1 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
2 WESTERN DIVISION

3 UNITED STATES OF AMERICA, Docket No.: 3:19CR490

4 Plaintiff, July 14, 2021

5 v Toledo, Ohio

6 WILLIAM R. BAUER,

7 Defendant.

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9 TRANSCRIPT OF JURY TRIAL, VOLUME 6
BEFORE THE HONORABLE JACK ZOUHARY
10 UNITED STATES DISTRICT JUDGE

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1 THE COURT: Welcome back. You may be seated
2 everyone, please.
3 When you're ready, counsel, you may cross
4 examine.
5 MR. GIBBONS: Thank you, Your Honor.
6 CROSS-EXAMINATION
7 BY MR. GIBBONS:
8 Q. Dr. King, how are you today?
9 A. Good morning, sir.
10 Q. Can you tell us how these files were selected,
11 the 14 patient files?
12 A. I don't know how they were selected, I had no
13 part in the selection process.
14 Q. Were you given more files to review other than
15 the 14 you spoke about yesterday?
16 A. I was. I don't know the exact count, but
17 approximately -- well, I can give you an exact count. Just
18 a moment. One, two, three, four, five, six, there were six
19 additional files in addition to the 14 that we've reviewed,
20 so I reviewed 20 files.
21 Q. Twenty total files?
22 A. Correct.
23 Q. And was there any indication that the files were
24 selected at random from Dr. Bauer's files?
25 A. I have no idea.

1 Q. Okay. And you cannot tell us who provided or who
2 selected the files for your ultimate analysis?
3 MS. DUSTIN: I'm going to object. Relevancy.
4 THE COURT: The witness has already said he had
5 nothing to do with the selection process, so I think you're
6 asking --
7 MR. GIBBONS: Sure.
8 BY MR. GIBBONS:
9 Q. So the files were brought to you?
10 A. Correct.
11 Q. Okay. And did it ever come to your attention the
12 percentage of pain management patients that Dr. Bauer had
13 in his practice?
14 A. No.
15 Q. Did it ever come to your attention the total
16 number of pain management patients that Dr. Bauer had in
17 his practice --
18 A. No.
19 Q. -- at any given time?
20 A. No.
21 Q. Did -- did it come to your attention that his
22 practice was split equally between pain management and
23 neurology patients?
24 A. No.
25 Q. So you cannot tell us how many total patients Dr.

1 Bauer has on his roster at any given time?
2 A. Correct.
3 Q. Now, I believe that you were provided a file on
4 patient Amy, were you not?
5 A. I was, yes.
6 Q. And were you also provided a file from the
7 referring physician from Amy, Dr. Mark Bigler, B-I-G-L-E-R?
8 A. I don't have an independent recollection. As the
9 files were presented to me, I integrated them into one PDF
10 document, and of course with 20 patients and lengthy files
11 I don't remember the specifics as we speak now.
12 Q. I see. And is it common for when a doctor
13 receives a patient from another doctor that the file be
14 transmitted to the ultimate receiving physician?
15 A. I would say it's not common; however, standard of
16 care would require that the receiving or consulting doctor,
17 Dr. Bauer in this case, would at least request those files
18 if they were not actually transferred initially.
19 Q. And that process is pretty easy in this day and
20 age, is it not, with electronic medical records?
21 A. Well, I wouldn't say anything's easier today with
22 our electronic medical records, but at least the formatting
23 in terms of electronic medical records makes it more easily
24 performed, but still it has to be transmitted in a careful
25 and meticulous way.

1 Q. I see. And patient Connie, do you recall
2 reviewing a file from a referring physician, a doctor John
3 Imm, I-M-M.
4 A. Again, I could refer to that and look at it to
5 specifically answer your question, but independently, as we
6 speak now, I don't recall without actually looking at the
7 record.
8 Q. Okay. And with respect to patient Dale, do you
9 recall reviewing a file from a referring physician,
10 Dr. Karl with a K, Oberer, O-B-E-R-E-R?
11 A. Again, I would have to refer to Dale's chart to
12 answer that accurately.
13 Q. Well, in all of the patient files that you
14 examined, were there files from referring physicians?
15 A. Not in all of them, no.
16 Q. Okay. How about patient James, did you receive a
17 file from a referring physician, Dr. Alan, A-L-A-N
18 Goodrich?
19 A. Again, I would have to refer to the file in order
20 to answer that accurately.
21 Q. I see. But that doesn't ring a bell with you as
22 we speak?
23 A. Well, I would want -- I want to answer all your
24 questions accurately, and I could if you'd like me to refer
25 to the forensic chronology, it would tell me right away

1 whether the files are there or not.
2 Q. If you could.
3 A. Sure. Which patient would you like to start
4 with?
5 Q. Go back to Amy.
6 A. And could you tell me again, if you would,
7 please, the name of the doctor that --
8 Q. Mark Bigler, B-I-G-L-E-R.
9 A. And bear with me while I pull that chart up. For
10 Amy I have records of three office visits prior to Dr.
11 Bauer in 2003. Those records are from the Naple City
12 Family Practice Group, and I don't have a physician name
13 for them, but I have three office visit records prior to
14 seeing Dr. Bauer.
15 Q. So you did, with respect to Amy, review some
16 referring physician files?
17 A. I did, yes.
18 Q. And how about for Connie?
19 A. I'm sorry, I have them organized by last name so
20 I have to go through and spend a moment to find the correct
21 file.
22 For Connie I have records of two office visits in
23 2010 from Dr. John Imm.
24 Q. So you do have those records?
25 A. Well, I have two office visit records.

1 Q. Okay. How about for patient Dale?
2 A. Bear with me for just a moment, please.
3 For Dale, I have -- I have no earlier medical
4 records. I simply have some imaging studies. I'm sorry,
5 let me rephrase that. I do have two office notes from 2007
6 from a Dr. Michael Leslie from Advanced Neurological
7 Associates.
8 Q. So within the same practice?
9 A. I don't recognize the name Dr. Leslie, so if
10 you're telling me that's part of Dr. Bauer's practice, I
11 would accept that, I don't know.
12 Q. How about for patient James L, do you have any
13 referring physician notes?
14 A. Bear with me for just one moment.
15 I have no past medical records for James L. What
16 I do have is a discharge report from the hospital as well
17 as a psych report and an emergency room report.
18 Q. And from what hospital?
19 A. Third Street Clinic and Med Central Emergency
20 Room.
21 Q. How about with respect to patient James P?
22 A. Again, bear with me for just a moment.
23 For James P I have a single office note from a
24 Dr. Williams Sykes from -- which is an orthopedic
25 consultation. Beyond that, I have no other medical records

1 prior to Dr. Bauer.
2 Q. How about with respect to patient Rodney?
3 A. For patient Rodney, excuse me, I have office -- I
4 have office visit reports from a doctor, and I'm not going
5 to pronounce his last name correctly, Dogantar (phonetic),
6 something of that sort, from the Cleveland Clinic. One,
7 two, three -- I have four office visits, well, three office
8 visits from Dr. Dogantar.
9 Q. And how about from a Dr. Dale Braun, B-R-A-U-N,
10 in Sandusky?
11 A. I do not have those.
12 Q. And with respect to patient Rick?
13 A. The size of some of these files require me just a
14 moment to get to the beginning, so, again, bear with me.
15 For patient Rick I have two office visits from a
16 Dr. George Matthew. I have five office visit
17 documentations from Dr. George Matthew prior to Dr. Bauer.
18 Q. And how about with respect to patient Nathan?
19 A. For patient Nathan I only have one office visit
20 from the family doctor, and I don't have a name for that
21 doctor.
22 Q. I see. And how about with respect to patient
23 Bethanee?
24 A. For patient Bethanee, I have an office visit from
25 a Dr. Richard. Again, I'm not sure of the last name, Rhiew

1 R-H-I-E-W, prior to a visit to Dr. Bauer.
2 Q. How about with respect to patient Melody?
3 A. For patient Melody, I have a number of imaging
4 reports prior to Dr. Bauer as well as one neurologic
5 consult from Dr. Steven Benedict, and one
6 neuropsychological evaluation from a Dr. Timothy Whinecoff
7 (phonetic).
8 Q. Okay. And with respect to patient McKinley?
9 A. I have no prior records for patient McKinley.
10 Q. Also with respect to patient Shannon?
11 A. I have no prior medical records for patient
12 Shannon.
13 Q. Patient Brandon?
14 A. For patient Brandon I have no prior medical
15 records.
16 Q. And finally, patient Jamie, J-A-M-I-E?
17 A. I'm sorry, you said patient Jamie?
18 Q. Jamie.
19 A. I have one office visit from Nurse Practitioner
20 Mary Alms (phonetic) prior to visiting Dr. Bauer.
21 Q. Thank you. Now, with respect to all of the 14
22 patients, I take it that you did not ever perform a
23 physical examination on any of these patients?
24 A. That's correct.
25 Q. Did you reach out to any of the referring

1 physicians that you have in your records to discuss these
2 patients?
3 A. No, that would be inappropriate. I did not do
4 that.
5 Q. Okay. Now, with respect to patient care of all
6 of these 14 patients after August 19th of 2019, did you
7 obtain medical records for any of these 14 patient?
8 A. There were some medical records that I recall
9 extended beyond that time frame into 2020.
10 Q. I see. And did you review those?
11 A. I did, yes.
12 Q. And were those medical records strictly from Dr.
13 Bauer's former practice, ANA, if you remember?
14 A. I don't recall specifically. I do recall that
15 some were not from his -- his former practice partners.
16 Some of them had to do with other visits.
17 Q. Now, in your testimony yesterday you mentioned
18 the expression psychosomatic pain?
19 A. I did.
20 Q. Okay. And I take it that that is imaginary pain?
21 A. No. That would be, perhaps, a lay description,
22 but it would not be an appropriate one.
23 Q. Okay.
24 A. And I can explain that more fully if you'd like.
25 Q. Sure. We'll get to that I'm sure.

1 With respect to the 14 patients named in the
2 indictment, can you pinpoint which of the patients that you
3 believe did not -- or had psychosomatic pain?
4 A. If you ask me as a summary right now, I could not
5 list those off to you. I think we did a pretty good job
6 explaining some of my concerns on which ones had pain of
7 psychological or emotional origin as we went through the
8 patients, but I did not keep an exact list such that I
9 could recite it to you now.
10 Q. Okay. And with respect to this type of -- this
11 phenomenon of psychosomatic pain, is there evidence in the
12 files of psychosomatic pain complaints, or do you interpret
13 that from the files?
14 A. It's -- psychosomatic pain, again, is emotional
15 pain or pain related to emotional suffering. There were
16 many indications in the chart, as I went through with
17 abhorrent behaviors, indicating that the patients had
18 various types of psycho social distress, and some of them
19 had symptoms of multiple body parts, which would suggest
20 pain of psychological origin. Again, that's a real pain.
21 We accept it as a real pain from the patient, it is not, as
22 you said, an imaginary pain.
23 Q. I see. So if such pain is expressed by the
24 patient, is a treating doctor to accept those recitations?
25 A. We always accept what the patient says as true.

1 Our job as a physician is then to discern of the pain that
2 the patient is claiming how much of that is of
3 psychological origin or origin of emotional suffering
4 versus what part of that pain is actually something broken
5 that can be addressed with opioids or injections.
6 Q. Okay. Now, with respect to each and every one of
7 these patients, and I'm not going to go through the
8 exhibits by numbers, but you seem to have broke this down
9 under the category of forensic timelines, do you recall
10 that?
11 A. Again, I'm not sure exactly what you're asking.
12 Forensic timeline is certainly one of my work products.
13 Q. In your forensic timeline for each and every
14 patient, did you list the diagnosis that Dr. Bauer found
15 when he examined these patients?
16 A. I listed all the diagnosis that Dr. Bauer put
17 down as well as diagnosis that may have been offered or
18 observed or made by other practitioners and consultants.
19 Q. Okay. And you are not a neurologist, are you?
20 A. Correct.
21 Q. Okay. And were there neurological diagnosis
22 found in each and every one of these patients files?
23 A. I don't know if there were neurological diagnosis
24 in each and every one, but there certainly were
25 neurological diagnosis made.

1 Q. Okay. And are you in a position as a medical
2 doctor, an anesthesiologist and a pain management
3 specialist, to contest the neurological diagnosis that Dr.
4 Bauer arrived at?
5 A. There's some overlap in the diagnosis that a
6 neurological -- neurologist might make that are in the same
7 field that I, as a pain management physician or addiction
8 physician or anesthesiologist, would make. And then
9 there's some diagnosis that would be more in the neurology
10 arena that I would have no opinion on.
11 Q. Okay. And for instance, with respect to patient
12 Rodney, there was a diagnosis for a spinal cord injury, was
13 there not, if you recall?
14 A. Again, I want to be precise, perhaps I can call
15 up his chart and answer you precisely on that.
16 Q. Exhibit 916, I believe, government exhibit.
17 A. I'm looking at Rodney's forensic chronology,
18 forensic timeline. And as I review the diagnosis that I
19 gleaned from the chart, I don't see spinal cord injury. I
20 see neuritis, I see meralgia paresthetica, but I don't see
21 spinal cord injury as you've quoted.
22 Q. Was there a referral with respect to Rodney from
23 the Cleveland Clinic for surgery that failed?
24 A. I'm not sure I understand what you're saying.
25 Q. Well, let me take a look at this. Did you note

1 on your work product that there was a failed surgery? Do
2 you see that?
3 A. Again, I'm not -- we don't use the term failed
4 surgery. There is a history here that the Cleveland Clinic
5 put forth and documented that Rodney had previously had a
6 disc operation in 2006, and in 2007 had undergone a back
7 fusion, and this is with regard to the lumbar spine. I
8 wouldn't call those failed surgeries. If you're referring
9 to the fact that the surgeries did not apparently address
10 his pain, that would be correct.
11 Q. Okay. And do you, in your practice, treat
12 Multiple Sclerosis?
13 A. We occasionally see patients who have Multiple
14 Sclerosis, but I'm not a neurologist so I don't treat
15 Multiple Sclerosis.
16 Q. In the course of your practice do you treat
17 epilepsy?
18 A. I do not treat epilepsy, no.
19 Q. And that would be a neurologist who would treat
20 epilepsy?
21 A. Typically, correct.
22 Q. And a -- it would be a neurologist who would
23 treat Multiple Sclerosis?
24 A. Yes.
25 Q. And do you treat -- well, do you treat thalamic

1 strokes?
2 A. Do I treat thalamic strokes?
3 Q. In the course of your practice?
4 A. I have had referrals from neurologists to assist
5 in the treatment of thalamic pain related to thalamic
6 strokes.
7 Q. Do you treat, during the course of your practice,
8 strokes?
9 A. I don't treat strokes per se, no.
10 Q. And all of the other common neurological
11 disorders that a neurologist would treat, do you treat such
12 patients in the course of your practice?
13 A. I don't think it's fair to group it in terms of
14 other common neurologic disorders. There's a great
15 overlap. There are quite of number of disorders that I
16 would treat that a neurologist would also treat.
17 Q. Okay. Now, do you treat neurological disorders
18 that arise out of industrial accidents?
19 A. If I could ask you to be more specific, I don't
20 know what that means.
21 Q. Well, for instance, a person has a mishap at work
22 and has a condition that is required to be treated by a
23 neurologist, do you get involved in the course of your
24 practice with that type of treatment?
25 A. Again, that's -- that's not a specific

1 designation. What I would offer is this, if the patient is
2 suffering from neurologic pain, regardless of whether it
3 came from, let's say a factory accident or motor vehicle
4 accident or what have you, if the patient is suffering from
5 neuropathic pain, which is, by definition, a pain as a
6 result of an injury to the part of the central nervous
7 system, the brain, the spinal cord, the peripheral nerves,
8 if it's a nerve injury, yes, we routinely treat those
9 patients as part of pain management.
10 Q. But you work in conjunction with a neurologist?
11 A. No, generally not. A number of those patients
12 who have various neuropathic pain syndromes, as we refer to
13 them, come from other than neurologists. They may be
14 referred from surgeons, family practice, internal medicine
15 doctors, orthopaedic doctors.
16 Q. Now, do you routinely, in the course of your
17 practice, treat neurologic injuries resulting from
18 amputations?
19 A. Yes.
20 Q. And you treat that in your pain management
21 practice?
22 A. Correct.
23 Q. Okay. Now, you -- you, in the course of your
24 career, at one time pursued a Ph.D., did you not?
25 A. I did, correct.

1 Q. And what was the area that you pursued that
2 Ph.D.?
3 A. I did my study pursuing my Ph.D. in the area of
4 medical biophysics. I was studying and specifically wrote
5 my thesis on membrane transport and the biophysical
6 processes that facilitate membrane transport.
7 Q. But for one reason or another you did not
8 complete that training?
9 A. I completed the training, I did not offer my
10 thesis for review, and I -- and I was offered a position in
11 Seattle for the anesthesia residency, which was my first
12 choice, so, yes, that's correct I did not finish the entire
13 program.
14 Q. And you know that Dr. Bauer is a neurologist,
15 correct?
16 A. Yes.
17 Q. And you know that he, during the course of his
18 career, pursued and obtained a doctoral degree, you know
19 that, don't you?
20 A. He's a medical doctor, yes.
21 Q. Well, not only is he a medical doctor, but he
22 pursued and obtained a doctoral degree in another area, did
23 he not?
24 A. Let's be precise. He obtained a Ph.D. in --
25 in -- which is a research degree.

1 Q. Okay. Do you know what -- what school he
2 obtained that from?
3 A. I reviewed his CV at one point, and I don't
4 recall. I do recall it was in Ohio, but I don't recall
5 which institution.
6 Q. University of Toledo ring a bell?
7 A. It could be.
8 Q. Okay. Now, you know after reviewing Dr. Bauer's
9 resume or curriculum vitae that he has taught seminars at
10 the University of Toledo Medical School, or it may be --
11 have a different name right now, you know that?
12 A. I think I recall seeing that in the CV, yes.
13 Q. Okay. And do you recall the nature of the
14 seminar that he taught?
15 A. I do not recall the name of the seminar. If you
16 would ask me to say it, I don't recall what it is.
17 Q. Was it in pain management?
18 A. Again, there were quite a number of lectures and
19 seminars I recall, but a great deal of them had to do with
20 basic science and experimental work. And some of them had
21 to -- well, most of them had to do with experimental and
22 basic science work.
23 Q. Okay. After reviewing his resume, did it come to
24 your attention that he has conducted that seminar for
25 medical students on a repeat basis for many, many years?

1 A. Counselor, I'm not sure that I'm in a position to
2 comment in detail about his CV. It was not one of the
3 documents I studied in detail.
4 Q. Okay. Would it be -- would you disagree with the
5 statement that he has taught a generation of physicians in
6 Northwest Ohio the subject of pain management?
7 MS. DUSTIN: Objection. Witnesses has indicated
8 he does not know based on his review.
9 THE COURT: You might be able to rephrase the
10 question. Then again, you might not. I don't know.
11 MR. GIBBONS: That's fair.
12 BY MR. GIBBONS:
13 Q. So is it a fact, if you know, that Dr. Bauer has
14 set the standard of care for pain management for
15 generation -- a generation of medical doctors in Northwest
16 Ohio?
17 A. I saw no indication that he set the standard of
18 care.
19 Q. Okay. Now, you have never taught at a medical
20 school, have you?
21 A. I have.
22 Q. Okay. Which medical school?
23 A. Indiana University School of Medicine, University
24 of Washington School of Medicine, Chicago at the University
25 of Chicago, and at Rush Presbyterian Medical School.

1 Q. And was that recently or in the past?
2 A. Well, as the years went on, depending on
3 geographically where I was located, but in the earlier
4 years I -- I was on the associate faculty at the University
5 of Washington in Seattle and did some teaching. I also did
6 some teaching, depending again on where I was, at Indiana
7 University School of Medicine, University of Chicago and
8 Rush Presbyterian.
9 Currently I'm located -- our practice is located
10 in Northwest Indiana, so I still occasionally have the
11 ability and invitation to teach mostly at Rush Presbyterian
12 and the University of Chicago.
13 Q. I understand. Now, do you involve yourself in
14 what are called pharmaceutical clinical trials?
15 A. I do not.
16 Q. And for the benefit of the jury, can you tell us
17 what your understanding is of a pharmaceutical clinical
18 trial?
19 A. If a particular medication or treatment or
20 intervention has gone through certain basic science trials,
21 it's been reviewed by the FDA, there comes a point where
22 that medication or procedure is -- is needed to be trialed
23 on humans. So the clinical trials that I believe counselor
24 is referring to is that stage where the medication or
25 procedure comes out of the basic science realm and then

1 enters into human trials.
2 Q. I see. And did it come to your attention from
3 reviewing Dr. Bauer's CV that he has engaged himself in a
4 number of clinical -- pharmaceutical clinical trials?
5 A. Again, I didn't study it with regard to that, so
6 I could not answer that definitively.
7 Q. Okay. And your understanding is that these
8 pharmaceutical clinical trials review products that are put
9 forward by pharmaceutical companies?
10 A. That would be one example of when a trial would
11 be done with -- on humans, correct.
12 Q. Okay. And they are supervised, so to speak, by
13 the Food and Drug Administration, if you know?
14 A. If you're going to get into the processing of
15 that, I -- I would better say I have no comment on that.
16 Q. Okay. Now, have you ever involved yourself in
17 bringing products to the market with respect to pain
18 relief?
19 A. No.
20 Q. From your review of Dr. Bauer's CV, do you now
21 understand that Dr. Bauer holds several patents for pain
22 relief products?
23 A. I -- excuse me, I'm not aware of that.
24 Q. Okay, that's fine.
25 Now, you work as an anesthesiologist, correct?

1 A. I work primarily as a pain management physician
2 and with oversight of addiction concerns.
3 Q. And you also do injections, do you not?
4 A. I do, yes.
5 Q. Now, you also have a separate corporation where
6 you consult for agencies and any other entities, correct?
7 A. That's correct, yes.
8 Q. And the name of that company again is?
9 A. Midwest Medical Legal Consultants.
10 Q. And that's located in Indiana?
11 A. Correct.
12 Q. And you also have, from what I can gather, your
13 family members are also employed with that company?
14 A. That's correct, yes.
15 Q. And if I recall your testimony correctly, your --
16 your wife, who is a nurse, is employed at the company?
17 A. Correct.
18 Q. And if I recall your testimony correctly, perhaps
19 one or more of your daughters who are nurses are employed
20 at the company?
21 A. Correct.
22 Q. And in the last several years, have you begun to
23 devote more time to that enterprise than your practice?
24 A. The way I would say -- the way I would phrase
25 that is that more time is indeed invested in consulting and

1 teaching these days, less time is invested in my practice.
2 I'm beyond retirement age by a fair amount, so I still
3 continue to mentor and teach our younger physicians, but in
4 terms of actual clinic obligations and seeing patients,
5 those hours have diminished over time and have continued
6 more of my emphasis on mentoring, teaching and consulting.
7 Q. I see.
8 And when -- for how long has this shift in your
9 practice occurred?
10 A. It has been going on incrementally I would say
11 over the last maybe four years.
12 Q. And you seem to have an association, a
13 long-standing association with the Indiana State Attorney
14 General?
15 A. I do, yes.
16 Q. And how long does that association go back?
17 A. I was originally contacted by the deputy director
18 of the Indiana office of the Attorney General in 2012 to
19 assist in serving on the committee for writing the
20 guidelines for the use of opioids and the treatment of
21 chronic pain.
22 I was also asked at that time in 2012, 2013,
23 approximately, to assist an organization which we call
24 MFCU, which is a branch of the Attorney General's office
25 which deals with Medicaid, to assist in reviewing patients

1 who are thought to be receiving excessive medications from
2 various physicians, basically to help assist in pill mill
3 operations. So my association with the department of
4 Attorney General began in the 2012, 2013 timeframe.
5 Q. And are you on a salary with The State Attorney
6 General of Indiana?
7 A. I am not.
8 Q. Do you get paid for your services?
9 A. I get paid for my services on an hourly basis.
10 Q. I see.
11 In the recent past, have you consulted with the
12 Drug Enforcement Administration?
13 A. I have, yes.
14 Q. And do you do that on a regular basis?
15 A. By on a regular basis do you mean does the DEA,
16 Drug Enforcement Administration, consult me from time to
17 time from various locations across the country to assist in
18 evaluating cases, yes.
19 Q. And have you testified in open court, either in
20 federal court or state court on behalf of the Drug
21 Enforcement Administration or another prosecuting --
22 prosecutor's office?
23 A. Yes.
24 Q. And how many times have you testified in state
25 court in the recent past on behalf of prosecutor's offices?

1 A. I don't know the exact answer to that. The -- I
2 would be guessing. I'm not sure.
3 Q. Well, is it over 50, less than 50?
4 A. Well, as I indicated over the last couple days, I
5 have testified formally over the course of time about 50
6 times, and probably about 2/3 of that, or maybe a little
7 bit more of that, had to do with testifying in state and
8 federal courts and administrative courts such as medical
9 boards. In terms of breaking it down further, I have that
10 data, I just, in my mind, can't break it down for you in
11 terms of which part were state, which part were federal.
12 Q. I understand. So you testify on behalf of the
13 DEA at administrative hearings, do you not?
14 A. Yes.
15 Q. And generally those administrative hearings
16 involve providing expert testimony to revoke the DEA
17 certificate of a provider, a doctor, a nurse, that type of
18 thing?
19 A. Correct. Yes.
20 Q. Okay. And you also testify at state medical
21 board hearings where doctors are being disciplined, is that
22 correct?
23 A. That's correct, yes.
24 Q. And you also -- and you also testify exclusively
25 for governmental agencies, is that an accurate statement?

1 A. That would be inaccurate. I -- I offer my
2 expertise and testimony, if appropriate, if requested, to
3 physician groups to specific doctors and to -- and various
4 practices who, as I indicated, invite me in to do an
5 overall audit of their Controlled Substance use. So I
6 don't limit myself. I consider and talk to anyone who
7 contacts me. So it's not exclusive, no.
8 Q. Have you ever testified on behalf of a defendant
9 in a criminal case in either state or federal court?
10 A. No.
11 Q. Have you testified previously that you are
12 anti-doctor?
13 A. No I've made no such testimony.
14 Q. Okay. Now, you are being paid for all of the
15 work that you've done on the Dr. Bauer case, correct?
16 A. I'm being paid for the time that I've put in,
17 that's correct.
18 Q. And the time stretches back to roughly -- or
19 before August of 2019?
20 A. Correct.
21 Q. And you're being paid on an hourly rate, are you
22 not?
23 A. That's correct, yes.
24 Q. And that hourly rate that you are being paid, is
25 that separate and apart from what your staff is being paid?

1 A. There's a differential payment scale, as I
2 previously indicated. My fee is different than theirs,
3 that's correct.
4 Q. I see. And -- well, I believe you testified
5 yesterday that you had been paid roughly $125,000 for your
6 work on the Dr. Bauer case?
7 A. For the entire package of work, that's correct.
8 Q. Now, I believe that is accurate, an accurate
9 figure for payment up to roughly March of this year, is
10 that accurate?
11 A. That would seem to be accurate. Again, I would
12 have to look at the invoices, but that's pretty close, yes.
13 Q. And you have yet to bill the Department of
14 Justice or whoever is paying your bill in this instance for
15 the time expended between March up to the present, in July
16 of 2021?
17 A. That's correct.
18 Q. And do you have a rough estimate of what your
19 total bill is going to be?
20 A. I don't have a rough estimate, no. I can tell
21 you what my fees are on an hourly basis and daily basis,
22 but I don't have an estimate what those are yet.
23 Q. And the fact of my matter, if my memory is
24 correct, your hourly rate is $350 an hour?
25 A. That's correct, yes.

1 Q. And you are charging the government, whether that
2 be DOJ, Department or Justice or whoever is going to pay
3 your bill, $5,000 a day for your testimony --
4 A. Not for my testimony, for my time.
5 Q. For your time in court, and, of course, all of
6 your expenses are being paid by the government from your
7 travel from Northwest Indiana to Toledo, Ohio?
8 A. Well, a portion of them are, yes.
9 Q. Okay. Now, we've heard a lot about -- a lot in
10 the news about opioid litigation, and I'm sure you're
11 familiar with that because you're in the business. Have
12 you acted as a consultant for any entity, whether
13 governmental or nongovernmental, with respect to any of
14 that litigation?
15 A. I have served as a consultant for the law firm
16 who is representing The State of Indiana in the suit
17 against Purdue Pharma and some of the other agencies.
18 Q. Okay. And for how long have you so acted as a
19 consultant?
20 A. In that -- in that venue?
21 Q. That regard.
22 A. In that regard I served a very short time.
23 Mostly I -- I served to inform and lecture the attorneys
24 with regard to some of the more complex aspects, such as
25 what we've talked about here over the last two days. I was

1 never brought into a ligative role. I was not asked to
2 testify, and did not testify. And as that case proceeded
3 through the courts, I was -- I did not pursue it. I was
4 not a part of it. There were other individuals who were
5 brought in to -- to work with the case as it proceeded, so
6 my timeframe was very limited in that.
7 Q. And the law firm had been hired by The State of
8 Indiana, Attorney General?
9 A. I don't understand the mechanics and the
10 financial relationship with The State. I only know that
11 the firm was representing The State of Indiana, so
12 obviously there would have been some financial relationship
13 between the two.
14 Q. Okay. So the origin of that litigation, whatever
15 it was, arose out of The State of Indiana government, is
16 that accurate?
17 A. Well, I -- I -- what I said is accurate. Beyond
18 that, the exact nature of the relationship, I don't know.
19 Q. Okay. Now, you talked about the standard of care
20 in pain management, did you not?
21 A. I did, yes.
22 Q. And this concept of the standard of care, is it
23 written down somewhere, or how does it exist?
24 A. The standard of care, as you've heard me talk
25 over the last couple days, changes over time as new

1 techniques and new understanding of disease processes,
2 specifically pain, come into being, so the standard of care
3 is a compilation of peer-reviewed articles, position
4 papers, white papers, guidelines published by the
5 government, by professional agencies, and in compendium as
6 those various observations, recommendations and scientific
7 knowledge are brought together, that defines the standard
8 of care in terms of how we practice.
9 So it is not something one can go to a book and
10 Google standard of care and find out what it was for 2017,
11 let's say, or whatever date we might choose. It would have
12 to be put forth and compiled by somebody like me who's an
13 expert in the field, who works in the field and keeps up to
14 date with all these publications, recommendations, and --
15 and from that defines the standard of care.
16 Q. And there's discretion and judgment when a person
17 such as you arrives at an opinion about the standard of
18 care?
19 A. It is my opinion in the end based on -- on the
20 evidence, based on publications, based on specific position
21 papers, recommendations, and guidelines. So it's not
22 something that I decide on my own mind what should be done.
23 But it's foundationally and objectively based on literature
24 based and peer-reviewed studies.
25 Q. I understand. But is it true that another doctor

1 who would offer an expert opinion may arrive at a different
2 conclusion based upon a set of facts in determining the --
3 whether the standard of care was met?
4 A. There is often some discretion on some of the
5 minor points, but the major points are well defined.
6 Q. And those major points are physical examination,
7 is that accurate?
8 A. I'm not sure what you're asking.
9 Q. Is part of the standard of care requirement that
10 the doctor conduct a physical examination of the patient?
11 A. That's -- that's one of the standard of cares,
12 yes.
13 Q. And then based upon that physical examination and
14 review of the records, arrive at a diagnosis, is that part
15 of the standard of care?
16 A. That's a small part. There's more to it. I
17 refer to it as an evaluation of the patient, which would
18 include more than just doing a history, but would require
19 past medical records, imaging studies, past tests, past
20 trials of treatment with opioids. So it would include much
21 more than just a physical exam and a history.
22 Q. Okay. And then the next major part of the
23 standard of care would be treatment plan going forward, is
24 that accurate?
25 A. Treatment plan is, as I've indicated, one of the

1 hallmarks of how we define the practice of medicine. And
2 certainly in pain management a treatment plan formulation
3 would have to be explicitly defined, yes.
4 Q. Now -- and you've talked about, at great length,
5 about the need for multi-discipline -- a multi-disciplined
6 approach in the treatment of a patient, did you do that?
7 A. I did, yes.
8 Q. And you talked about involvement of psychiatrists
9 or psychologists as necessary?
10 A. Yes.
11 Q. Okay. And other use of non-opioid treatments,
12 would that be part of the standard of care?
13 A. It would be part of what would be expected in the
14 formulation of a, what I would call a multi-modal or
15 multi-disciplinary treatment plan, yes.
16 Q. And did it ever come to your attention that
17 Advanced Neurological Associates had a drug treatment
18 counselor on site during the time period of the indictment?
19 A. I -- I have no comment on that. I was -- I saw
20 no indication of that in the medical chart.
21 Q. Okay. Did you -- did it come to your attention
22 that Dr. Bauer employed an investigator to screen patients,
23 do backgrounds on patients, things of that nature?
24 A. There was no indication in the medical record on
25 any of the patients I reviewed that that was part of their

1 evaluation.
2 Q. I see. Now, you testified earlier about what is
3 called the fifth vital sign.
4 A. I did, yes.
5 Q. And you described it generally, and I'm not
6 trying to put words in your mouth, as a concept that arose
7 in the 1980s about the recognition of pain, it was a
8 treatment of pain?
9 A. Yes, it was a concept that at least became spoken
10 out loud on the national scene in the late 1980s as an
11 expression of increasing physicians' or providers'
12 awareness of patients' pain needs.
13 Q. Okay. And arising out of that concept was a
14 determination that the patient was required to rate his
15 pain, is that -- is that a good description or bad one?
16 A. It's -- it's -- it's not a bad one, but it's not
17 a complete one either. The -- by default, the fifth vital
18 sign ended up being what we've talked about so much as an
19 expression of the VAS pain score on the scale of one to
20 ten. But the intent and the discussion at the time was to
21 bring forth various tests or evaluation criteria to help
22 understand what the patient's pain really was, the severity
23 of it. Turns out the simplest and quickest way was say
24 what's your pain on a scale of one to ten. Turns out that
25 was a mistake for various reasons, and I'm sure we'll

1 discuss, but the intent was a larger one.
2 The real intent was there, and the term that was
3 used was an instrument, an instrument or a survey, that we
4 could, as physicians, better understand the pain needs of
5 the patient. Just by default it's easier to ask somebody
6 what's your pain on a scale of one to ten, and that turned
7 out to be inaccurate and misleading.
8 Q. During the course of your review of the
9 voluminous files of Dr. Bauer's patients, did you come
10 across a document called a pain assessment sheet?
11 A. From time to time, yes.
12 Q. Okay. And a pain assessment sheet is filled out
13 by the patient, correct?
14 A. Correct.
15 Q. Before every visit, correct?
16 A. It was not clear to me when they were filled out.
17 Q. I see. And the ones that you observed in the
18 file, were they filled out by the patient as opposed to the
19 doctor or a staff person?
20 A. I assume they were filled out by the patient. I
21 couldn't testify as to whether a -- a staff person filled
22 it out, but one would expect that the patient would full it
23 out.
24 Q. I see.
25 And did you, in your review of the medical

1 records, come across a pain assessment sheet for each and
2 every visit that each and every patient had with Dr. Bauer?
3 A. I -- I couldn't answer that definitively. As I
4 say, I recognize they were in there, but if you're asking
5 me was one associated with every visit, I don't recall.
6 Q. Okay. And that is a -- permits the doctor to
7 gain a gauge on the patient's level of pain, does it not?
8 A. The correct way to phrase that is that it opens
9 up an avenue for discussion. The patient is saying this,
10 and that opens up an avenue for the physician then to
11 discuss more fully about what that means from an objective
12 standpoint and whether, as we've so often talked, the
13 pretreatment goals were being met and whether the treatment
14 plan is helpful in terms of meeting those goals.
15 Q. I understand.
16 Now, oftentimes the conversation that goes on
17 between a doctor and a patient does not find its way into
18 the medical records, correct?
19 A. The critical parts are expected to be in the
20 medical records.
21 Q. Okay. Based upon your review of the medical
22 records, is -- are you telling this jury that Dr. Bauer did
23 not converse with his patients about the pain, the
24 diagnosis and the treatment on each and every occasion?
25 A. What I have in terms of judging the quality of

1 care and the type of care presented was what was documented
2 in the record. The record, the medical record, is expected
3 to be a full, complete and thorough representation of all
4 the critical aspects of conversation and decision making
5 that went on between the patient and the doctor. I don't
6 know exactly what the verbiage was or the conversations
7 that went on between Dr. Bauer and the patients because
8 clearly they weren't recorded. But I would reasonably, by
9 standard of care, expect that all the important and
10 critical items would be notated and documented in the
11 medical record.
12 Q. Okay.
13 A. So I hope that answers the question you're
14 asking.
15 Q. Well, I guess the ultimate question is not every
16 conversation finds its way into an individual medical
17 record, does it?
18 A. No, but the important parts should.
19 Q. I see.
20 A. By standard of care it should be there.
21 Q. Okay. I understand.
22 Now, you, getting back to this fifth -- the
23 business about the fifth vital sign, you testified, if I
24 recall, that it was shut down by somebody, the whole
25 concept was shut down, you used that expression?

