

**EXHIBIT E**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

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ROSSELIN RODRIGUEZ; ~~ARACEL RODRIGUEZ~~, a minor, by her mother and natural guardian, ROSSELIN RODRIGUEZ, Index No: 503943/2013

AFFIRMATION

Plaintiffs,

-against-

TRACY BOYLAND AND MANUEL RAMIREZ,

Defendants.  
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I, Placido A. Menezes, M.D., P.C., F.A.C.S., duly licensed to practice medicine in the state of New York, pursuant to CPLR §2106, hereby affirm under penalties of perjury that the foregoing is true and accurate to the best of my knowledge:

1. I am a Diplomate of the American Board of Orthopedic Surgery and maintain an office at 543 2<sup>nd</sup> Street, Brooklyn, NY 11215.
2. On January 26, 2018, I examined plaintiff Rosselin Rodriguez after taking a full history.
3. On April 20, 2011, Ms. Rodriguez was a backseat passenger wearing a seatbelt when the car that she was a passenger in was involved in a motor vehicle accident. The car in which she was a passenger was struck in the front and, she sustained injuries to her left shoulder, cervical spine and lumbar spine.
4. Following the accident, she was taken to Brookdale Medical Center's Emergency Room where she was treated and released.
5. As she continued to experience pain in her left shoulder, cervical spine, and lumbar spine, patient came under the care of Dr. Davis and Graham Wellness Medical PC where she

6. MRIs that were performed on her lumbosacral spine, left shoulder, and cervical spine revealed a left foraminal disc herniation at L4-L5 and a bulging disc at L5-S1 in her lumbar spine, posterior disc herniations at C3-4 and C5-6 with bulging discs at C6-7 and C7-T1 in her cervical spine, and a partial tear of the anterior aspect of the supraspinatus tendon in her left shoulder.

7. EMG Nerve Conduction studies of patient's upper and lower extremities revealed right carpal tunnel syndrome and showed left C6-7, L4-5, and L5-S1 radiculopathies.

8. As a result of the injuries that she sustained in the April 20, 2011 motor vehicle accident, Ms. Rodriguez was unable to return to work for approximately six months. During that time, she received physical therapy, bracing, and assorted anti-inflammatory and pain medications.

9. The patient remains symptomatic to the present time and has pain in her cervical spine with radiation to her left arm accompanied by paresthesia. She also has pain in her lower lumbar area with radiation of pain to the left leg with paranesthesia and weakness. She also experiences pain in the left shoulder when she moves her hand above the shoulder level and she is unable to lift or carry any heavy objects in her left hand.

10. Ms. Rodriguez, who continues to take over the counter pain medications such as Tylenol and Ibuprofen, for pain control, is unable to perform household cleaning or go to the gym causing a weight gain of approximately twenty pounds. Furthermore, the pain to her lower back is aggravated after prolonged standing and walking. When the pain is exacerbated, she uses a soft cervical collar and elastic lumbar support.

11. Examination of the patient's cervical spine showed tenderness and paravertebral muscle spasm of a moderate degree, especially on the left side, with limitation of movements of the cervical spine on flexion, to 30 degrees (normal 60 degrees), on extension, to 00 degrees (normal 50 degrees), on left lateral flexion, to 10 degrees (normal 40 degrees), and on right lateral

Examination of the patient's lumbar spine showed tenderness and paravertebral muscle spasm of a moderate degree, especially on the left side, with limitation of movements of the lumbar spine on flexion, to 30 degrees (normal 60 degrees), on extension, to 00 degrees (normal 50 degrees), on left lateral flexion, to 10 degrees (normal 40 degrees), and on right lateral

12. Neurological examination showed weakness of the triceps muscle, with decreased triceps tendon reflex, on the left side.

13. Examination of the left shoulder shows atrophy of the deltoid muscle, tenderness over the greater tuberosity, and range of motion of the shoulder is limited, especially in abduction, to 90 degrees (normal 150 degrees) and on internal rotation, to 20 degrees (normal 40 degrees). Ms. Rodriguez was unable to abduct the shoulder under resistance due to pain and weakness, and there was atrophy of the left supraspinatus muscle.

14. Examination of the lumbar spine revealed on flexion, to 40 degrees (normal 90 degrees), on extension, to 00 degrees (normal 50 degrees), and on lateral flexion, to 20 degrees (normal 40 degrees). Straight leg raise is 40 degrees on the left, and 60 degrees on the right. The patient had difficulty in walking on her heel on the left side, and her left ankle reflex was depressed. She also has atrophy of the left calf muscle, which measured, a quarter of an inch smaller than the right side.

15. In addition to my examination of Rosselin Rodriguez, I have reviewed the ACR Report of April 20, 2011, the Brookdale Hospital Emergency Room records of April 20, 2011, Graham Wellness Medical, P.C. records, Gordon C. Davis Medical, P.C., records, the MRI reports of Dr. Harold Augenstein dated June 20, 2011 of the results of the patient's MRIs of the left shoulder, cervical spine and, lumbar spine, Dr. Chi's NCV and EMG reports dated July 19, 2011, and, the IME report of Dr. Edward A. Toriello.

16. Based on my examination of Rosselin Rodriguez, and review of her medical records, it is my opinion, to a reasonable degree of medical certainty, that she sustained, as a result of the April 20, 2011 motor vehicle accident, herniated cervical discs at C3-C4 and C5-C6, with radiculopathy, herniated lumbar disc at L4-L5 with radiculopathy, bulging lumbar disc at L5-S1, with radiculopathy, and, partial rotator cuff tear of the left shoulder.

17. I disagree with the findings made by Dr. Edward Toriello in his IME report. In my opinion, with a reasonable degree of medical certainty, the injuries, finding, treatment, complaints and limitations as outlined in my report, which is annexed, are a direct result of the April 20, 2011 motor vehicle accident.

18. The herniated discs in Ms. Rodriguez's cervical and lumbar spines have caused malalignment of the vertebral bodies, which are permanent in nature, and may cause further deterioration of the facet joints and further deterioration of the flexibility of the discs. The injuries to the cervical spine and lumbar spine are permanent in nature and likely to progress and cause patient increasing pain in the cervical and lumbar spines and necessitate treatment such as bracing, anti-inflammatory medications, pain medications, and physical therapy.

19. I believe that if conservative treatment fails, Ms. Rodriguez will require surgical intervention in the cervical spine and lumbar spine. Her left shoulder also continues to be symptomatic, with atrophy around her shoulder muscles and decreased range of motion. The injury to the left shoulder is permanent in nature and likely to progress to requiring anti-inflammatory medications, physical therapy, local steroid injections, and if this conservative treatment fails, she will require an arthroscopic surgery. It is my opinion, to a reasonable degree of medical certainty, that the patient requires prolonged orthopedic and neurosurgical follow up.

20. Since the accident of April 20, 2011, Ms. Rodriguez has experienced constant disabling pain and weakness to her left shoulder, cervical spine, and lumbar spine that has limited her normal daily routines on a continual basis. I believe that these conditions are chronic, disabling in nature and have rendered her and will continue to render her permanently partially disabled.

21. Based on objective medical testing, it can be concluded, to a reasonable degree of medical certainty, that in the years to come, Rosselin Rodriguez will suffer from residual changes from the injuries that she sustained in the accident of April 20, 2011. As a result, the range of



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