

EXHIBIT K

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

MANUEL AMENDOEIRA and MARIA AMENDOERIA,

Index No.: 150123/2016

Plaintiffs,

-against-

**PLAINTIFFS' RESPONSE
TO COMPLIANCE
CONFERENCE ORDER
DATED JANUARY 3, 2017**

CITY OF NEW YORK, NEW YORK CITY TRANSIT
AUTHORITY and the METROPOLITAN
TRANSPORTATION AUTHORITY,

Defendants.

C O U N S E L O R S :

In response to the Compliance Conference Order dated January 3, 2017 the following is annexed hereto:

1. Authorization for the release of records from MagnaCare - Headquarters: One Penn Plaza, 46th Floor, New York, NY 10119; Member ID #: 276000441292, and Empire Plan BlueCross BlueShield, 15 Metro Tech Center, 6th Fl., Brooklyn, NY 11201; ID#: PGY89487848.
2. Authorization for the release of records from Laborers' International Union of North America, 905 16th Street, Northwest, Washington, DC 20006; Member No.: 4730262.
3. Primary Care Physician: Dr. Keith Apuzzo. Authorization previously provided in Plaintiffs' Response to Discovery Demands dated August 26, 2016.
4. Copy of Plaintiff's marriage certification.
5. Copy of Plaintiff's passport.
6. Dr. Alex Garcia: There is no doctor by this name. Annexed hereto is a copy of Plaintiff's executed 50H Transcript.
7. MRI Facilities: Authorizations for the release of records from New York Spine Institute Imaging Center, 761 Merrick Avenue, Westbury, New York 11590 and Stand-Up MRI of Carl Place, PC, 31 Old Country Road, Car Place, NY 11514.
8. Authorization for the release of pharmacy records from Walgreens Store #13961, 12 E Jericho Turnpike, Mineola, New York 11501.
9. Psychiatrist: Dr. Vilor Shpitalnik, MD PhD, Authorization previously provided in Plaintiffs' Response to Discovery Demands dated August 26, 2016.

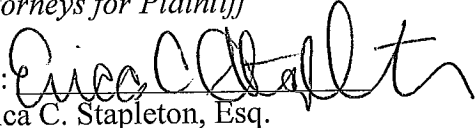
10. Physical therapy records: New York Spine Institute, previously provided in Plaintiffs' Response to Discovery Demands dated August 26, 2016.
11. Portuguese Club member: Authorization for the release of attendance records from Mineola Portuguese Center, Inc., 306 Jericho Turnpike, Mineola, New York, 11501.

RESPONSE TO NOTICE FOR DISCOVERY AND INSPECTION

1. Annexed hereto is a copy of Plaintiff's executed 50H Transcript.
2. Previously provided in Plaintiffs' Response to Discovery Demands and in this Response to Compliance Conference Order dated January 3, 2017.
3. Previously provided in Plaintiffs' Response to Discovery Demands and in this Response to Compliance Conference Order dated January 3, 2017.
4. Objection to the request for Plaintiffs' tax records and authorizations. Annexed hereto is the release of employment records limited to salary and attendance: EE Cruz and Tully Construction, 1850 2nd Ave, New York, NY 10128.
5. Please see response to number 4.
6. Please see response to number 4.
7. Annexed hereto is color copies of all photographs plaintiff is in plaintiffs' possession related to this accident.
8. Plaintiffs are not presently aware of any witnesses at this time. However, should plaintiff learn of any witnesses, the proper information will be exchanged pursuant to the provisions of the CPLR.
9. Request for medical records 5 years prior to the date of accident is not applicable. Please see response to number 2 and 3.
10. Previously provided in Plaintiffs' Response to Discovery Demands and in this Response to Compliance Conference Order dated January 3, 2017.
11. Annexed hereto is an original Workers' Compensation authorization signed by Plaintiff, and an authorization for the release of records from AIG Domestic Claims, PO Box 1822, Alpharetta, GA 30023; WCB#: WC36789-11.
12. To be provided at the time of pre-trial discovery proceedings.