1 A. Within a year or two after its inception by the
2 joint commission, the accreditation of healthcare
3 agencies -- I hate to bore you with all these things, but
4 historically the JCAHO, or the joint commission as I'll
5 refer to it, formalized, in the early -- I think maybe it
6 even was year 2000, the idea that pain would be regarded as
7 a fifth vital sign, and that it was, and their
8 recommendation was that pain providers use that as part of
9 the evaluation of patients so as to be aware of what the
10 patient's pain state was and address it accordingly.
11 The problem very quickly arose that the -- the
12 shortcut of using a VAS score was then linked to the
13 patient's desire to have opioids, and it led to an
14 increased use of opioids. And that was recognized, and the
15 complications therein were recognized within a year or two.
16 So the joint commission reformulated it and said
17 it would not be linked to a quality of care requirement
18 based on their accreditation of healthcare agencies. It
19 remained that there was still a recommendation to evaluate
20 the patient's pain, so the sense that the VAS score was
21 still important was maintained, but, unfortunately, it
22 continued to be abused over time. And even though the
23 joint commission backed off on its requirement and
24 formulation, it continued as a concept, the fifth vital
25 sign, into the next several years.

1 And it wasn't until 2016 when the American
2 Medical Society said, look, we've -- we have had a great
3 number of overdoses, lengthy hospital stays, more
4 complications and deaths associated with. We've not been
5 able to take apart the relationship between a VAS pain
6 score and the perceived need for more opioids. So at that
7 point in 2016, the American Medical Society said we're
8 going to discredit this, and we're not going to use it
9 anymore. We still use the VAS, but we use other vehicles
10 now too.
11 Q. So the VAS score, what does that stand for?
12 A. The VAS score is Visual Analog Score on the scale
13 of one to ten.
14 Q. I see. Rating of pain?
15 A. Well, yes, we -- we phrase it as rating of pain,
16 and therein is where the problems lie because really what
17 the patient perceives as a rating of suffering. So
18 regardless whether your pain's coming from a psychosocial
19 or mental illness standpoint, you're going to rate your
20 pain as suffering, and that's where the problem arose.
21 Q. And is the use of the VAS score acceptable for
22 physicians in, say, the period of Dr. Bauer's indictment?
23 A. It's a tool.
24 Q. Okay.
25 A. And it remains today a tool. The problem is the

1 tool has been used as a vehicle to prescribe more opioids
2 in the past, again, as linked with the concept pain is the
3 fifth vital sign, that's where the problem arose. Is it a
4 useful tool, it's still a useful tool in the complete
5 evaluation of the patient.
6 Q. Is there a difference of opinion of doctors about
7 the use of VAS scores and the viability of the fifth vital
8 sign?
9 A. These days, no, there's -- there may be
10 individuals who have a certain bias or leftover bias
11 regarding its use, but the standard of care clearly states
12 that the pain is the fifth vital sign is no longer viable.
13 Q. Okay. Now, you've talked a lot about steroid
14 levels in your testimony. And you've talked about a
15 lifetime cumulative dose of steroid levels arising out of
16 injections, did you not?
17 A. I have talked about that, yes.
18 Q. And steroids are a product, are they not, that
19 come in a package to the doctor's office?
20 A. I'm not sure where you're going with that.
21 Q. Do they come with what's called a package insert?
22 A. They do, yes.
23 Q. And the description of the steroid is described
24 in what's known as the Physician's Desk Reference?
25 A. Yes.

1 Q. And do these references and package inserts
2 contain the risks of steroid use?
3 A. To some degree they do, yes.
4 Q. Okay. And when you say to some degree, what do
5 you mean by that?
6 A. When we, at the clinic, receive packaged steroid
7 formulations, they're generally in solution so they come in
8 viles. And the viles are, for obvious reasons, intended
9 for acute use, we're going to inject them into the patient.
10 So the package insert that counselor's referring to, and
11 you all know what those are, that's the long piece of paper
12 that we never read as consumers when we pick up drugs at
13 the drug store. So that's all stuffed into the package as
14 well. But if one reads that package insert that comes to
15 the clinic with these steroid preparations, they generally
16 are describing how it should be used and the various
17 aspects with regard to acute use. They generally do not
18 address the longterm potential side effects of the
19 medication.
20 So in some regard, even if the physician were to
21 read it, he would not be getting the full picture. The
22 full picture, of course, is still something we learn in
23 medical school and understand in our medical reading in the
24 same manner that the package insert for opioids typically
25 had been for concerns regarding short-term use but not for

1 the complications of chronic use, which has led to the
2 opioid epidemic.
3 So the short answer, counselor, yes, there may be
4 information with regard to its acute use, but with regard
5 to cumulative damage, it is typically not presented in the
6 package insert.
7 Q. And that would be -- the same would be true for
8 the Physician's Desk Reference for that particular product?
9 A. The Physician's Desk Reference is typically just
10 a book representation of the package insert, so yes.
11 Q. And the package insert's descriptions are
12 prepared by the pharmaceutical company?
13 A. Correct.
14 Q. And that description is approved by the Food and
15 Drug Administration?
16 A. Correct.
17 Q. And you've testified about the adverse --
18 possible adverse side effects of steroid use, have you not?
19 A. I have.
20 Q. And you've testified that there is a cumulative
21 lifetime dosage of steroids that create danger to a
22 patient?
23 A. The literature suggests that there should be, and
24 is concern about cumulative doses. One suggestion, one
25 guideline, has been what I've testified to. So yes, that's

1 taken out of the literature.
2 Q. Okay. And what is the scientific literature that
3 you base your opinion on?
4 A. Well, that literature I submitted and talked
5 about. They came -- those figures came from peer-reviewed
6 publications in our -- in our professional literature.
7 Q. Okay. And if my recollection is correct, there
8 was some study done in Korea --
9 A. No.
10 Q. -- of steroid use, not true?
11 A. No.
12 Q. Can you tell us what the scientific basis is for
13 your statement that used past the lifetime cumulative dose
14 creates health risks for patients?
15 A. As I recall, one of the references, one of the
16 peer-reviewed references that reference this lifetime
17 guideline, as I referred to it, is by an author, and I'm
18 not going to pronounce his name correctly, but it's
19 Manchecoti (phonetic), something of that sort. And it was
20 in one of our standard American Pain Journals, I don't
21 remember which one, but it should be easily found. And it
22 was published in the early 2000s, somewhere in that
23 timeframe, and that's -- so I will give you that, offer you
24 that one reference that I do recall. I'm not sure what
25 you're talking about in terms of this Korean thing.

1 But in any event, based on Dr. Manchecoti's
2 recommendation, and he has written multiple articles, he is
3 recognized in the field of pain medicine and has written a
4 great deal with regard to the proper use of injections and
5 steroids and opioids. He notates the -- and, again, my
6 word, guideline of the amounts that we've talked about.
7 So with regard to part two, which I interpret
8 from your question, there's a part two, and that is where
9 does the information come from that talks about the
10 long-term concerns that arise from chronic and excessive
11 opioid use. That's general knowledge, and it's in standard
12 medical textbooks. We have known that since my -- my early
13 days of pharm -- pharmalogic training and medical school in
14 the '70s. But steroids have been around for a long time,
15 probably about as long as opioids have been around. So we
16 understand the concerns related to diseases, and this may
17 be familiar to you, Cushings disease or Addisons disease,
18 which are diseases of either too much cortisone or too
19 little cortisone and the problems associated with that and
20 what it does to the body. So when we deal with what we
21 call iatrogenic steroid use, that is to say we, as
22 physicians, are giving the steroids and are iatrogenically
23 causing a Cushings syndrome or Addison syndrome. We
24 understand that's been around for a long, long time, and
25 those side effects can be well identified in standard

1 medical textbooks.
2 Q. Now, you've testified that Dr. Bauer exceeded the
3 standard lifetime cumulative dose for each and every one of
4 these 14 patients, is that accurate?
5 A. I recall that there were one or two patients,
6 perhaps, who were on the low end and/or were seen for short
7 periods of time, so I think it is fair to say, by my
8 recollection, that each of the cumulative dose of stimulant
9 equivalents was above that lifetime dose, some marginally,
10 some by an order of magnitude.
11 Q. Now, do you have any evidence, Dr. King, that any
12 of these 14 patients suffered physical harm as a result of
13 Dr. Bauer's use of steroid injections?
14 A. We have inferred evidence. Inferred --
15 Q. What --
16 A. Inferred evidence on the basis of the fact that
17 as you've heard me testify over the last two days, none of
18 these patients, none of them got better. They all had some
19 sort of mental health issues, which we know are made worse
20 with steroids, particularly excessive steroids. They all
21 had VAS scores that remained the same or got higher, and
22 none of them improved in function. We know that some of
23 these failures to improve, some of these issues with regard
24 to worsening mental health issues could be and probably are
25 related to the excessive steroids. So from a foundation of

1 basic science, we would expect that they -- we would infer
2 that -- that they caused additional harm to the patients.
3 Q. Well, you never got their medical records post
4 August 19th of 2019, so you don't know, or can't tell this
5 jury, that those steroids caused any of these 14 people any
6 physical harm?
7 A. I do have some records after 2019. Some of the
8 records reflect some of the patients who went into
9 addiction treatment with Suboxone, some of them continued
10 to have additional medical and mental health problems that
11 needed to be treated. So again, as I stated, there's very
12 strong medical inference, and the word I would use is poly
13 pharmacy, that the poly pharmacy contributions from
14 excessive steroids were, indeed, participating and causing
15 harm to the patient.
16 Q. But you never interviewed or examined any of the
17 14 patients to determine if they had specific physical harm
18 from the steroid injections that Dr. Bauer gave them?
19 A. I've never interviewed or talked to the patients,
20 that's correct.
21 Q. Okay. Despite never interviewing the patients,
22 and despite not -- or giving a surface look at their
23 medical records, you suggest to this jury that the -- Dr.
24 Bauer's use of steroids was harmful to these patients?
25 A. It was harmful in two ways. I'll be more

1 specific.

2 Number one, the steroids were being applied, and
3 there was clearly no improvement. Therefore, the steroids
4 were being administered in excess without any evidence of
5 improvement. Therefore, they were being administered
6 without medical necessity. So that's a harm to the patient
7 because the patient was not being treated appropriately, an
8 appropriate diagnosis not made, and an appropriate
9 treatment plan formulation, that is to say the steroids
10 were not indicated and were still administered.

11 Second harm to the patients was associated with
12 poly pharmacy. We know -- we know, and have known for a
13 long, long time, multiple decades, that steroids will cause
14 everything from osteoporosis to psychosis, to worsening
15 depression, to worsening anxiety, to immune suppression.
16 The current literature is replete, the last several decades
17 of literature is replete with concerns regarding the effect
18 that steroids have with the result of epidural injection
19 with adrenal suppression leading to all the things I talked
20 about. We know that, the literature's replete with that.
21 That's a harm. That's a harm.

22 Q. Well, you're inferring that, are you not?

23 A. No, I know it's a harm. It's in the -- it's
24 published. The publications go so far as to indicate the
25 adrenal suppression as a result of a single epidural

1 injection can last up to three to four weeks, and that's
2 with a single injection. So if we have the number of
3 injections we've been talking about where there are 12
4 epidurals, 14 epidurals, 24, 48 epidurals on top of the
5 steroids coming from oral administration and injections
6 with trigger points and all these other things, we know for
7 a fact that if there's a three-to-four-week suppression
8 with one epidural, with just the steroid involved in that,
9 that the excessive amounts that we have seen here are bound
10 to cause harm by basic scientific and medical principles,
11 we assume that they're going to cause harm.
12 Q. Doctor, doesn't it make common sense that if a
13 patient receives an injection and it doesn't work, they say
14 no mas to the doctor, no more, it doesn't work?
15 A. Again, I'm not sure I understand. Say that
16 again, please.
17 Q. Well, the Spanish comes from the boxing world,
18 but if a patient gets an injection, and it works, no doubt
19 the patient says, Doc, it worked great, but if it doesn't
20 work, doesn't the patient typically say it doesn't work, I
21 don't want anymore, why are you doing this, or why am I
22 doing it?
23 A. There are two parts to question. The first one
24 is if we're referring to steroids, which I'm going to
25 assume we are --

1 Q. Right.
2 A. Steroids are like opioids for the most part. The
3 first time you get it, it makes you feel good. As a matter
4 of fact, if you look up, after we're done with trial, the
5 God shot, G-O-D, the God shot steroids. Make you feel so
6 good that there have been some people who get injections of
7 steroid referred to as the God shot because it makes you
8 feel good. Kind of like the first time you might get an
9 opioid, if you tend towards addiction or dependency, not
10 all of us feel good if we get an opioid shot. But opioids
11 and steroids will tend to make you feel good the first time
12 around. That doesn't mean that your disease process is
13 better, it just makes you feel better for a short period of
14 time.
15 As a result, it's not up to the patient entirely
16 to say it didn't work or it did work. If the patient is
17 asked do you feel better after your shot, most of the time
18 they're going to say yes because the steroid's going to
19 make you feel good. But the doctor's going to have to say,
20 as a further part of the question, were you able to do
21 something as a result of that, was your pain improved such
22 that you could do something you couldn't do before, were
23 you able to get back to activities that you count do.
24 So in answer to your question, counselor, it has
25 to be a joint discussion. It can't be left to the patient

1 to say, yes, it worked, it didn't work. It's not that
2 simple. The doctor has to drive the train, as it were, on
3 that to make sure that excessive steroids and their side
4 effects do not come into play and steroids, therefore, used
5 excessively over time like what we see happened here.
6 Q. One final question on that issue.
7 You would think that since steroids and
8 injections have been around for a long time that there
9 would be a great body of scientific and medical literature
10 that would examine the possible long-term harmful side
11 effects?
12 A. And there is.
13 Q. Okay. But can you just refer us, by author, to
14 one article?
15 A. Well, my mind isn't that good. I thought I did
16 pretty good remembering that complicated name. But that's
17 a foundational reference, and certainly the literature's
18 replete, as I indicated, with steroid concerns regarding
19 epidural shots as a specific concern.
20 And with regard to the recommendation of whether
21 steroids should be administered with trigger points,
22 generally the feeling is they probably should not. I don't
23 think that has risen to standard of care yet, but there is
24 a great deal of literature talking about that. And there's
25 a great deal of literature in general talking about the

1 steroid side effects regardless of how the steroids are
2 administered, so it is there.
3 Q. I see. You take great issue with the quality of
4 the film that Dr. Bauer was using in connection with the
5 trigger points and the epidurals, correct?
6 A. I'm not sure what you mean by take issue. The
7 films are required, by standard of care, to demonstrate the
8 proper placement of the needle, and to affirm that the
9 procedure described is actually performed. To the extent
10 that the films clearly did not do that, I have a concern
11 and the films, therefore, and the procedures, therefore,
12 fall short of having fulfilled the standard of care.
13 Q. And -- and you and the prosecuting attorney
14 brought into evidence, and I don't remember the exhibit
15 number, what appeared to be a crystal clear image of an
16 injection, do you remember that?
17 A. I do, yes.
18 Q. And it's clear that that image was not taken by
19 Dr. Bauer, it was taken by another ANA physician after Dr.
20 Bauer no longer practiced medicine, is that accurate?
21 A. It was taken by one of Dr. Bauer's colleagues
22 doing the procedure that Dr. Bauer had allegedly done,
23 that's correct.
24 Q. Allegedly. And that image was pretty clear, was
25 it not?

1 A. It was, yes.
2 Q. And you know that Dr. Bauer was an employee,
3 correct?
4 A. I don't know the nature of his relationship with
5 his group.
6 Q. Could it be that they simply bought a new
7 machine, a better machine that imaged better after doctor
8 departed from the practice of medicine?
9 A. I have no idea. I will tell you that during that
10 timeframe when Dr. Bauer was performing these injections,
11 that's a timeframe when our C-Arm fluoroscopy machines were
12 very excellent quality, because that's the time frame I was
13 also practicing interventional pain medicine, and all of
14 our pictures turned out to mimic the clarity of that one
15 that you're referring to that showed things very clear. So
16 whether a new machine was bought or not, certainly that
17 timeframe had available and widely disseminated appropriate
18 C-Arms to provide the documentation that's required.
19 Q. I understand.
20 Now, you also talked at great length yesterday
21 about a dye that assists the doctor in locating where the
22 injection should be made?
23 A. X-ray contrast dye, correct.
24 Q. Contrast dye?
25 A. Yes.

1 Q. And when did the use of contrast dyes come into
2 the business on a routine basis?
3 A. I would say early 2000s. And I can tell you why
4 I come to that figure if you'd like.
5 Q. Go ahead.
6 A. Anesthesiologists have always been primarily the
7 leaders with regard to injections, for obvious reasons,
8 because we're trained to do that from an early part of our
9 anesthesia training. As a result, as we started going into
10 and setting the standards, from an anesthesia standpoint,
11 to pain management injections, there was an agency, an
12 organization which, you're going to laugh when I tell you
13 this, it's called the Spinal and -- International Spinal
14 Injection Society, ISIS. This was before ISIS in the
15 Middle East kicked up. As soon as that became an
16 organization, they changed it to SIS, Spinal Injection
17 Society.
18 The Spinal Injection Society, formerly known as
19 ISIS, was the recognized agency that began to formulate the
20 standards for injection. I was privileged to be on the
21 first -- first printing of the book, the first printing of
22 the standards for spinal injections. That came out, I
23 believe it was 2003, maybe 2004, I don't remember which.
24 But it is guidelines for the use of spinal injections. And
25 it was accepted as the generally recognized standard of

1 care for the use of injections. Contrast dye, the use of
2 fluoroscopy at that point was dictated, put forth as the
3 standard of care, and it had been in use well prior to
4 that. But by the early part of 2000, with these
5 publications and the defining of the standards that it
6 became well known, and should have been well known to all
7 practitioners' interventions regardless whether they're
8 neurologists, orthopedic surgeons, physical medicine
9 doctors or family doctors.
10 Q. I understand.
11 You talked at length yesterday about improvement
12 in function. Does the doctor have to see an improvement in
13 the patient's function, or does he meet the standard of
14 care by simply helping the patient function?
15 A. The American Academy of Neurology, of which my
16 understanding Dr. Bauer is a member and accredited by, in
17 2014 indicated that standard of care involved formulating
18 treatment goals, functional goals. And you've heard me say
19 this before, that were measurable, meaningful and
20 sustained. It's not a question of me talking to you and
21 saying how are you doing and you say, well, I feel better,
22 I've been getting around a little bit better, or I'm still
23 sitting in front of the TV and I'm having pain, but that
24 pain's only seven out of ten instead of eight out of ten.
25 The answer to your question, counselor, is it

1 cannot be done simply by talking to the patient and saying
2 how are you doing, those are my words. It has to be a
3 documentation that previous goals were established, those
4 goals were met, those goals continued to be met, and over
5 the long term that justifies the use of the opioids. And
6 again, that's put forth by the American Academy of
7 Neurology, which is consistent with all the other
8 organizations, including the CDC and the American Society
9 of Anesthesiologist and the American Academy of Pain
10 Medicine. We strongly agree on that particular point.
11 Q. So it's not enough, in your judgment, that the
12 doctor, such as Dr. Bauer, maintains the patient at his --
13 his or her functioning level, you want to see improvement?
14 A. It's not what I say, it's not my opinion. I just
15 very carefully went through what the standard of care is
16 based on multiple organizations, including the American
17 Academy of Neurology, which Dr. Bauer is an accredited
18 member. That's what they say.
19 Q. Okay. Well, many of these patients are not going
20 to be able to, after a Dr. Bauer visit, get out and throw
21 the Javelin or throw the shotput, are they?
22 A. I go back to those three points I said,
23 meaningful, measurable and sustained. I don't think we're
24 going to be asking any of us here to use, as part of our
25 established treatment goals, to go out and throw the

1 Javelin.
2 Q. Okay. Now, was there any evidence in your review
3 of the files that Dr. Bauer charged his patients per
4 prescription?
5 A. I have no idea what his standard of charging
6 patients or billing patients was.
7 Q. Okay. Did -- is there any evidence that you
8 uncovered in the file that Dr. Bauer charged his patients
9 by the dose?
10 A. I have no knowledge.
11 Q. Okay. Is there any evidence that you uncovered
12 in the file review that Dr. Bauer charged his patients by
13 the number of pills prescribed?
14 A. I have no knowledge.
15 Q. And in your review of the files, did you uncover
16 any evidence that his charges were in excess of what would
17 normally be charged for such a visit in Northwest Ohio?
18 A. I have no knowledge of his charges.
19 Q. Now, you testified yesterday about a -- the harm
20 of opioids being prescribed to pregnant mother's, correct?
21 A. Correct.
22 Q. Was there evidence in the files of those patients
23 that fit into that category that Dr. Bauer took that
24 condition into account?
25 A. The only time that I can recall, as we speak now,

1 that the issue of pregnancy was brought up and resulted in
2 a change in medications, was for that one patient whose
3 name I don't recall at the moment, but perhaps it was
4 Bethanee, who indicated that she was pregnant and the
5 medication was switched to a Tylenol and codeine mixture.
6 But as time went on, the care of that patient reverted back
7 to more potent opioids, despite the fact that the patient
8 was still of childbearing age. There was no documentation
9 in the chart with regard to discussion of a Neonatal
10 Abstinence Syndrome, addictiveness of the unborn child in
11 that case or any of the others that I can recall.
12 Q. So we had, correct me if I'm wrong, at least one
13 patient who was expecting and a child was delivered during
14 the course of Dr. Bauer's treatment of that person?
15 A. Well, there -- there is documentation that it
16 occurred that one time. There were other individuals,
17 other females who were of childbearing age, and there was
18 no documentation in the chart with regard to the risk of
19 chronic opioid use and addictiveness of the child.
20 Q. And you've testified about all of the possible
21 harms.
22 Did you seek out any of these people to determine
23 if their child was harmed?
24 A. It would have been inappropriate for me to seek
25 out and talk to these patients about their children.

1 THE COURT: You tell me, how much more do you
2 have? That will determine whether to break now or later.
3 MR. GIBBONS: We can take a break, and I don't
4 have a great deal more after we come back.
5 THE COURT: That's fine.
6 Ladies and gentlemen, let's take our mid-morning
7 break.
8 Please remember all the rules.
9 We're in recess.
10 (A brief recess was taken.)
11 THE COURT: Welcome back. You know the routine
12 by now. You can be seated.
13 Counsel, when ready, you may continue with your
14 cross examination.
15 BY MR. GIBBONS:
16 Q. Dr. King, we're back again.
17 A. Yes, sir.
18 Q. Dr. King, isn't it a fact that Multiple
19 Sclerosis -- Sclerosis patients are typically treated with
20 large amounts of steroids?
21 A. Not being a neurologist and not treating MS
22 patients, I wouldn't give you an accurate answer to that.
23 The -- certainly many of the MS patients who I have seen in
24 the clinic or patients of mine who coincidentally had MS
25 were not on high doses of steroids.

1 Q. However, you don't treat such MS patients?
2 A. That's correct.
3 Q. And at least several of the 14 patients here
4 were -- that are in Dr. Bauer's indictment, are MS
5 patients?
6 A. They carry diagnosis of MS, and as I recall, some
7 of those patients, and I don't know which one or ones, when
8 reevaluated after Dr. Bauer's care stopped, were not shown
9 to have MS. So I -- I offer that observation, but, yes,
10 some of them did have a diagnosis of MS while under the
11 care of Dr. Bauer.
12 Q. Are you saying that they were not MS patients?
13 A. I'm not saying that. I'm just saying what was
14 reflected in the chart was that when an MRI or other tests
15 were done, there were notations in the chart that the
16 patient did not have a diagnosis, or test did not support
17 ongoing MS.
18 Q. Okay. Now, talking about this VAS score. What
19 does that stand for?
20 A. VAS stands for visual analogue scale.
21 Q. And that's the one to ten pain rating score?
22 A. That's correct.
23 Q. And you're familiar with imaging research, are
24 you not, to a certain degree?
25 A. Again, I'm not exactly sure what you're saying in

1 terms of imaging research.
2 Q. Okay. Isn't a fact that upon imaging, the images
3 showing the source of pain coincide with the patient's VAS
4 score?
5 A. No, I don't think that statement makes sense on
6 several levels.
7 The first level being imaging never show a source
8 of pain or never show pain. What images show are anatomy.
9 And then that anatomy has to be correlated with what we
10 call the clinical condition. At the end of virtually every
11 MRI report from a radiologist, you will see the phrase
12 clinical correlation required, meaning you can have a
13 beautiful picture, but that doesn't tell you where the pain
14 is. You have to correlate it with your evaluation of the
15 patient. So that's my first concern relative to what you
16 said.
17 And the second is that there is no correlation
18 whatsoever between the results of an image in a VAS score.
19 They're not even apples and oranges. They're -- they're
20 two totally separate things dealing, in one case, with a
21 picture, and the other with a patient's expression of
22 suffering.
23 Q. You use the expression suffering.
24 A. I do.
25 Q. And Dr. Bauer uses the expression pain?

1 A. Well, in the context of our discussion right now,
2 VAS score is -- is, as I indicated, a question as to -- of
3 the patient in terms of rating their pain. But from a
4 practical standpoint, what that ends up being, and I won't
5 go through the history again, but this is the problem with
6 pain is the fifth vital sign and use of VAS scoring system,
7 the patient always responded with an expression of rating
8 their suffering, all be they ask for that their pain is.
9 Q. Okay. Now, I'm going to finish up with some
10 questions about the patients.
11 And based upon your review of patient Amy, did
12 you not determine that Amy worked outside the home for
13 several years while she was being treated by Dr. Bauer?
14 A. Again, if it's all right with you, I'll call up
15 each one of the forensic chronologies so I can be accurate
16 in my answer to you.
17 With regard to Amy, the chart indicates that she
18 was disabled, and without reviewing the multiple hundreds
19 of entries I have beyond that, I don't see any indication
20 that she was working or what kind of work she was
21 performing.
22 Q. Now, based upon your review of the Amy's chart,
23 isn't it a fact that the record, or the chart, indicates
24 that Dr. Bauer co-managed her care with a Dr. Carlos
25 Rodriguez of the Cleveland Clinic?

1 A. If you could point me out to an indication in the
2 chart where it says that, I would confirm or deny that, but
3 at the moment I don't see any indication that the patient
4 was co-managed with another physician.
5 Q. Okay. But she was being treated at the Cleveland
6 Clinic for narcolepsy and neuro behavior?
7 A. There's no documentation in the chart indicating
8 that that was the case.
9 Q. Okay. Now, based upon your review of the chart,
10 and we're talking about function here, or the ability of
11 the patient to function, isn't it a fact that Connie Lewis
12 was active while being treated by Dr. Bauer working in her
13 animal rescue farm?
14 A. There's no -- again, I'm calling up Connie's
15 chart here so I can give you an accurate response to that.
16 Bear with me for a moment.
17 Based on my evaluation of the chart as it was
18 presented to me, Connie was also disabled, and there was no
19 indication that I recall or see, as I look at the chart
20 here at the moment, that she was working as an -- in an
21 animal rescue farm.
22 Q. But you never spoke to Connie?
23 A. No, I did not speak to Connie.
24 Q. Now, with respect to also patient Connie, isn't
25 it a fact that the records, the patient charts reflect that

1 since 2010, Connie was followed at the Northwest Ohio
2 Psychiatric Hospital where she was transferred after her ER
3 visit?
4 A. Could you -- okay, so if we're looking at the
5 time frame of 2015, I certainly have documentation
6 indicating that she was admitted by way of the ER into the
7 Northern Ohio Psychiatric Hospital. So she certainly
8 received care from that facility during that timeframe. In
9 terms of ongoing timeframe treatment or cooperative care
10 with Dr. Bauer, there's no indication that treatment
11 cooperation was -- was performed. There's no documentation
12 to that effect.
13 Q. Okay. So you -- you're strictly a chart-review
14 doctor, are you not?
15 A. Well, as we previously discussed, the material
16 that I'm presented with is the chart in its entirety as the
17 doctor has it, along with PDMP or OARRS prescribing data,
18 or sometimes additional documents. But the chart is
19 generally understood to be a record, a thorough record that
20 reflects the decision making of the doctor and the
21 treatment of the patient in its entirety. And within that
22 we would expect to have embedded hospital notes, if
23 appropriate, or cooperative treatment discussions with
24 another physician. So in answer to your question, I depend
25 on the chart because it's recognized as being the ultimate

1 document to describe the treatment and logic behind the
2 treatment and additional information as appropriate, such
3 as the OARRS.
4 Q. I understand. Now, with respect to patient Dale,
5 isn't it a fact that the record, the chart review reveals
6 that Dr. Bauer co-managed Dale's care with a Dr. Peter
7 Crosby at the Northwest clinic?
8 A. Is there a time frame?
9 Q. Norwalk clinic, I'm sorry.
10 A. I didn't hear that.
11 Q. Norwalk Clinic.
12 A. Is there a timeframe when that cooperation
13 purportedly occurred?
14 Q. No.
15 A. I don't have any indication in the chart notes
16 that I reviewed the patient was co-managed in any
17 cooperative manner with any other physician or clinic.
18 Q. And it's a fact, as revealed by the medical
19 records, that he's currently confined as a patient in the
20 Admiral Point Nursing Home?
21 A. I don't know.
22 Q. Do you know that?
23 A. I don't know if Admiral Point was the name of it,
24 but certainly in his latter days just prior to going into
25 Hospice, as we discussed for end-of-life care, he was in

1 the nursing home for a period of time.
2 Q. And with respect to patient James L, he
3 functioned by attending A.A. meetings, is that reflected in
4 your review of the chart?
5 A. James L was an alcoholic and had attended AA
6 meetings, but I don't have any list as to the timeframe of
7 the meetings that he attended or the timeframe that --
8 that, particularly during the latter part of his care, that
9 he may or may not have attended AA. I don't have a list of
10 his attendance.
11 Q. Okay. Also with respect to James L, isn't it a
12 fact that the files, patient files, reflect that Dr. Bauer
13 co-managed James with his primary care physician and the
14 Ohio State Surgery Center where he later passed away due to
15 Crohns Disease, are you aware of that fact?
16 A. Again, just give me a moment here while I pull up
17 that chart or my -- my forensic chronology rather.
18 I'm aware that James died, I don't know what the
19 circumstances were related to his death, or the cause of
20 death. I have no information since there was nothing
21 revealed in the chart that was presented to me with regard
22 to the mechanism of death, or the doctors involved, or any
23 indication that there was any treatment cooperation going
24 on with Dr. Bauer.
25 Q. With respect to patient James P, isn't it a fact

1 that your review of his patient file reveals that Dr. Bauer
2 co-managed his care with St. Vincent Psychiatric Unit as
3 well as Fireland's Regional Medical Center?
4 A. There's no indication in the chart that the
5 patient was co-managed with other physicians, psychiatrists
6 or institution.
7 Q. Now, with respect to patient Rodney, isn't it a
8 fact that the patient files reflects that Dr. Bauer
9 co-managed Rodney's care with his primary care physician,
10 Dr. Harwood, and also with his surgeon, Dr. Dale Braun,
11 B-R-A-U-N, Sandusky, Ohio and Cleveland Clinic for his
12 spinal cord injury treatment?
13 A. No, as you and I discussed, there's no indication
14 in the chart that he had a spinal cord injury in the manner
15 that you phrase it. And there's certainly no indication
16 that there was any cooperation on the care given to Rodney.
17 Q. Okay. Now, with respect to patient Nathan, and I
18 would agree that Nathan's unique, but isn't it a fact that
19 the medical file that you reviewed reveals that, at the
20 very least, Nathan held down a job and supported his family
21 during the period of time that he was under Dr. Bauer's --
22 Dr. Bauer's care?
23 A. Nathan indicated, and I do recall it was in one
24 of the notes that I was asked to review yesterday and
25 testify to, that he references his job, but there's no

1 definition as to what the job is, and there's no indication
2 or -- or further description in the chart as to whether he
3 legitimately was maintaining a job and what that job may
4 have been. Indeed the only reference in the chart is
5 documentation that he is, quote, unemployed, a former
6 roofer and construction, end of quote. But there's no
7 indication that -- that -- that that was truthful or
8 defined any further.
9 Q. Do you recall the letter that he wrote to Dr.
10 Bauer that found its way into the chart where he thanked
11 Dr. Bauer for, at the very least, keeping him working --
12 A. Yes.
13 Q. -- to support his family?
14 A. Yes, that was part of the letter that I thought
15 was an obvious cry for help that we talked about yesterday.
16 There were issues there that were truthful and issues there
17 that likely were untruthful. There certainly were no
18 details of any objective nature with regard to his
19 employment, what it was, or how long, or how much he was
20 working. But yes, I remember that, it was a definite cry
21 for help to assist him to get out of his stressful
22 circumstance of addiction and dependency.
23 Q. Okay. You wouldn't quibble with the fact that if
24 you're working at a job, you're functioning?
25 A. Well, it would depend on what the job is and

1 whether somebody is functioning adequately or not. We
2 certainly had one indication where the individual was
3 likely over sedated and was falling asleep and lost her
4 job. So I -- I'm not sure what you're asking. Just to
5 simply say have a job doesn't mean you're functioning.
6 What that job is, are you working full time, are you
7 working part time, are you working only for a week, it
8 really doesn't say much, or mean much, it's not meaningful
9 to say you have a job and leave it at that.
10 Q. Okay. That's fine.
11 Isn't it a fact, sir, that the medical records
12 for patient Nathan reflect that Dr. Bauer co-managed
13 Nathan's care with his primary care physician, Dr. Amy
14 Brown and his psychiatric treatment at Norwalk Hospital
15 Psych Department?
16 A. The chart does not reveal that the patient was
17 co-managed with psychiatric needs or with regard to family
18 practice care.
19 Q. With respect to patient Bethanee, isn't it a
20 fact, sir, that the file reflects, medical file reflects
21 that Dr. Bauer co-managed Bethanee's care with her primary
22 care physician at the Norwalk Clinic and her OB/GYN,
23 Dr. James Kazden, K-A-Z-D-E-N, and with her back surgery at
24 the Cleveland Clinic with Dr. Moore?
25 A. No, there's no indication in the chart, the chart

