And what Workers' Comp doctor are you talking
11 about? Dr. Popowich?

12 A. No. It was the other one, with a B.

13 Q. Do you know where Dr. Popowich is located?

14 A. On York Street.

15 Q. York Street where? Philadelphia?

16 A. Yeah.

17 Q. And when did you first start to feel any type of
18 complaints? When did you first start to feel pain in
19 your neck?

20 A. Over that weekend, the 7th, 8th. It was the 7th
21 --- that Saturday I went to Dunkin Donuts and I got a
22 coffee. It just fell right out of my hands.

23 Q. And when did you begin to feel pain in your
24 shoulder?

25 A. It's not as much pain as --- there's nothing.

1 It's just numb.

2 Q. When did you begin to feel pain in your lower
3 back?

4 A. Like I said, from here down, sweetheart, it's
5 numb. I have ---.

6 JUDGE SANTORO:

7 Wait a minute. You were indicating from
8 the shoulders down you felt numb; correct?

9 A. Yeah.

10 JUDGE SANTORO:

11 That's what you did on the record?

12 A. Yeah.

13 ATTORNEY BONAVENTURA:

14 Yes, Your Honor.

15 JUDGE SANTORO:

16 Just for everybody so that we know that
17 --- does everybody agree that's he indicated?

18 ATTORNEY FARESE:

19 Yes.

20 JUDGE SANTORO:

21 Okay. Thank you.

22 ATTORNEY BONAVENTURA:

23 Yes, Your Honor.

24 BY ATTORNEY FARESE:

25 Q. So is it your testimony then that you do not have

1 pain in your low back?

2 A. I had three bolts --- I just found out three weeks
3 ago my ---.

4 ATTORNEY BONAVENTURA:

5 Listen to the Judge's instruction.

6 JUDGE SANTORO:

7 Keep your voice up, Counsel. Unless you
8 want a private meeting, you need to keep your voice
9 up.

10 ATTORNEY BONAVENTURA:

11 You cannot say what the other doctors
12 say; all right? Just what they did, not what they
13 said. Just your treatment; okay?

14 A. Okay.

15 BY ATTORNEY FARESE:

16 Q. I'm just asking you, at this point do you
17 experience pain in your lower back?

18 A. Yes.

19 Q. When did you first start to experience pain in
20 your lower back?

21 A. Since the accident, since I was in the hospital.

22 Q. So your low back pain started right after this
23 accident occurred on the bus?

24 A. Yeah.

25 Q. Okay. And you said that you were treating with

1 Dr. Dworkin; correct?

2 A. Yes.

3 Q. What complaints of pain did you give to
4 Dr. Dworkin when you first saw him?

5 A. The same.

6 Q. What, meaning what?

7 A. My back, my neck, my knees. He sent me out for
8 the EMG because he didn't know exactly what he was
9 looking for.

10 Q. Did you receive any medical treatment for anything
11 besides your cervical spine while you were
12 hospitalized?

13 A. No.

14 Q. Now, when you went to the hospital at Aria
15 Torresdale, did you tell them that this accident
16 occurred on January 5th, 2012?

17 A. Yeah.

18 Q. Okay. So did the accident occur on January 5th or
19 January 4, 2012?

20 A. It was the 4th. The 5th I got my hair cut,
21 because I do Santa Claus. I had to get the beard
22 shaved off and get my hair cut. The hairdresser told
23 me about the big lump that was on my neck.

24 Q. I'm confused. You went to Aria Health?

25 A. Uh-uh (yes).

1 Q. And Aria Health indicates that you told the
2 physician there that you were in a school bus accident
3 on January 5, 2012. Does that sound correct?

4 A. No, it was the 4th.

5 Q. It was the 4th.

6 A. Yes.

7 Q. So the records retained by Aria Health are
8 incorrect insofar as the date of injury?

9 A. Yeah.

10 Q. And the records from Jefferson Hospital also
11 indicate that you advised them that the date of injury
12 is January 5th, 2012?

13 A. They may have talked to one of my daughters.

14 Q. I'm not ---.

15 ATTORNEY BONAVENTURA:

16 Answer Counsel's question, please?

17 A. It's the 4th.

18 BY ATTORNEY FARESE:

19 Q. Okay.

20 JUDGE SANTORO:

21 Wait, you were getting your hair cut to
22 play Santa Claus on January 4th?

23 A. No, I was done being Santa Clause. On the 5th is
24 when I got it all cut off.

25 JUDGE SANTORO:

1 Okay.

2 A. Love my job.

3 BY ATTORNEY FARESE:

4 Q. When you went to see the WorkHealth doctors, did
5 you tell them that the accident occurred on January 5,
6 2012?

7 A. No, it was the 4th.

8 Q. Okay. So if their records indicate that January
9 5th, 2012 is the date of injury, their records are
10 incorrect then; correct?