Dated: New York, New York
January 19, 2017

MARC J. BERN & PARTNERS, LLP
Attorneys for Plaintiff

By: 
Erica C. Stapleton, Esq.
60 E 42nd Street, Suite 950
New York, New York 10165
T: (212) 702-5000

TO:
LANDMAN, CORSI, BALLAINE & FORD, P.C.
Attorneys for Defendants
120 Broadway, 27th Floor
New York, New York 10271-0079
(212) 238-4800



AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Patient Name Manuel Amendocira	Date of Birth [REDACTED] 1959	Social Security Number [REDACTED] 4149
Patient Address [REDACTED] Mineola, New York 11501		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:
Empire Plan BlueCross BlueShield, 15 Metro Tech Center, 6th Fl., Brooklyn, NY 11201

8. Name and address of person(s) or category of person to whom this information will be sent:
Landman, Corsi, Ballaine & Ford, P.C., 120 Broadway, 27th Fl., New York, NY 10271-0079

9(a). Specific information to be released:

Medical Record from (insert date) _____ to (insert date) _____

Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.

Other: **Collateral Source Records:** 1/31/15-Present; ID#: PGY89487848

Include: (Indicate by Initialing)

WCS Alcohol/Drug Treatment

ELB Mental Health Information

WCS HIV-Related Information

Authorization to Discuss Health Information

(b) By initialing here _____ I authorize _____

 Initials Name of individual health care provider
 to discuss my health information with my attorney, or a governmental agency, listed here:

 (Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information: <input type="checkbox"/> At request of individual <input checked="" type="checkbox"/> Other: Litigation	11. Date or event on which this authorization will expire: To the end of litigation.
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12. If not the patient, name of person signing form: Erica C. Stapleton, Esq. - Marc J. Bern & Partners, LLP	13. Authority to sign on behalf of patient: Power of Attorney
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All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Erica C. Stapleton
Signature of patient or representative authorized by law.

Date: 1/19/17

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.



AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA
 [This form has been approved by the New York State Department of Health]

Patient Name Manuel Amendoeira	Date of Birth █/1959	Social Security Number █-█-4149
Patient Address █ Mineola, New York 11501		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:
Stand-Up MRI of Carl Place, PC, 31 Old Country Road, Car Place, NY 11514

8. Name and address of person(s) or category of person to whom this information will be sent:
Landman, Corsi, Ballaine & Ford, P.C., 120 Broadway, 27th Fl., New York, NY 10271-0079

9(a). Specific information to be released:

Medical Record from (insert date) 1/31/15 to (insert date) Present.

Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.

Other: _____

Include: (Indicate by Initialing)
ES Alcohol/Drug Treatment
ES Mental Health Information
ES HIV-Related Information

Authorization to Discuss Health Information

(b) By initialing here _____ I authorize _____
 Initials Name of individual health care provider
 to discuss my health information with my attorney, or a governmental agency, listed here:

 (Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information: <input type="checkbox"/> At request of individual <input checked="" type="checkbox"/> Other: Litigation	11. Date or event on which this authorization will expire: To the end of litigation.
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12. If not the patient, name of person signing form: Erica C. Stapleton, Esq. - Marc J. Bern & Partners, LLP	13. Authority to sign on behalf of patient: Power of Attorney
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All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Erica C. Stapleton
 Signature of patient or representative authorized by law.

Date: 1/19/17

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.



AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Patient Name Manuel Amendoeira	Date of Birth [REDACTED]/1959	Social Security Number [REDACTED] 4149
Patient Address [REDACTED] Mineola, New York 11501		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

- This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
- If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
- I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
- I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
- Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
- THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:
Walgreens Store #13961, 12 E Jericho Turnpike, Mineola, New York 11501

8. Name and address of person(s) or category of person to whom this information will be sent:
Landman, Corsi, Ballaine & Ford, P.C., 120 Broadway, 27th Fl., New York, NY 10271-0079

9(a). Specific information to be released:

Medical Record from (insert date) _____ to (insert date) _____

Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.