1 does not reveal that any of Bethanee's multiple concerns
2 were co-managed between Dr. Bauer and other potential
3 providers of care.
4 Q. Now, with respect to patient Melody, do you
5 dispute that the file reflects that she suffered a
6 traumatic brain injury?
7 A. I'm pulling up that record, so, again, just a
8 moment.
9 It indicates that she had -- the chart reveals
10 she had a traumatic brain injury; however, there's no past
11 medical information from any of her previous providers that
12 define that injury, the nature of the injury, or the
13 severity of it. There was no indication that -- that the
14 chart showed me -- that showed the history of the brain
15 injury. She had that diagnosis appended by Dr. Bauer, but,
16 again, no background, no past medical records to define it
17 any further.
18 Q. And isn't it a fact, sir, that her medical file
19 reflects the fact that she was able to work and drive for
20 at least part of the period of time where she was being
21 treated by Dr. Bauer?
22 A. I don't have or recall that documentation. The
23 documentation I do have is that she was unemployed.
24 Q. And isn't it a fact that the file reflects that
25 the patient medically was being co-managed with Dr. Bauer

1 with a psychiatrist by the name of Greg Bishop?
2 A. The chart does not reveal any medical notes or
3 any indication of co-management of her psychiatric issues
4 with anyone.
5 Q. With respect to patient McKinley, is there any
6 indication in the file that Dr. Bauer coordinated with his
7 primary care physician and his dialysis service?
8 A. No, sir. There's no indication that there was
9 cooperation of discussion and delivery of care in the case
10 of McKinley.
11 Q. With respect to patient Shannon, isn't it a fact
12 that the medical file reveals that Dr. Bauer co-managed her
13 care with her primary care physician and with her
14 psychiatrist, Dr. Greg Bishop, and the Orthopedic Surgery
15 Department at the Cleveland Clinic?
16 A. Just a moment as I pull her chart up.
17 Shannon was disabled and unemployed, and there is
18 no indication in the chart -- the chart does not reveal
19 that any part of her medical care was being co-managed
20 by -- with Dr. Bauer and any other provider.
21 Q. With respect to patient Brandon, isn't it a fact
22 that the patient file reveals that Dr. Bauer, working with
23 his primary care physician, got Brandon into physical
24 therapy?
25 A. The chart reveals that Brandon was referred to

1 physical therapy, but there is no indication that the
2 physical therapy was followed up with or that there was any
3 care coordination between Dr. Bauer and any other provider.
4 Q. Isn't it a fact, sir, that with respect to
5 patient Brandon, that Dr. Bauer and his office provided the
6 opportunity, or got Brandon into rehab at the Zepf, Z-E-P-F
7 Center in Toledo, Ohio?
8 A. I have no information in that regard.
9 Q. Sir, with respect to patient Jamie, and this is
10 the last one, isn't it a fact that Jamie was able to
11 function while being cared for by Dr. Bauer as a
12 cosmetologist?
13 A. I recall there was a reference to cosmetology,
14 but there's no indication, description or objective
15 foundation to suggest that Jamie's function was either
16 improved or maintained in cosmetology or any other area as
17 a result of her treatment. The chart demonstrates that she
18 had been unemployed and had not worked since 8-4-15, and
19 that she was, in fact, applying for disability.
20 Q. Okay. Now, you use the expression yesterday
21 about -- are you calling all of these patients addicts,
22 drug addicts?
23 A. I think sometimes that can be a pejorative term,
24 and the answer is no, I'm not. I'm not labeling them at
25 all. What I'm doing is identifying a clinical condition

1 that is yet to be diagnosed but is highly -- excuse me,
2 highly suggestive of their dependency and possible
3 addiction, probable addiction in some cases. I could
4 expand on that further, but certainly the evidence, the
5 abhorrent behaviors, the inconsistent urine drug screens,
6 and the failure to show any evidence of improvement,
7 despite multiple requests for early refill medications,
8 suggests that dependency is a primary concern.
9 Q. Can dependency coexist with pain and the need for
10 pain management?
11 A. Dependency -- I'm going to parse that question
12 into two answers there. I use the word dependency because
13 we often hear about that and we talk about it, but it's an
14 imprecise term. The precise substance use disorder, SUD,
15 Substance Use Disorder, is the trajectory that ends at
16 addiction. The addiction is the worst possible Substance
17 Use Disorder. But it is -- review of the care of these
18 patients and their medical history suggests that they are
19 on the spectrum of substance use disorder. Some of them
20 are obviously to the -- to the end where they have severe
21 Substance Use Disorder, which we would refer to as a state
22 of addiction. So I would respond to it with that
23 description, and if I didn't answer it completely, ask me
24 to --
25 Q. Well, can pain and the pain caused by

1 neurological conditions also exist in a patient along with
2 tendencies to become addictive?
3 A. If a pain is incompletely treated, there has been
4 a suggestion that the patient may exhibit behaviors such as
5 requesting additional medication, and, perhaps, exhibiting
6 early refills, but that has never been demonstrated.
7 That's referred to as a state -- in the literature a state
8 of pseudo addiction or fake addiction, if that's what
9 you're referencing. That has never been proven. That has
10 never been demonstrated clinically, and the concept has
11 become one that is not applicable to the care of patients,
12 so the bottom line answer to your question is patients may
13 develop behaviors if they're not adequately treated,
14 assuming that opioids are being appropriately used to begin
15 with. But in this case none of these patients exhibited
16 any improvement whatsoever. So they were not suffering
17 from neurologic pain that required additional opioids.
18 They were suffering from Substance Use Disorder.
19 Q. Okay.
20 MR. GIBBONS: Can I have a moment, Judge?
21 (Defense conferring off the record.)
22 MR. GIBBONS: Thank you, Doctor.
23 A. Yes, sir.
24 THE COURT: Redirect?
25 MS. DUSTIN: Thank you.

1 REDIRECT EXAMINATION
2 BY MS. DUSTIN:
3 Q. Good morning.
4 A. Good morning again.
5 Q. You asked -- you were asked a number of questions
6 about co-treatments by Dr. Bauer and other doctors. Just,
7 in general, if a patient is being treated by another
8 doctor, does another treating doctor have an obligation to
9 consider the other doctor's treatment when fashioning his
10 own?
11 A. Yes. If there is cooperation, it has to be
12 mutual. And there is mutual responsibility on both parts
13 such that the patient is maintained and optimally treated
14 and safe.
15 Q. So if -- let's say a doctor who is managing
16 long-term pain with the use of opioids is aware and working
17 with another doctor who is treating, let's say, mental
18 health issues, would the pain management doctor have an
19 obligation to discuss and explore medication interactions
20 and any poly pharmacy risks?
21 A. You've articulated that absolutely correctly.
22 There is an obligation on the part of the pain management
23 doctor to review the care, particularly the potential poly
24 pharmacy care, with the psychiatric provider who may be
25 providing a dangerous poly pharmacy that would combine

1 badly with the pain medication regimen. And -- and we
2 would expect that to be in conversation. We would expect
3 that to be documented in the medical record by standard of
4 care. We would expect that to be documented in the medical
5 record because these are serious issues. These are
6 life-threatening issues that deal not only with concerns
7 about overdose and death, but addiction. So yes, you've
8 articulated it correctly.
9 Q. In fact, if all of these other doctors cited by
10 attorney Gibbons were, in fact, treating these patients and
11 Dr. Bauer was coordinating with them, is it troubling that
12 their treatment, the other doctor's treatment, is not
13 mentioned in the charts?
14 A. You use the word troubling. The phrase that I
15 would use is it's outside the standard of care. It's not
16 the proper function in medicine. It's outside the proper
17 practice of medicine. I would add to that one example that
18 I recall from our discussions yesterday where, I believe it
19 was Dale, and the concerns we had with regard to Dale's
20 medication and the diversion that was going on with the
21 grandson and granddaughter, Nathan and Bethanee.
22 And one of the conversational notes documented in
23 Dr. Bauer's note in the chart for Dale indicated Dr. Bauer
24 is not aware that the patient was even in the nursing home.
25 There's a lack of context there. I saw no indication --

1 Mr. Gibbons asked me if there was any cooperation of care,
2 and he listed a number of doctors. There was no
3 documentation that Dr. Bauer was participating in a
4 cooperative way to treat the patient in a safe and
5 effective manner. That documentation just was not in the
6 chart, and yet there were examples where Dr. Bauer is
7 completely unaware of such things as the patient even being
8 in the nursing home.
9 Q. So even if, let's say Dr. Bauer -- aside from the
10 nursing home because I know that's a little separate issue
11 when it comes to different tools, I'm going to get to in a
12 second. But if Dr. Bauer, even if he's not verbally
13 managing a patient with another doctor, does he have tools
14 available to help determine what other medications may have
15 been provided by another doctor?
16 A. Yes, the OARRS report. That's why we have the
17 OARRS report, that's why it's required, and it's very easy
18 to access. That tells the story of other medications from
19 all other doctors, from a Controlled Substance standpoint.
20 Q. And is it uncommon for a patient who is on
21 opioids to seek treatment from more than one doctor?
22 A. It's uncommon, and it certainly is a major red
23 flag. And we refer to prescribing by additional doctors as
24 pharm -- excuse me, as doctor shopping. And that's one of
25 the recognized major red flags that Substance Use Disorder

1 on the way to addiction is occurring.
2 Q. You've talked a lot about the chart that you've
3 reviewed. And just give us an idea, of how many pages did
4 you review of these 14 patients?
5 A. I -- I smile because there were a lot of pages.
6 As a matter of fact, having done this for over a decade,
7 there were more patients presented for this case covering
8 these patients than any I have done before. So direct
9 answer to your question, well, I added them up there
10 were -- there were 27 -- I think it was 27,000 pages. Each
11 patient chart seemed to be on the order of between 1,000
12 and 1,500 pages, which is a really long book when you think
13 about it. There were a lot of pages.
14 Q. And just in general, in many doctors practices,
15 doctors see a lot of patients, correct?
16 A. Yes, correct.
17 Q. So is the chart also important to the treating
18 physician?
19 A. Yes. Otherwise how would I know what I said or
20 what discussion occurred or what I had in my mind about the
21 treatment plan for a given patient when they return in
22 three months or two months later. I would have seen
23 hundreds of patients between then and now and would not
24 have remembered the details of your care had I not
25 documented it appropriately.

1 Q. Did the notes from a patient in one visit
2 indicating my pain's worse, is that important the next time
3 you see the patient?
4 A. It certainly is. And I would use the word
5 critical in terms of pain management because the whole idea
6 in pain management, at least with regard to what we're
7 talking to, in the context of should opioids be used or
8 not, or injections, should they be used or not, because if
9 the pain's continuing to get worse, I need to know that
10 from an objective standpoint in order to decide whether the
11 opioid treatment regimen should continue or not.
12 Q. You stopped in answering a question for
13 Mr. Gibbons. You said it would be inappropriate to reach
14 out to referring physicians, can you tell us why that would
15 be inappropriate?
16 A. And again, the context of that, as I interpreted
17 it, was he was asking me after I was given the material by
18 the government to review, whether I reached out to talk to
19 any of the consulting doctors or any of the patients
20 involved in the cases we've been describing these days.
21 That would be inappropriate because I'm being brought in as
22 a consultant to review the records. We expect, by standard
23 of care, that the medical record will have all the
24 important and pertinent information that goes into the
25 decision making of the doctor. So that information should

1 be, by general understanding, and by standard of care in
2 the medical record, it would be outside the standard of
3 care for me, as an out-of-state consulting -- consultant to
4 go talk to the doctors that provided care to these
5 patients, or to the patient's relatives or to the patients
6 themselves. That's common sense. That just would not
7 happen and does not happen.
8 Q. Talking about standard of care, how does a doctor
9 stay current on the standard of care?
10 A. Well, we're coming full circle. I think we asked
11 that, or discussed that, early in our last couple days.
12 But once a standard stays up to date in the standard of
13 care as a physician, or any healthcare provider for that
14 matter, by attending meetings, reading journals, continuing
15 medical education credits that are required for state
16 licensure. By discussing with colleagues, there are many
17 areas of meetings. You don't have to go off to, let's say,
18 Las Vegas for a one-week meeting in pain. Certainly there
19 are a lot of meetings that can be attended virtually,
20 particularly these days now that we have the technology.
21 But over the last couple years there are local meetings in
22 our town. We have city pain organizations, state pain
23 organizations, national pain organizations, just to pick on
24 pain for a moment, where meetings are held. They're easy
25 to get to. So meetings, journals, conversations, CMS would

1 be four very obvious ways to keep up with the standard of
2 care.
3 Q. Is referring to a doctor who's board certified
4 in, let's say, a specialty field, is that doctor required
5 to stay up to date?
6 A. The ethics would require that you say up to date.
7 Again, I will use the example that, I believe the date, to
8 the best of my recollection, was 1996. Board
9 certification -- it was granted -- I might be off on that,
10 so give me a little leeway. But sometime around the late
11 1990s, any board certification, whether it's family
12 practice, neurology, anesthesiology, pain medicine, any
13 board certification that was granted by the American Board
14 of Medical Specialties, they're the one that -- ones that
15 define the -- what specialties there are, those board
16 certifications were time limited so that you had to renew
17 your board certification every seven to ten years, which
18 really means you had to go through a whole lot of stuff to
19 demonstrate that you were attending CMS and meetings and
20 doing things properly to keep up with current standards.
21 So the answer is, counselor, if you're saying if
22 you're board certified does that mean that you're required
23 to keep up, you are if you're in -- if you've got your
24 board certification after the late 1990s, and you're
25 required to keep up on the order of renew your board

1 certification every seven to nine years.
2 And there's a part two, I don't know if you want
3 me to talk to you, and that is why do they do that.
4 Q. And does standard of care require that you follow
5 the requirements of the state board that gave you your
6 license?
7 A. Yes, that's part of the standard of care. You
8 follow the requirements of your licensing board in your
9 state, correct.
10 Q. Now, you talked about some of the neurological
11 conditions that you helped to manage with pain. Do you
12 treat stroke syndromes that are resulting in pain?
13 A. Yes.
14 Q. And are you familiar with thalamic stroke?
15 A. I am.
16 Q. And what is that?
17 A. We're all familiar with strokes, and, again, I'm
18 going to put this very simply, but that's where there's
19 lack of circulation to a certain area of the brain, and
20 that brain dies, and as a result, various things happen.
21 Either the patient becomes paralyzed in a certain manner or
22 inability -- has inability to speak or inability to
23 understand, or in some cases a chronic -- in the case of
24 thalamic pain, if the infarction occurs in the thalamus
25 area, which is one of the pathways where pain fibers come

1 and go. By the way, that's why sometimes a stroke in that
2 area, I'm putting this very simply, and that's why a stroke
3 in that area can result in a neuropathic or nerve related
4 pain type syndrome. But a thalamic stroke is a stroke that
5 you can think of that occurs in the thalamic area of the
6 brain creating the pain syndrome, not in all cases, but in
7 some cases it does, and it's difficult to treat.
8 Q. Have you treated pain emanating from a thalamic
9 stroke?
10 A. Yes.
11 Q. And how do you treat -- how have you treated
12 that?
13 A. Neuropathic pain is, by definition, very
14 difficult to treat. Nerve pain is very difficult to treat
15 effectively. Typically opioids do not play a large part of
16 that. Certainly high MEQ chronic opioids do not play a
17 part in that. Typically we use non-opioid medications such
18 as Lyrica, Neurontin, perhaps Trileptal. We might try some
19 of the various anti-depressants, particularly what we call
20 the Serotonin or Norepinephrine, SNRI class of
21 antidepressant medications. That would be a medication
22 like Cymbalta, you may have heard of that one before. We
23 also might try other classes of medications which we call
24 the Tricyclic antidepressants, the TCAs, and that would
25 include things like Elavil or Amitriptyline or

1 Nortriptyline. And we would emphasize those medications,
2 which historically have shown to not cure, because we don't
3 have a way to really cure this type of pain, but they seem
4 to be the most effective pharmalogic agents.
5 Opioids, for the reasons we talked about the last
6 couple of days, are not only first choice options, they are
7 options which are ineffective and not chosen for the
8 long-term treatment of thalamic pain.
9 Q. Have you treated patients suffering pain from MS?
10 A. Yes.
11 Q. And what type of treatments have you prescribed
12 for those patients?
13 A. MS is another example of a neuropathic pain,
14 which, again, we can't expect to do away with. It turns
15 out that the -- not entirely, but to a large extent, a lot
16 of the pain associated MS is related to exacerbation of the
17 disease itself. So in cases where we're dealing with the
18 pain management arena with MS pain, we work very closely
19 with our neurology colleagues, such that if there's an
20 exacerbation of pain we are in communication with the
21 neurologist to see if maybe it's coinciding with worsening
22 of the disease. And they may order a course of steroids or
23 other type medications from their area of the specialty
24 spectrum. And then we might, from our pain end, use
25 various medications to bridge the gap or to assist for an

1 exacerbation of pain. We don't use, in the same manner
2 that we don't use it for thalamic pain syndrome long-term,
3 we don't use long-term opioids for MS patients. It's
4 ineffective and, again, leads to a host of problems. That
5 would be a challenge to MS patients as they're typically
6 fairly young. And one of the worst things we can do to
7 them is get them addicted or dependent at a young age, so
8 we tend to avoid the use of opioids in MS pain treatment.
9 Q. During your examination by Mr. Gibbons, you
10 referred to patient Connie.
11 A. Yes.
12 Q. And in patient Connie's chart, did it indicate
13 whether or not Dr. Bauer recorded a diagnosis for MS for
14 Connie?
15 A. Yes.
16 Q. And did you -- you indicated that you reviewed
17 records following Dr. Bauer's treatment of Connie?
18 A. I did, yes.
19 Q. Can we bring up Exhibit 402, Page 1426.
20 And do you recognize that chart page?
21 A. This is a chart, an office note from Dr. Bauer's,
22 I guess it would be former associates, former practice, on
23 Connie, and I'm not sure who the author is, but it's dated
24 3-17-2020. But yes, the author of the -- is
25 Dr. Christopher Hassett.

1 Q. And what does that chart page indicate regarding
2 Connie's diagnosis?
3 A. The second paragraph under history of present
4 illness, it indicates, quote, Connie was seeing Dr. William
5 Bauer for MS. Patient was diagnosed with MS in 2000. She
6 was taking Gilenya, it's a medication, she states that she
7 was taking this since 2010. She states that she has been
8 tried on a lot of holistic rituals for her MS, and some
9 have helped. She states that she has tried Ampyra as well,
10 and -- and is -- and it has helped. I'm reading this
11 sideways so it's a little difficult. Thank you.
12 It goes on to indicate that she stopped the
13 medication, she -- she states that she has increased
14 fatiguing, trouble sleeping, vision changes, numbness,
15 tingling in the legs, arm, face. She has bowel and bladder
16 incontinence, has terrible muscle --
17 Q. I don't want to interrupt you, but I want to
18 direct your attention -- does this document indicate
19 whether or not there was any evidence of MS in patient
20 Connie?
21 A. So in regard to that, an MRI of the brain in 2019
22 indicates that it was possibly compatible demyelinating
23 changes, meaning MS, amongst other possibilities. And then
24 it goes on to review an MRI of the cervical spine done
25 again in 2019 that demonstrates, quote, no evidence of

1 Multiple Sclerosis.
2 Q. Thank you. We're going to talk a little bit more
3 about Connie, but I just wanted to ask you, is a patient
4 who is on dialysis, and is that indicative, that condition,
5 of also being treated with opioids for the management of
6 long-term pain?
7 A. Okay. You raised a very concerning point I was
8 going to bring up yesterday, I'll bring it up now.
9 The patient that was on dialysis, and I believe
10 it was Dale, I don't remember which patient it was.
11 Q. Patient McKinley?
12 A. McKinley. McKinley had end-stage renal disease,
13 which means the kidney was not working at all, to the point
14 where he had to be put on dialysis. There are concerns, as
15 you heard me say with regard to problems related to kidney
16 function, because if your kidney isn't working, how are you
17 going to clear the medicine out of the body. There are two
18 particular medications that we have great concern about
19 from a chronic pain standpoint in somebody who's got renal
20 dysfunction, let alone if they're on dialysis.
21 The first is the use of Morphine, and the patient
22 was on morphine. And the reason Morphine an's issue is
23 because when Morphine's broken down by the kidney -- excuse
24 me, broken down by the liver, one of the breakdown products
25 that depends primarily on excretion by the kidney which is

1 now shut down, hangs around and makes the effects of the
2 Morphine vastly more -- vastly more of a concern with
3 regard to respiratory depression, over sedation and death,
4 particularly in an individual of age, which McKinley was.
5 So the Morphine was -- was not a good choice for somebody
6 in end stage renal disease and dialysis because of the
7 inability to excrete the Morphine metabolic products that
8 would be expected to hang around.
9 The second medication that was of concern was
10 Gabapentin or Neurontin. It's well known that Gabapentin,
11 being primarily excreted by the kidneys, really requires
12 appropriate kidney function. And it is known in pain
13 management, by pain management practitioners and those of
14 us who are board certified in pain management, and I can
15 tell you this specifically because this was on my last
16 board exam when I recertified for the third time for pain
17 management, and the question was, if a patient has renal
18 disease, is Gabapentin appropriate for pain management.
19 And the answer was it has to have a dosage that's changed
20 that is way lowered to reflect the kidney function,
21 because, again, is a medication cleared by the kidneys, and
22 if the kidneys aren't functioning at all and the patient's
23 on dialysis, it's not a good choice. So in this particular
24 instance, the Morphine and Gabapentin raised extreme red
25 flags when I read that.

1 Q. Let's talk a little bit about injections. Do you
2 know whether the Medicare, Medicaid guidelines require any
3 reduction in pain in order to continue with a course of
4 epidural injections?
5 A. That's exactly what they require by standard of
6 care.
7 Q. Do you know the percentage or what amount?
8 A. The -- in general, okay, so I'm going to rephrase
9 the question for the jury's benefit. The question becomes,
10 since Medicare foots the bill for any injection, they put
11 forth the requirements and help define the standard of care
12 for -- and medical necessity for use of injections. So
13 what they put forth, and it's consistent with other
14 professional organizations, so they're -- they're
15 consistent with that, they indicate that, it varies a
16 little bit, but they, in general, say at least 50 percent
17 improvement as a result of an epidural needs to be
18 demonstrated for at least a couple weeks. And then if that
19 criteria is met, then the provider may reasonably consider
20 giving -- giving a second epidural to build on that. But
21 again, each one that's given is predicated on the fact that
22 further improvement is gotten. So Medicare looks at the 50
23 percent, two-week timeframe for the first, and then
24 continued improvement thereafter to justify more epidurals.
25 Q. Did you see any evidence in the chart where

1 patients indicated the injections were not helping?
2 A. There were multiple indications, as you and I
3 laboriously went through all those lists yesterday,
4 indicating that the epidurals were not working and were not
5 offering sustained improvement.
6 Q. And were they administered regardless?
7 A. They were administered regardless, and that's why
8 we came to the conclusion -- I came to the conclusion that
9 they were administered without medical necessity.
10 Q. Let's talk about the machine Mr. Gibbons was
11 asking you about in terms of the age.
12 What's the name of the machine that helps aide a
13 physician in determining needle placement?
14 A. It's an x-ray machine, and we refer to it as a
15 fluoroscopy machine or a C-Arm. The C-Arm, you may or may
16 not be familiar with, but the machine's on a big swivel.
17 It's like a big C so I can look at it to look at one view
18 and rotate for another view or any place. So I refer to it
19 as the C-Arm or fluoroscopy machine.
20 Q. Regardless of the age of the C-Arm, could it be
21 used to take multiple images?
22 A. Oh, yes, it routinely is. They're electronically
23 hooked to a -- to either a disc or -- or sometimes
24 integrated into the medical records so that the images are
25 placed immediately into the medical record just with the

1 push of a button. It's very easy to do, and that would be
2 usually -- usual and customary in terms of the way the
3 machine operates.
4 Q. How often in the patient charts when images of
5 the injections were included did you see multiple images
6 with respect to Dr. Bauer's injections?
7 A. If there were images, and there were a lot of
8 procedures that were not accompanied by images, there was
9 only a single image. There was never a case in the
10 procedures allegedly done by Dr. Bauer that showed more
11 than one image.
12 Q. And regardless of the age of the C-Arm or x-ray
13 machine, would you expect that it would at least show where
14 the needle was placed into the spine?
15 A. Yes, that's the whole point. If there isn't a
16 needle, why take a picture. The whole reason for taking a
17 picture is to document, based on requirements of standard
18 of care, the injection was done. The needle is placed in
19 the right spot, the medication went to the right location,
20 and the procedure was done in the way it was described or
21 dictated.
22 Q. And was contrast dye being utilized in the -- in
23 the course of giving injections as far back as 2010?
24 A. It was a standard of care requirement. As you
25 heard me discuss with Mr. Gibbons, as early as 2003, and it

1 actually was generally used before then, but, from an
2 objective standpoint, it certainly became standard of care
3 in the early 2000 and 2003 timeframe.
4 Q. And would a physician practicing pain management
5 be -- be -- should be aware of the standard of care in
6 terms of the use of contrast dye?
7 A. Absolutely.
8 Q. Now, Mr. Gibbons asked you a question about a
9 patient, if a patient, you know, was getting injections and
10 if they weren't working, wouldn't the patient say no more.
11 If a patient is receiving opioids because they -- and they
12 have become addicted to the opioids, would there be a
13 concern that a patient may go along with the injections?
14 A. Yes, for two reasons. One is the patient may be
15 concerned about offending the doctor and saying, well, I
16 don't want my injection and maybe he won't give me my
17 opioids. So yes, I used to think when I was much younger
18 and way more naive, that patients wouldn't come to get
19 injections from me unless they really needed them. But it
20 turns out patients will do anything, including having
21 multiple injections, if they're thinking that they're --
22 their opioids might be at risk. So part one is yes, they
23 would be afraid of offending their doctor.
24 But part two is, as you and I discussed
25 yesterday, part of the dependency or Substance Use Disorder

1 or frank addiction, is that the patients have a compulsive
2 desire to get their opioids, regardless of the
3 consequences, and, thus, they will do and say whatever is
4 required to -- to get them. So yes, they'll say anything
5 if they're along that trajectory of addiction to get or
6 maintain their opioids.
7 Q. And we did talk yesterday, and you answered some
8 questions this morning about the pain scale and the VAS
9 pain score. Is a patient properly diagnosed and
10 medication -- pain medication properly dispensed just based
11 on a patient's own answers to that pain questionnaire?
12 A. No, they're not. They're not. And again, to
13 reaffirm what I said, we'll ask the patient what their pain
14 is, and we may look at a questionnaire, but those are
15 simply foundations to initiate discussion between the
16 patient and the doctor. And -- and it just allows an
17 initiation of how's your pain doing, in an objective
18 fashion, to see if their pain has improved or any
19 meaningful improvement in the VAS score. It's not the end
20 all. It's an awareness mechanism is the best way to put
21 it. The fifth vital sign, it's an awareness tool. So the
22 same holds true with the forms that you were just
23 referencing. It's a way to initiate discussion and for the
24 physician to be aware of the patient's pain situation.
25 Q. Mr. Gibbons asked you about psychosomatic pain,

1 and you said it's real pain?
2 A. Yes, it's real pain. Again, that's a slightly
3 nonscientific term, but if you're asking me -- if I'm
4 saying a pain that a patient has is emotional, and, quote,
5 in their head, do I interpret that as less than real pain?
6 No, it's a real pain. The patient thinks there's pain, I
7 take it as pain, and we address it accordingly. But in no
8 way do we diminish the patient's statement that there's
9 pain, even if I ultimately determine that it's a
10 manifestation of emotional suffering, it's still real.
11 Q. Is it the pain management doctor's responsibility
12 to differentiate between psychosomatic pain and pain that's
13 caused by a physical condition?
14 A. Yes, it absolutely is. That's the first step. A
15 diagnosis has to be made, and if an accurate diagnosis is
16 not made and pain is not differentiated according to what
17 you very appropriately articulated, then the patient is
18 going to be done harm in the sense that they may get
19 treatments that not only will not treat their condition
20 that they're coming in for, but it may make it worse, and
21 that's what we see. Opioids will make psychosomatic pain
22 worse. If that determination is not made, it's to the harm
23 of the patient.
24 Q. And does the inappropriate prescribing of opioid
25 medication for psychosomatic pain lead to dependency and

1 then addiction?
2 A. Correct.
3 Q. And is that the responsibility of the doctor to
4 manage?
5 A. It is the responsibility of the doctor using the
6 term that I've so frequently talked about the last couple
7 of days, referred to as universal precautions. The
8 doctor's in the driver's seat.
9 Q. And talking about the doctor being in the
10 driver's seat, regardless of when the doctor went to
11 medical school, or regardless if the doctor is
12 grandfathered in to a board certification, does that doctor
13 still have an obligation to stay current regarding the
14 standard of care?
15 A. Absolutely, yes.
16 Q. Can patients who have become dependent or
17 addicted to opioids take care of their own health and well
18 being?
19 A. By definition, they cannot, because, again, as I
20 said, one of the four Cs of addiction is loss of control.
21 Excuse me, that is one of them. The one I mean to
22 reference is they continue with their habit regardless of
23 consequences, so the fourth C is consequences. They can't
24 take care of their own health condition because they can't
25 stop. And they'll do it even if it ends up having them

1 lose their job, lose their family, lose relationships and
2 being out on the street. We hope that doesn't happen, but
3 that's part of the continuum.
4 But the answer to your question is if a person is
5 addicted, part of the definition of addiction is they've
6 lost control, and we can't trust them to adequately take
7 care of themselves secondary to the craving and compulsion
8 that's related in part of their addiction.
9 Q. I know you talked a lot about yesterday and also
10 answered a number of questions about the side effects of
11 steroids. Are hallucinations also a side effect of
12 steroids?
13 A. Hallucinations are a part of --
14 MR. GIBBONS: Objection, Your Honor. Beyond the
15 scope.
16 MS. DUSTIN: He asked about a number of questions
17 about side effects.
18 THE COURT: I'll allow it for that purpose.
19 Overruled.
20 A. Steroids are well known to cause all kinds of
21 psychiatric problems, including psychosis, and psychosis
22 would include what you just referenced as well.
23 Q. Can we bring up Exhibit 6, which is the graph for
24 patient Connie.
25 Do you recognize this?

1 A. I do, yes. That's my red line, my red flag
2 timeline.
3 Q. And what was the cumulative dosage of Medrol
4 equivalence Connie received?
5 A. We just went past it.
6 Q. Yeah, we have to move up, please, to the prior
7 page.
8 A. Stop right there if you would, please.
9 Her cumulative dose was 8,760-milligrams of
10 steroid equivalent.
11 Q. And that was in a timeframe from April of 2011
12 through May of 2018. Does that sound correct?
13 A. Yes, so it was about seven years and approaching
14 8,000-milligrams.
15 Q. And if we can leave that chart to the side, bring
16 up Exhibit 402, chart for patient Connie, at Page 1190.
17 All right. And is this a page from the Connie
18 chart dated August 15th, 2015?
19 A. It is. It's from the Memorial Hospital Emergency
20 Department.
21 Q. And what does it indicate the reason for the ER
22 visit?
23 A. It indicates that the patient is having
24 significant pain, has been acting strangely for the past 24
25 hours, and is not herself this morning.

1 Q. So does this ER visit occur about the mid point
2 of Connie's treatment with injections?
3 A. Yes, it does.
4 Q. And do you find this ER visit significant in
5 relation to her having received any procedures by Dr.
6 Bauer?
7 A. This -- this observation and these symptoms are
8 consistent with --
9 MR. GIBBONS: Objection, Your Honor.
10 THE COURT: Overruled.
11 A. These -- this visit with the ER and the symptoms
12 described herein are consistent with excessive steroids.
13 It is -- they are not diagnostic of a problem related to
14 excessive steroids, but given the amount of steroids it
15 certainly would have to be part of the seriously considered
16 differential diagnosis.
17 Q. And would you also find suicide attempts or
18 successful suicide concerning in relation to either the
19 injection of large quantities of steroids or -- and/or the
20 prescription of high MEQs of opioids?
21 A. I would, yes. What you're asking is, is the
22 co-existent indication here that there's -- there's suicide
23 considerations, is that a concern to me, and would that
24 affect my treatment plan, would that inform my treatment
25 plan with regard to the continued use of high morphine

1 equivalents or continued steroids. The answer is
2 absolutely, because we're dealing with very serious
3 potential behaviors of the patient, psychosis, potential
4 suicide. And both the medication classes, both the
5 steroids and the opioids, would and could and do contribute
6 to those problems.
7 Q. And as a pain management -- if you were a pain
8 management doctor and you had those types of events
9 occurring with one patient, would it affect your decision
10 with other patients?
11 A. Yes. Well, to use a phrase that we all are
12 familiar with, we practice medicine. Practicing meaning
13 every time I take care of a patient, what I learn from you
14 informs me to better take care of the next patient, so
15 we're always learning. This is a learning experience.
16 MS. DUSTIN: If I may just have a moment.
17 (Government counsel conferring off the record.)
18 MS. DUSTIN: Thank you. Nothing further.
19 THE COURT: Mr. Gibbons, I'll allow you brief
20 follow up if you wish.
21 MR. GIBBONS: One moment, Judge.
22 Just briefly, Your Honor.
23 RECROSS-EXAMINATION
24 BY MR. GIBBONS:
25 Q. Doctor, was it revealed in the medical files of

1 Connie that she had been diagnosed as a schizophrenic?
2 A. I don't see any indication where she had a
3 diagnosis of schizophrenia. She certainly had diagnosis of
4 depression, anxiety, and had a psychiatric hospitalization,
5 but at least at the moment as we talk, I don't have
6 documentation indicating the chart revealed schizophrenia.
7 THE COURT: You may step down at long last.
8 Does the government have a witness that will not
9 take that long? I understand you have one more witness.
10 MS. DUSTIN: Yes.
11 THE COURT: How long do you anticipate that
12 direct?
13 MS. DUSTIN: Ten or 15 minutes.
14 THE COURT: Does the jury want to proceed or take
15 their lunch break now. I see somebody going like this,
16 that -- I understand what that means. Please call your
17 next witness.
18 MR. SULLIVAN: United States calls Erin
19 Marciniak.
20 SPECIAL AGENT ERIN MARCINIAK,
21 was herein, called as if upon examination, was first duly
22 sworn, as hereinafter certified, and said as follows:
23 DIRECT EXAMINATION
24 BY MR. SULLIVAN:
25 Q. Good afternoon. By whom are you employed?