11 A. Right.

12 Q. Did you have any type of additional slip and fall
13 in or around October of 1998?

14 A. 1998, I broke my toe. I was working for Pursuzie
15 (phonetic) Cleaning. I was pressure spraying the
16 marble, and I lifted the marble up. And with the
17 soap, I slipped right off across my foot.

18 Q. Okay. So that's the second slip and fall;
19 correct?

20 A. It fell on my foot. I didn't slip and fall. The
21 object fell on me.

22 Q. Okay. Did you have any type of a fall where
23 Ramana (phonetic) West Company was involved?

24 A. No.

25 Q. Who is your family doctor, sir?

1 A. I don't have one right now.

2 Q. Okay. When was the last time you had a family
3 doctor?

4 A. It's been a long time. I just use the clinics. I
5 go to the doctors on Thompson Street. That was it. I
6 mean, I haven't had a family doctor in a long time.

7 Q. What clinics do you go to? For example, if you
8 have any type of problems, medical problems?

9 A. I just go basically to the ER if I have any
10 medical problems. I'm not a big fan of doctors.

11 Q. Okay. What emergency rooms have you visited in
12 the last five years?

13 A. 2004 when I broke my ankle in New York, that was
14 it.

15 Q. And what emergency room was that?

16 A. Nyack.

17 Q. Nyack?

18 A. Yeah.

19 ATTORNEY FARESE:

20 I believe that's all I have at this
21 point, Judge. I reserve the right for additional
22 Cross. We can do it by deposition after I receive all
23 the medical records.

24 JUDGE SANTORO:

25 Granted.

1 REDIRECT EXAMINATION

2 BY ATTORNEY BONAVENTURA:

3 Q. Are you claiming an injury to your toe in this
4 incident?

5 A. No.

6 JUDGE SANTORO:

7 To what?

8 ATTORNEY BONAVENTURA:

9 His toe.

10 A. No.

11 BY ATTORNEY BONAVENTURA:

12 Q. After the date of the incident, which we're
13 claiming was January 4, 2012 ---.

14 JUDGE SANTORO:

15 Off the record, please.

16 OFF RECORD DISCUSSION

17 JUDGE SANTORO:

18 Counsel, your witness.

19 ATTORNEY BONAVENTURA:

20 Thank you, Your Honor.

21 BY ATTORNEY BONAVENTURA:

22 Q. Frank, I was beginning to ask you a question
23 relevant to what you're claiming the date of injury
24 was, January 4th of 2012. And you didn't go to the
25 physicians until January 11th of 2012; is that

1 correct?

2 A. Yes.

3 Q. Fine. Did you do your best for that week?

4 A. Yeah.

5 Q. Okay. And you continued working?

6 A. Yeah.

7 Q. Okay. Did you experience pain during that time
8 period?

9 A. Just deterioration, just breaking down, pain,
10 dropping things, falling down.

11 Q. Okay. So between that time period of January 4th
12 of 2011 and January 4th of --- January 11th of 2011
13 --- or 2012. I keep saying 2011; please forgive me.
14 You felt that your health condition was deteriorating?

15 A. Yes.

16 Q. Did you feel it was deteriorating as a result of
17 the incident that took place on the bus?

18 A. Yes.

19 Q. Do you attribute it to the incident that took
20 place on the bus?

21 A. Yes.

22 Q. Do you attribute in your view, based on your
23 health and what you know about your body --- are all
24 the injuries that you're claiming here today, you
25 believe were from the incident that took place on the

1 bus?

2 A. Yes.

3 ATTORNEY BONAVENTURA:

4 That's it. That's all I have, Judge.

5 A. I was Santa Claus two weeks before that.

6 ATTORNEY BONAVENTURA:

7 That's it.

8 JUDGE SANTORO:

9 Two weeks before the bus?

10 A. Before the accident, Christmas.

11 ATTORNEY BONAVENTURA:

12 Your Honor, he's ---.

13 JUDGE SANTORO:

14 Wait a minute. No, no, no. You're
15 attributing it to something that happened two weeks
16 before the bus accident?

17 A. No. Two weeks before this I was doing Santa Claus
18 work. I was everywhere. I was working. I do
19 everything. I'm in a lot of things. And after the
20 accident, I haven't done nothing since.

21 JUDGE SANTORO:

22 But when did the pain start? I thought
23 you said that the pain started before the bus with
24 your Santa Claus job.

25 ATTORNEY BONAVENTURA:

1 No.

2 A. No.

3 ATTORNEY BONAVENTURA:

4 No.

5 A. I was fine up until the bus. That's what I mean.
6 I was doing all kinds of Santa Claus work for that
7 whole month beforehand. Running around, riding
8 trains, all kinds of things. I was doing everything.
9 And all of a sudden I'm doing nothing. I mean,
10 everything is fine and all of a sudden the bus
11 accident. Now, I can't do a thing.