Other: **Pharmacy records: 1/31/15 to Present.**

Include: (Indicate by Initialing)

ELB **Alcohol/Drug Treatment**

ELB **Mental Health Information**

ELB **HIV-Related Information**

Authorization to Discuss Health Information

(b) By initialing here _____ I authorize _____
Initials Name of individual health care provider
to discuss my health information with my attorney, or a governmental agency, listed here:

(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information:
 At request of individual
 Other: **Litigation**

11. Date or event on which this authorization will expire:
To the end of litigation.

12. If not the patient, name of person signing form:
Erica C. Stapleton, Esq. - Marc J. Bern & Partners, LLP

13. Authority to sign on behalf of patient:
Power of Attorney

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Erica C. Stapleton
Signature of patient or representative authorized by law.

Date: 1/19/17

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.



AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Patient Name Manuel Amendoeira	Date of Birth [REDACTED]/1959	Social Security Number [REDACTED] 4149
Patient Address [REDACTED] Mineola, New York 11501		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

- This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
- If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
- I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
- I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
- Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
- THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:
Mineola Portuguese Center, Inc., 306 Jericho Turnpike, Mineola, New York, 11501

8. Name and address of person(s) or category of person to whom this information will be sent:
Landman, Corsi, Ballaine & Ford, P.C., 120 Broadway, 27th Fl., New York, NY 10271-0079

9(a). Specific information to be released:

Medical Record from (insert date) _____ to (insert date) _____

Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.

Other: Attendance records: 1/31/15 to Present.

Include: (Indicate by Initialing)

ELC Alcohol/Drug Treatment

ELC Mental Health Information

ELC HIV-Related Information

Authorization to Discuss Health Information

(b) By initialing here _____ I authorize _____

 Initials Name of individual health care provider
 to discuss my health information with my attorney, or a governmental agency, listed here:

 (Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information: <input type="checkbox"/> At request of individual <input checked="" type="checkbox"/> Other: Litigation	11. Date or event on which this authorization will expire: To the end of litigation.
---	--

12. If not the patient, name of person signing form: Erica C. Stapleton, Esq. - Marc J. Bern & Partners, LLP	13. Authority to sign on behalf of patient: Power of Attorney
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All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Erica C. Stapleton
Signature of patient or representative authorized by law.

Date: 1/19/17

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.



AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA
 [This form has been approved by the New York State Department of Health]

Patient Name Manuel Amendocira	Date of Birth [REDACTED] 959	Social Security Number [REDACTED] 4149
Patient Address [REDACTED] Mineola, New York 11501		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

1. This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
4. I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. **THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:
EE Cruz and Tully Construction, 1850 2nd Ave, New York, NY 10128

8. Name and address of person(s) or category of person to whom this information will be sent:
Landman, Corsi, Ballaine & Ford, P.C., 120 Broadway, 27th Fl., New York, NY 10271-0079

9(a). Specific information to be released:

Medical Record from (insert date) _____ to (insert date) _____

Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.

Other: **Salary and attendance records:** _____ Include: (Indicate by Initialing)
1/31/15 to Present.

ELS Alcohol/Drug Treatment
ELS Mental Health Information
ELS HIV-Related Information

Authorization to Discuss Health Information

(b) By initialing here _____ I authorize _____

 Initials Name of individual health care provider
 to discuss my health information with my attorney, or a governmental agency, listed here:

 (Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information:
 At request of individual
 Other: **Litigation**

11. Date or event on which this authorization will expire:
To the end of litigation.

12. If not the patient, name of person signing form:
Erica C. Stapleton, Esq. - Marc J. Bern & Partners, LLP

13. Authority to sign on behalf of patient:
Power of Attorney

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Erica C. Stapleton
 Signature of patient or representative authorized by law.

Date: 1/19/17

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.


AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Patient Name Manuel Amendoeira	Date of Birth ■■■■ 1959	Social Security Number ■■■■■ 4149
Patient Address ■■■■■■ Mineola, New York 11501		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

- This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
- If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
- I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
- I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
- Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
- THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:

AIG Domestic Claims, PO Box 1822, Alpharetta, GA 30023

8. Name and address of person(s) or category of person to whom this information will be sent:

Landman, Corsi, Ballaine & Ford, P.C., 120 Broadway, 27th Fl., New York, NY 10271-0079

9(a). Specific information to be released:

- Medical Record from (insert date) _____ to (insert date) _____
- Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.
- Other: **Non-privileged portion of WC file:**
1/31/15-Present-WCB#WC36789-1

Include: (Indicate by Initialing)

ELB Alcohol/Drug Treatment
ELB Mental Health Information
ELB HIV-Related Information

Authorization to Discuss Health Information

- (b) By initialing here _____ I authorize _____
 _____ Initials Name of individual health care provider
 to discuss my health information with my attorney, or a governmental agency, listed here:

 (Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information:

- At request of individual
 Other: **Litigation**

11. Date or event on which this authorization will expire:

To the end of litigation.