1 A. My name is Erin Marciniak. I'm a Special Agent
2 with the Federal Bureau of Investigation.
3 Q. How long have you been a Special Agent?
4 A. I've been an agent for just under 17 years.
5 Q. And can you tell us what your experience was
6 prior to joining the FBI?
7 A. Yes, graduated from college, Loyola University in
8 Chicago, and then came back -- I'm originally from Toledo.
9 And then came back for law school, University of Toledo,
10 graduated with a law degree, had a job opportunity back in
11 Chicago.
12 Q. I'm going to stop you for one second and ask you
13 to slow down a bit because I want to stay on her good side.
14 A. Where I had a job opportunity in Chicago as
15 Assistant State's Attorney for Cook County. So I
16 prosecuted criminal and civil matters in Chicago until I
17 was picked up with the FBI in 2004.
18 Upon graduation from Quantico I was assigned to
19 the Washington field office, which is in Washington D.C.,
20 where I was assigned to international terrorism with a
21 focus Sunni extremists. While I was there I was deployed
22 to Afghanistan for a period of time, came back, and then
23 had a transfer to Toledo in 2010. I was assigned to
24 international terrorism Shi'a extremist focus until about
25 2015 where I was then assigned to a white collar Health

1 Care Fraud squad.
2 And then during that time as well, when I
3 realized I was going to be focusing on healthcare, I
4 obtained a Masters Degree from Northwestern University in
5 health informatics.
6 Q. So you are currently assigned to the Toledo
7 office?
8 A. I am.
9 Q. And you're doing Health Care Fraud cases?
10 A. The majority of my case load is Health Care
11 Fraud.
12 Q. All right. Are you familiar with Medicare?
13 A. I am.
14 Q. And are familiar with how Medicare is funded?
15 A. Yes. Medicare and Medicaid are both funded by
16 the federal government. They're federally-insured
17 programs. Medicare is for age 65 and older possibly with
18 some disabilities; Medicaid is for -- based on low income
19 recipients as well as possible disability or disabled
20 individuals. The majority of all of the funding for
21 Medicare comes from our taxpayers' wage taxes.
22 And then the state program is mainly funded by
23 the federal government, but that's based on state incomes.
24 So in The State of Ohio, the federal government funds
25 60 percent of the program.

1 Q. All right. So then the payments made by Medicare
2 for services ultimately come from federal dollars?
3 A. Yes.
4 Q. And 60 percent of the Medicaid payments made for
5 services come from federal dollars in Ohio?
6 A. In Ohio, yes, that's correct.
7 Q. All right.
8 A. Other states may vary, just based on the income
9 of the state residents.
10 Q. All right. I'm going to ask you to look at
11 Exhibit 516. While that's coming up, let me ask you, are
12 there different parts to Medicare?
13 A. Yes, different parts for -- Part D is
14 prescription medications, Part A is for hospitalizations, B
15 and C is HMO plans.
16 Q. I see. Looking at Exhibit 516, is this a
17 prescription for James L.?
18 A. It is.
19 Q. All right. And does it indicate which insurance
20 paid for this prescription?
21 A. It says Medicare, so that would be both Medicare
22 and Medicaid. So Medicare covered the majority of it, and
23 then Medicaid underneath provided the remaining.
24 Q. All right. If you can -- just go back.
25 And then taking a look up there, does it show --

1 does that show -- the first part shows, based on the
2 prescription, what James L's insurance was, correct?
3 A. Correct.
4 Q. And then looking when the prescription was
5 filled, does it show who covered the cost?
6 A. Medicare.
7 Q. Why does it say MEDD?
8 A. Part D of Medicare covered that.
9 Q. That's the prescription part?
10 A. Correct.
11 Q. All right. Thank you. If we can pull up Exhibit
12 590, please. And if we could go to Page 6, please.
13 So 590, did you recognize this as one of the --
14 A. Yes.
15 Q. -- Medicare exhibits. And then if we look down,
16 is -- right there, do we see, does this have the more
17 details about the remittance as far as patient Rodney?
18 A. It does.
19 Q. All right. So does this -- just to be clear
20 because I know you were here when we had the Medicare
21 official here, but -- just authenticated the records. But
22 if you'll go down further in the records, it shows the
23 specifics for the patient, is that right?
24 A. That's correct, yes.
25 Q. And the patients that have no bearing in this

1 case have all been redacted?
2 A. It appears so.
3 Q. So for Rodney, I know we talked about some
4 billing codes before, are you familiar with billing codes
5 at all?
6 A. I am.
7 Q. All right. And just for the first one there,
8 99212, can you tell us if you're familiar with that billing
9 code?
10 A. Yes, it's a CPT code in E&M. It's called
11 evaluation and management code. So every time you visit a
12 provider, the provider has to bill the insurance company,
13 and that's based on the amount of time a physician spends
14 with a patient. And so 99212 is simply office visit
15 between ten and 19 minutes. So it's an established patient
16 that the doctor hasn't spent a significant amount of time
17 on, it goes from 99212 all the way up to 99215, 99215 being
18 upward of an hour that the doctor spends with the patient.
19 THE COURT: Given the number of numbers with
20 these exhibits, it would be helpful for the jury, circle or
21 arrow when you're talking about a certain number so they
22 don't have to hunt and peck to find it.
23 MR. SULLIVAN: Sorry, I thought I put an arrow
24 next to it. Maybe it wasn't a big enough one. Sorry,
25 Judge.

1 BY MR. SULLIVAN:
2 Q. And is that -- what I just circled, is that the
3 indication --
4 A. Yes. Unfortunately the redaction covers a tiny
5 bit of it, but you can see closely it is 99212.
6 Q. Okay. Thank you. All right. And then if we can
7 just go to Page 15 of this exhibit, please. And again,
8 this is just -- I think -- are you familiar with the
9 exhibits in this case?
10 A. Yes, I'm very familiar with them.
11 Q. So the Medicare exhibits have the Medicare, and
12 can we go to page -- and then at the end, does it have the
13 chart note that corresponds with that remittence?
14 A. It does.
15 Q. All right. So does this show if, on that visit,
16 Rodney was given prescriptions?
17 A. It does.
18 Q. What prescriptions was he given?
19 A. Oxycontin, Oxycodone -- Oxycontin, Roxicodone and
20 Oxycontin.
21 Q. Okay. Thank you. All right. We can take that
22 off now. Thank you.
23 Agent, drawing your attention to early 2018, were
24 you made aware at that time of an investigation being
25 conducted by the Ohio Medical Board into Dr. Brendan Bauer?

1 A. I was.
2 Q. All right. And as a result of that investigation
3 and what you learned from that investigation, did you open
4 an investigation into doctors at ANA, including Dr. William
5 Bauer?
6 A. Yes, we did.
7 Q. And as a result of that, initiating that
8 investigation, did you have contact with Alison Crawford?
9 A. Yes, I became aware of Alison.
10 Q. All right. And do you recall when you -- do you
11 recall your first contact with her?
12 A. Yes. I was brought in to meet with Alison
13 through my colleague at the State Medical Board. I work
14 closely with the Medical Board, the Pharmacy Board, the
15 Nursing Board on a state level; and on a federal level, I
16 work closely with Health and Human Services, Office of
17 Inspector General, as well as the DEA. And The State
18 Medical Board investigator came to me asking me to speak
19 with Alison based on information Alison had previously been
20 providing The State Medical Board investigator.
21 Q. All right. And at some point was your -- did you
22 have -- was your purpose in talking to Alison to get her
23 cooperation, including in her role as custodian of records,
24 providing records from the practice?
25 A. Yes. Ultimately, based on the information Alison

1 was providing us, the investigation, along with my
2 co-workers and counterparts from all those agencies that I
3 just named off, determined that we needed to obtain records
4 from the facility to determine whether or not a crime was
5 being committed. So we have an ability to either subpoena
6 medical records and patient charts, which is very
7 individualized, or we have an ability to execute a search
8 warrant.
9 Q. And did you explain those two choices to
10 Ms. Crawford?
11 A. So from Alison's perspective of dealing with
12 me -- most people don't have to deal with an FBI agent or a
13 federal investigation, so she was taken aback based on her
14 dealings with The State Medical Board person versus a
15 federal agent, and I can understand that. When I was
16 trying to explain how this investigation could move
17 forward, I stated that if you assist us, it would continue
18 to remain in a covert manner, if you will. It wouldn't
19 disrupt the practice. If not, the other way that we are
20 able to do business and gather information and determine if
21 a crime is being committed is to execute a federal search
22 warrant. And if we execute a federal search warrant, it
23 would be extremely disruptive to everybody in that
24 practice, to include three different offices, because we
25 would have to come in, and the entire office would be shut

1 down for a day or more. And it would basically impact all
2 the physicians, where, at this point of our relationship,
3 Alison and I's, we were able to keep it very minimized, and
4 the only people who were really aware of what was going on
5 was myself, Alison, and Dr. Benedict, who authorized her to
6 work with me.
7 Q. Did you intend that comment to be a threat in any
8 way?
9 A. There was no threat at all. Again, I laid
10 foundation as to Alison's dealings with a federal agent. I
11 assume she was taken aback, but there was never an if you
12 don't do this, this is going to happen. I did not want to
13 disrupt the entire practice for the different doctors,
14 because Alison was very nervous about working with me and
15 having it impact the rest of the physicians.
16 Q. All right. During your investigation, did you
17 learn that ANA recorded some of the phone calls that
18 were -- that they got at the office?
19 A. Yes. Alison provided me with that information on
20 multiple occasions.
21 Q. Okay. And did you also learn, during the course
22 of the investigation, about a phone call between a
23 Detective Joseph from Seneca County and Dr. Bauer?
24 A. Yes. Alison provided me that information,
25 stating that Detective Joseph had called, and that -- at

1 the time he was a detective, he's currently a Sergeant.
2 And that Dr. Bauer was calling him back, and those calls
3 are recorded.
4 Q. All right. And did you ask Alison to retrieve
5 that phone call?
6 A. Yes. And we were able to get it through a
7 subpoena request.
8 Q. Did you have a subpoena issued for that phone
9 call?
10 A. Yes. It wasn't a wire tap or anything of that
11 sort.
12 Q. I was getting there, let's not jump ahead.
13 You heard Detective Joseph mention a wire tap.
14 Was there any wire tap in this case?
15 A. No, there was none.
16 Q. All right. You also, I think, heard Alison
17 testify regarding payment. Can you tell us about, did
18 you -- did you make an offer to pay Alison?
19 A. I did. This investigation lasted a few years.
20 Alison, like I said, wasn't really a willing participant.
21 She helped us for sure, but it definitely caused her a lot
22 of anxiety and stress. She was very nervous for all the
23 doctors, and she always just wanted to do the right thing
24 for the patients. So it was constantly a pull for her
25 doing what she was doing for us. And as a result of that,

1 I wanted to pay her money for her assistance. She was
2 always timely with information, she always was honest to --
3 to an extreme honest. And as a result, I felt like she
4 should be compensated because, in effect, we were
5 disrupting her life.
6 Q. So did -- procedurally was there something you
7 had to do to get that accomplished?
8 A. I had to make a request to my management. She
9 was never a source of information. There's different ways
10 we do things in the FBI, and she was never a documented
11 source for the FBI, which we tend to pay sources sometimes.
12 But because she wasn't, I just wanted to compensate her, so
13 I made a request to my management if I can have a one-time
14 source payment for her services. Basically I felt like it
15 was a services rendered. My management approved me to pay
16 her some money. And when I informed her that I got that
17 approval, she rejected me and stated that she didn't want
18 any money.
19 Q. Did you tell her before -- did you tell her that
20 you were seeking approval for that?
21 A. No, I never told her, and I never told her how
22 much I wanted to provide her.
23 Q. Okay. And in preparation for this trial, did you
24 have contact with patient Bethanee regarding her
25 testifying?

1 A. We did, yes.
2 Q. And can you tell me, is patient Bethanee
3 available to testify?
4 MR. GIBBONS: Objection.
5 THE COURT: Grounds?
6 MR. GIBBONS: Relevance.
7 THE COURT: I'll allow it, if she knows.
8 A. Yes. I attempted to contact with Bethanee. We
9 did issue a subpoena for her testimony today, but she's
10 unable to make it. She just had a C-section surgery and
11 has a baby, newborn, I believe a week ago today, so she's
12 unable to us to come to court.
13 Q. All right. Thank you.
14 MR. SULLIVAN: One moment, please.
15 I have nothing further. Thank you.
16 A. Thank you.
17 MR. GIBBONS: Thank you.
18 CROSS-EXAMINATION
19 BY MR. GIBBONS:
20 Q. Thank you, Officer. How are you today?
21 A. I'm good. Thank you.
22 Q. So whatever you termed her, Alison became a
23 source of information?
24 A. She provided us with information, but,
25 technically, as far as the FBI is concerned she was never a

1 source or confidential informant.
2 Q. But she was the office manager, was she not?
3 A. She was.
4 Q. And this was all authorized by Dr. Benedict?
5 A. It was, and their attorneys.
6 Q. Okay. So was it put to her and/or Dr. Benedict
7 or Dr -- or his attorneys or the practice's attorneys, that
8 unless this particular procedure was followed, that, at the
9 very least, a search warrant would be executed on the
10 various buildings?
11 A. I don't believe it was delineated or described
12 that way. I do recall that we met with Dr. Benedict,
13 myself and a partner, and spoke with him specifically. And
14 I believe he read through our line of questioning and
15 recognized that a search warrant would likely be executed.
16 That would -- that would be the way in which we obtained
17 our information.
18 Q. So was his attorney present when you met with
19 Dr. Benedict?
20 A. I don't believe so.
21 Q. Just the presence of an FBI agent implies that he
22 was, at the very least, under criminal scrutiny?
23 MR. SULLIVAN: Objection.
24 THE COURT: He being Dr. William Bauer?
25 MR. GIBBONS: No, he being Dr. Benedict.

1 THE COURT: Since she met with him personally
2 I'll allow it, if she know.
3 A. No. We made it clear what the investigation was
4 about, because Dr. Benedict was the one who informed
5 Alison, during the Dr. Brendan Bauer investigation, to
6 inform Amy Meyers of the Medical Board, so he was well
7 aware that Dr. Benedict was not a target of this
8 investigation. And in fact, as I reflect in my memory, I
9 remember stating specifically that he was not a target of
10 the investigation.
11 Q. Was the practice a target or subject of the
12 investigation?
13 A. Absolutely not.
14 Q. Now, how many times did you meet with
15 Dr. Benedict?
16 A. Just me?
17 Q. Well, any law enforcement officers working on
18 this investigation?
19 A. I would say two to three maybe. And I would say
20 the first one was the only one without his attorney
21 present.
22 Q. Okay. And did you understand that Dr. Benedict
23 perceived that his practice was in jeopardy?
24 A. I don't know what he perceived.
25 Q. Okay. Now, who selected the files to be

1 delivered to the FBI?
2 MR. SULLIVAN: Objection.
3 THE COURT: If she knows, she can answer.
4 MR. SULLIVAN: It's outside the scope.
5 A. Can you repeat the question?
6 Q. Well, we have 14 patient files that are the
7 subject of the indictment, correct?
8 A. Correct.
9 Q. Dr. King alluded to five or six other files that
10 he examined.
11 A. Yes.
12 Q. And you requested files to be delivered pursuant
13 to a subpoena, did you not?
14 A. To a subpoena, yes.
15 Q. And who selected the files?
16 A. If I recall correctly, it was a combination of
17 both Alison and Becky Shaffer informing investigators of
18 problem patients of William Bauer's.
19 Q. So it was those two that selected the files?
20 A. No, they didn't select the files. We then
21 determined, based on all the information, which ones would
22 move forward for Dr. King's review.
23 Q. So they provided you with names?
24 A. Correct.
25 Q. And then you made up a subpoena and delivered the

1 subpoena to the office manager?
2 A. Well, we asked the Department of Justice,
3 Assistant U.S. Attorney who was helping us with the
4 investigation, to review the information and issue the
5 subpoena for me to deliver to Alison and/or anybody at ANA
6 that Dr. Benedict allowed.
7 Q. Okay. And you are presuming that Ms. Crawford
8 delivered you the entirety of the patient files?
9 A. That's all I can do, assume she's given us all
10 the charts that we request, yes.
11 Q. Okay. And you never went back and made a
12 comparison with what she delivered with what were in the
13 patient files?
14 A. No.
15 Q. Okay. So you relied upon Ms. Crawford to deliver
16 the files?
17 A. When you say -- deliver the files or actually
18 pull the charts?
19 Q. Pull the charts and respond to the subpoena.
20 A. Yes, I assumed that, based on the subpoena, she
21 would pull any and all records that were contained in their
22 electronic system for the information or the names that we
23 asked, and the dates that we're restricted or prohibited
24 to.
25 Q. And was this a subpoena issued by the grand jury?

1 A. No.
2 Q. Was it an administrative subpoena?
3 MR. SULLIVAN: Objection, relevance.
4 THE COURT: I'll allow it. Go ahead.
5 A. It's called a HIPPA subpoena, so it's, yeah, it's
6 an administrative subpoena, not a grand jury subpoena.
7 Q. So the grand jury did not summon or request the
8 delivery of those files?
9 A. No.
10 Q. Now, it appears to me, and you can correct me if
11 I'm wrong, but Dr. Benedict's fingerprints are not on the
12 delivery of those files?
13 A. I don't know what you mean about his
14 fingerprints.
15 Q. Well --
16 A. I take fingerprints different ways than you
17 probably take fingerprints.
18 Q. Well, he sort of laid it all off on Alison?
19 A. I don't think that's an accurate description of
20 what he did, no. I don't agree with that.
21 Q. And did you ever consider doing a random
22 selection of files from Dr. William Bauer's practice?
23 A. I think as a team of investigators we
24 contemplated it, but there was so much overwhelming
25 information just based on the patient name we already had,

1 we kind of didn't want to undergo more patient review.
2 Q. So you were delivered the worst and the most
3 troublesome and the toughest medical cases from Dr. Bauer's
4 practice?
5 A. No, we were delivered the problematic ones, the
6 ones who were alleged to be asking for pills in their
7 parking lot, ones who were calling in saying their dog ate
8 their pills, the ones who were calling for refills, the
9 ones who the pharmacies were calling in asking for, you
10 know, why is this person getting more prescriptions. I
11 mean, we were -- those were the problem -- we weren't
12 provided with, like, the worst case diagnosis patients. We
13 were provided with problematic to the office because it was
14 disrupting the office. Those are the patients we were
15 provided with.
16 Q. The patients were disruptive to the office?
17 A. They were calling in, and they were -- they
18 were -- they were causing disruption to the staff at the
19 office.
20 Q. And did Dr. Benedict tell you that?
21 A. I think he agreed, yes. At one point he agreed
22 those were the problematic patients.
23 Q. And as a matter of fact, those were -- those 14
24 files were the least profitable to the practice?
25 A. I have no idea about profitability or not. That

1 was never a part of our --
2 Q. And you've added up all of the alleged fraud to
3 Medicare and Medicaid as listed in the indictment, correct?
4 A. Correct.
5 Q. And you've listed a number of charges where Dr.
6 Bauer or the practice, was reimbursed, and the grand total
7 of this scheme is less than $2,200?
8 A. Well, I would -- I would clarify that the scheme,
9 as you call it, isn't based on simply billing. It's based
10 on the prescriptions. So I guess I don't agree with the
11 way that you clarify. But if you're asking me to concur
12 with the dollar amount, yes, this is a very low dollar
13 value fraud that we've investigated.
14 Q. Okay. $2,200, is that pretty -- pretty much
15 accurate?
16 A. I believe so.
17 Q. Okay. Thank you, officer.
18 A. No problem.
19 THE COURT: Any redirect?
20 MR. SULLIVAN: Yes, thank you.
21 REDIRECT EXAMINATION
22 BY MR. SULLIVAN:
23 Q. Was -- who was the custodian of records at ANA?
24 A. Alison Crawford.
25 Q. So in your experience when you serve subpoenas on

1 organization, do you serve on the custodian of records?
2 A. We do.
3 Q. You expect the custodian of records to comply and
4 delivered records?
5 A. That's all we can rely on.
6 Q. Were you aware that Alison realized at this point
7 that Alison missed one category of record?
8 A. Yes, Alison was extremely diligent. Again,
9 that's why I wanted to pay her. She worked above and
10 beyond any typical request that I issue subpoenas for. So
11 in that, she continued to make sure that all the
12 information was provided to us, and that's all we could
13 rely on.
14 Q. And so you said you're on the white color squad?
15 A. I am.
16 Q. And are all fraud cases you investigate motivated
17 just by dollar amount?
18 A. No.
19 Q. And was this -- was this one motivated just by
20 the dollar amount?
21 A. No, it's not.
22 Q. Thank you.
23 MR. GIBBONS: Your Honor, can I have leave of
24 court to ask one more question?
25 THE COURT: Go for it.

1 RECROSS-EXAMINATION
2 BY MR. GIBBONS:
3 Q. Thank you. I'll ask a compound question then.
4 This is an operation of a medical practice that
5 contracted out for electronic medical record service?
6 MR. SULLIVAN: It's outside the scope.
7 THE COURT: Relax. Overruled. You understand
8 the question?
9 A. No, just repeat it real quick.
10 Q. All of the medical records were kept
11 electronically by a paid vendor?
12 A. That's correct. Greenway, at one point, was
13 their system that they used.
14 Q. And there were -- there were other systems,
15 correct?
16 A. There was a system after Greenway that was
17 thorough as well.
18 Q. So you did not issue a subpoena to the custodian
19 of the medical records who had every electronic record?
20 A. No, we never do. We issue it to the office that
21 houses that system because we wouldn't go to the system for
22 the information. We go to the medical facility to pull the
23 records from their software, their database.
24 Q. So you cannot assure us that Alison Crawford
25 delivered a complete set of medical records?

1 A. I can assure you that Alison Crawford did her
2 best to get us every last piece of documentation that we
3 requested.
4 Q. And, in fact, she slipped a document into the
5 medical records of -- see if I get this patient right, the
6 coroner's report. That wasn't a part of the medical record
7 in connection with Melody, but somebody slipped that into
8 the records. Who did that?
9 A. I don't know.
10 Q. Was it Alison?
11 A. I don't believe so. I don't know.
12 Q. Because that document, out of these thousands of
13 pages, certainly was not part of that young lady's medical
14 records from ANA, correct?
15 A. I don't know.
16 Q. So somehow, someway, somebody slipped that
17 document into her medical records, agreed?
18 A. I don't -- I assume so, yes.
19 Q. Okay. And that probably was Alison Crawford or
20 Steve Benedict?
21 THE COURT: Well --
22 MR. SULLIVAN: Judge, I'm going to ask --
23 THE COURT: Time out. That last question wasn't
24 finished, and, therefore, requires no answer.
25 And I suppose you're standing because you're

1 hungry and you want to go to lunch?
2 MR. SULLIVAN: No, Judge. I think that opened a
3 new area that I feel compelled --
4 THE COURT: I'll let you follow up briefly,
5 please.
6 MR. SULLIVAN: Thank you.
7 THE COURT: By the way, that wasn't one or two
8 questions.
9 REDIRECT EXAMINATION
10 BY MR. SULLIVAN:
11 Q. Is Greenway an electronic management --
12 electronic medical record system?
13 A. It is.
14 Q. If you -- if ANA -- when ANA buys Greenway and
15 uses the Greenway software, where are the records stored?
16 A. I'm assuming you're asking if they're -- they're
17 in -- they're electronic, so they're housed in a server
18 somewhere that Alison has access to to pull from.
19 Q. Okay. And were you here when Alison testified
20 and said that all the records were maintained at their
21 facility?
22 A. Yes.
23 Q. And that Greenway was the software they used to
24 manage the records, but all the records were at ANA?
25 A. That is correct.

1 Q. Were you familiar with, during the trial
2 preparation, certain -- there were -- withdrawn.
3 There were certain -- there were multiple
4 productions of records, is that right?
5 A. There were multiple subpoenas issued for
6 information, yes.
7 Q. And sometimes were there productions of records
8 from different medical providers?
9 A. There were.
10 Q. Including the coroner's office?
11 A. There was.
12 Q. Not medical provider, but another office. And
13 during the preparation for the exhibits in this trial, at
14 one point did the government combine all the records of
15 each patient?
16 A. Yes, we did.
17 Q. Including the coroner's report for Melody?
18 A. Yes, we did.
19 Q. And then when we were -- was there a point where
20 then we separated them out and had two sets of exhibits?
21 A. Yes. It was a very lengthy process of organizing
22 all these records.
23 Q. And do you know if that coroner's report was
24 combined with Melody's chart by our office in preparation
25 for trial?

1 A. I believe it was.
2 Q. All right. Thank you. I have nothing further.
3 (A recess was taken.)
4 THE COURT: We're back on the record. Before
5 bringing the jury in, is the government prepared to rest
6 now subject to admission of additional exhibits?
7 MS. DUSTIN: In light of counsel's last
8 questions, we have one more short witness.
9 THE COURT: Okay.
10 MS. DUSTIN: And also, just want to make sure no
11 jurors were coming in.
12 THE COURT: You may come up and get sworn,
13 pictured, and all that good stuff.
14 MS. DUSTIN: We do have some concern, there was a
15 motion in limine that we filed in this case, and The Court
16 granted, with respect to the patient files. And this Court
17 ruled that the patient files are the patient files;
18 however, defense counsel is going outside of the bounds of
19 that ruling and implying that the records really aren't the
20 records. And more troubling is his line of questioning,
21 which makes it sound like there was somehow a record
22 slipped into the records, where it was only -- the only
23 fault was the government's because we, ourselves, had
24 inserted a one-page report into a record that ultimately we
25 redacted instead of having to re-Bate the entire amount of

1 patient files, which would have changed the JERS again.
2 When we realized we did that, we blacked the
3 record out. And counsel is insinuating that someone
4 slipped a record into the original patient files and that
5 is not at all about what happened.
6 THE COURT: I assume some of that was addressed
7 with your last witness, and further assume that we're not
8 going to go into this anymore, but tell me if I'm wrong.
9 MR. GIBBONS: I don't think so, Your Honor. And
10 this jury looks like they're intelligent people. They can
11 sort all this out, and we're not violating any orders that
12 I'm aware of. We're just making a point about that
13 particular document.
14 MS. DUSTIN: Well -- and there was a witness from
15 Greenway on the witness list, so we don't know if -- if
16 defense counsel will be calling that witness.
17 MR. GIBBONS: We're not calling anybody from
18 Greenway.
19 THE COURT: That answers that question.
20 MS. DUSTIN: Okay. Thank you.
21 CATHERINE HANSELMAN,
22 was herein, called as if upon examination, was first duly
23 sworn, as hereinafter certified, and said as follows:
24 THE COURT: Everyone may be seated, please.
25 Ladies and gentlemen, you'll see we have another

1 witness in the witness stand. She has been sworn and
2 photographed, and, counsel, you may inquire.
3 MS. DUSTIN: Thank you.
4 DIRECT EXAMINATION
5 BY MS. DUSTIN:
6 Q. Good afternoon.
7 A. Hi.
8 Q. Would you introduce yourself to the jury please?
9 A. I am Catherine Hanselman. I'm a Special Agent
10 with the U.S. Department of Health and Human Services
11 Office of Inspector General Office of Investigations.
12 Q. That's a mouthful.
13 A. That it is.
14 Q. What do you do in that position?
15 A. My primarily responsibility is to investigate
16 fraud within the Department of Health and Human Services.
17 My main focus is on Health Care Fraud.
18 Q. As a Health Care Fraud Investigator, would you
19 tell us what programs you predominately investigate with
20 respect to Health Care Fraud?
21 A. Medicare and Medicaid.
22 Q. And how long have you been in that position?
23 A. Twenty-four years.
24 Q. And were you assigned to an investigation
25 regarding a Dr. William Bauer?

1 A. Yes, I was.
2 Q. And when did you start participating in the
3 investigation?
4 A. In 2018.
5 Q. At some point during your investigation, did you
6 meet with an employee from ANA by the name of Becky
7 Shaffer?
8 A. Yes, I did.
9 Q. And when was that?
10 A. In October of 2018.
11 Q. And how many times did you meet with her in
12 October of 2018?
13 A. I met in person with her once at Panera Bread in
14 Sandusky, and then I met with -- I actually spoke -- I had
15 a follow-up conversation with her on the phone.
16 Q. As a result of either meeting, let's say after
17 the first meeting, did she provide you with any information
18 or any names of patients?
19 A. Yes, she did.
20 Q. And what with regards to what?
21 A. She -- when I originally met her at Panera Bread,
22 she had brought to my attention some patients that she was
23 concerned about how Dr. Bauer was treating them. At the
24 end of our conversation, she said I know there's a lot more
25 that I have some concerns about, but I'd like to think

1 about it, and I told her that's understandable. So she
2 told me that she would go back, and she would write me up a
3 list and send me a list, and then I told her that we would
4 just talk over the phone and go through the different
5 patients that she felt that there was some sort of concern
6 with.
7 Q. And what type of concern was this?
8 A. Maybe some patients that were calling in a lot
9 for early refills, some patients that had -- had passed
10 away. Maybe patients who were coming in large groups, just
11 different patients that she thought that there could have
12 possibly have been some sort of diversion.
13 Q. And ultimately did you speak with Ms. Shaffer
14 again?
15 A. I did on the telephone, yes, in October.
16 Q. Did you receive another -- did you receive a list
17 of patients from her?
18 A. She did provide me with a list of patients.
19 Q. Verbally?
20 A. She provided me with just a list of patients, and
21 then we went through every patient, and she kind of gave me
22 a summary of what her concerns were with each patient.
23 Q. And did you keep track of how many patients she
24 provide you with?
25 A. I did. She provided me the names of 114

1 patients.
2 Q. And what did you do with that?
3 A. I put the information that -- I mean, she had
4 just basically sent me a list with names, and then I put
5 those names into, like, an Excel spreadsheet by their last
6 and first name. And then I had, like, a comment section
7 and whatever her comment was. I mean, we went through 114
8 patients on a phone call. It was a lengthy phone call, so
9 I just made, like, very short notes of what her main
10 concerns were with each person.
11 Q. All right. And in regards to the fraud you
12 investigated in this case, did you look at fraud with
13 respect to injections that were administered by Dr. Bauer?
14 A. Yes, I did.
15 Q. And ultimately, how many of those -- of those
16 injections were charged as actual fraud counts in this
17 case?
18 A. I believe there's about 24 Health Care Fraud
19 charges in this indictment.
20 Q. And with respect to how many patients?
21 A. Six.
22 Q. Okay. And actually did you investigate more than
23 just 24?
24 A. Yes. I mean, we would have looked at all the
25 injections codes that those patients received from Dr.

1 Bauer beyond just the 24 that were charged in the
2 indictment.
3 Q. And would each of the injections that a patient
4 received, could that have supported a charge?
5 A. Yes.
6 Q. Only 24 were actually charged in the case?
7 A. Yes, that's correct.
8 Q. Were there other fraud charges that were, for any
9 reason, not actually charged in the case?
10 MR. GIBBONS: Objection, Your Honor.
11 THE COURT: Sustained.
12 BY MS. DUSTIN:
13 Q. Did you decide, for just any reason, only to
14 bring 24 of the charges?
15 MR. GIBBONS: Objection.
16 THE COURT: Overruled.
17 A. The 24 counts were based on Dr. King's medical
18 review. And he selected certain -- I mean, he didn't
19 select them, but, based on his medical review, we only
20 pulled out a very small subset of the injections each
21 patient had received, and then those were made as charges.
22 But we could have possibly charged, you know, if a patient
23 got 30 injections, we could have 30 counts of Health Care
24 Fraud.
25 MR. GIBBONS: Objection.

1 THE COURT: I'm going to stop you there and
2 instruct the jury to disregard the last part of that
3 answer, please.
4 BY MS. DUSTIN:
5 Q. You just chose the ones you chose?
6 A. Correct.
7 MS. DUSTIN: Nothing further.
8 MR. GIBBONS: No questions, Your Honor.
9 THE COURT: You may step down. And is the
10 government prepared to rest at this point?
11 MS. DUSTIN: Yes, Your Honor. The government
12 rests subject to the admission of our exhibits.
13 THE COURT: So noted. We'll take that up later
14 outside the presence of the jury without inconveniencing
15 them.
16 And we now turn to defendant. Does defendant
17 wish to offer any evidence, any testimony?
18 MR. STIFEL: The answer to that is yes, Your
19 Honor, but we have the usual motions to make first.
20 THE COURT: And with respect to that, without any
21 prejudice to the defendant, and without any objection to
22 timeliness, I will take up your motion practice outside the
23 presence of the jury as if it were being conducted
24 immediately following the rest of the government. Again,
25 this is without prejudice to the defendant, and allows us

1 not to inconvenience our jury which has just returned to
2 the courtroom.
3 So if you wish, you may call your next witness.
4 MR. GIBBONS: Your Honor, I have somebody in a
5 wheelchair in the hallway.
6 THE COURT: Would you like our CSO to help you?
7 MR. STIFEL: Your Honor, I note that Dr. King was
8 in the courtroom. There was an agreement he could be
9 present during any defense expert testimony. This is not
10 an expert witness.
11 MS. DUSTIN: Your Honor, we will ask Dr. King to
12 step out.
13 THE COURT: Thank you.
14 MR. GIBBONS: Your Honor, can I just sit at
15 counsel table?
16 THE COURT: That's fine. Make sure you're close
17 to it.
18 CONNIE LEWIS,
19 was herein, called as if upon examination, was first duly
20 sworn, as hereinafter certified, and said as follows:
21 DIRECT EXAMINATION
22 MR. GIBBONS: Your Honor, can she use her last
23 name?
24 THE COURT: Yes.
25 BY MR. GIBBONS:

1 Q. Ma'am, would you listen closely to all of my
2 questions? You have to verbally say or give an answer.
3 A. Okay.
4 Q. And you've got to speak up.
5 A. Okay.
6 Q. Ma'am, would you please state your name and spell
7 your last name for the record?
8 A. Connie Lewis, L-E-W-I-S.
9 Q. Ma'am, where do you live, your city and state?
10 A. Gibsonburg, Ohio.
11 Q. And in what county is that located?
12 A. Sandusky County.
13 Q. And are you -- have you been a resident of
14 Northwest Ohio for your entire --
15 A. Yes.
16 Q. Can I ask you how old you are?
17 A. Almost 60.
18 Q. Okay. Now, are you married?
19 A. No.
20 Q. Single, divorced?
21 A. Divorced, annulled.
22 Q. What type of family do you have? Do you have
23 children?
24 A. I have three children.
25 Q. And those three are grown no doubt?

1 A. Yes.
2 Q. And do they live locally?
3 A. One's still semi local, yes. The other two have
4 moved on for work reasons.
5 Q. Okay. Now, do you live with someone?
6 A. Currently no.
7 Q. Okay. And what type of circumstances do you live
8 in currently? You live in a house, do you live in an
9 apartment?
10 A. A house.
11 Q. Okay. And do you live in a rural setting?
12 A. Very rural, yeah.
13 Q. Okay.
14 A. Not as rural as I'd like, but rural, yes.
15 Q. Okay. You might want to pull your mask down a
16 little bit.
17 Can I take it -- ma'am, did there come a time
18 when you had a work-related injury?
19 A. Yeah. Actually two, 1987 and 1992, I believe.
20 Q. And can you briefly describe those two
21 work-related injuries?
22 A. I worked at Luther Home of Mercy for the first
23 one in '87. Supervisors opened up the door, startled a
24 resident, he fell -- started to fall. His head was going
25 to hit a dresser, my adrenaline kicked in, twisted my upper

1 body, caught him with one arm and stood him back up.
2 Q. Okay. And how old were you when that occurred?
3 A. Pardon?
4 Q. How old were you?
5 A. Born in '62, and it was '87, early 20s.
6 Q. And did you suffer an injury as a result of that
7 incident?
8 A. A terrible -- never been the same since.
9 Q. What type of injury did you suffer?
10 A. My back, my neck, pretty much my entire spine
11 hurt ever since.
12 Q. Okay. Now, did you -- or were you hospitalized?
13 A. No. They treated me before I ever left work
14 because I worked at a residential facility, so I was looked
15 at before I ever left work. ER trips over the years.
16 Q. Okay. Now, did you file a Workers' Comp. claim,
17 I assume?
18 A. Yes, they did.
19 Q. Okay. And was there a second injury that you
20 spoke of?
21 A. Yeah.
22 Q. And briefly describe that injury.
23 A. I worked at the trailer court that I found myself
24 a single mom in. No transportation, and I broke my wrist.
25 Q. Okay. Now --

1 A. Again, twisted it. I was hanging on to a bar and
2 fell, I let my -- my leg gave way because I'm unstable from
3 the back injury. And when I fell, my son put it I wasn't
4 smart enough to let go of my shovel, and I snapped my
5 wrist.
6 Q. Okay. Now, at some point in time were you
7 diagnosed with Multiple Sclerosis?
8 A. Yes.
9 Q. Do you recall what year that was?
10 A. I think 2000. I try not to focus on the
11 negatives of life.
12 Q. Who diagnosed you as having Multiple Sclerosis?
13 A. I think it started with an age doctor, it was my
14 grandma's doctor. Several chiropractors that -- many
15 doctors spoke of it and talked about it, but the one that
16 did the original test I believe started with --
17 Q. If you don't remember, you don't remember.
18 A. I can see him, his office is in Oregon.
19 Q. We'll come back to that.
20 A. I'm sorry.
21 Q. It's okay.
22 A. My memory used to be a lot better than what it
23 is.
24 Q. When did you first encounter Dr. William R Bauer?
25 A. The '90s something.