12 JUDGE SANTORO:

13 The date of the bus accident is January
14 4th?

15 A. Right.

16 JUDGE SANTORO:

17 Christmas is over?

18 A. Right.

19 JUDGE SANTORO:

20 How are you doing Santa Claus work in
21 January when Christmas is on December 25th?

22 A. No, it was over. That's what I mean, it was over.
23 I mean, it was done. But I was fine. I mean,
24 health-wise, I was fine up until the bus accident.

25 JUDGE SANTORO:

1 Okay.

2 A. I have thousands of pictures showing me doing
3 thousands of things. All that time I was fine. Up
4 until that bus accident, and now I'm like this.

5 ATTORNEY BONAVENTURA:

6 Counsel wants to ask you a follow-up
7 question.

8 ATTORNEY FARESE:

9 I have one question.

10 JUDGE SANTORO:

11 Recross.

12 ATTORNEY FARESE:

13 Just one question, then I'll reserve
14 everything else for additional testimony later.

15 JUDGE SANTORO:

16 Sure.

17 RECROSS EXAMINATION

18 BY ATTORNEY FARESE:

19 Q. Did anything happen to you in the bus anytime in
20 December of 2011?

21 A. No.

22 ATTORNEY FARESE:

23 That's all I have.

24 ATTORNEY BONAVENTURA:

25 That's it, Judge.

1 JUDGE SANTORO:

2 Okay. Great. Ms. Farese, have you had
3 your IME yet?

4 ATTORNEY FARESE:

5 No.

6 JUDGE SANTORO:

7 Forty-five (45) days, is that enough?
8 Will you need more than ---?

9 ATTORNEY FARESE:

10 I think we may, yeah, need a little bit
11 more than 45 days.

12 JUDGE SANTORO:

13 Is 60 enough?

14 ATTORNEY FARESE:

15 It depends on Dr. Dworkin's records. I
16 have nothing from Dr. Dworkin.

17 ATTORNEY BONAVENTURA:

18 I have one note from Dr. Dworkin. I'm in
19 the process of getting the EMG that I do not have,
20 Your Honor.

21 JUDGE SANTORO:

22 Okay.

23 ATTORNEY BONAVENTURA:

24 And I'm in the process of trying to find
25 out when the second EMG is scheduled that my client

1 already testified to that he was getting again.

2 JUDGE SANTORO:

3 Okay.

4 ATTORNEY BONAVENTURA:

5 Maybe a third. I don't know because ---
6 I'll get it. I'll get it, Judge. I'll get his
7 records.

8 JUDGE SANTORO:

9 How about 60, and then if she needs an
10 addendum report based on records only, you will agree
11 to that; correct, Counsel?

12 ATTORNEY BONAVENTURA:

13 Sure. Yes, ma'am. Yes, Your Honor.

14 JUDGE SANTORO:

15 How's that?

16 ATTORNEY FARESE:

17 That's fine.

18 ATTORNEY BONAVENTURA:

19 Sure.

20 JUDGE SANTORO:

21 So you'll get as many records as you can,
22 and if you need an addendum report, there won't be any
23 objection. He just said that. So we'll do 60 days
24 for an IME, and then we'll do --- because I'm giving
25 her 60, I'm going to do 120 for Claimant medical.

1 How's that?

2 ATTORNEY BONAVENTURA:

3 That's fine, Judge.

4 JUDGE SANTORO:

5 Is that good?

6 ATTORNEY FARESE:

7 Yes.

8 JUDGE SANTORO:

9 And then we can do 180 Defendant medical?

10 ATTORNEY FARESE:

11 That's fine.

12 JUDGE SANTORO:

13 If I bring you back in January 2013 to
14 celebrate the New Year; is that okay?

15 ATTORNEY FARESE:

16 That's fine.

17 ATTORNEY BONAVENTURA:

18 Yes.

19 JUDGE SANTORO:

20 Okay. Great. And I'm going to put a
21 final list, no testimony. If either side wants to
22 bring in lay testimony, please let us know. Jessica
23 and I are always available to give you a special
24 listing at one o'clock.

25 ATTORNEY BONAVENTURA:

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Thank you, Your Honor.

JUDGE SANTORO:

If you have witnesses. I thank everybody for coming in today. And if I don't hear from you beforehand, I will see you in January of 2013. You will probably be getting a notice for a mandatory mediation. I'm sure you're very excited about that. It will be taking place in around November of 2012. I thank you all for coming in today.

ATTORNEY BONAVENTURA:

Thank you, Your Honor. May we be excused?

JUDGE SANTORO:

Yes, thank you.

* * * * *

HEARING CONCLUDED AT 12:28 P.M.

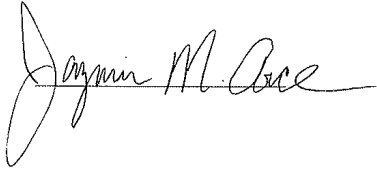
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CERTIFICATE

I hereby certify that the foregoing proceedings, hearing held before Judge Santoro, was

1 reported by me on 05/22/2012 and that I Jazmin Arce
2 read this transcript and that I attest that this
3 transcript is a true and accurate record of the
4 proceeding.

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