12. If not the patient, name of person signing form:

Erica C. Stapleton, Esq. - Marc J. Bern & Partners, LLP

13. Authority to sign on behalf of patient:

Power of Attorney

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Erica C. Stapleton
 Signature of patient or representative authorized by law.

Date: 1/19/17

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.



Workers' Compensation Board

PO Box 5205, Binghamton, NY 13902-5205

State of New York WORKERS' COMPENSATION BOARD

CLAIMANT'S AUTHORIZATION TO DISCLOSE WORKERS' COMPENSATION RECORDS

(Pursuant to Workers' Compensation Law Section 110-a)

PLEASE COMPLETE ALL ITEMS. AN INCOMPLETE FORM WILL DELAY THE PROCESSING OF YOUR REQUEST.

Form fields for Claimant's Name (Manuel Amendoeira), Social Security No. (redacted-4149), and Case Number and/or Date of Accident (1/31/2015).

IF RELEASE IS AUTHORIZED FOR ADDITIONAL CASE FILE(S), IDENTIFY BELOW BY WCB/DB/DC CASE NUMBER AND/OR DATE OF ACCIDENT(S).

CLAIMANT IS PROHIBITED FROM AUTHORIZING RELEASE OF WORKERS' COMPENSATION INFORMATION TO PROSPECTIVE EMPLOYERS OR IN CONNECTION WITH ASSESSING FITNESS OR CAPABILITY OF EMPLOYMENT.

INSTRUCTIONS: Submit original to the Workers' Compensation Board and retain a copy for your records. Authorization for disclosure of records for certain purposes is not valid under the law. See excerpt of WCL Section 110-a on the reverse of this form. THIS AUTHORIZATION DOES NOT PERMIT YOU TO OPEN AN INDIVIDUAL eCASE ACCOUNT OR TO VIEW CASES VIA eCASE OUTSIDE OF A BOARD LOCATION.

Pursuant to Section 110-a of the Workers' Compensation Law, I, Manuel Amendoeira, Claimant's Name

represent that I am a person who is/was the subject of the Workers' Compensation case(s) indicated above, and I authorize the Workers' Compensation Board to discuss the above-referenced Workers' Compensation

Board records with and/or release a copy of the above-referenced records to

Landman, Corsi, Ballaine + Ford, P.C., at 120 Broadway, 27th Fl., New York, NY 10271-0079. Name of a Specific Person, Corporation, Association or Public or Private Entity Address

I understand that the requesting party may be required to pay a statutory fee prior to being provided copies of these records by the Workers' Compensation Board.

Manuel Amendoeira 1/19/17 Claimant's Signature (ink only - use blue ballpoint pen if possible) Date

Failure to provide the information requested on this form will not result in the denial of your authorization, but may delay the processing of your request. The voluntary release of your social security number enables the Board to ensure that information is associated with, and quick action is taken on, your request.

JOANN SEZER Notary Public, State of New York No. 019EG017819 Qualified in Richmond County Commission Expires December 21, 2018

Power of Attorney

To Execute HIPAA Medical Record Authorization Forms Pursuant To NY Public Health Law §18(1)(G) As Amended 10/26/04.

I, Manuel Amendoerra
Of 194 Frank Ave, Mineola, NY 11501

do hereby appoint: Marc J. Bern & Partners, LLP, with offices at 60 East 42nd Street, Ste #950, New York, New York 10165, my attorneys –in-fact to act (each agent may act separately) in my name, place and stead in any way which I myself could do, if I were personally present **to execute HIPAA medical record authorization forms pursuant to NY Public Health Law §18(1)(g) as amended 10/26/04.** This power of attorney may be revoked by me at any time. This Power of Attorney shall not be affected by my subsequent disability or incompetence.