1 Q. And who sent you to see Dr. Bauer?
2 A. Workers' Comp. sent me to him when the doctor
3 that they had previously sent me to took sick.
4 Q. I see. And do you know the reason why you
5 were -- you were sent to see Dr. Bauer?
6 A. They had done a nerve conduction study, and the
7 Joel, something, Borell, had done a nerve conduction study
8 and said the readings were so bad he couldn't figure out
9 how I walked, thought he had something wrong with his
10 machine. And then when he was unable, for his own health
11 reasons that I don't -- I don't know, I don't know if I
12 ever knew, or I don't remember, I got passed on to Dr.
13 Bauer.
14 Q. And do you remember the reason why you were sent
15 to see Dr. Bauer?
16 A. Because of the neurological damage I would
17 assume.
18 Q. Can you describe the neurological damage that you
19 suffered?
20 A. It's -- you fluctuate from your whole entire side
21 of your body's numb, don't show up -- don't wake up when
22 you do, to you pray for it to come back and your feeling to
23 return, and then it does, and your sciatic nerve feels like
24 it's -- the pain is unbelievable. It's -- it's --
25 Q. Can you describe what parts of the body gave you

1 pain?

2 A. It would go down -- it would feel like my spine

3 was too short, and from the top of my head all the way down

4 my leg would just -- I don't know the words to describe it.

5 It's -- it's nothing I'd wish on my worst enemy.

6 Q. Did Dr. Bauer give you a diagnosis that you

7 remember?

8 A. Nerve damage, carpal tunnel, migraines. I try

9 not to focus, I'm sorry.

10 Q. It's okay. Did he diagnosis you with MS?

11 A. Yes. Well, I don't think he was the original one

12 to diagnose me, but, yes.

13 Q. Okay. Now, did he give you a physical

14 examination when you came in to his office?

15 A. Yes.

16 Q. And did he have access to your prior medical

17 records?

18 A. I don't believe he did on my first visit.

19 Q. When did he give you a physical?

20 A. He gave me the physical very first day I ever met

21 him. I had actually went thinking I was going to tell

22 him -- I don't know how to explain this, nothing personal,

23 but I can't afford the gas to drive that far. But once I

24 met him, I -- I knew he was going to figure out how to go

25 without something to make it because I knew he was a doctor

1 who cared.
2 Q. Okay. Now, did he prescribe opioid-based
3 medications for you?
4 A. Yes.
5 Q. Okay. Did he --
6 A. Along with other -- along with other things.
7 Q. Did he explain to you the risk and the reward
8 possibly?
9 A. Absolutely. With everything he ever did, he
10 explained.
11 Q. Okay. Now, did the opioid-based medications help
12 control your pain?
13 A. It didn't stop my pain, I still felt some pain,
14 some discomfort, some almost unbearable discomfort, but I
15 could function. I could --
16 Q. Okay.
17 A. I wasn't in such a state that my health was
18 declining because I wasn't able to move.
19 Q. Describe your not being able to move.
20 A. He had me where I was -- you know, I was
21 stumbling sometimes. Sometimes I jokingly would say my
22 teenage leg just didn't show up for the day, but he kept --
23 he had me to where I could walk without an assist.
24 Q. Okay. Now, how often would you go see Dr. Bauer?
25 A. Six to nine months -- or weeks -- six to nine

1 weeks depending on his schedule --
2 Q. Okay.
3 A. -- unless it got really bad.
4 Q. I'm sorry?
5 A. Unless it got unbearable.
6 Q. And what became unbearable?
7 A. If I, you know, go three, four days without being
8 able to sleep, hold anything down.
9 Q. Okay. Did you talk to him about your symptoms
10 and the possible medication that he would prescribe to you?
11 A. Always. Always answered any questions. And if I
12 didn't think to ask a question I should have, he -- he
13 always made sure I was very well informed of everything.
14 Q. Now, do you recall filling out what's called a
15 pain assessment sheet?
16 A. Every time, yes.
17 Q. Okay. And what was a pain assessment sheet?
18 A. Where you hurt, where you were numb, where you
19 tingled, where you, whether it was a -- had diagrams
20 that -- of the silhouettes of the body and the head that
21 you would either mark or shade in.
22 Q. Who filled in the pain assessment sheets?
23 A. I did.
24 Q. Did he tell you what your pain was?
25 A. No, I told him.

1 Q. Okay. Now --
2 A. I don't think he's somebody you could go in and
3 pull the wool over his eyes.
4 Q. I see. Now, did you --
5 A. He knew.
6 Q. -- continue on a course of opioid-based
7 medications?
8 A. I'm sorry, I didn't hear you.
9 Q. Did he keep prescribing you the opioid
10 medications?
11 A. Did he prescribe?
12 Q. Yes.
13 A. Yes, along with many other doctors. Before I
14 ever treated with him, many doctors had prescribed me.
15 Q. Okay.
16 A. I --
17 Q. Did those --
18 A. Once -- once I started treating with him, even an
19 emergency room trip I would not -- I'd tell them I don't
20 want anything unless you talk to doc first.
21 Q. Doc meaning -- who is doc?
22 A. Dr. Bauer. I wasn't seeking, you know, I wasn't
23 seeking anything more. I -- quite the opposite, didn't,
24 you know, you get sent to different specialists, first
25 thing they want to do is write you a prescription. And I

1 didn't go from doctor to doctor to doctor. I treated with
2 the same general practitioner for decades until he took a
3 different job and left.
4 Q. Did Dr. Bauer coordinate your care with your
5 general practice doctor?
6 A. That's what I was trying to say, yes.
7 Q. Okay.
8 A. They got together and made the, you know, best
9 course of action.
10 Q. Would you look around the courtroom and tell me
11 if you see Dr. Bauer?
12 A. Yes.
13 Q. Point him out. Tell me what he's wearing.
14 A. (Indicating) Blue tie, light blue shirt, I
15 believe, gray suit, darker gray.
16 MR. GIBBONS: Your Honor, may the record reflect
17 the witness has identified the defendant?
18 THE COURT: So noted.
19 BY MR. GIBBONS:
20 Q. Now, did the opioid-based medication help control
21 your pain?
22 A. Yes.
23 Q. Now, how did you support yourself through the
24 years that you were treated by Dr. Bauer?
25 A. In the early years I worked. I tried to start my

1 own business at one point. I -- because I became less and
2 less employable, Workers' Comp. was supposed to be paying
3 me, but --
4 Q. Did Dr. Bauer's treatment with the opioid-based
5 medication help you function and have a job?
6 A. Yes.
7 Q. Okay. Do you recall what type of jobs you had?
8 A. I worked as a terminal manager for a trucking
9 company. I worked -- when I got bad to where I couldn't
10 function at -- at an acceptable capacity, my last job was I
11 went and contacted some old employers from when I was
12 young, and they hired me to work their slow time.
13 Q. I see.
14 A. They knew I could be trusted not to steal money,
15 but --
16 Q. Okay.
17 A. -- you know sometimes when you got that lull in
18 the day where there's nobody really around to watch but you
19 need somebody to watch your things, that was the last that
20 I was able to keep pushing it to --
21 Q. Did you drive a car?
22 A. I used to.
23 Q. Okay. Did Dr. Bauer's treatment help you drive
24 your car?
25 A. Yes.

1 Q. And I take it that in all the visits you had with
2 Dr. Bauer, you had a real medical problem that you were
3 seeking help for?
4 A. Oh, absolutely.
5 Q. And you needed the care that he afforded you?
6 A. Yes, I did.
7 Q. And this -- this was a normal medical office that
8 you went to?
9 A. Uh-huh.
10 Q. You have to say yes or no.
11 A. Yes.
12 Q. Okay. Now, do you -- you have a hobby that you
13 pursue at your home?
14 A. I take care of things that need me, give me a
15 reason to get out of bed when it hurts too bad to care
16 about myself enough to get up.
17 Q. What type of creatures do you take care of?
18 A. I'm not prejudice. Anything that the Good Lord
19 sends my way. But currently there's two miniature
20 Mediterranean donkeys, pony/donkey mix with some severe
21 anxiety issues, Palamino Gelding, and two mayors that --
22 Q. Now, did --
23 A. Cats. There's a couple of cats and a dog,
24 wildlife.
25 Q. Okay. And did Dr. Bauer's treatment allow you to

1 function and take care of your animals?
2 A. Yes, and do the things I enjoy most, the grooming
3 and the brushing.
4 Q. Grooming?
5 A. Sharing -- sharing them with friends, and --
6 Q. Okay.
7 A. The board of MRDD used to bring groups out, and
8 some of the group homes in the area used to come out.
9 Q. Okay. And do you have friends that come by your
10 house?
11 A. Yes.
12 Q. Okay.
13 A. Thankfully.
14 Q. Okay. And do you -- you continue to suffer the
15 symptoms of Multiple Sclerosis?
16 A. Yes.
17 Q. Can you describe or tell us what those symptoms
18 are?
19 A. Anything from -- I've spent a month or two unable
20 to speak, intense pain, muscle spasms, brain fog, memory
21 numbing, tingling.
22 Q. Now, in connection with your multiple sclerosis
23 treatment, did you participate in any clinical studies of
24 MS and medication?
25 A. I have -- you mean have I gone to any of the

1 seminars or --
2 Q. Correct.
3 A. Yes, I've gone to quite a few of the seminars.
4 I've joined both the national and Sandusky County society.
5 Q. What society?
6 A. The Multiple Sclerosis Society. Is that what you
7 were asking me?
8 Q. I'm asking you --
9 A. I'm saying is that what you meant?
10 Q. Yes.
11 A. Is that what you're asking me?
12 Q. Yes.
13 A. Yes.
14 Q. Now, did you -- did Dr. Bauer prescribe certain
15 injections?
16 A. Yeah. At one time there was one that I had to
17 have -- should have been able to be strong enough to do
18 myself, but I had a nurse friend of mine come and do the
19 injections.
20 Q. Did you ever have any injections at Dr. Bauer's
21 office?
22 A. Yes.
23 Q. Okay. And did Dr. Bauer explain the purpose of
24 the injections?
25 A. Yes.

1 Q. And do you -- do you recall if you received the
2 injections on a regular basis?
3 A. Yes.
4 Q. And did the injections relieve your pain?
5 A. Oh, yes.
6 Q. How so?
7 A. I would practically have to be carried in, and he
8 would give me an injection and have me sit, and then he
9 kept going taking care of somebody else, come back and
10 check me again. And usually by the time I left his office
11 I might need to hang on to somebody or a walking stick, but
12 I could -- I could make it almost completely on my own back
13 out to the vehicle.
14 Q. Okay. Did he force injections on you?
15 A. No, I pleaded. I begged. No, I -- I begged.
16 Q. Why did you beg?
17 A. I'm --
18 Q. Why did you beg?
19 A. Because it helped. I wanted my life back, and
20 I'm terrified of needles, but I begged, you know.
21 Q. Okay. Now, you had a certain episode, did you
22 not, a mental health episode, do you remember that?
23 A. Yes.
24 Q. Okay.
25 A. Sort of.

1 Q. Okay. What was the cause of that episode?
2 A. I had been sitting in the yard working on an art
3 project on a hot summer day after a really bad rain storm.
4 I was burning some wood, taking full advantage of the fact
5 that there was a big puddle I could put the wood I was
6 burning into if it caught fire. I didn't want it to catch
7 fire, I -- I just wanted to burn off parts of it.
8 Farmer must have turned the pump on up the road,
9 my crick overflowed with two of the horses on one side and
10 one on the other. Racing back and forth in a panic, she
11 was -- I was terrified she'd get to the highway.
12 Q. Who's she?
13 A. Princess, one of the horses that has saved my
14 life. I tried to get to her. As I was trying to get to
15 her, my ponytail got caught in the electric fence. I was
16 covered in sweat, wet, and I think I got pretty zapped
17 before I made it through. They -- nobody really knew what
18 was going to because nobody could see the horse in danger
19 but me.
20 Q. So as a result of that, you acted -- started to
21 act a little strange?
22 A. Yeah, to people that were around me, my children,
23 my friends that were there, they -- I wasn't acting what
24 they considered to be normal.
25 Q. Okay.

1 A. And they called the rescue squad, they pulled
2 over on our way to the hospital, stuck me with something.
3 I remember waking up begging for a drink, I was so
4 dehydrated and so thirsty. I remember them trying to
5 catheterize me, which seems like multiple times, and I
6 remember being informed that I was now at the county -- or
7 Northern Ohio --
8 Q. Some hospital?
9 A. The old nut ward. Scary, goofy place with lots
10 of old buildings and creaky noises that they lock you in.
11 And the room they put me in was covered with black mold.
12 I'm allergic to black mold. I couldn't talk, drool running
13 down my face. I don't know whether the swelling was from
14 the medication, was from the electrocution of the electric
15 fence, all I know is my tongue was so big I couldn't
16 swallow my own spit. I couldn't talk, I --
17 Q. Okay. Now, you told Dr. Bauer about that episode
18 and the fact that you had been put in a mental hospital?
19 A. Once I could communicate that I needed help, I
20 tried to write down a list of what was wrong with me, what
21 doctors they could contact to find out about me. You know,
22 like I said I'd been --
23 Q. Okay. Now you continued on this course of opioid
24 medication for awhile, did you not, long time?
25 A. Oh, years, yeah.

1 Q. Okay. And did the opioids help reduce or control
2 your pain?
3 A. It made it tolerable, bearable. It made it -- as
4 much as I love dancing and living a full adrenaline-filled
5 life, I didn't go sign up to go whitewater rafting like I
6 would have, in my heart, to have been able to. I didn't go
7 to Cedar Point. I didn't do any of the -- of the things
8 that I once thought was a requirement for a fulfilled life
9 prior to my injuries in life, but I could function. I
10 could -- I could feed my animals, I could cut the grass and
11 gather it, so I knew they were eating what I had watched
12 grow, and knew whether it had any kind of chemicals on it
13 or anything. I -- I could -- my favorite thing is groom.
14 I could stand there long enough to comb a tail and braid it
15 up without --
16 Q. Okay. Now there came a time in August of 2019
17 when Dr. Bauer was no longer your doctor, correct, do you
18 remember that?
19 A. Do I remember losing him? Yes.
20 Q. Okay. What do you --
21 A. I don't know about the exact date.
22 Q. Go ahead.
23 A. I don't remember the exact date, but, yeah, I --
24 I remember being told I couldn't see him.
25 Q. Okay. And what impact did that have on your

1 physical health?
2 A. Physical, spiritual, emotional, the whole gamut,
3 I just --
4 Q. Did you continue --
5 A. I --
6 Q. -- to go to ANA? Did you go to ANA, the Bellevue
7 office?
8 A. Yes, I -- first it was -- first I had a hard time
9 getting an appointment.
10 Q. Did they take you off opioid-based medications?
11 A. Oh, they never wrote me another prescription --
12 Q. Okay.
13 A. -- for anything, not nothing.
14 Q. Did you even have an appointment at ANA after
15 Bauer left?
16 A. They -- they canceled -- they made me several and
17 canceled them.
18 Q. What was -- and I take it that you did not have
19 any medication, opioid medication for your pain --
20 A. No.
21 Q. -- after that?
22 A. Nothing.
23 Q. Describe the -- how you felt after that.
24 A. Physically or spiritually?
25 Q. Let's start with physically.

1 A. Physically, it -- I'm tough, but it was hard. It
2 was hard.
3 Q. Well, tell us --
4 A. I got to where I couldn't hardly drag myself to
5 the bathroom.
6 Q. And what was the pain like that you had to
7 endure?
8 A. Through the roof, just --
9 Q. How long did it take for you to get through that
10 period?
11 A. I lost my will to live.
12 Q. Okay. How long did you go through that period?
13 A. Many months.
14 Q. Okay.
15 A. Year.
16 Q. What impact did it have on you as a person?
17 A. I'm still going through it.
18 Q. Pardon me? Spiritual or emotional impact?
19 A. Spiritual, emotional, I don't know, with a
20 stronger will to live than me. I love life, I love -- I
21 love helping people, I love helping things, I love life.
22 Q. Okay.
23 A. I didn't -- I couldn't -- I looked for homes for
24 the animals.
25 Q. You still have MS, don't you?

1 A. (Nonverbal response).
2 Q. Do you still have the same symptoms of multiple
3 sclerosis that you had back when you contracted that
4 disease?
5 A. Yep.
6 Q. Did you make up this pain that you've spoken
7 about?
8 A. I wish I had, then I could make up a way to get
9 rid of it.
10 Q. Thanks, Connie.
11 THE COURT: Counsel, wish to cross examine?
12 MS. DUSTIN: Yes, Your Honor.
13 CROSS-EXAMINATION
14 BY MS. DUSTIN:
15 Q. Good afternoon.
16 A. Good afternoon.
17 Q. I just have a few questions for you.
18 A. Okay, honey.
19 Q. I just want to --
20 THE COURT: Microphone.
21 MS. DUSTIN: I'm sorry, I'll move it in a little
22 bit. I'm sorry.
23 BY MS. DUSTIN:
24 Q. I want to jump really far ahead in time, and I
25 want you to think about the time period after you left Dr.

1 Bauer's care. Did you see a doctor in Michigan?
2 A. Dr. Mark Newman.
3 Q. Right, okay. And did you see him maybe between
4 October of 2019 to August of 2020?
5 A. I saw Dr. Newman years ago. He's my -- I went
6 searching for a doctor when -- when Dr. Imm (Phonetic)
7 changed jobs and Dr. Bauer was no longer available at the
8 same time, I went looking for other physicians I'd seen. I
9 tried finding Mitch Bowen (Phonetic) who had --
10 Q. So years ago?
11 A. -- treated me.
12 Q. I'm talking about recently, in October of 2019
13 and October of -- all the way to August of 2020, just last
14 year?
15 A. Yeah.
16 Q. Did you see Dr. Newman then?
17 A. Yeah.
18 Q. Okay. So you went up to Michigan, maybe about,
19 what, 20 to 25 times for visits with Dr. Newman?
20 A. What?
21 Q. No? You don't think that many?
22 A. No.
23 Q. Okay. How many times did you see Dr. Newman?
24 A. Twice.
25 Q. Twice?

1 A. And did a phone call once, twice -- well --
2 Q. And when you saw Dr. Newman, did he prescribe you
3 medical marijuana?
4 A. Yes.
5 Q. And maybe -- I think I misspoke. You may have
6 only seen Dr. Newman maybe a couple of time, but did he
7 give you maybe somewhere around 25 or so prescriptions for
8 medical marijuana?
9 A. They gave me a card. I went to a --
10 Q. Dispensary?
11 A. In Fremont, yes.
12 Q. So you went to a marijuana dispensary, and you
13 were able to fill the medical marijuana prescription?
14 A. Able to, yes. Financially it's --
15 Q. Okay. You had an issue with not being able to
16 pay for it?
17 A. Well, I have animals to feed.
18 Q. Okay.
19 A. Take care of me or feed my animals.
20 Q. I understand that, but let me ask you this --
21 A. Same with kids, feed my kids or take care of me.
22 Q. When you were able to fill medical marijuana
23 prescriptions, they helped your pain, didn't it?
24 A. They helped some yes, absolutely. Decreased some
25 of the muscle spasms, that nauseous feeling when pain

1 gets -- when pain gets really intense, it -- your whole
2 body has a way of rejecting. You vomit, you pee, it's like
3 your body says, look, I can't take what you're doing to me
4 here.
5 Q. But Connie, did the medical marijuana help you?
6 A. Yes, I believe it had -- yeah, I believe -- I
7 believe if I could have afforded my allotment that would
8 have been allowed, I believe that it would have had some
9 definite beneficial qualities to it. I don't know if it
10 would have taken care of everything.
11 Q. But you were able to fill, like, 25, 28
12 prescriptions, and you did try it, correct?
13 A. I tried, I tried gummies, I tried creams, I tried
14 put under your tongue, I tried --
15 Q. What you were able to afford helped with the
16 pain?
17 A. To the degree that I was being helped before, no.
18 Q. I'm asking you, so --
19 A. Did it --
20 Q. -- did it help you with the pain?
21 A. Some yeah, absolutely.
22 Q. Okay. And you chose -- and I understand why, but
23 you chose to feed your animals and care for your animals
24 rather than continue with the medical marijuana, right?
25 A. Well, A, I quit feeling comfortable driving.

1 Just like when I was prescribed the medications that the
2 pharmacy was bringing me, I did not want the world to know
3 what all I have and didn't have at the house, you know,
4 I --
5 Q. Yeah.
6 A. You know, the pharmacy knew don't holler out,
7 Connie, your this or that's ready, or I'm going to yell at
8 you, because --
9 Q. So Connie, were you driving yourself up to
10 Michigan to get the prescriptions?
11 A. No, I had a friend drive me up there.
12 Q. Okay. And did you tell Dr. Newman --
13 A. I had a friend drive me up there to get my
14 initial --
15 Q. Right.
16 A. -- assessment with Dr. Newman.
17 Q. Okay. And then did you drive yourself up there,
18 or did you have a friend drive you back, you know, to
19 get -- to have the next assessment done? You said you had
20 maybe two or three visits?
21 Let me ask you this instead, do you drive at all
22 now?
23 A. I don't -- I didn't even plate my vehicle.
24 Q. Do you have a driver's license?
25 A. I have a driver's license.

1 Q. When's the last time you drove a car?
2 A. Probably six months ago. A friend that comes and
3 takes me grocery shopping, things that -- the necessities
4 of life, had been working a lot of hours, was tired, and
5 asked me if I thought I felt good enough to drive.
6 Q. Okay.
7 A. And I drove his car.
8 Q. When you were seeing Dr. Newman, did you tell
9 Dr. Newman your health is very challenging but you remained
10 active?
11 A. As I can. As active as I can. He knew me, but
12 he treated me for several years before.
13 Q. I'm talking about when you saw Dr. Newman in
14 April of 2020, did you tell Dr. Newman your health is very
15 challenging, but you remained active?
16 A. As active as I can be, meaning I'm not letting
17 depression keep me -- I -- I'm --
18 Q. I'm just asking you a question, if you told him
19 that. You don't remember?
20 A. I remember having a conversation with him, yes.
21 Q. Can we bring up Exhibit 415, Page --
22 A. I don't remember exactly word for word everything
23 that was said.
24 Q. No, I understand that. I wouldn't either. And
25 I'm going to just read a note off of a chart page. And it

1 says that -- this is from a physician note in chart,
2 Exhibit 415, Page 6, you told Dr. Newman, health is very
3 challenging, but you remain active using multiple natural
4 products for health, suggested continuing course of
5 treatment?
6 A. Yes.
7 Q. Does that sound --
8 A. We had a lengthy conversation about the benefits
9 of things like Tarragon and Clover and Alfalfa Sprouts
10 and --
11 Q. Okay. Thank you.
12 A. -- a multitude -- a multitude of natural
13 remedies. We talked about it in-depth. In fact, they sent
14 me a list of different herbs or spices that I should be
15 adding to my foods, what foods to eat, and what foods to
16 avoid, to help.
17 Q. Tell us, when you were taking the prescriptions
18 prescribed to you by Dr. Bauer, how many pills were you
19 taking a day?
20 A. Are we talking just all of them in general?
21 Q. Yeah, tell us --
22 A. From both Dr. Bauer and --
23 Q. No, Dr. Bauer. Were you taking Percocets?
24 A. Yes.
25 Q. How many a day?

1 A. Five.
2 Q. And were you taking a Duragesic patch?
3 A. Yes.
4 Q. And how often?
5 A. Every 72 hours you'd change the patch.
6 Q. And were you --
7 A. Sometimes I'd have to take it off earlier because
8 I'd have a reaction to the -- to the glue, depending --
9 when it's hot and you're sweating, your pores are more
10 open, I would get a blistering rash around the outside --
11 Q. And you were taking Oxycontin? Oxycontin?
12 A. Long -- yeah, at one point, yes.
13 Q. And were there times when the Percocet --
14 A. I would take the Oxy -- is that the little blue
15 one?
16 Q. I don't know. Well --
17 A. That I would take at night, it --
18 Q. Okay.
19 A. I have a hard time sleeping, pain interrupts your
20 sleep.
21 Q. And were there times when you needed to call
22 because the Percocet wasn't effective and you had to ask
23 for a stronger dose?
24 A. Huh?
25 Q. Did you ever have to call Dr. Bauer and ask for a

1 stronger dose because the Percocet wasn't working?
2 A. I called to ask for an appointment sooner than
3 what I was seeing, to -- to --
4 Q. Get a quicker refill because it wasn't working?
5 A. I wouldn't say to get a quicker refill because it
6 wasn't working, to get checked out.
7 Q. Had you ever called and say I need a stronger
8 dose because it's not effective?
9 A. I don't believe so. I don't know.
10 Q. Did you --
11 A. Maybe. You know, I treated with the man for
12 30 -- close to 30 years.
13 Q. I'm only talking about --
14 A. 25 years.
15 Q. You were with Dr. Bauer from, I believe, between
16 May of 2010 until May of -- let's say --
17 A. No, no. I was with him prior to that.
18 Q. Okay.
19 A. For a decade, then I swore off all doctors for
20 awhile, just because I'm stubborn.
21 Q. Okay. Connie, let's just talk about the last,
22 let's say, eight or nine years with Dr. Bauer, just that
23 time frame. We're going to keep it just to that time
24 frame, okay?
25 A. Why?

1 Q. Because I just want to ask you about this last
2 eight or nine years.
3 A. Why? What's --
4 Q. Because --
5 A. What's the difference between the last eight or
6 nine years or the first 10, 15 years I seen him? There was
7 a gap in between. Your records, you just said I'd only
8 been seeing him --
9 Q. You're right, you're right.
10 A. -- since this time period, and I'm telling you,
11 no --
12 Q. Okay.
13 A. -- it was in the '90s that I started seeing him.
14 Q. I understand. And then you saw another doctor,
15 and then you went back to Dr. Bauer?
16 A. I switched to Dr. Newman for awhile because, A,
17 another friend was treating with Dr. Newman. They
18 needed -- they wanted me in therapy -- in physical therapy
19 three times a week. I didn't have the gas money to drive
20 to see him. Would I have rather went and seen him? Yes,
21 but I didn't have the resources when I had another option,
22 a ride.
23 THE COURT: Connie, the lawyer's allowed to limit
24 the question to a certain time period. Just listen to the
25 question. We understand that you saw multiple doctors over

1 multiple times, but we want to get an answer to the
2 question.
3 Let's try the question again, please. Listen
4 carefully.
5 MS. DUSTIN: That's okay. We'll just go on to
6 another question.
7 A. I'd like to understand what you were asking.
8 Q. I was just asking about the last eight or nine
9 years, and it's not a big deal. It's really not a big
10 deal.
11 A. Well, Dr. Newman was the doctor that I treated
12 with in that gap.
13 Q. Okay. And you're treating with him again.
14 Connie, you really like Dr. Bauer, don't you?
15 A. I think Dr. Bauer's an excellent doctor.
16 Q. And in fact, you think that Dr. Bauer can put his
17 hands on you and know exactly what's wrong --
18 A. Am I --
19 Q. -- right?
20 A. I think that he is a gifted, caring physician,
21 and he can tell -- if you -- if you touch a muscle that's
22 spasming, I can tell you you're hurting or you're not
23 hurting. Do I think he can? Absolutely. If you or any
24 one of you in this room put your hands on my back right
25 now, you could tell it feels like a piece of rebar, not a

1 muscle.

2 Q. You remember Dr. Hassett?

3 A. Yes.

4 Q. Dr. Hassett saw you in March of 2020, do you

5 remember that?

6 A. Yes.

7 Q. And he told you, you didn't have MS?

8 A. No, he didn't.

9 Q. Okay. Thank you.

10 THE COURT: Any redirect?

11 MR. GIBBONS: Briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MR. GIBBONS:

14 Q. Connie, did the opioid-based medications that Dr.

15 Bauer gave to you help alleviate your pain?

16 A. Yes.

17 Q. Was your pain intense?

18 A. Yes.

19 Q. Thank you, Miss.

20 THE COURT: Defendant may call the next witness.

21 Need some help?

22 Counsel, please remind witnesses who may be

23 gathered about the order on separation.

24 MCKINLEY JONES,

25 was herein, called as if upon examination, was first duly

1 sworn, as hereinafter certified, and said as follows:
2 MR. GIBBONS: This may be a little challenging,
3 Your Honor.
4 THE COURT: Wherever you want, wherever you're
5 near a microphone. There's one in front as usual.
6 DIRECT EXAMINATION
7 BY MR. GIBBONS:
8 Q. Sir, would you give us your name?
9 A. McKinley Jones.
10 Q. McKinley, where do you -- where are you staying?
11 A. Fostoria.
12 Q. Fostoria?
13 A. Uh-huh.
14 Q. Who do you live with?
15 A. My wife.
16 Q. What's your wife's name?
17 A. Mary Jones. Mary Jones.
18 Q. How long have you been married to Mary?
19 A. Too long. I'm sorry. I'd say about 15 years.
20 Q. Where were you born?
21 A. Mississippi.
22 Q. What town?
23 A. Morgan, Mississippi.
24 Q. I'll take your word for that. When did you come
25 up to Ohio?

1 A. About I'd say about 15 years.
2 Q. How far did you go in school in Mississippi?
3 A. Third.
4 Q. Third grade?
5 A. Uh-huh.
6 Q. Did you learn to read and write in Mississippi?
7 A. (Nonverbal response).
8 Q. You have to say yes or no.
9 A. No.
10 Q. What type of work did you do up in Ohio?
11 A. I was a cook.
12 Q. Any other type of work?
13 A. No.
14 Q. What type of house do you live in in Fostoria?
15 A. A big old house.
16 Q. A big old house. And you live with your family
17 there?
18 A. Uh-huh.
19 Q. Okay. Now, McKinley, do you have another name,
20 McKinley, a nickname?
21 A. Billy.
22 Q. Billy?
23 A. Uh-huh.
24 Q. Okay. Now, McKinley, or Billy, did you have a
25 stroke?

1 A. (Nonverbal response).
2 Q. Okay. Can you say yes or no?
3 A. Yes.
4 Q. Okay. And when did you have your stroke?
5 A. It's been awhile.
6 Q. Okay.
7 A. About six years.
8 Q. Were you unable to work after you had your
9 stroke?
10 A. Huh-uh.
11 Q. Well --
12 A. Couldn't work.
13 Q. After you had your stroke, how did you support
14 yourself?
15 A. I get Social Security.
16 Q. Social Security Disability?
17 A. Uh-huh.
18 Q. Okay. Now, McKinley, what hospital were you
19 taken to as a result of having the stroke?
20 A. Fostoria.
21 Q. Fostoria Hospital?
22 A. Uh-huh.
23 Q. Were you in the hospital for awhile?
24 A. Yeah, they took me, they brought me to Toledo,
25 Toledo Hospital.

1 Q. So you went to Toledo?
2 A. Uh-huh.
3 Q. Now, did you have -- or did you lose function as
4 a result of having the stroke?
5 A. Uh-huh.
6 Q. Is that a yes?
7 A. Yes, sir.
8 Q. Okay.
9 A. I'm sorry.
10 Q. Well, I know you're -- you're talking to me, but
11 tell the jury how -- what type of function you lost in your
12 body.
13 A. Just about everything.
14 Q. Okay. Were you confined to a wheelchair?
15 A. Uh-huh.
16 Q. Is that a yes?
17 A. Yes, sir.
18 Q. Okay. Now, did -- after you had the stroke, did
19 you have pain in your body?
20 A. Yes, sir. I got pain -- I have pain every day,
21 my side every day.
22 Q. Now, when did you meet Dr. Bauer?
23 A. My -- my step daughter took me to him.
24 Q. Okay. Did you have a doctor before Dr. Bauer?
25 A. Not no pain doctor.

1 Q. Okay.
2 A. I had a doctor though.
3 Q. Do you remember that doctor's name?
4 A. No, sir.
5 Q. Did you go to see Dr. Bauer because of the pain?
6 A. Yes, sir.
7 Q. Okay. And can you tell -- tell these folks on
8 the jury, or describe your pain that you had when you first
9 encountered Dr. Bauer.
10 A. Too bad to describe. Real bad.
11 Q. So the pain made you cry?
12 A. Yes, sir.
13 Q. Could you walk around the house?
14 A. No, sir. I got a cane I walk with.
15 Q. You walk with a cane?
16 A. Yes, sir.
17 Q. Okay. Can you give us any further description of
18 the pain?
19 A. Not really.
20 Q. Okay.
21 A. I say about not really.
22 Q. Okay. Now, did you have that type of pain every
23 day?
24 A. Every day.
25 Q. And --

1 A. Day and night.

2 Q. And night. What happened at night?

3 A. I have pain day and night.

4 Q. Okay. Now, when you saw Dr. Bauer at his office

5 in Bellevue -- by the way, do you see him here?

6 A. Uh-huh.

7 Q. Tell me where he's seated.

8 A. Right over there, that guy right there

9 (indicating).

10 Q. What's he wearing, what color tie?

11 A. I think, like, a blue.

12 Q. Blue tie?

13 A. Yes.

14 MR. GIBBONS: Your Honor, can the record reflect

15 the defendant -- or the witness has identified the

16 defendant?

17 THE COURT: So noted.

18 BY MR. GIBBONS:

19 Q. Now, did Dr. Bauer perform a physical examination

20 of you, McKinley?

21 A. Yes, sir.

22 Q. Keep it up.

23 A. Yes, sir.

24 Q. Give us a little bit of a description of the

25 physical that he performed.

1 A. He helped me with my pain, with my pain go away,
2 and he -- yeah.
3 Q. Okay. Did he have you fill out a little sheet
4 where you described what pain you were in, do you remember
5 that?
6 A. Yeah. Yes, sir.
7 Q. Who filled out the pain assessment?
8 A. My wife.
9 Q. Okay. And were you there with her?
10 A. Yes, sir.
11 Q. Is that how you function out in public, with your
12 wife as sort of a translator?
13 A. Sometimes my step daughter, when she go with --
14 she help me out.
15 Q. Okay. Now, when -- don't take this the wrong
16 way. When you were a younger man, did you project a little
17 bit differently?
18 A. Yes, sir.
19 Q. Okay. Better?
20 A. Yes, sir.
21 Q. As a result of the stroke, you couldn't project
22 or express yourself?
23 A. No, sir.
24 Q. Okay. Now, did the doctor -- did Dr. Bauer give
25 you what they call a diagnosis, do you know what that is?

1 A. Huh-uh.
2 Q. Okay. Did he tell you what was wrong with you?
3 A. Yes, sir, but I don't remember though.
4 Q. But he gave you some medication or prescribed you
5 some medication, right?
6 A. Yes, sir.
7 Q. Do you know, did he explain what type of
8 medication he was giving you?
9 A. No, sir.
10 Q. Okay. How many years, if you can recall, did you
11 treat with Dr. Bauer?
12 A. I can't remember. I mean --
13 THE COURT REPORTER: I'm sorry?
14 A. Been a lot of years.
15 Q. A whole lot of years?
16 A. Uh-huh.
17 Q. Okay. Did the medication that he gave to you, or
18 prescribed for you, did it help alleviate or help your
19 pain?
20 A. Yeah, my pain.
21 Q. Okay. How did it help?
22 A. I know I have to -- stopped hurting.
23 Q. You stopped hurting?
24 A. Uh-huh. Yes, sir.
25 Q. Did you stop hurting during the day?

1 A. No, I was taking my medicine. I didn't have no
2 more.
3 Q. Okay. How about at night, did you hurt at night
4 after you took the medication?
5 A. No, sir.
6 Q. And there came a time -- or let me back up a
7 little bit.
8 How often would you go see Dr. Bauer?
9 A. I think once a month. I think once a month.
10 Q. Okay. And your family had a mishap at some point
11 in time, did your house burn down?
12 A. Yes, sir.
13 Q. And did you have to move somewhere else?
14 A. With my step son.
15 Q. Your step son, okay?
16 A. Yes, sir.
17 Q. Okay. Do you remember going on a trip down back
18 south to Mississippi at some point in time?
19 A. I know I went to Tennessee.
20 Q. Okay.
21 A. I stay in Tennessee about -- I'd say about
22 five -- five years.
23 Q. Okay. Who took you back down south?
24 A. My son.
25 Q. Okay. To visit relatives?

1 A. Yes, sir.
2 Q. Your son didn't kidnap you or force you to go
3 down there, did he?
4 A. One time he did, but --
5 Q. Okay.
6 A. But he didn't no more.
7 Q. So you have people down there, and you went back
8 down to visit them?
9 A. Got a daughter down there.
10 Q. How many kids total do you have, McKinley?
11 A. Four.
12 Q. Four?
13 A. Got three boys, one girl.
14 Q. Okay. Now, McKinley, there came a time a couple
15 years ago when you didn't treat with Dr. Bauer, right?
16 A. Yes, sir.
17 Q. Do you know the reason that that happened, or --
18 let me withdraw that. Don't answer that question.
19 Was that in August of 2019, do you think?
20 A. I think so.
21 Q. And did you get any medication from any other
22 doctor from that point on?
23 A. I don't recall it that way.
24 Q. Okay. So you heard the expression going cold
25 turkey?

1 A. What's that?
2 Q. Okay. Well, what happened to your body when you
3 no longer had the medication for pain?
4 A. You get weak.
5 Q. Getting weak, okay. Did you continue to have
6 pain?
7 A. Yes, sir.
8 Q. Can you tell these ladies and gentlemen, or
9 describe your pain any better?
10 A. No, sir.
11 Q. Okay. Did -- every time you went to see Dr.
12 Bauer, did you have a reason to go to see him?
13 A. Yes, sir.
14 Q. And what was that reason?
15 A. In pain.
16 Q. Now, and he treated you for your pain, correct?
17 A. Yes, sir.
18 Q. Did he ever give you any injections with a
19 needle?
20 A. Yes, sir.
21 Q. Why did he give you injections?
22 A. Help me with the pain.
23 Q. Okay. Did they work?
24 A. Yes, sir.
25 Q. Every injection worked?

1 A. Yes, sir.
2 Q. And how often would you get the injections?
3 A. I think every time I go there, I think, if I
4 recall that. I think every time I go there.
5 Q. Say that again, McKinley.
6 A. I think every time I go.
7 Q. Every time you go, right?
8 A. Uh-huh.
9 Q. Now, did Dr. Bauer force those injections on you?
10 A. No, sir.
11 Q. And I take it that after you got an injection, at
12 some point in time the effect wore off, right?
13 A. Yes, sir.
14 Q. Did you tell Dr. Bauer that the relief had worn
15 out or worn off?
16 A. No. No, sir. I ain't no good -- I ain't no good
17 talker. I don't like to talk.
18 Q. Okay. I got you.
19 A. But I talk, though. If you ask me a question, I
20 talk.
21 Q. Okay. And you got more injections, correct?
22 A. Huh?
23 Q. You got more injections, right?
24 A. If I recall that, yeah.
25 Q. Okay. Now, did those -- every injection that you

1 had received from Dr. Bauer, did they help relieve your
2 pain?
3 A. They helped.
4 Q. Okay. Now, there came a time when you were
5 placed in a nursing home, right?
6 A. Yes, sir.
7 Q. Why were you placed in a nursing home?
8 A. I really couldn't recall why.
9 Q. When you were in the nursing home, did any doctor
10 come around and talk to you like we're doing here?
11 A. No, sir.
12 Q. Did any doctor or nurse at the nursing home ask
13 you about whether you were suffering with pain?
14 A. Nothing -- don't ask me no questions.
15 Q. Okay.
16 A. Excuse me, can I scoot -- go back some?
17 Q. Sure.
18 A. I'm scooting out of my chair.
19 Q. Back?
20 A. No, in my chair. All right. Thank you.
21 Q. Now, at the nursing home, did you just stay in
22 bed?
23 A. Most of the time, until they take me to go to a
24 meeting, then I go.
25 Q. Okay. Did they get you up in a wheelchair and

1 put you in a room most of the time?
2 A. Yes, sir.
3 Q. Did they give you Aspirin or Tylenol?
4 A. Aspirin.
5 Q. Okay. Did that help your pain?
6 A. I don't recall that, no, no, sir.
7 Q. No, okay. So McKinley, you had a reason why you
8 went to see Dr. Bauer, right?
9 A. Yes, sir.
10 Q. And the reason was the pain resulting from your
11 stroke?
12 A. Yes, sir.
13 Q. And Dr. Bauer treated you and relieved your pain?
14 A. Yes, sir.
15 Q. Okay. Was there anything wanting about him as a
16 doctor for your treatment?
17 A. I'll tell you that he's a good doctor, though,
18 real nice, he treats you right.
19 Q. Okay. Just a minute, McKinley.
20 Just one final question. The name of the nursing
21 home was St. Katherines?
22 A. Yes, sir.
23 Q. Did any doctor or nurse ever put their hands on
24 you and examine you and ask you questions about pain?
25 A. No, sir.

1 Q. Okay. Thank you.

2 CROSS-EXAMINATION

3 BY MR. MELCHING:

4 Q. Hello, sir.

5 A. Hi.

6 Q. Would it sound right if I -- did you begin
7 treatment with Dr. Bauer in 2013, does that sound right?

8 A. Yeah, I think so.

9 Q. Okay. Who took you to your first appointment?

10 A. My step daughter.

11 Q. 411-11, please. Do you remember talking to Dr.
12 Bauer about your pain during your first appointment?

13 A. Yes, sir.

14 Q. And let me ask you another question, is it
15 possible that your wife took you rather than your step
16 daughter?

17 A. My wife, she don't drive. My stop daughter does.

18 Q. You think you went with your wife and your step
19 daughter?

20 A. Yes, sir.

21 Q. Okay. Before we go any further, are there any
22 members of your family besides you who also saw Dr. Bauer?

23 A. My step daughter. And let me see, I think my
24 step daughter is all. That's all I know of, my step
25 daughter.

1 Q. Your step daughter was a patient. Was your wife
2 a patient?
3 A. I don't think so. I don't think she were.
4 Q. What's your step daughter's name who was the
5 patient?
6 A. Monica.
7 Q. I'm sorry, and I got distracted there. Do you
8 remember telling him what level of pain you felt?
9 A. I think 15 of ten.
10 Q. Fifteen of ten. I'm showing your medical record
11 from that first visit, and I see you said that you had a
12 severity -- you told the doctor on a scale of zero to ten,
13 that you were somewhere between a six and a ten. Does that
14 sound right?
15 A. Yeah, I think. Yeah.
16 Q. Okay. After that appointment, do you know what
17 medications you were given?
18 A. No, sir.
19 Q. Do you remember what medications you were ever
20 given by Dr. Bauer?
21 A. My wife always give them to me when I get -- my
22 wife always give them to me.
23 Q. Does Oxycodone sound familiar?
24 A. Yeah, something like that.
25 Q. Methadone?

1 A. I don't know, I do not recall that. Probably.
2 Q. Do you know how often you were taking those
3 pills?
4 A. No, not really.
5 Q. Was anyone else taking your pills?
6 A. Nobody but me.
7 Q. You sure?
8 A. I know my granddaughter, she stole some from me.
9 I know she stole some of my pills, my granddaughter.
10 Q. What's her first name?
11 A. Shala.
12 Q. It wasn't Jaclyn?
13 A. (Inaudible response).
14 Q. How often does she steal them?
15 A. (Indicating) I know they come up missing.
16 Q. They come up missing sometimes. Did you tell Dr.
17 Bauer about that?
18 A. No, sir.
19 Q. When you filled out those descriptions of your
20 pain, I think counsel asked you about that, do you remember
21 filling out -- or do you remember somebody filling out
22 paperwork when you go to the appointments talking about
23 your pain, did you ever fill those out?
24 A. I can't write and read.
25 Q. I believe you said your wife would fill them out?

1 A. My step daughter.
2 Q. Your step daughter, I'm sorry. Your step
3 daughter would fill them out. Would you tell them -- I'm
4 sorry, would you tell her how much pain you were in, and
5 then she would write that down, or would she just guess?
6 A. I'd tell her and she would write it down.
7 Q. Okay. Do you know what your pain score was when
8 you stopped seeing Dr. Bauer, at your last appointment with
9 Dr. Bauer?
10 A. I think about 15, about 15.
11 Q. 411. So this is -- I'm looking at a medical
12 record from March 26th, 2019, which I believe is your last
13 appointment with Dr. Bauer.
14 The last paragraph please.
15 It said in the record that you or your step
16 daughter said you had somewhere between a four to nine pain
17 score, does that sound right?
18 A. Excuse me?
19 Q. It said in the medical record, and I don't know
20 if you put this in, or your step daughter, that you had
21 somewhere between a four and a nine on a scale of one to
22 ten, does that sound right?
23 A. I think, yes, something like that.
24 Q. Counsel was asking you about a time you were
25 kidnapped and taken to Mississippi. Do you remember that?

1 A. (Nonverbal response).
2 Q. Is that a yes?
3 A. Yes, sir.
4 Q. Was that in 2017?
5 A. I think so.
6 Q. Yeah. When you came back -- I'm sorry, when you
7 were in Mississippi, did you have your pills?
8 A. When I got down there, my daughter, she took me
9 to a doctor to get me some.
10 Q. Took you to a different doctor who gave out
11 pills?
12 A. Yeah.
13 Q. So you got pills down there?
14 A. Yeah, in Mississippi. Yeah.
15 Q. Were you getting those pills?
16 A. Yeah.
17 Q. Do you think you got all of those pills, or do
18 you think some of them went missing?
19 A. I think I got all of them.
20 Q. So you think you were getting pills the entire
21 time you were down in Mississippi?
22 A. I think I was.
23 Q. 411, 128 please, and the last text.
24 And this is a medical record from when you got
25 back, July 12th, 2017, that you were recently kidnapped,

1 and that you did not have any pain medications for one
2 month. Does that sound right?
3 A. Yes, sir.
4 Q. How is that possible since you had a doctor down
5 there?
6 A. Because my daughter, she had to go way out of
7 town to take me to a doctor.
8 Q. But the last month you were in Mississippi you
9 didn't have any medications?
10 A. No.
11 Q. Even though you had a doctor down there who was
12 willing to give you those medications?
13 A. I think I did. I don't recall that.
14 Q. Do you recall what your pain level was after you
15 got back from Mississippi?
16 A. No, sir.
17 Q. It says here it was a seven. Does that sound
18 right?
19 A. Pardon me?
20 Q. In it, says here it was a seven, does that sound
21 right?
22 A. Yes. Something like that, yeah.
23 Q. Okay. When you were at St. Katherines, did you
24 know a woman who used to live across the street from you
25 named Shelly?

1 A. Yeah.
2 Q. Do you like Shelly?
3 A. She all right.
4 Q. Do you get along with Shelly?
5 A. Uh-huh.
6 Q. Did you ever tell Shelly or anyone else about
7 this pain you had when you were at St. Katherines?
8 A. I probably did, I don't remember. It's been
9 awhile, but I probably did.
10 Q. You're not sure, okay. Did she take you to a
11 procedure at one point to fix your fistula?
12 A. Yeah. Toledo.
13 Q. I'm sorry?
14 A. I had it done in Toledo.
15 Q. Oh, yeah. And when you came back -- I'm sorry,
16 did it hurt after that procedure?
17 A. (Nonverbal response).
18 Q. Were you able to get any medication for that?
19 A. If I recall I already had some, if I can recall
20 that.
21 Q. You'd already been written a prescription for
22 something?
23 A. (Nonverbal response).
24 Q. Did you get that prescription?
25 A. I think -- I think I did. It's been awhile.

1 Q. Yeah. Do you think you were getting Dr. Bauer's
2 pills while you were at St. Katherines?
3 A. Pardon me?
4 Q. Do you think you were getting the pain pills that
5 Dr. Bauer would give you while you were at St. Katherines?
6 A. I really don't know.
7 Q. Okay. Did you learn after you went to Toledo
8 Hospital for that -- or to a hospital in Toledo for that
9 procedure, that somebody else was filling your
10 prescriptions?
11 A. I can't recall that.
12 Q. Okay. 411 --
13 So Dr. Bauer eventually was unable to treat you,
14 right?
15 A. (Nonverbal response).
16 Q. Is that right?
17 A. (Nonverbal response).
18 Q. Yes?
19 A. Say that again now.
20 Q. Eventually you could not -- he could not be your
21 doctor anymore, right?
22 A. No, sir, I don't recall that.
23 Q. Let me rephrase. Did there come a time where Dr.
24 Bauer could no longer give you pain pills?
25 A. Yes, sir.

1 Q. Okay. Was that in about 2019?
2 A. Probably was. I don't know, I don't remember.
3 Q. Did any of the doctors at Dr. Bauer's office tell
4 you whether or not you should get pain pills going forward?
5 A. No, sir.
6 Q. Did any other doctors ever tell you whether or
7 not they thought you should be getting pain pills?
8 A. No, sir.
9 Q. Did you try to call, or did one of your family
10 members try to call Dr. Bauer's office and talk to a Dr.
11 Benedict and try to get pain pills from him?
12 A. I really couldn't tell you that. I don't know.
13 Q. Have you ever heard the phrase wean?
14 A. What's that?
15 Q. Have you ever heard somebody describe that when
16 somebody's getting a lot of pain pills, they'll slowly
17 reduce those pain pills so they don't hurt so bad?
18 A. No, sir.
19 Q. You never heard of that?
20 A. No.
21 Q. So no one ever communicated to you that a doctor
22 at Dr. Bauer's old office was trying to get you off pain
23 pills?
24 A. No, sir.
25 Q. Okay. Since Dr. Bauer left, have you received

1 Oxycodone or Morphine from any other doctor?
2 A. I haven't seen nobody.
3 Q. Have you told any other doctors you're in pain?
4 A. No, sir.
5 MR. MELCHING: No further questions. Thank you,
6 sir.
7 THE WITNESS: You're welcome.
8 THE COURT: Anything further?
9 REDIRECT EXAMINATION
10 BY MR. GIBBONS:
11 Q. Just briefly.
12 McKinley, after Bauer left, did you ever go back
13 into the office in Bellevue?
14 A. I don't know. I don't know. My step daughter,
15 when she go she always take me with her.
16 Q. Say that again.
17 A. My step daughter go, she always -- always take me
18 with her. We always have appointments at the same time so
19 I would ride with her, yeah.
20 Q. Okay. Did you ever see a Dr. Benedict?
21 A. Not that I know.
22 Q. Did you ever see any doctor at the Bellevue
23 office?
24 A. No, nobody but Dr. Bauer.
25 Q. That's it.

1 THE COURT: Let's take our afternoon break. It's
2 3:25. Let's make this one 15 minutes, plus or minus a
3 little.
4 Please remember all the rules.
5 We're in recess.
6 SHANNON KENNELLY,
7 was herein, called as if upon examination, was first duly
8 sworn, as hereinafter certified, and said as follows:
9 DIRECT EXAMINATION
10 BY MR. GIBBONS:
11 Q. You don't mind using your last name, do you?
12 A. No, that's fine.
13 Q. Ma'am, would you please state your name and spell
14 your last name for the record?
15 A. Shannon K-E-N-N-E-L-L-Y.
16 Q. Shannon, how old are you?
17 A. I will be 48 in August.
18 Q. Okay. And where do you normally live?
19 A. In Huron, Ohio.
20 Q. And did you grow up in that area?
21 A. Huron and Vermillion, yes.
22 Q. And Shannon, are you married, single, divorced?
23 A. I'm divorced.
24 Q. You have any children?
25 A. Yes, I do.

1 Q. How many children?

2 A. I have a son.

3 Q. How old is your son?

4 A. He's 24. He'll be 25 in August also.

5 Q. Now, Shannon, you had a number of motor vehicle
6 accidents, did you not?

7 A. Uh-huh.

8 Q. You have to say yes or no, and you have to
9 project so everybody --

10 A. I've had two severe car accidents.

11 Q. And when was the first one?

12 A. In 2004.

13 Q. And what type of injuries did you sustain as a
14 result of that collision?

15 A. That one was mostly back injuries because I had
16 my seat belt on. I was going down a road, and I had a
17 flashing yellow light, and the road that crossed had a
18 flashing red, and the guy ran the red light and, like, hit
19 me on the side. So I had my seat belt on, and it, like,
20 threw me over, and then the seat belt jerked me back.

21 Q. Were you hospitalized?

22 A. Yes.

23 Q. Give us a description of the injuries you
24 suffered.

25 A. I -- my L4-5 and LS-1 were herniated, and 5, 6

1 and 7 were bulging.
2 Q. And you had another motor vehicle collision?
3 A. Yes, I did.
4 Q. And what year was that?
5 A. 2009.
6 Q. And where was that incident?
7 A. In Vermillion.
8 Q. And were you hospitalized as a result of that
9 incident?
10 A. I wasn't hospitalized for that one, but I had
11 already had knee problems as a child because I was a
12 gymnast, and my knees, like, went up into the dash, and
13 that's when I started having surgeries.
14 Q. Okay. So you had two motor vehicle collisions?
15 A. Uh-huh.
16 Q. And give a general description of the injuries
17 you sustained, medically, from accident number two.
18 A. At that point, my -- I mean, I had had minor knee
19 surgeries previous, so that with tendons and ligaments and
20 stuff. But at that point in time I had to literally -- it
21 was called a Tibial Tubercle Transposition in both legs.
22 Q. Slow down. Take it slow. Describe for the court
23 reporter what the injury was.
24 A. I ended up, literally, having 2-inches of my leg
25 bone in both legs pulled out, and they hollowed it out and

1 put a steel rod through it, and then drilled down in the
2 remaining bone in my legs and hollowed that out and fed the
3 rod this long through the 2-inch piece of bone, and then
4 put it back into my leg and beat the 2-inch piece of bone
5 back into place.
6 Q. And what is that condition called? And take it
7 slow.
8 A. The surgery was called a Tibial Tubercle
9 Transposition. I'm diagnosed with chondromalacia of the
10 Patella, which is from a doctor at the Cleveland Clinic on
11 Oak Point Road.
12 Q. Where did you have your surgery for that -- that
13 condition?
14 A. At the Transportation Boulevard Cleveland Clinic
15 by Dr. Thomas Anderson.
16 Q. I see.
17 A. He did both legs.
18 Q. And any other motor vehicle collisions?
19 A. Huh-uh.
20 Q. Okay.
21 A. No.
22 Q. Any other industrial accidents or anything along
23 those lines?
24 A. No.
25 Q. Okay. So how long were you hospitalized at the

1 clinic, if you were?
2 A. From the first vehicle accident?
3 Q. Second one.
4 A. The second one, when I had the surgeries done I
5 was in the hospital for a week, and then I went home, and I
6 literally couldn't touch my toes to the ground for ten
7 months.
8 Q. Okay.
9 A. Like I was in bed for ten months with a big
10 cooler that they filled with ice that had tubes that it
11 went around my leg, and I had to run that 24 hours a day
12 for eight months. And then about 12 months I was walking
13 without crutches, and then they did the other leg.
14 Q. Okay. So you had two surgeries arising out of
15 the second motor vehicle accident?
16 A. Uh-huh. Yes.
17 Q. And the second surgery, what was that called?
18 A. It was the same exact surgery, just on the other
19 leg. They did the right leg first because it was the worst
20 one, and then the left leg after.
21 Q. So you've got --
22 A. But I've had a total of six surgeries on my right
23 leg and five on my left.
24 Q. Okay. And when was your last surgery?
25 A. Honestly I'm not exactly sure.

1 Q. If you don't know, you don't know.
2 A. I really honestly don't know exactly.
3 Q. Now, as a result of those surgeries and
4 incidents, did you -- or were you treated by a pain
5 management doctor?
6 A. Yes.
7 Q. Okay. And was it Dr. Bauer, or was it someone
8 else?
9 A. No. When I was having surgeries done at the
10 Cleveland Clinic over that two-year time period, I saw
11 Dr. Berenger, who is a pain doctor at the Cleveland Clinic
12 on Oak Point Road, because I lived in Amherst, so they sent
13 me to him.
14 Q. The name of that doctor was?
15 A. Dr. Berenger.
16 Q. Berenger?
17 A. Uh-huh.
18 Q. And were you prescribed opioid-based pain
19 medication?
20 A. Yes.
21 Q. Okay. And for how long did you or were you
22 treated by that doctor?
23 A. Approximately three years.
24 Q. And the level of medication that you were given
25 by the Cleveland Clinic, how would you describe that?

1 A. Half of the time I would vomit because it was so
2 much it made me sick. I literally laid in bed and slept
3 for ten months.
4 Q. Okay. Did you have pain as a result of these
5 various surgeries and motor vehicle accidents?
6 A. Extreme.
7 Q. From top to bottom, one at a time, can you
8 describe the pain that you had, and give a -- the best
9 description you had of that pain.
10 A. My right shoulder and right side of my neck is
11 probably the least pain wise. My lower back, when the
12 discs actually ruptured and I had them removed, it was two
13 months after they did my left leg, so I was in the hospital
14 for, like, three weeks with that. And that -- my back and
15 legs both are, I mean, together it's -- literally I have no
16 quality of life. I do nothing.
17 Q. Okay.
18 A. I can't function.
19 Q. Can you description the physical sensations of
20 that pain?
21 A. It -- my back feels literally as if there's a
22 vice around me just pressing, just extreme painful pressure
23 nonstop. I sleep maybe 20 to 40 minutes at a time and I
24 wake up and have to sit up and turn and stretch and move.
25 And with my legs, I can't stand for more than a half hour

1 at a time. I mean, it's -- it's complete misery.
2 Q. Now, when --
3 A. Literally there's days where I just think, like,
4 why am I here suffering like this, it's -- it's horrible.
5 Q. Why did you go to see Dr. Bauer?
6 A. I was told, actually, by Dr. Kolczun at the
7 Cleveland Clinic, who's an orthopedic doctor, that Dr.
8 Bauer was the best --
9 Q. Okay.
10 A. -- and that he would take care of me.
11 Q. When --
12 A. And he did. And with therapy and injections and
13 medication, and he was also treating me for my seizures.
14 Q. When did you first go to see Dr. Bauer?
15 A. I honestly don't remember. I mean, I've gone to,
16 like, three different doctors. I've had, like, five
17 different -- six different surgeons.
18 Q. Okay. Fair enough.
19 A. I have surgical records like this (Indicating).
20 Q. Did you -- when you went in to see Dr. Bauer, did
21 he diagnose you?
22 A. He -- I -- I had to take all my surgical reports
23 before I was accepted even to go as a patient. So I was
24 online getting surgical records from doctors all over
25 Cleveland and Northern Ohio. And I got all my reports

1 gathered and had an appointment scheduled, and I went in
2 and he started reading my reports, and was, like, oh my
3 God, you poor thing, because I was in my late 30s.
4 Q. Okay. Did he give you a physical exam?
5 A. Yes.
6 Q. Okay. Do you know what a pain assessment sheet
7 is?
8 A. Yes.
9 Q. Did you fill one out yourself?
10 A. Yes.
11 Q. Okay. Did he prescribe opioid-based medications?
12 A. Yes.
13 Q. Okay. And when he initially prescribed the
14 medication, was it at a lesser level or a greater level
15 than what you had been prescribed at the Cleveland Clinic?
16 A. Lesser, way lesser.
17 Q. Okay. And every time -- or let me ask you this,
18 how often, or how many years did you -- were you treated by
19 Dr. Bauer?
20 A. I'm not exactly sure about that either. I would
21 say probably about eight.
22 Q. How often would you go in?
23 A. Normally every two weeks because I got
24 injections. Sometimes once a month, it depended how I was
25 doing.

1 Q. Okay. Was this pain that you were suffering, was
2 that in your head, or was it legitimate pain?
3 A. It's absolutely not in my head.
4 Q. Okay. Now, you had prescribed opioid-based
5 medication?
6 A. Uh-huh.
7 Q. Did those medications tend to alleviate your
8 pain?
9 A. Yes.
10 Q. And describe for the jury how they alleviated
11 your pain.
12 A. I was able to function. I -- I mean, I still had
13 pain, but it was -- it made it to where I could function
14 again. I have life again. I couldn't go to my son's
15 football games, I couldn't -- because I couldn't sit there,
16 I couldn't stand for two-and-a-half, three hours. I mean,
17 I -- and I'm a single mother, his father wasn't in his
18 life. I couldn't do anything. And with the medication and
19 therapy and the course of all of it together, I could
20 function.
21 Q. What do you define as functioning?
22 A. Vacuuming my house.
23 Q. Okay.
24 A. Riding in the car for more than a half hour, just
25 simple things, walking through the grocery store to be able

1 to shop.
2 Q. Did you have doctor/patient discussions with Dr.
3 Bauer about your pain and your course of treatment?
4 A. Yes.
5 Q. Okay. On each and every occasion?
6 A. Yes.
7 Q. Now, you mentioned physical therapy. Did Dr.
8 Bauer send you for physical therapy?
9 A. Yes.
10 Q. And do you know why you were sent for physical
11 therapy?
12 A. He -- he said that it -- it would help with the
13 tightness in my back and my legs, and that I needed to --
14 the more that I moved, the less tightening and muscle
15 issues and soreness I would have. And I did water therapy,
16 and I also started walking more, which, like, I couldn't
17 walk my dog before. And then I was walking my dog, and he
18 was right, the water therapy was amazing, it helped
19 tremendously.
20 Q. Where did you get that water therapy?
21 A. At NOMS.
22 Q. NOMS?
23 A. Uh-huh.
24 Q. Now, you --
25 A. I went to -- actually, I went to the old

1 Providence Hospital first and did it there, but then I
2 started going to NOMS instead.
3 Q. Okay. Now, what about mental health counseling,
4 psychological counseling, psychiatric counseling, did you
5 have -- ever have to do that when you were a patient of Dr.
6 Bauer?
7 A. No.
8 Q. Okay. Did you have any mental health issues
9 during that time frame?
10 A. No.
11 Q. And did the course of opioid-based medication
12 change from time to time?
13 A. Yes.
14 Q. And what was that based upon?
15 A. I went in to one of my appointments, I don't know
16 exactly when it was, it was -- I mean, obviously, like,
17 four years, maybe five years ago, and he told me that the
18 laws were changing, and that I had to choose one pain
19 medication, because I was on two, and he said I had to pick
20 one or the other.
21 Q. Okay. Every time you went in for a visit with
22 Dr. Bauer you had a legitimate pain or neurological
23 complaint, did you not?
24 A. Yes.
25 Q. And the treatment that he gave to you was

1 necessary?

2 A. Yes, absolutely.

3 Q. And it was in the normal course of his medical

4 practice?

5 MS. DUSTIN: Objection.

6 THE COURT: Sustained.

7 BY MR. GIBBONS:

8 Q. You had some other drug issues, didn't you?

9 A. Yes.

10 Q. Okay. And did you pick up a case during the time

11 frame that Bauer -- you were being treated by Bauer?

12 A. Yes.

13 Q. What was the nature of that case?

14 A. I was charged for trafficking in Oxycodone. I

15 gave one per 30 to somebody that was complaining about back

16 pain, and I gave him a Percocet.

17 Q. And that was -- you knew that that was against

18 Dr. Bauer's rules?

19 A. Yes.

20 Q. Had you signed a pain contract?

21 A. Yes.

22 Q. Okay. Did you -- which county were you charged

23 in?

24 A. Huron.

25 Q. Did you do time on that case?

1 A. Yes, I did.
2 Q. Did you do two years at Marysville?
3 A. No.
4 Q. How long?
5 A. Seven months and I judicialed out.
6 Q. So you got an early release?
7 A. Uh-huh.
8 Q. When was -- when were your released?
9 A. March -- wait a minute. September -- I think it
10 was September 9th of 2016 --
11 Q. Okay.
12 A. -- I think.
13 Q. After your release, you were supervised by the
14 Adult Probation Office in Huron County?
15 A. Yes.
16 Q. Okay. And did you return to see Dr. Bauer for
17 the pain?
18 A. Yes.
19 Q. Okay. Did you have a discussion with him about
20 you misusing that Percocet?
21 A. I didn't tell him.
22 Q. Okay. But you were gone for a period of time?
23 A. Yes.
24 Q. Okay. How did you explain your absence?
25 A. I also, when I was charged for the Oxycodone, I

1 was charged for receiving stolen property.
2 Q. Okay.
3 A. Somebody I knew asked if they could store some
4 stuff in my third spare bedroom that I had in my house and
5 I let them, and I got charged with receiving stolen
6 property also, and I told Dr. Bauer that I was going
7 because I was charged with receiving stolen property. I
8 did not mention the Oxycodone to him.
9 Q. You misled him?
10 A. Yes, I did.
11 Q. Now, did you -- were you, again, given a physical
12 examination by Dr. Bauer?
13 A. Yes.
14 Q. And were the conditions basically the same, your
15 physical conditions?
16 A. Yes.
17 Q. And did he put you on a continued course of
18 opioid therapy?
19 A. Yes.
20 Q. At any point in time did he explain to you the
21 risk versus reward of being on that form of medication?
22 A. Yes.
23 Q. Okay. So you were fully aware of the side
24 effects or the downfall, possible downfall, of this
25 opioid-based medication?

1 A. Yes.
2 Q. Okay. Now, for how many years were you treated
3 by Dr. Bauer?
4 A. Approximately seven or eight.
5 Q. Okay.
6 A. I'm not sure exactly.
7 Q. Did you have any other physical conditions, other
8 than the results of the motor vehicle accident, that you
9 were being treated by Dr. Bauer?
10 A. Yes.
11 Q. And explain those to the jury.
12 A. I have seizures.
13 Q. Seizures?
14 A. Yes.
15 Q. You have a seizure disorder?
16 A. Yes, I do.
17 Q. And as a neurologist he treated you for that?
18 A. Yes.
19 Q. And when did you first have seizure disorders?
20 A. It just started approximately five-to-six years
21 ago. And I didn't understand why, but I started having
22 seizures, and I was -- my son, thank God, was home from
23 Kent State, or I might have -- I would have been home
24 alone, and who knows what would have happened.
25 He called 911, I was taken by ambulance to Fisher

1 Titus in Norwalk. At that point they couldn't stabilize
2 me, I was there for an hour and a half. They couldn't
3 stabilize me, I was life flighted to Toledo. And at that
4 point I was there for six days in a coma. I finally came
5 out of it, and they said that there was damage to the
6 bottom right quadrant of my brain.
7 And at that point, I -- they weren't helping me.
8 From the whole time I woke up I still continued having
9 seizures in the hospital. It wasn't getting any better.
10 And my mom had talked to Dr. Bauer, and my mom made the
11 decision to have me come back here to -- or not here, I'm
12 in Toledo, I'm sorry, have me go back to Sandusky, at which
13 time I saw Dr. Bauer, and I was in the hospital at
14 Fireland's for three days having tests done.
15 Q. Okay.
16 A. And he prescribed medications, and my seizures
17 stopped.
18 Q. Okay. So did he continue treating you for your
19 physical injuries that caused pain?
20 A. Yes.
21 Q. Okay. Now, there came a time in August of 2019
22 where Dr. Bauer no longer was your doctor, correct?
23 A. Yes.
24 Q. And were you -- you were still on opioid-based
25 therapy?

1 A. I was weaned off by the physician's assistant at
2 the office, and --
3 Q. Before Bauer was unavailable or after?
4 A. After.
5 Q. Did you report to the office, or were you told to
6 come in to the office?
7 A. Yes.
8 Q. Okay. And you were weaned off by who?
9 A. I believe her name was Jill. I'm -- I mean, it
10 was a few years ago, but I'm pretty sure that was her name.
11 Q. Okay. Did you explain to that Nurse Practitioner
12 or the doctor, any doctor, that you still had the pain?
13 A. Yes, I did.
14 Q. And what was the result of you being weaned off
15 of your opioid-based medications?
16 A. I waited months to get into other doctors. One
17 doctor wanted to do bee sting therapy, which I said you
18 didn't even read my chart because I'm allergic to bees.
19 And I was suffering and in miserable unGodly pain, and I
20 turned to street drugs.
21 Q. Okay. Why didn't you simply go back to the
22 Cleveland Clinic?
23 A. Because I -- I -- they had no bedside manner. I
24 didn't feel that they cared and they overmedicated me.
25 Q. Okay. So -- so sometime in 2020 you turned to

1 street drugs?
2 A. Yes.
3 Q. Okay. And as a result of that, you caught a
4 case, as they say?
5 A. Yes.
6 Q. And you caught a case in what county?
7 A. Erie.
8 Q. Erie. And that case involved trafficking in
9 heroin?
10 A. Yes.
11 Q. Is that a yes?
12 A. Yes.
13 Q. Okay. And did you sell to an undercover officer?
14 A. Yes. I didn't -- I'm on disability, so I don't
15 have a lot of money, and I chose not to rob and steal from
16 people I care about, stores, strangers, anybody. I'm not a
17 thief, and I wasn't going to prostitute, so I sold drugs so
18 I could support myself and be out of pain. I've never
19 overdosed in my life. I just maintain to not be in pain.
20 Q. So without the opioid-based medication prescribed
21 by Dr. Bauer, you sought street drugs to replicate the same
22 effect --
23 A. Yes.
24 Q. -- is that accurate?
25 A. Yes.