To induce any third party act hereunder, I hereby agree that any third party receiving a duly executed copy of facsimile of this instrument may act hereunder, and that revocation or termination hereof shall be ineffective as to such third party unless and until actual notice or knowledge of such revocation or termination shall have been received by such third party, and I for myself and for my heirs, executors, legal representatives and assigns, hereby agree to indemnify and hold harmless any such third party from and against any and all claims that may arise against such third party by reason of such third party having relied on the provisions of this instrument.

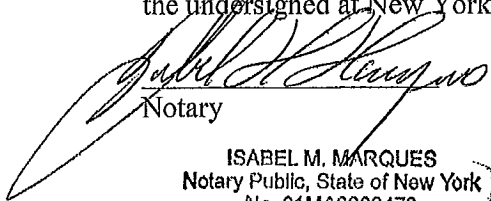
In Witness Whereof I have hereunto signed my name this 9th day of January, 2017.

X Manuel Amendoerra

ACKNOWLEDGEMENT

STATE OF NEW YORK
COUNTY OF Nassau

On this 9th day of January, 2017 before me the undersigned, personally appeared Manuel Amendoerra, personally known to be or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person who acted on behalf of the individual, executed the instrument and that such individual made such appearance before the undersigned at New York, New York.



Notary

ISABEL M. MARQUES
Notary Public, State of New York
No. 01MA6009473
Qualified in Nassau County
Commission Expires on June 29, 2018



Conservatória do Registo Civil/Predial/Comercial Valpaços

Avenida Marechal Camona
Tel.: 278712230 Fax.: 278713239
Email: registos.valpacos@irn.mj.pt

Relativamente à certidão requisitada sob o nº 1819/2016

CERTIFICO

Que o presente documento está conforme o original do registo nº 3827 do ano de 2014 da Conservatória do Registo Civil/Predial/Comercial de Valpaços. Substitui a certidão de cópia integral Assento de Casamento para Outros fins.

Conservatória do Registo Civil/Predial/Comercial Valpaços, 2016-08-30 09:41

Escriturário Superior, Maria Antónia Ferreira de Azevedo Adelino

.....

Conservatória do Registo Civil/Predial/Comercial Valpaços
Assento de Casamento n.º 3827 do ano de 2014**Nubente**

Nome: **Manuel Rua Amendoeira *****
Idade: **20 anos *****
Naturalidade: **freguesia de Fornos do Pinhal *****
concelho de Valpaços ***
Residência habitual: **Fornos do Pinhal, Valpaços *****
Filho de: **António José Amendoeira *****
e de: **Graça Conceição Rua *****

Nubente

Nome: **Maria Teresa Figueiredo Morais *****
Idade: **20 anos *****
Naturalidade: **freguesia de Vilarandelo *****
concelho de Valpaços ***
Residência habitual: **Vilarandelo, Valpaços *****
Filho de: **Mário de Morais *****
e de: **Maria de Medeiros Figueiredo *****

Hora e data: **11 horas 00 minutos , do dia 15 de Dezembro de 1979 *****
Lugar da celebração: **Igreja paroquial da freguesia de Vilarandelo, concelho de Valpaços *****
Casamento: **Católico, sem convenção antenupcial *****

Os nubentes declararam celebrar de livre vontade o seu casamento, perante **Padre, Francisco Ribeirinha, Pároco. *****

Apelido(s) Adoptado(s): O nubente Maria Teresa Figueiredo Morais adoptou o(s) apelido(s) **Amendoeira. *****

Menções especiais: *******
Testemunhas: *******
Data do assento: **12 de Novembro de 2014 *****

O/A Escriurário Superior, Maria Antónia Ferreira de Azevedo Adelino , Por competência própria

Processo n.º **8843/ 2014**

Assento de Casamento 3827/2014, Conservatória do Registo Civil/Predial/Comercial de Valpaços

Cota : Informatização do assento n.º 254/1979, lavrado em 1979/12/18, na Conservatória de Valpaços - 2014-11-12

Handwritten marks and signature in the top right corner.