1 Q. Okay. And you were placed on probation in
2 connection with that case?
3 A. Yes.
4 Q. You're now in a halfway house in Sandusky, are
5 you not?
6 A. Yes, it's a sober-living facility.
7 Q. Okay. And you see Dr. Bauer in the courtroom
8 today?
9 A. Yes, I do.
10 Q. Would you point him out and tell me what he's
11 wearing?
12 A. He's right there (Indicating). He's wearing a
13 blue shirt, a gray jacket, a blue tie.
14 Q. Okay. And over the course of time that you were
15 treated by him -- although there were some bumps in the
16 road, right?
17 A. Yes.
18 Q. Was he an effective doctor in addressing your
19 pain issues?
20 A. Absolutely.
21 MR. GIBBONS: One moment, Judge.
22 No further questions, Your Honor.
23 CROSS-EXAMINATION
24 BY MS. DUSTIN:
25 Q. Good afternoon, Shannon.

1 A. Hi.
2 Q. We've met once before, right?
3 A. Yes.
4 Q. And we met when you were in custody at the Erie
5 County Jail, correct?
6 A. Yes.
7 Q. And when you -- when you were detained there,
8 when you first were brought in, you tested positive for
9 Fentanyl, right?
10 A. Yes.
11 Q. Any other drugs?
12 A. Fentanyl and heroin.
13 Q. And at that time, you were using those drugs off
14 the street, correct?
15 A. Yes.
16 Q. And you were, at the time, under indictment for
17 eight different counts, right?
18 A. Yes.
19 Q. And those dates of those offenses were
20 August 21st, 2020, right?
21 A. Yes.
22 Q. And they were possession of heroin, right?
23 A. Yes.
24 Q. Trafficking in heroin?
25 A. Yes.

1 Q. Possession of Fentanyl-related compounds?
2 A. Yes.
3 Q. Trafficking in Fentanyl-related compounds?
4 A. Yes.
5 Q. Aggravated possession of drugs, I think it was
6 methamphetamine?
7 A. Yes.
8 Q. Aggravated trafficking in drugs, another count,
9 Methamphetamine, possession of drugs, Tramadol, and
10 trafficking in drugs Tramadol?
11 A. No, there was only one felony for -- which was
12 the Tramadol. There wasn't two charges for the Tramadol,
13 there was one.
14 Q. So just one charge for the Tramadol. You are
15 currently in a -- residing where?
16 A. At Becky's -- Road to Hope in Sandusky.
17 Q. And it's a sober-living facility, right?
18 A. Yes.
19 Q. And you just told Mr. Gibbons that the reason you
20 had your prior conviction for trafficking in drugs was
21 because you gave one Percocet to a friend, or one Oxy to a
22 friend, correct?
23 A. Oxycodone.
24 Q. Do you remember when I was there talking with you
25 there were two agents with me?

1 A. Yes.
2 Q. And do you remember telling us that you went to
3 prison in 2016 for 17 months for selling a 30 -- $30.00 beg
4 of heroin?
5 A. I didn't go to prison for 17 months, I went for
6 seven months.
7 Q. You told us it was for selling a $30.00 bag of
8 heroin?
9 A. I gave a Perc 30 to somebody.
10 Q. Okay. So what you told us was wrong, you didn't
11 sell a $30.00 bag of heroin, you gave a Perc 30?
12 A. I gave a Perc 30 in Huron County.
13 Q. But do you remember telling us it was for selling
14 a $30 bag of heroin?
15 A. I did sell a $30 bag of heroin and that was
16 dismissed.
17 Q. Okay.
18 A. I was charged for the Oxycodone.
19 Q. I get it. So you got -- okay, so you also sold
20 heroin and you gave someone a pill?
21 A. Yes.
22 Q. All right. And one count was dismissed?
23 A. Yes.
24 Q. Do you remember me asking you if you were in pain
25 that day, and you told me it was more emotional pain?

1 A. No. I mean, I was distraught, I lost my brother
2 a few months before I was there, and I was, you know, I was
3 facing eight felony drug charges. I most definitely was
4 mentally a mess.
5 Q. When you went to the Cleveland Clinic for your
6 surgeries, they -- you had just had a very invasive
7 procedure when they prescribed you your medications,
8 correct?
9 A. I was prescribed medications from the Cleveland
10 Clinic for over a one-year time period because I had
11 surgeries since I was 25 years old.
12 Q. So your -- the medications you were prescribed
13 were for the surgeries you had had over the course of the
14 years?
15 A. Yes.
16 Q. Now, when you first went to see Dr. Bauer, you
17 had to fill out a pain score, correct?
18 A. Yes.
19 Q. And you would do that on most, if not all, your
20 visits, correct?
21 A. Yes, I did.
22 Q. And the first time you saw Dr. Bauer, sometime in
23 August of 2004, did you indicate your pain score was eight?
24 A. Yes.
25 Q. And then do you recall in March of 2015 your pain

1 score was nine?
2 A. I don't know exactly what month what my pain
3 scores were. I mean, I'm not going to sit here and --
4 because I honestly --
5 Q. I understand that.
6 A. I honestly don't know. I went there every month,
7 so --
8 Q. Your pain was always around eight or nine,
9 sometimes it got worse, sometimes it would stay the same?
10 A. Yes.
11 Q. And, at times, would you have to get maybe an
12 increase in medication in order for it to stay the same?
13 A. No.
14 Q. Do you recall in June, it was actually
15 June 8th of 2015, Dr. Bauer's office called you and told
16 you that you needed to come in for your appointment and
17 bring your meds for a pill count because there was a call
18 that you were selling your medications. Do you recall
19 that?
20 A. I honestly don't recall that.
21 Q. You don't recall that?
22 A. No.
23 Q. Do you recall that you were told that if you did
24 not go in for a pill count they would not be able to write
25 you pain meds, and that was per Dr. Bauer, do you recall

1 that?
2 A. I -- that was on my voice mail. I wasn't told
3 that physically, it was on my voice mail.
4 Q. You do now remember being called in for a pill
5 count because you were -- someone accused you of selling
6 your pills and they left you a voice mail to come in, do
7 you remember that?
8 A. Yes.
9 Q. And then do you recall telling Dr. Bauer's office
10 that you were traveling to see a relative, and on your
11 return to the house you found all of your medication
12 stolen, including your narcotics and your nonnarcotic
13 medications, and you were unsure who stole them?
14 A. Yes. The sheriffs came to my house and made a
15 report and took fingerprints.
16 Q. So you were not able to submit to a pill count,
17 correct?
18 A. No.
19 Q. But instead, they asked you for a urine drug
20 screen, do you recall that?
21 A. I did urine drug screens multiple times while
22 there.
23 Q. I'm talking about right after this situation with
24 the pill count. You couldn't -- you couldn't come in for
25 one because your medications were stolen, do you remember

1 that the same day you went in for a urine drug screen?
2 A. I honestly don't.
3 Q. Let's look at Exhibit 412, Page 85. Actually,
4 Page 196.
5 Did he ever share with you the results of your
6 drug test by giving you a copy of the results?
7 A. No.
8 Q. Okay. Well, we're looking at Page 196 of your
9 patient chart. And it indicates that, in addition to other
10 medications, you tested positive for Barbiturates, do you
11 see that?
12 A. Yes.
13 Q. You were never prescribed those by Dr. Bauer,
14 were you?
15 A. I don't even know what Barbiturates are.
16 Q. Did you take -- were you taking illegal drugs off
17 the street in June of 2015 when you tested positive for
18 Barbiturates?
19 A. No, I was not. I don't know what Barbiturates
20 are, what drugs are even Barbiturates.
21 Q. Were you taking any illegal drugs off the streets
22 in --
23 A. No.
24 Q. -- June of 2015?
25 A. No.

1 Q. But you wouldn't argue that the results of these
2 urine tests are accurate?
3 A. Yes.
4 Q. Do you recall then in -- in August of 2015 you
5 were discharged from Dr. Bauer's practice, or discharged
6 from narcotics medications due to your arrest for
7 trafficking in drugs, do you recall that?
8 A. Yes.
9 Q. And that wasn't the first time you were
10 discharged, were you?
11 A. No.
12 Q. And did you receive a letter from Dr. Bauer's
13 office in July of 2018 that you were discharged?
14 A. Yes.
15 Q. And you went back to him several months later,
16 correct?
17 A. Yes.
18 Q. And you were prescribed opioids again, correct?
19 A. Yes.
20 Q. And that's the same thing that happened back in
21 2015; in fact, on June 8th of 2015, even though you had
22 failed to submit to the -- the drug count and you tested
23 positive for Barbiturates, you were still prescribed
24 Morphine, Oxycodone and Tramadol, do you recall that?
25 A. Yes.

1 Q. At some point during your time with Dr. Bauer,
2 you were also seeing a Dr. Bishop, correct?
3 A. Yes.
4 Q. And you got Xanax from him, correct?
5 A. Yes.
6 Q. So did you forget about that encounter when you
7 were answering questions for Mr. Gibbons? He had asked if
8 you ever had any mental health issues or depression.
9 A. I'm not treated for depression. I have bipolar
10 disorder. I don't have -- I don't have depression. I
11 mean, I'm not treated for depression, I have severe anxiety
12 and bipolar.
13 Q. So you were seeing Dr. Bishop for those
14 disorders?
15 A. Yes.
16 Q. And you were taking Xanax at the time?
17 A. Yes.
18 Q. While you were seeing Dr. Bauer, you pretty much
19 consistently assessed your pain at a nine out of ten, does
20 that sound about right?
21 A. Not all the time.
22 Q. In fact, at one point you said it was ten out of
23 ten, and that was in June of 2017. Would that sound right?
24 A. I had fallen down the steps, and my pain was
25 worse on my back for quite a few months.

1 Q. Are you taking anything for pain now?
2 A. I am taking Naproxen.
3 Q. Naproxen?
4 A. Yes.
5 Q. And is Naproxen Aleve?
6 A. I'm not a doctor, I don't know. I just got it
7 prescribed to me.
8 Q. And Naproxen is, like, over-the-counter
9 medication, correct?
10 A. I get it from the pharmacy.
11 Q. Okay. Does it help your pain?
12 A. Not really, no.
13 Q. And after Dr. Bauer stopped practicing medicine,
14 you actually weaned yourself off of medications, correct?
15 A. I had no option.
16 Q. And Shannon, you were addicted to the opioids,
17 weren't you?
18 A. Yes.
19 Q. And in fact --
20 A. Anybody that takes opioids is addicted to them.
21 Q. In fact, when you started to see Dr. Bauer, you
22 were addicted to opioids too, weren't you?
23 A. Yes. I had left a previous doctor when I went to
24 Dr. Bauer. I have been taking narcotic pain medication for
25 over 20 years, 25 years.

1 Q. And you have been charged with, and you've also
2 been convicted of, trafficking in -- in Controlled
3 Substances, right?
4 A. Yes, which I never used until Dr. Bauer was no
5 longer in his office.
6 MS. DUSTIN: Just a moment.
7 Thank you. Nothing further.
8 THE COURT: Anything further?
9 MR. GIBBONS: Just briefly, Your Honor.
10 REDIRECT EXAMINATION
11 BY MR. GIBBONS:
12 Q. Dr. Gary Bishop, what type of doctor is he?
13 A. He's a psychiatrist.
14 Q. And who --
15 A. Gregory Bishop.
16 Q. Gregory?
17 A. Yeah, it's Gregory Bishop, not Gary.
18 Q. Okay. And where is his office?
19 A. It was on Water Street, which he then was at
20 Fireland's Mental Health for a few months. And right after
21 Dr. Bauer was no longer in his office, Dr. Bishop
22 transferred to California, so he's in California somewhere
23 now.
24 Q. Why were you being treated -- is he a
25 psychiatrist? Why were you being treated by a

1 psychiatrist?
2 A. Because I have bi-polar disorder and severe
3 anxiety.
4 Q. Who referred you to Dr. Bishop?
5 A. My family doctor at the -- at the time, Dr. John
6 Vraciu (Phonetic).
7 Q. And was Dr. Bauer aware that you were being
8 treated also by Dr. Bishop?
9 A. I never -- he didn't ask, and I didn't put it out
10 there. I didn't say anything about it.
11 Q. So as far as you know, you don't know?
12 A. No.
13 Q. Okay. So if I understand your testimony, the
14 reason why you turned to the streets and the street drugs
15 is that you no longer were on a course of opioid treatment
16 for your pain?
17 A. Most definitely.
18 Q. Thank you, Miss.
19 A. Thank you.
20 THE COURT: You may step down. Thank you.
21 Ladies and gentlemen, counsel, the jury has
22 graciously agreed to stay until 6:00 tonight so we may
23 continue with witnesses, so we thank you for that.
24 BRANDON WILLARD,
25 was herein, called as if upon examination, was first duly

1 sworn, as hereinafter certified, and said as follows:

2 DIRECT EXAMINATION

3 BY MR. GIBBONS:

4 Q. Sir, okay if we use your last name?

5 A. Sure.

6 Q. Sir, would you please state your name and spell

7 your last name for the record?

8 A. Brandon Willard, W-I-L-L-A-R-D.

9 Q. And where do you live, Brandon?

10 A. Right now I'm currently residing in Toledo.

11 Q. Are you employed?

12 A. Yes.

13 Q. How are you employed?

14 A. I work at Marco's Pizza delivering and making

15 pizzas.

16 Q. And how long have you been working at that job?

17 A. Little over two years now.

18 Q. Two years?

19 A. Yes.

20 Q. Now, Brandon, are you married, single, divorced?

21 A. I'm single. Well, I have a girlfriend, but not

22 married.

23 Q. Okay. Now, Brandon, your mother worked for Dr.

24 Bauer, correct?

25 A. Correct.

1 Q. And what is her name?
2 A. Janice Willard.
3 Q. And what type of job did she have in Dr. Bauer's
4 office?
5 A. She was his nurse.
6 Q. Okay. And was there a time when you were working
7 in the Columbus area?
8 A. Yes.
9 Q. And you were living down there also?
10 A. Correct.
11 Q. And your mother lives in Clyde, Ohio, correct?
12 A. Correct.
13 Q. And who were you working for while you were
14 living in Columbus?
15 A. I was working for UPS. I was unloading and
16 loading packages in the semitrailers.
17 Q. And how long did you have that job for UPS?
18 A. I was there just a year.
19 Q. Did you suffer a work-related injury?
20 A. Correct, yes.
21 Q. What happened to you?
22 A. I had -- I had pulled some muscles in my back,
23 and I just had a really bad strain, I believe.
24 Q. Okay. And were you treated by a doctor for that?
25 A. Yes.

1 Q. And who was the doctor?
2 A. It was Dr. Bauer.
3 Q. Okay. How about before Dr. Bauer?
4 A. It was just -- I went to Urgent Care, and they
5 recommended me to a -- to find a physician. Basically I
6 had -- they wanted me to do the MRI, and that whole --
7 whole thing.
8 Q. Now, was there a reason why you moved back from
9 the Columbus area?
10 A. I was unable to work at that time.
11 Q. Okay. Did you have surgery?
12 A. No, I didn't end up having surgery. I did a lot
13 of physical therapy, aqua therapy.
14 Q. Okay. At any point did you have surgery?
15 A. No.
16 Q. Precisely, what was the nature of your injury?
17 A. It was compressed and bulging discs in my L1 --
18 or L5, L4 and S1, I believe.
19 Q. I see. And did those conditions cause you pain?
20 A. Yes.
21 Q. And when did you have your injury?
22 A. It was 2009 I believe.
23 Q. And when you moved -- or strike that.
24 Can you describe the pain that you experienced
25 from this work-related injury?

1 A. It was -- it was a shooting pain down my right
2 leg, and a numbness, tingling, and just pain in my back,
3 yeah.
4 Q. Okay. And when did you start treating with Dr.
5 Bauer?
6 A. I want to say it was towards the end of 2009.
7 Q. And did you -- do you recall your first encounter
8 in the office?
9 A. Yeah.
10 Q. Okay. And of course your mother worked there,
11 right?
12 A. Yes.
13 Q. And were you given a physical examination by Dr.
14 Bauer?
15 A. Yes.
16 Q. And did he have all of your prior medical records
17 from the injury?
18 A. Yeah.
19 Q. Okay. Did he review the injury with you and come
20 up with a diagnosis?
21 A. Yes.
22 Q. Did he come up with a plan of treatment?
23 A. Right. Yes.
24 Q. And what was, in your understanding, the plan of
25 treatment?

1 A. We -- we were doing more -- more physical
2 therapy, and there was decompression therapy. And I think
3 that was about -- that was it with -- along with some
4 prescriptions.
5 Q. Now, who recommended the physical therapy to you?
6 A. I'm pretty sure Dr. Bauer did.
7 Q. And where did you obtain your physical therapy?
8 A. I did -- it was in Bellevue, I believe.
9 Q. And for how long did you do the physical therapy?
10 A. Six to eight months, I believe.
11 Q. And that was on the recommendation of Dr. Bauer?
12 A. Yes.
13 Q. So I take it that he did not immediately put you
14 on a course of opioid medication?
15 A. No, huh-uh.
16 Q. And how often did you see Dr. Bauer during that
17 time frame?
18 A. I believe it was either once a month or once
19 every three months.
20 Q. Okay. And did the physical therapy work, did it
21 alleviate your pain?
22 A. No. Huh-uh.
23 Q. You also mentioned that you had compression
24 therapy?
25 A. Right.

1 Q. And what is that?
2 A. It's a decompression therapy. They would have me
3 lay down and put my legs up on basically like a chair, and
4 they would strap my body to this machine. My lower half
5 would get stretched this way and upper half get stretched
6 this way (Indicating). It would decompress my spinal cord.
7 Q. Decompression therapy?
8 A. Correct.
9 Q. Who recommended that you get your decompression
10 therapy?
11 A. Dr. Bauer.
12 Q. And was that after you informed him that the
13 physical therapy was not alleviating your pain?
14 A. Correct.
15 Q. And did you have a meeting with him in the office
16 to discuss this matter?
17 A. Yes.
18 Q. And you expressed your medical complaints, and he
19 listened to you, correct?
20 A. Correct.
21 Q. And where was the decompression therapy provided
22 to you?
23 A. I'm pretty sure that was in -- I want to say
24 Sandusky.
25 Q. Okay. And was that a Chiropractor?

1 A. Yes.
2 Q. Okay. And do you recall the name of the
3 chiropractor?
4 A. I can't recall that right now off top of my head.
5 It's been awhile.
6 Q. How long did you have this chiropractic therapy?
7 A. As long as my insurance would let me.
8 Q. Okay.
9 A. I think it was, like, three sessions a month, and
10 I think it went on for eight or nine months.
11 Q. And did that help alleviate your pain?
12 A. Yes.
13 Q. Okay. Did you report back to Dr. Bauer about
14 your sessions with the chiropractor?
15 A. Yes.
16 Q. And when did -- was there a reason given to you
17 as to why you were started on a course of opioid therapy?
18 A. It was just that -- it was to help with -- with
19 the pain as well.
20 Q. Okay. So am I to understand that the
21 chiropractic therapy helped to a certain degree?
22 A. Correct.
23 Q. But did you express to him the thought that you
24 needed more pain medication?
25 A. Right.

1 Q. Pain treatment?
2 A. Treatment, yep.
3 Q. Did you have, or did you fill out, every time you
4 went into the office, what's called a pain assessment
5 sheet?
6 A. Yes.
7 Q. Okay. Who filled that out?
8 A. I filled that out.
9 Q. Okay. Did anybody tell you what to put down on
10 the sheet?
11 A. No.
12 Q. Did he conduct -- Dr. Bauer conduct a physical
13 examination of you on the first occasion?
14 A. Yes.
15 Q. Okay. Explain what that consisted of.
16 A. It just consisted of him asking, you know,
17 checking my back, he was checking to see where, you know,
18 where my pain was located, if I had any -- anything out of
19 sort, basically, you know, if my back was out of alignment,
20 if my hips were in alignment, if everything was where it
21 should be basically.
22 Q. Okay. Now, have I asked you to describe the pain
23 that you were experiencing?
24 A. Yes.
25 Q. Okay. And what type of medication were you

1 placed on?

2 A. I was placed on Percocet 5-milligram.

3 Q. Okay. And did that help alleviate the pain?

4 A. Yes, it did.

5 Q. Okay. And how long were you treated by Dr. Bauer

6 in total?

7 A. In total, until 2018, so almost nine years.

8 Q. Okay. And did the medication change from time to

9 time?

10 A. Yes.

11 Q. Okay. And was there a reason expressed to you

12 that it would be changed?

13 A. Basically for addiction purposes.

14 Q. Okay. And explain that a little bit better.

15 A. Basically so it was so that I wouldn't be

16 constantly on the same medication for a duration to where I

17 would build a tolerance to it and become addicted.

18 Q. I'm sorry?

19 A. And become addicted.

20 Q. Okay. And did Dr. Bauer take steps to alleviate

21 that possibility?

22 A. Yes.

23 Q. And what steps were taken?

24 A. Just like I said, we switched -- we switched

25 prescriptions up, and we tried different --

1 Q. Combinations?
2 A. Yeah. Yep.
3 Q. Okay. Did the various medications alleviate your
4 pain?
5 A. Some did, yes.
6 Q. Okay. And did there come a time when you had
7 some addiction issues?
8 A. Yes. My own -- yes.
9 Q. And describe what happened.
10 A. I kind of just got mixed up in the wrong crowd
11 and started experimenting with other things.
12 Q. Okay. So it was factors outside the medical
13 office?
14 A. Yes.
15 Q. Okay. And what type of other things were you
16 experimenting with?
17 A. Well, a lot of alcohol, cocaine and heroin.
18 Q. Okay. Did you let Dr. Bauer know about
19 eventually this experimentation?
20 A. Yes.
21 Q. Okay. How did it all come out?
22 A. There was one incident where I had gotten a DUI,
23 and I let him know before he found out through other --
24 Q. Through your mother?
25 A. Right.

1 Q. Okay. And what steps did he take after he found
2 out about the OVI?
3 A. At that point I believe we started stepping down
4 medication. And I was advised basically that I couldn't be
5 his patient if I was going to -- I couldn't be his patient
6 if I was going to be using other.
7 Q. Other street drugs?
8 A. Right.
9 Q. Okay. Who advised you of that fact?
10 A. Who advised me of that?
11 Q. Yes.
12 A. Dr. Bauer.
13 Q. Okay. And did there come a time when you were no
14 longer his patient, or were you discharged from the
15 practice?
16 A. I believe there was a brief moment.
17 Q. Okay. How long?
18 A. I think -- I think it may have been four months.
19 Q. Okay. Did there come a time when you went into
20 some sort of drug rehab or addiction rehab?
21 A. Yes.
22 Q. And when did that occur?
23 A. July of 2018.
24 Q. And where -- where were you sent, or where did
25 you go?

1 A. I went to Zepf Center here in Toledo.
2 Q. Okay. Can you spell that for the reporter?
3 A. Z-E-F-P -- or P-F, sorry, Center.
4 Q. And who arranged for that treatment at the rehab
5 center?
6 A. That was me and my mother.
7 Q. Okay. Did Dr. Bauer have anything to do with
8 that?
9 A. He may have, yeah.
10 Q. Okay. And all of this time that you were on
11 opioid medications, were you able to function?
12 A. Yes.
13 Q. And before you got to see Dr. Bauer, were you
14 able to function, were you able to work, that type of
15 thing?
16 A. No.
17 Q. Could you drive a car at that time?
18 A. Yes.
19 Q. Okay. Describe how you functioned after you were
20 being treated by Dr. Bauer.
21 A. I functioned pretty much close to 100 percent.
22 It felt, you know, I was able to get up and do my -- my
23 daily routine with, you know, no -- no limitation.
24 Q. Okay. Were you able to regain employment?
25 A. Yes.

1 Q. When were you able to start working again?
2 A. I would say within six to eight months after I
3 started seeing him.
4 Q. Okay. And where did you start working?
5 A. I was working with -- a buddy of mine owns a
6 gutter truck, and we -- a gutter, seamless gutter truck,
7 and we were doing gutters and siding.
8 Q. Okay. So you were table to work a full-time job?
9 A. Yes.
10 Q. Okay. And how long were you in the
11 rehabilitation center?
12 A. I was -- almost two years.
13 Q. Two years?
14 A. Yeah, it was 18 months.
15 Q. Was it inpatient?
16 A. I stayed at the Zepf Recovery House. It's a
17 men's house on Collingwood.
18 Q. Okay. And because you needed it?
19 A. It was -- yeah, because I had -- I felt I needed
20 the structure still.
21 Q. Okay. And after you got out of the rehab
22 facility, did you return to become a patient of Dr.
23 Bauer's?
24 A. No.
25 Q. Okay. And when did you get your new job at

1 Marco's Pizza?
2 A. It was about -- it was May, two years ago.
3 Q. Okay.
4 A. So --
5 Q. When was the last time you were treated by Dr.
6 Bauer?
7 A. It was that June, I think, of 2018.
8 Q. '18?
9 A. Yes.
10 Q. Okay. So he did not immediately put you on
11 opioid-based medications, correct?
12 A. Correct.
13 Q. He tried decompression therapy?
14 A. Right.
15 Q. And he tried physical therapy?
16 A. Yes.
17 Q. And when you had problems, he worked with your
18 mother to get you into a drug rehab facility?
19 A. Right. And there was also an ablation where
20 they -- they went in and burnt out certain nerve endings in
21 the right side of my back to help with nerve pain,
22 alleviate nerve pain that way as well.
23 Q. And did you have, like, epidurals and injections?
24 A. Yes.
25 Q. How many did you have, roughly?

1 A. Roughly maybe six.
2 Q. Okay. That's your best guess?
3 A. Yeah. Yes. And he did -- we did trigger shots
4 too, like, where he would get the facet joints to help
5 alleviate the pain as well.
6 Q. And you were given these injections as a result
7 of making specific complaints about pain?
8 A. Correct.
9 Q. Did they work?
10 A. Yes.
11 Q. Did the effect wear off at some point in time?
12 A. Yes.
13 Q. Generally how long did it take?
14 A. About three weeks.
15 Q. So --
16 A. Three to four weeks, yeah.
17 Q. And did the pain return in that area?
18 A. Yes.
19 Q. Okay. And then at that point in time, did you
20 have other injections?
21 A. Yeah.
22 Q. Okay. And did all of the injections seem to work
23 to alleviate your pain?
24 A. Not all of them, but the ones that we found to
25 work, that's what we stuck with.

1 Q. Okay. And that was in -- you worked with Dr.
2 Bauer in that regard, didn't you?
3 A. Correct, yes.
4 Q. Describe --
5 MR. GIBBONS: Well, let me have a moment, Judge.
6 Just a couple more questions.
7 BY MR. GIBBONS:
8 Q. Did you also do epidurals?
9 A. The epidurals?
10 Q. Yeah. Do you know what that is?
11 A. I'm not sure if we did the epidurals or not.
12 Yeah, we did. It's where they line it up on the table with
13 the x-ray to see exactly where they put the -- yeah, yeah,
14 yep.
15 Q. Okay. Did those help you alleviate pain?
16 A. Yes.
17 Q. Okay. Do you know how many you had?
18 A. I couldn't tell you.
19 Q. Okay. And was there an x-ray technician that
20 helped out Dr. Bauer in that procedure?
21 A. Yes.
22 Q. And how about facet injections or therapy?
23 A. Yes.
24 Q. Does that ring a bell?
25 A. That's what I had said previous.

1 Q. Okay.

2 A. I just told -- that's what I was just saying and
3 talking about was the facet injections. That's what --
4 that's what we basically found that helped the most for me.

5 Q. Okay.

6 MR. GIBBONS: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. MELCHING:

9 Q. Hello, sir.

10 A. How you doing?

11 Q. How old were you when you first started treating
12 with Dr. Bauer?

13 A. Oh, geez, 2009. I'm 37 now, 36, so 25, something
14 like that.

15 Q. Somewhere around there?

16 A. Yeah.

17 Q. All right. And when you first consulted with
18 him, it was about lower back pain from a muscle strain?

19 A. Right.

20 Q. Did you also, at that time, suffer from
21 depression and anxiety?

22 A. Yeah, because -- yeah, because of the pain and
23 not being able to work.

24 Q. At your first visit -- at your first visit, would
25 it sound right that it was on January 16th, 2009?

1 A. Correct.
2 Q. And I believe you mentioned that you would fill
3 out that pain questionnaire every time you went?
4 A. Yes.
5 Q. Does it sound right that you would have said at
6 your first visit that you had a pain score of nine on a
7 scale of one to ten?
8 A. Yes.
9 Q. All right. With that response, once you were put
10 on medication, do you remember what the medication was?
11 A. I believe it was Percocet.
12 Q. Small amount of Percocet?
13 A. Yes.
14 Q. Over the course of time, did the amount of
15 narcotics you received increase quite a bit?
16 A. A little bit.
17 Q. Did you, at one time, receive 50-milligrams of
18 Methadone a day?
19 A. Yes.
20 Q. 5, 10-milligram tablets of Methadone a day?
21 A. That was at the end, yeah.
22 Q. Tramadol?
23 A. Tramadol.
24 Q. Ultram?
25 A. Yes.

1 Q. Were you receiving those in the time period
2 around 2015 to 2018?
3 A. Yes.
4 Q. When did you first use heroin?
5 A. I think I had experimented with that just after
6 high school, so '04, '05, something like that.
7 Q. If it's easier to use your age, that's fine too,
8 because we already heard you started with Dr. Bauer when
9 you were about 25, right?
10 A. Right.
11 Q. So you first started with heroin, what, when you
12 were about 19 or 20?
13 A. Yeah.
14 Q. How about cocaine?
15 A. Around the same time.
16 Q. Did you ever use crack cocaine?
17 A. Yes.
18 Q. Was that around the same time?
19 A. Yeah.
20 Q. Marijuana?
21 A. Yes.
22 Q. Were you arrested for driving under the
23 influence, in Ohio it's called OVI, in 2010?
24 A. Yes, I believe so, 2010.
25 Q. And again in 2012?

1 A. Yes.
2 Q. During the 2012 incident, were you also charged
3 with possession with intent to sell dangerous drugs?
4 A. I thought it was just a possession charge.
5 Q. Were the drugs involved Percocet, Xanax and
6 Flexeril?
7 A. Yes.
8 Q. And was there also some marijuana and some beer
9 in the car?
10 A. I believe so.
11 Q. After all that, I believe you mentioned that you
12 reached out to Dr. Bauer to sort of give him a head's up
13 about this arrest?
14 A. Right.
15 Q. And this is a note -- does this reflect your
16 memory that you spoke with him regarding your narcotics
17 usage, talked about entering into a Suboxone program?
18 THE COURT: For the record, this is Exhibit 413.
19 MR. MELCHING: Thank you, Judge.
20 A. Yes.
21 Q. Okay. When -- when -- let me know if you track
22 this. When you first started with Dr. Bauer, you were
23 receiving an amount of Percocet that was equal to
24 22-milligram equivalents of Meth -- or 22 equivalents of
25 Methadone. Between that later period when we were talking

1 about you were receiving Methadone, you were receiving 510
2 Methadone equivalents, does that sound right, that you were
3 receiving almost 20 times as much narcotics in around 2015
4 to 2018 from when you began back in 2009?
5 A. I -- I mean, I -- when you put it like that, I'm
6 not sure. I know that I was receiving 50 milligrams worth
7 of Methadone.
8 Q. After this conversation?
9 A. After this conversation, yes. I mean, I'm
10 currently in a Methadone program where I take Methadone
11 daily.
12 Q. And I'll get to that in a moment.
13 In addition to -- let me just ask you, do you
14 consider yourself an alcoholic?
15 A. Yes.
16 Q. A drug addict?
17 A. Yes.
18 Q. Did you stop using -- did you use heroin on a
19 consistent basis before you saw Dr. Bauer?
20 A. I mean, not -- not really a consistent basis. I
21 would say it was more experimental at that time.
22 Q. Were you using any other opioids in conjunction
23 with heroin at that time?
24 A. No.
25 Q. After you stopped treatment with Dr. Bauer, did

1 you go through any withdrawals?
2 A. Yes.
3 Q. Did you start using any other narcotics?
4 A. Yeah, I mean, I was using heroin.
5 Q. So after you stopped with Dr. Bauer, did you
6 become addicted to heroin?
7 A. I guess you could say so.
8 Q. Was your last visit with Dr. Bauer, does it sound
9 right that it was on July 2nd, 2018?
10 A. Sounds about right.
11 Q. Does it sound correct to you that you said your
12 pain score was a nine out of ten at that date?
13 A. I thought I put 8.5, but, yeah.
14 Q. 8.5, so roughly the same as when you started back
15 in 2009?
16 A. Yeah.
17 Q. Since you left -- at some point you had to stop
18 seeing Dr. Bauer, right?
19 A. Right.
20 Q. Since you left that, have you tried to get pain
21 medication from another doctor?
22 A. No.
23 Q. Do you do anything for pain for yourself?
24 A. Right now I current -- the Methadone I take helps
25 with my pain.

1 Q. But that's for your addiction?
2 A. Right.
3 Q. Do you do any stretching --
4 A. Yes.
5 Q. -- things of that nature?
6 A. Yes.
7 Q. Do those help to some extent?
8 A. Yes. It's stretching that was showed to me by
9 Dr. Bauer also.
10 Q. Okay. You've worked at Marco's for two years
11 now, that's roughly since you left Dr. Bauer's treatment,
12 or a little more than that, right?
13 A. Yeah.
14 Q. All right. Just to be clear, you don't know if
15 Dr. Bauer had anything to do with you going to rehab,
16 correct?
17 A. Right.
18 Q. No more questions. Thank you.
19 MR. GIBBONS: No further questions.
20 THE COURT: You may step down. Thank you.
21 JANICE WILLARD,
22 was herein, called as if upon examination, was first duly
23 sworn, as hereinafter certified, and said as follows:
24 DIRECT EXAMINATION
25 BY MR. GIBBONS:

1 Q. Ma'am, would you please state your name and spell
2 your last name for the record?
3 A. Janice Willard, W-I-L-L-A-R-D.
4 Q. What city do you live in?
5 A. I live in Clyde, Ohio.
6 Q. And did there come a time when you were an
7 employee of either Dr. Bauer's medical office or Advanced
8 Neurological Associates?
9 A. Yes, from 2006 to 2014.
10 Q. I see. And in what capacity were you so
11 employed?
12 A. I worked as the nurse for Dr. Bauer.
13 Q. And was that Dr. Bauer's practice solely at some
14 point in time?
15 A. It was Dr. Bauer's practice from the 1970s, I
16 believe, and then he started Advanced Neurologic, and that
17 was for 30 years or more. He then brought in other
18 neurologists.
19 Q. Okay. Now do you know when ANA started?
20 A. I know it was over 30 years ago.
21 Q. And when did Dr. Bauer sell out his interest to
22 other doctors?
23 A. I know it was in the mid 2000's or early 2000's
24 probably.
25 Q. Okay. And what were you -- your duties on a

1 day-to-day basis with respect to pain management patients?
2 A. I would check them in, I would do -- do urine
3 samples, pill counts, whatever they would deem necessary
4 for -- run OARRS reports, make sure they were in
5 compliance, check their blood pressure.
6 Q. Okay. Now, did you provide the patients with
7 what are known as pain assessment sheets?
8 A. Absolutely. Every single patient that had pain
9 problems had the pain assessment every single time. That
10 was reviewed every single visit.
11 Q. And describe how you provided the documentation
12 to the patient.
13 A. They got that when they first came in to the
14 office. That was provided to them along with any updated
15 insurance information or, you know, demographic
16 information.
17 Q. And were they -- were the patients asked to rate
18 their pain and rate their location of their pain?
19 A. Correct. And what -- what other problems or,
20 say, whatever may exacerbate the pain or activities, you
21 know, what would help the pain, heat, you know, cold, you
22 know, ice packs, whatever else, narcotics, over-the-counter
23 medication, whatever would help with the pain and whatever
24 would worsen the pain.
25 Q. And who filled out these pain -- pain assessment

1 sheets?
2 A. The patient.
3 Q. Okay. And was that true for each and every visit
4 that the patient had?
5 A. Absolutely. If they didn't fill it out, we would
6 be, like, well, you need to fill one of these out so we
7 know where you are, you know, as far as your pain is and so
8 on, which was -- uh-huh.
9 Q. Did you have any role in explaining the rating
10 system?
11 A. I did.
12 Q. Okay. And how would you explain it to?
13 A. Zero -- new or current patients I would say that
14 zero was the least pain they would ever have, or ten would
15 be the worst pain they've ever had in their life.
16 Q. And then they would fill out the pain --
17 A. Correct.
18 Q. And what would you explain to them about locating
19 on the pain assessment sheet the location of the pain in
20 their bodies?
21 A. Well, it would have two -- it would have the
22 body, and it would have four different, you know, the side
23 views, have the front and the back views, and it had the
24 extremities. And they would circle, you know, circle or X
25 where their pain was and if it radiated down or, you know,

1 wherever it was located they would mark that. And then at
2 the bottom would have a zero and go up to ten.
3 Q. Okay.
4 A. And they'd have to sign and date that, and I'd
5 have to scan them into the system every night and make sure
6 that they got into the system every night.
7 Q. And when you say the system, do you mean the
8 electronic medical record system?
9 A. Correct, so that it could be attached to their
10 record every time.
11 Q. And were there other documents that had to be
12 scanned into the record also?
13 A. If they got injections, trigger point injections
14 or if they got, you know, any -- any additional
15 information. A lot of patients would do pain diaries.
16 Ones that were, you know, had severe neuropathic pain,
17 anybody that, you know, was, you know, further along with
18 their pain that, you know, radicular pain or CRPS or RSD
19 pain, widespread pain that, you know, is very hard to
20 manage.
21 Q. Okay. Did every patient do a pain diary?
22 A. Every patient -- every patient would do the two
23 pain sheets, but not every patient did a pain diary.
24 Q. I see. Was there any rhyme or reason to whether
25 a patient did a pain diary?