ORIGINAL

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IN THE MATTER OF THE CLAIM OF

-----X

MANUEL AMENDOEIRA and MARIA AMENDOEIRA,

Claimant(s),

-against-

CITY OF NEW YORK, NEW YORK CITY TRANSIT
AUTHORITY, and the METROPOLITAN TRANSPORTATION
AUTHORITY,

Respondent(s).

-----X

Landman Corsi Ballaine & Ford, P.C.
120 Broadway
27th Floor
New York, New York 10271

May 19, 2015
3:40 p.m.

EXAMINATION of MARIA AMENDOEIRA, a Claimant,
and held at the above-mentioned time and place, pursuant
to Section 50(h) of the General Municipal Law, and taken
before Theresa L. Morriale, a Notary Public of the State
of New York.

PRIORITY-ONE
COURT REPORTING SERVICES, INC.
290 West Mt. Pleasant Avenue
Suite 2260
Livingston, New Jersey 07039
(718) 983-1234

Job No. 2073462

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A P P E A R A N C E S:

Pasternack Tilker Napoli Bern, LLP
Empire State Building
350 Fifth Avenue
New York, New York 10118
BY: GARY V. PUSTEL, ESQ.
Attorney for the Claimant(s)

Landman Corsi Ballaine & Ford, P.C.
120 Broadway
27th Floor
New York, New York 10271
BY: JONATHAN B. ADLER, ESQ.
Attorney for the Respondent(s)

ALSO PRESENT: Debora Vieira, the interpreter.

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I N D E X

EXAMINATION BY		PAGE
JONATHAN B. ADLER, ESQ.		4

E X H I B I T S

EXHIBIT	DESCRIPTION	PAGE
R3	Notice of Claim	18

ALL EXHIBITS RETAINED BY: Attorney

R E Q U E S T S

PAGE	DESCRIPTION	LINE
NONE		

Page 4

1 D E B O R A V I E I R A,

2 The interpreter, having been first duly sworn by
3 a Notary Public, interpreted the testimony as follows:

4 M A R I A A M E N D O E I R A,

5 Residing at 194 Franklin Avenue, Mineola, New
6 York 11571, having been duly sworn testifies as
7 follows:

8
9 DIRECT EXAMINATION BY MR. ADLER:

10

11 Q. Good afternoon. My name is
12 Jonathan Adler. And I'm from Landman Corsi
13 Ballaine and Ford. And we represent the City of
14 New York, New York City Transit Authority and
15 Metropolitan Transit Authority as the
16 respondents in this matter. I'm going to ask
17 you a series of questions which you will respond
18 to under oath. If there's a question that you
19 do not understand, please tell me, and I will
20 attempt to rephrase it. If there's a question
21 you can't hear, please let me know, and either I
22 or the court reporter will repeat it for you.

23 A. Okay.

24 Q. If you answer questions it's
25 presumed that you have heard the questions,

Page 5

1 understood it, and are giving your best answer.

2 A. Okay.

3 Q. Let me also advise you that the
4 court reporter cannot adequately record both of
5 us speaking at the same time and cannot
6 translate a nod --

7 A. Excuse me?

8 Q. She can't translate a nod or
9 "mm-mm" or "uh-huh". Your responses have to be
10 verbal and affirmative.

11 A. Okay, that's fine.

12 Q. Do you have any questions about
13 these procedures?

14 A. No.

15 Q. Are you suffering from any illness
16 which could affect your ability to testify
17 truthful and accurately?

18 A. No.

19 Q. Have you taken any medication which
20 will adversely affect your ability to testify
21 truthfully and accurately?

22 A. I took medication for cholesterol,
23 hypertension, and I had a stroke, so I have to
24 take aspirin.

25 Q. Are you taking medication which

1 alters the truthfulness of your testimony?

2 A. No.

3 Q. Have you failed to take any
4 medication which will alter truthfulness or
5 accuracy of your testimony?

6 A. No. I took what I was supposed to take.

7 Q. Are you represented by counsel here
8 today?

9 A. Yes.

10 Q. Do you know your attorney's office?
11 You don't need to know your attorney's name.

12 A. I don't know. It's the first time I'm
13 here.

14 Q. No problem. Have you been a
15 witness before in these type of proceeding?

16 A. Never.

17 Q. Please state your full for the
18 record.

19 A. Maria Teresa -- as it is in the United
20 States? Or complete?

21 Q. Complete, please.

22 A. Maria Teresa Figueiredo Moaes
23 Amendoeira. Over here I'm just Maria T.

24 Q. Are you known by any other names?

25 A. No.

1 Q. Do you go by Anna?

2 A. No. Can I speak? At the school where I
3 work, there were two Marias there. So, I'm
4 known as Teresa. But only at work that they
5 call me Teresa.