1 A. Patients that were arrested --
2 THE COURT: I have to interrupt because your
3 tripping on each other, so the court reporter is and will
4 continue to have problems with the transcript. If you
5 would wait until the question is done and then begin your
6 answer, and, likewise, wait until the answer is done to
7 begin your question.
8 MR. GIBBONS: Sure.
9 THE COURT: Thank you.
10 BY MR. GIBBONS:
11 Q. Do you remember the question?
12 A. Yes. The pain diary is different than the pain
13 sheets. The pain sheets would be given every visit. A
14 patient diary would be a diary that they would write in.
15 For patients that were hard to manage that would need to
16 be -- how do I put it, they were hard to control their
17 pain, and those were the patients that would have severe,
18 severe neuropathic pain. And they could exacerbate, you
19 know, and they would put nine or ten pain levels. And we
20 had quite a few of those because the patients that came to
21 Dr. Bauer were the patients that no other doctors could
22 help.
23 MS. DUSTIN: Objection.
24 BY MR. GIBBONS:
25 Q. Just describe the pain diary.

1 THE COURT: The last part of that answer will be
2 stricken, and the jury is instructed to disregard it.
3 BY MR. GIBBONS:
4 Q. What about urine tests, how did you conduct
5 those?
6 A. We would take them, you know, when the patient
7 came in, we would stand by the door, make sure they had
8 nothing in their pockets.
9 Q. Okay.
10 A. And you know --
11 Q. Was there some preliminary way to check the
12 results?
13 A. Yes, there was. You just rip off the seal and
14 make sure it's up to temperature, and then you would make
15 sure that they didn't have, you know, illegal drugs in
16 there, and made sure they had their, you know, the drugs
17 that they're supposed to be on.
18 Q. And who would obtain the results, would you or
19 Dr. Bauer?
20 A. I would.
21 Q. Okay. And you would inform Dr. Bauer of the
22 results?
23 A. There was a sticker that you would have on the
24 thing, or a lot of times I would just, you know, show it to
25 him, leave the urine on his desk with the sticker to, you

1 know, say, here, look at this.
2 Q. Okay. Were certain urine samples sent out for
3 further analysis?
4 A. If there was questions or questionable, or we
5 thought there was abhorrent behavior.
6 Q. Did you use a regular lab to do that?
7 A. The lab that provided the urine cups.
8 Q. Okay. And was there a cost to the patient for
9 the lab -- lab -- or the sample being sent out?
10 A. Yes, it was quite an exorbitant amount of money.
11 Q. Would patients pay that amount of money, or be
12 required to pay it?
13 A. The patient would be expected to pay that.
14 Q. Did insurance cover any of these?
15 A. If they -- you know, if they had insurance, they
16 would pay a portion of it, not all of it.
17 Q. Okay. So there might have been a deductible or a
18 co-pay. Okay.
19 THE COURT: Was there an answer to that?
20 A. Yes. Yes.
21 THE COURT: Thank you.
22 BY MR. GIBBONS:
23 Q. So you stopped working for Dr. Bauer in --
24 A. 2014.
25 Q. -- '14.

1 And your son became a patient of Dr. Bauer,
2 correct?
3 A. Correct.
4 Q. And there came a time when your son had to go
5 into rehab?
6 A. Correct.
7 Q. And did you discuss that matter with Dr. Bauer?
8 A. That he needed -- that he was going into rehab?
9 Q. Yes.
10 A. Yes.
11 Q. Okay. And who made arrangements, or who
12 facilitated his entry into some rehab facility?
13 A. Well, I discussed it with him, and I, you know, I
14 took him up to the Zepf Center. So he -- he told me where
15 we should go up to Toledo or, you know --
16 Q. He parlayed --
17 A. He helped guide me where I should probably take
18 him.
19 Q. Who is that?
20 A. Dr. William Bauer.
21 Q. Okay. And the same routine was followed during
22 the course of your employment by Dr. Bauer's medical
23 office --
24 A. Correct.
25 Q. -- with respect to the patients?

1 A. Correct.
2 MR. GIBBONS: Judge, let me have a minute, if I
3 could.
4 That's all.
5 CROSS-EXAMINATION
6 BY MR. MELCHING:
7 Q. Good afternoon.
8 A. Hi. How are you?
9 Q. Good. Thank you. How are you?
10 A. Good.
11 Q. How long did you work for Dr. Bauer?
12 A. I started working in 2006, and I left in 2014.
13 Q. 2014. So you left before your son completed his
14 course of treatment with Dr. Bauer?
15 A. Uh-huh.
16 Q. Okay. Did any other of your family members use
17 Dr. Bauer?
18 A. My mom went to Brendan. She had vascular
19 dementia.
20 Q. And --
21 A. Uh-huh.
22 Q. That's the only other family member was your mom
23 and your son?
24 A. Yes.
25 Q. And do you remember, about October of 2019, this

1 woman with the DEA and another came and spoke with you?
2 A. Yes.
3 Q. Do you recall telling them that you and your son
4 are big supporters of Dr. Bauer?
5 A. Absolutely.
6 Q. Do you recall telling them that Dr. Bauer's not
7 the cause of the pain pill problem?
8 A. Correct.
9 Q. But it is the fault of the cartels?
10 A. Correct.
11 Q. Were you aware of what kind of medication your
12 son was receiving over the course of his treatment?
13 A. Yes, and I monitored it too.
14 Q. You're honored that he received that medication?
15 A. Pardon?
16 Q. I'm sorry, what did you say?
17 A. I made sure I monitored.
18 Q. You monitored it?
19 A. I did.
20 Q. Okay. What kind of medication did he receive?
21 A. In the beginning when he first was acutely
22 injured, I know he was on Percocet. And then after he was
23 later given Tramadol and Methadone.
24 Q. Ultram also?
25 A. Ultram is Tramadol, sir.

1 Q. Ultram is Tramadol. Ultram, Methadone, Percocet?
2 A. Percocet in the beginning, and the end was Ultram
3 or Tramadol. Tramadol is generic of Ultram.
4 Q. Your son was arrested in 2012?
5 A. He was.
6 Q. Were you concerned?
7 A. Of course.
8 Q. Did he go to rehab?
9 A. He went through a program, yes, he did.
10 Q. Did he go to rehab?
11 A. He went through a rehab program, yes, sir.
12 Q. Was it inpatient?
13 A. Was he a patient?
14 Q. Was it an inpatient program?
15 A. No, it wasn't an inpatient. The insurance didn't
16 pay for it like they do now.
17 Q. Okay. After that incident, did his amount of
18 medication increase or decrease?
19 A. He went on Methadone instead of the Percocet
20 because Methadone also helps pain and addiction.
21 Q. Did his Methadone amount increase or decrease
22 over the course of time?
23 A. I think it went slightly -- it started at three,
24 and then went to four, and then went to five.
25 Q. Five?

1 A. Five times a day.
2 Q. Of 10-milligram tablets?
3 A. Correct.
4 Q. So at one point he was taking 50-milligrams a
5 day --
6 A. Correct.
7 Q. -- after this incident?
8 A. Years after that. The pain problem didn't go
9 away even though he had an addiction problem.
10 Q. His pain problem continued?
11 A. It still continues, sir.
12 Q. So from the beginning until the end of his
13 treatment, the pain problem continued to be an issue?
14 A. It still is, sir.
15 Q. It did not get better during his course of
16 treatment?
17 A. He's still on Methadone, sir.
18 Q. Regarding the time that he was treated by Dr.
19 Bauer, did his pain get better?
20 A. It was tolerable, sir.
21 Q. Do you know whether his pain score got better
22 during the course of his treatment?
23 A. His what?
24 Q. His pain score.
25 A. His pain score would exacerbate with whatever

1 activity --
2 Q. Do you know whether, at the beginning of his
3 treatment and at the end of his treatment, whether or not
4 his pain score had changed?
5 A. Of course in the beginning when he was first
6 injured his pain was severe, severe. Of course when it
7 becomes chronic pain, the pain source and the pain levels
8 and how it evens, so he became chronic, with chronic pain,
9 so it would level out, and depending on activity, weather
10 and so on, and exacerbated himself by doing too much.
11 Q. Since your son's rehab, has he been successful
12 with Methadone treatment and recovery?
13 A. Correct. It's been three years, but he's on the
14 same medication he was that Dr. Bauer gave him.
15 Q. What medication is he currently receiving?
16 A. Methadone.
17 Q. How much?
18 A. The same amount, sir.
19 Q. How much is he receiving?
20 A. 50 -- 45 or 50-milligrams.
21 Q. Who issues that?
22 A. The pain clinic, or the rehab he's still
23 affiliated with.
24 Q. Is it a doctor?
25 A. Yes.

1 Q. Do you know the doctor's name?
2 A. I don't. He's 37 years old. He lives here in
3 Toledo, and he has for three years.
4 Q. Okay.
5 A. So --
6 Q. All right. Thank you. Just to clarify, the
7 Methadone --
8 A. Methadone, yes.
9 Q. -- does he receive that for pain, or for rehab
10 purposes?
11 A. Well, Methadone, as you know, has a dual purpose.
12 It's a pain blocker, but it also helps with addiction.
13 Q. Does he receive it for pain or rehab purposes?
14 A. For both.
15 Q. He is -- your testimony is that he is receiving
16 Methadone from a Methadone clinic for pain?
17 A. Well, I'm not sure, because I'm not privy to his
18 medical records.
19 Q. So you don't know?
20 A. I don't know, but it does help with his pain.
21 Q. Thank you.
22 THE COURT: Redirect?
23 MR. GIBBONS: No, Your Honor.
24 THE COURT: You may step down. Thank you.
25 BENITA RIMMER,

1 was herein, called as if upon examination, was first duly
2 sworn, as hereinafter certified, and said as follows:
3 DIRECT EXAMINATION
4 BY MR. GIBBONS:
5 Q. Ma'am, would you please state your name and spell
6 your last name for the record?
7 A. Benita Rimmer, R-I-M-M-E-R.
8 Q. And where do you live, what city?
9 A. I live in Marysville, Ohio.
10 Q. And did you work for either Dr. Bauer's medical
11 practice or ANA?
12 A. Yes.
13 Q. And did you have a different last name at that
14 time?
15 A. Nichols.
16 Q. Okay. And did you get married somewhere in
17 between?
18 A. I got married on August 17th, 2019.
19 Q. Now, when did you start working for ANA?
20 A. In May of 2009.
21 Q. May of 2009. And when was the last time you
22 worked for ANA?
23 A. August 23rd, 2019.
24 Q. So you worked there for ten years?
25 A. Yes.

1 Q. In what capacity?
2 A. I started --
3 Q. What was your job?
4 A. I started out doing billing, and then I went to
5 front desk, and then I went to medical assistant.
6 Q. And were you assigned to a certain doctor as a
7 medical assistant?
8 A. I was assigned to Dr. Bauer, and then they would
9 assign me to -- I would cover anybody that was on vacation
10 as well.
11 Q. I see. And what were the duties of a medical
12 assistant in that time frame?
13 A. I would just do the intake, take the vitals of
14 the patients, put the pain sheets, injections sheets,
15 anything the doctor may need, in the room.
16 Q. Okay. Now, did you work simultaneously with the
17 other young lady who just testified, Ms. --
18 A. No, I didn't do medical assisting when
19 Ms. Willard worked for Dr. Bauer.
20 Q. Okay. Did you succeed her?
21 A. Yes, I worked with Becky Sampsel (Phonetic).
22 Q. Okay. Now, as a medical assistant, you worked on
23 a day-to-day basis with Dr. Bauer?
24 A. In what time frame?
25 Q. Well, when you worked as his medical assistant or

1 nurse?
2 A. Yes.
3 Q. Okay. Do you recall when you specifically
4 worked, or started working for Dr. Bauer as a medical
5 assistant?
6 A. I believe it was 2014.
7 Q. Okay. And continuously until when?
8 A. Until his accident, I don't remember the date,
9 2015.
10 Q. Okay. And after his accident, did -- was he out
11 of the office for awhile?
12 A. Yes.
13 Q. And did you -- when he returned, were you his
14 medical assistant?
15 A. Becky Sampsel was. I would assist her at times,
16 and then I'd started medical assisting with him in, I
17 believe it was 2016.
18 Q. I'm going to ask you a series of questions about
19 the day-to-day routine, your routine, and Dr. Bauer's
20 routine for pain management patients.
21 A. Okay.
22 Q. Who would take the vital signs of the patient?
23 A. I would.
24 Q. Okay. And what did that consist of?
25 A. Weight, blood pressure, respiratory, temperature.

1 Q. And was there something called a pain assessment
2 sheet?
3 A. Right, they had a pain assessment sheet that the
4 patient filled out before their appointment.
5 Q. Okay.
6 A. Before their visit.
7 Q. And how did you provide the pain assessment sheet
8 to the patient?
9 A. The patient got the pain assessment sheet at the
10 front desk when they checked in.
11 Q. I see. And would you sit them down somewhere and
12 have them fill it out?
13 A. The patient would fill it out before we would
14 call them back for their visit.
15 Q. Okay. Did Dr. Bauer do a physical examination
16 for each and every patient visit?
17 A. Yes.
18 Q. Okay. Can you describe the physical examination
19 as best you can?
20 A. The physical?
21 Q. Yes, the physical.
22 A. I wasn't in the room when he did the physical
23 exam.
24 Q. Okay. But he did them, you know, for each and
25 every patient?

1 A. Yes.
2 Q. Okay. Now, was the same routine followed for
3 every patient visit?
4 A. Yes.
5 Q. How about with respect to injections, did you
6 play any role in that?
7 A. I prepared the injections, and I would get the
8 injection sheet ready for Dr. Bauer.
9 Q. And when you say prepare the injections, that's
10 some sort of steroid, if you know?
11 A. Yes.
12 Q. And what would you do to prepare for the
13 injections?
14 A. I would put the injection in the room with the
15 alcohol swab and a -- the injection sheet.
16 Q. Okay. And what were the injection sheets?
17 A. Injection sheet was a sheet that Dr. Bauer used
18 to mark where he injected the patient.
19 Q. Okay. And was that routine followed by you and
20 Dr. Bauer on each and every occasion?
21 A. Yes.
22 Q. Okay. And was it your responsibility at the end
23 of the day to collect up all the documentation for the
24 various patients and provide it to the medical records
25 file?

1 A. Yes, I would scan it in.
2 Q. Okay. And was there anything else -- did you
3 play a role in urine samples?
4 A. When asked to take one, yes.
5 Q. Okay. And did every patient get a urine sample,
6 or was it spotty?
7 A. It was random.
8 Q. Random. Okay. And how about urine samples that
9 were sent out, did you play any role in that?
10 A. Yes.
11 Q. What role was that?
12 A. I would fill out the paperwork and send it out
13 when asked to.
14 Q. I see. And would you inform the patient that
15 there was going to be a cost if the urine sample was sent
16 out for independent analysis?
17 A. I don't know.
18 Q. Okay. And you stopped working directly for Dr.
19 Bauer when?
20 A. I'm sorry, I don't understand the question.
21 Q. When did you stop working for Dr. Bauer directly?
22 A. In -- well, 2019, August of 2019.
23 Q. Okay. And then you moved along to a different
24 job?
25 A. Yes.

1 MR. GIBBONS: One moment, Judge.
2 Thank you. No further questions.
3 THE COURT: Counsel, I remind you, it is your
4 obligation to monitor the courtroom to make sure separation
5 of witnesses is being complied with. If I don't know
6 everyone, trust you'll take care of that. Thank you.
7 CROSS-EXAMINATION
8 BY MS. DUSTIN:
9 Q. Good evening.
10 A. Hello.
11 Q. We've met before?
12 A. Have we?
13 Q. Back in November --
14 A. Yes, we did.
15 Q. November of 2020, I do remember.
16 A. We both had masks on.
17 Q. We did. Okay. So I just have some questions for
18 you about the time you were working with Dr. Bauer. And
19 you said the time period when you were directly helping him
20 was when to when?
21 A. So I worked with him, I believe it was 2014 --
22 Q. Okay.
23 A. -- until, I believe it was 2015 he had had -- he
24 was out for an accident. And then I helped his nurse,
25 basically I would help with her, and that was -- well, when

1 he came back, and that was 2016 to 2019 that I worked with
2 him consistently.
3 Q. Okay. So maybe, like, four years total?
4 A. Yes.
5 Q. All right. And did most of his patients get
6 narcotics or opioid-type prescriptions?
7 A. I don't understand the question.
8 Q. Were most of his patients, Dr. Bauer's patients,
9 prescribed Controlled Substances, or do you not know?
10 A. I don't know.
11 Q. Okay. Those that were prescribed Controlled
12 Substances, would you get calls from them asking for
13 refills?
14 A. Did I get calls asking for refills?
15 Q. From the patients? Would the patients call into
16 the office and ask for refills?
17 A. No.
18 Q. No, you don't remember any patients calling in
19 for early refills of their drugs?
20 A. I don't remember.
21 Q. You don't remember?
22 A. Usually we didn't do refills. It's -- they were
23 seen every three months, three -- they were given three
24 months of prescriptions.
25 Q. Uh-huh.

1 A. So usually they were seen. If they called in for
2 an early refill, we would put them on the schedule to see
3 if they have a problem.
4 Q. Have them come back in?
5 A. Yeah, they would -- right.
6 Q. Were there times when a person called in and said
7 the pain pills, you know, weren't -- they needed more, so
8 they would come in and see Dr. Bauer again?
9 A. Yeah, they would come in for an appointment.
10 Q. They would come in for an appointment?
11 A. Yes. We didn't just refill, they had to come in
12 for an appointment.
13 Q. I understand. But were there times when patients
14 may have called and said, you know what, I need more, or I
15 ran out because, you know, I'm having pain, and you would
16 --
17 A. They would come in for an appointment, yes.
18 Q. Okay. Were there times when patients said they
19 lost their prescriptions, and then they would come in for
20 appointment to see Dr. Bauer to get a new one?
21 A. Yes.
22 Q. Were there some of Dr. Bauer's patients that
23 maybe called in with these -- these reasons for needing
24 early refills because of a lost prescription, or because of
25 their increased pain? Would some patients call in more

1 often than others?
2 A. I don't remember.
3 Q. Okay. Do you recall there were some patient that
4 you believed were deceptive?
5 A. No.
6 Q. You don't recall that. Do you remember telling
7 us that some people always called in with the same problems
8 and they were seemed deceptive?
9 A. I don't remember that.
10 Q. Do you remember getting phone calls about
11 patients selling or misusing their narcotics?
12 A. Yes.
13 Q. And you would call them in to do urine drug
14 tests?
15 A. Yes, and a pill count.
16 Q. So in the time you were with Dr. Bauer, how many
17 times do you remember doing pill counts?
18 A. How many times?
19 Q. Uh-huh.
20 A. Maybe ten.
21 Q. Ten times in the time you were -- time you were
22 with Dr. Bauer?
23 A. Personally that I did myself.
24 Q. That you did yourself, right.
25 Did you do urine drug screens very often?

1 A. No.

2 Q. Did you ever want to do a urine drug screen on a

3 patient and Dr. Bauer told you not to?

4 A. No.

5 Q. Did he ever tell you not to send a urine drug

6 screen in for confirmation testing?

7 A. I'm sorry, can you repeat the question?

8 Q. So you had not done very many urine drug screens,

9 right?

10 A. Correct.

11 Q. How many?

12 A. I don't know.

13 Q. And was there ever a time when he told you not to

14 send the test in for confirmation?

15 A. Yes.

16 Q. Did you disagree with that?

17 A. No.

18 Q. You didn't?

19 A. No.

20 Q. Dr. Bauer did not like to send in urine drug

21 screens for confirmation, especially if they were -- he was

22 concerned about it testing positive for certain drugs, was

23 he?

24 A. I'm sorry, can you repeat the question?

25 Q. He did not want -- he was concerned, he did not

1 want you to send in certain drug screens for confirmation
2 testing, did he?
3 A. I don't understand the question.
4 Q. There were times when he told you not to send
5 them in, correct, for confirmation?
6 A. Correct.
7 Q. Were there times when -- there were times when
8 patients would come in with increased pain, and Dr. Bauer
9 would increase the medication, correct?
10 A. Correct.
11 Q. Do you recall any of Dr. Bauer's patients being
12 suicidal?
13 A. No.
14 Q. You don't?
15 A. I don't know.
16 Q. Were there times when you saw, let's say
17 suspicions about a patient in terms of what they were doing
18 with their narcotics?
19 A. I'm sorry?
20 Q. Were there times when you were suspicious about a
21 patient and what they were doing with their Controlled
22 Substance prescriptions, you?
23 A. Myself?
24 Q. Yes.
25 A. Yes.

1 Q. And isn't it true that you talked with Dr. Bauer
2 about those -- your suspicions, and he didn't see it the
3 same way?
4 A. No.
5 Q. No?
6 THE COURT: No what?
7 A. I don't understand the question.
8 Q. Okay. You just told me that there were times --
9 and you and I talked about this back in November. You said
10 that there were times when you would see a patient that you
11 were suspicious about, and you would talk to Dr. Bauer
12 about that?
13 A. Yes.
14 Q. And he would not see it the same way you did?
15 A. Correct.
16 Q. And there were times when you raised concerns
17 with Dr. Bauer, and he would disagree with you?
18 A. Yes.
19 Q. But he was the doctor, right?
20 A. That's correct.
21 Q. And that's not your call?
22 A. Correct.
23 Q. And do you remember when the office received a
24 notification from Rite Aid that -- that they would not fill
25 Dr. Bauer's prescriptions?

1 A. Yes.

2 Q. And earlier, before that, there was a
3 notification, a letter that came from Wal-Mart about the
4 same thing, they would not fill for Dr. Bauer's
5 prescriptions, correct?

6 A. Correct.

7 Q. In fact, were there times when you talked to Dr.
8 Bauer about the patients, and he described them as
9 functioning addicts?

10 A. Yes.

11 Q. Do you remember a patient by the name of Nathan?

12 A. Yes.

13 Q. And tell us about Nathan's treatment at ANA with
14 Dr. Bauer.

15 A. I don't remember his exact treatment plan.

16 Q. Do you remember talking to Nathan?

17 A. Yes.

18 Q. And tell us the phone -- tell us, would he call
19 the office?

20 A. He usually called Dr. Bauer's cell phone.

21 Q. He would call Dr. Bauer's cell phone. Was that
22 what -- was that outside the norm for patients in the
23 office?

24 A. No.

25 Q. Others called Dr. Bauer's cell phone?

1 A. Yes.

2 Q. Did Nathan (Redacted) come in often to see Dr.

3 Bauer?

4 MS. DUSTIN: Strike the last name.

5 BY MS. DUSTIN:

6 Q. Did Nathan come in often to see Dr. Bauer?

7 A. I don't understand the question.

8 Q. Let me ask you this question instead. Were you

9 suspicious about Nathan?

10 A. I don't remember.

11 Q. Did Nathan come in to try to get early refills?

12 A. No.

13 Q. No. Did Nathan ever call about losing or

14 misplacing medications?

15 A. He may have, but we would have brought him in for

16 an appointment.

17 Q. And what would happen after the appointment,

18 would he get his prescriptions from Dr. Bauer?

19 A. I'm sorry, can you repeat the question?

20 Q. If he called in and reported lost prescriptions

21 or needing a refill, you would bring him in?

22 A. Right.

23 Q. And then would he get the refills?

24 A. He wouldn't -- I mean, it would depend on what

25 happened at the visit. I don't -- without looking at the

1 chart, I don't know.
2 Q. Did you have an opinion about Nathan?
3 MR. GIBBONS: Objection.
4 THE COURT: Let's find out what the answer is
5 first.
6 A. No.
7 Q. No. No opinion about Nathan?
8 A. No.
9 Q. Let's look at Exhibit 408, Page 1469.
10 Benita, in front of you is going to appear a
11 document, okay, I just want you to look at it.
12 Do you recognize this?
13 A. I do.
14 Q. And did it -- did this document, was it created
15 by you?
16 A. It was.
17 Q. And what is it?
18 A. It is a refill.
19 Q. And who is it for?
20 A. It's for Nathan.
21 Q. And what is the refill for?
22 A. For Oxycodone 15-milligrams.
23 Q. And what did it indicate in the comment section
24 the patient asked for, patient Nathan?
25 A. Asking for Oxycodone 15-milligrams, appointment

1 not until 1-18, due to fill on 1-13-19. Will patient need
2 to end before due, or can we send.
3 Q. And then what happened?
4 A. I sent it to -- I sent that to Dr. Bauer, and he
5 sent that in.
6 Q. So interpret this. What does this mean? What
7 happened?
8 THE COURT: Plain English.
9 A. So what happened is the patient wasn't able to
10 come to his appointment, probably because Dr. Bauer was out
11 of the office, so I sent him a note, and as long as he was
12 on the schedule, he would go ahead and give him his refill.
13 Q. And you went ahead and refilled it?
14 A. I sent it to him with that question. I put in
15 patient -- or actually Corey Wright (Phonetic) put in
16 patient asking for Methadone or Oxycodone. Appointment not
17 until 1-18, due to fill on 1-13. And then I set it up, and
18 then sent it to Dr. Bauer to review.
19 Q. And what was Dr. Bauer's decision?
20 A. Well, if he sent it in, that was his decision.
21 Q. To fill it?
22 A. It says completed, so --
23 Q. Okay. So that was -- ultimately he gets filled
24 February 8th of 2019 and January 9th of 2019, correct?
25 A. I'm just looking -- yeah, because there's 31 days

1 in -- there's 31 days in January, so, yeah, that would have
2 been a 31-day supply.
3 Q. So let's look at Page 1473. And what is this?
4 A. This is the -- the Oxycontin.
5 Q. This is another page of the chart for patient
6 Nathan?
7 A. This is his too. This is his Oxycontin, that
8 would be the long acting.
9 Q. Okay. Let's look at the comment section, okay.
10 This was March 28th of 2009 -- '19, correct?
11 A. Yes.
12 Q. And what happened, did the patient call in?
13 A. Patient called for his review -- I'm sorry, his
14 refill for Oxycontin that was due. I'm just looking to
15 see --
16 Q. So what did you do after the patient called in
17 for an Oxycontin refill?
18 A. I ran the OARRS and then sent it to Dr. Bauer to
19 send in.
20 Q. And what did Dr. Bauer decide?
21 A. He completed it, so he sent it.
22 Q. He sent it in, and the prescriptions were
23 refilled?
24 A. Yes.
25 Q. For the Oxycontin?

1 A. Yes.
2 Q. All right. Now, let's look at Page 1475.
3 Is this another page from Nathan's chart?
4 A. Okay.
5 Q. That looks like it.
6 A. Yes.
7 Q. And this was on April 11th, 2019? Let's try to
8 look at it quickly here.
9 Tell us what happens at 3:32 that afternoon.
10 THE COURT: Let's give her a hard copy. Surely
11 you have a hard copy.
12 BY MS. DUSTIN:
13 Q. Here we go. What happened?
14 A. Patient called Dr. Bauer's cell and asked if he
15 could get Oxycodone filled today instead of Saturday
16 because he is leaving out of town for work. Per Dr. Bauer,
17 okay to fill.
18 MR. STIFEL: Your Honor, I'm going to object.
19 This is way beyond the scope of direct.
20 THE COURT: Overruled. Let's get a hard copy, if
21 you have one, please, to the witness.
22 MS. DUSTIN: We don't have -- it's probably going
23 to take longer to -- the computer than get a hard copy.
24 BY MS. DUSTIN:
25 Q. Here we go.

1 All right. So then Nathan said he needed the
2 refill instead of Saturday because why?
3 A. Because he had to leave town for work.
4 Q. All right. Did you consult with Dr. Bauer about
5 that?
6 A. Yes.
7 Q. And what did Dr. Bauer say?
8 A. He said it was okay to fill.
9 Q. And then what happened?
10 A. I called CVS and authorized it, and reviewed with
11 patient and called Detective Ted Evans with the Huron
12 County Sheriff's Department.
13 Q. Okay. So, in fact, Nathan would call the office
14 for early refills, which Dr. Bauer, as we just saw --
15 A. Yes.
16 Q. -- would give?
17 A. Yes.
18 Q. Do you recall how often you were supposed to drug
19 test each patient who was on Controlled Substance
20 prescriptions via a urinalysis?
21 A. It was random. Whenever I was told to urine test
22 them I would.
23 Q. Were you supposed to do it at least once a year?
24 A. I don't know.
25 Q. Do you recall on August 21st, 2009 telling

1 Diversion Investigator Jessie Stransky that Bauer's
2 patients are -- you're supposed to do it once a year, do
3 you recall saying that?
4 A. I don't.
5 Q. Do you recall telling her we do not do that?
6 A. Yes.
7 Q. And when Investigator Stransky asked you if that
8 meant more than once a year or less, you said less?
9 A. Correct.
10 Q. And did you tell Agent Stransky how often you get
11 phone calls about patients selling medications?
12 A. I don't remember.
13 Q. Do you remember telling her probably twice a
14 month, sometimes more, depends?
15 A. Yes.
16 Q. Have you ever read the pain contract that the
17 patients fill out?
18 A. No.
19 Q. Where would the pain contract be signed?
20 A. Where would it be signed? In the office, in the
21 room.
22 Q. In the room?
23 A. Well, the patient was given their pain
24 assessment, pain contract at the front desk, and they would
25 fill that out and bring it to the room.

1 Q. Do you recall a patient by the name of Rick? And
2 I can show you the last name, I'm -- with permission, may I
3 show the witness the last name?
4 A. Yes.
5 Q. Okay. Do you remember patient Rick that I just
6 showed you the last name of?
7 A. Yes.
8 Q. Do you recall when Rick failed a drug test which
9 showed illicit substances? It showed that Rick was taking
10 illegal narcotics that were not prescribed, do you recall
11 that?
12 A. I don't.
13 Q. Okay. If I gave you this report, would that
14 refresh your memory?
15 A. Yes.
16 Q. Okay. I'll let you just read this paragraph
17 here.
18 A. Yes. Sorry.
19 Q. No problem, I know, it's been a long time. So
20 now I'll reask you the question.
21 Were you aware, do you recall that Rick failed a
22 drug test for illegal substances, things that he was not
23 prescribed?
24 A. Yes.
25 Q. At that point did Dr. Bauer retain Rick as a

1 patient?
2 A. He referred him for pain management, or he was
3 referred -- he was referred out for -- I can't remember
4 what he was -- he was referred out though.
5 Q. And did Dr. Bauer continue to prescribe to him?
6 A. Until he got established with a new doctor, yes.
7 Q. And then he was not discharged?
8 A. The patient was not discharged, no.
9 Q. And did you find it suspicious that he was not
10 discharged?
11 A. No.
12 Q. Isn't that what you told Agent -- Investigator
13 Stransky?
14 A. I'm sorry, I don't understand.
15 Q. Didn't you tell Agent Stransky that you found it
16 suspicious that Rick was not discharged?
17 A. I don't remember telling her that.
18 Q. And you told Agent Stransky that Dr. Bauer said
19 he was having a lot of pain?
20 A. Right.
21 Q. Do you recall that Agent Stransky asked you what
22 happens when patients call in and claim to have lost a
23 paper prescription or a filled prescription, do you recall
24 her asking you that?
25 A. Yes.

1 Q. And what did you tell her?
2 A. If the patient lost a prescription, we would -- I
3 would do an OARRS to make sure the patient didn't fill, and
4 we would replace it.
5 Q. And would you ask for a police report?
6 A. No.
7 Q. Did you tell Agent Stransky that you would ask
8 for a police report?
9 A. I don't recall.
10 Q. And then would Dr. Bauer fill the prescription?
11 A. Yes.
12 Q. Did Agent Stransky ask you if you found it
13 suspicious when patients have more than one story about
14 lost prescriptions, and especially in such a short amount
15 of time, do you remember her asking you that?
16 A. Yes.
17 Q. And how did you respond?
18 A. I don't remember.
19 Q. Okay. Again, I'll let you refresh your memory by
20 reading this here.
21 And how did you respond to Agent Stransky?
22 A. Yes.
23 Q. Did you tell her, yes, it's suspicious to me?
24 A. Yes.
25 Q. And then you told Agent Stransky that you don't

1 question Bauer's decision because he's the doctor?
2 A. That's correct.
3 THE COURT: Watch the clock, please.
4 MS. DUSTIN: I will finish in one minute, Your
5 Honor.
6 No more questions. Thank you.
7 THE COURT: Any redirect?
8 MR. GIBBONS: Just one brief question.
9 REDIRECT EXAMINATION
10 BY MR. GIBBONS:
11 Q. Couple minutes ago you said that Rick was
12 referred out for something. Do you recall what he referred
13 out for?
14 A. I can't remember if it was for Suboxone or for
15 counseling.
16 Q. Thank you.
17 A. I don't remember.
18 THE COURT: You may step down. When you step
19 down, would you spell your last name for the court
20 reporter?
21 9:00? Okay, we are set for 9:00 tomorrow.
22 Please remember all the rules.
23 JUROR: You said yesterday at the end of the day
24 I will talk to you about next week.
25 THE COURT: Can you talk to you about that

1 tomorrow morning?

2 JUROR: Certainly.

3 THE COURT: Thank you. We will do it then. And

4 thank you for the reminder.

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7

8 C E R T I F I C A T E

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10 I certify that the foregoing is a correct transcript

11 from the record of proceedings in the above-entitled matter.

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13 s:/Angela D. Nixon May 16, 2022

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15 Angela D. Nixon, RMR, CRR Date

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