6 Q. What is your date of birth?

7 A. [REDACTED]/59.

8 Q. Where were you born?

9 A. In Portugal.

10 Q. What's your status here in the
11 United States?

12 A. The state?

13 Q. Are you a citizen?

14 A. I'm a residence. I have green card.

15 Q. When did you first get your green
16 card?

17 A. I believe it was 1990.

18 Q. What's your Social Security Number?

19 For your protection, we will only take the last
20 four on the record. But you need to tell me the
21 whole Social Security.

22 A. XXX-XX-2158.

23 Q. How tall are you?

24 A. More or less, five.

25 Q. Approximately, how much do you

1 weigh?

2 A. One hundred and seventy-four.

3 Q. Are you married?

4 A. Yes.

5 Q. What's the name of your spouse?

6 A. Manuel Rua Amendoeira.

7 Q. Do you have any children?

8 A. Yes.

9 Q. What are their names?

10 A. I have a boy and a girl. The boy's

11 called Steven. And the girl's called Andrea.

12 Q. How old is Steven?

13 A. Twenty.

14 Q. How old is Andrea?

15 A. Thirty-four.

16 Q. What does Steven do for work?

17 A. He works in Tull Construction.

18 Q. What does your husband do for work?

19 A. He does concrete, sidewalks.

20 Q. Does Steven work with your husband?

21 A. Yes.

22 Q. What does Andrea do for work?

23 A. She's not working.

24 Q. Where do you live?

25 A. I live in Mineola.

Page 9

1 Q. What's your address?

2 A. My address, [REDACTED] [sic]

3 Q. City?

4 A. Mineola.

5 MR. PUSTEL: Mineola.

6 Q. ZIP?

7 A. 11501. I believe that's right, but I'm
8 nervous. I'm not sure.

9 Q. No reason to be nervous.

10 A. I forget things.

11 Q. It's okay. If you ever need a
12 break we can take a break, okay?

13 A. It's okay. I'm okay.

14 Q. How long have you been living at
15 this address?

16 A. More or less, it's about 12 -- 12 or
17 15 years.

18 Q. Is this a private residence or an
19 apartment?

20 A. Private address.

21 Q. Who lives there with you?

22 A. My son and my husband. Can I talk to
23 you? Above lives my sister-in-law. We bought
24 it together.

25 Q. Your sister-in-law also lives there

1 with you?

2 A. She lives above in the apartment, I'm
3 below.

4 Q. Is this a two-family house? Is
5 that what you're saying?

6 A. I don't know if it's two family, but we
7 bought it together.

8 Q. Is there any separation where you
9 need to use a different entrance to get into
10 their specific part?

11 A. No.

12 Q. Have you ever been convicted of a
13 crime?

14 A. No.

15 Q. Are you currently employed?

16 A. Yes, I am.

17 Q. Where do you work?

18 A. I work in the high school in the
19 cafeteria.

20 Q. Which high school?

21 A. Mineola High School.

22 Q. How long have you been working
23 there?

24 A. Eight years.

25 Q. What's the address of Mineola High

Page 11

1 School?

2 A. I don't remember the address.

3 Q. What's your job title there?

4 A. I help to cook and I also serve.

5 Q. Were you working anywhere else

6 before the Mineola High School cafeteria?

7 A. I worked for three years in a factory,
8 but that was right when I arrived. It was a
9 long time ago. And I also worked for a lady who
10 helped me get my papers.

11 Q. Now, referring your attention to
12 Manuel's incident, that's the basis of the claim
13 that we're here to discuss today. Did he suffer
14 an injury -- strike that. When did he suffer an
15 injury, if you know?

16 A. January 31st -- I believe it's 31st.

17 Q. Where was he working at the time?

18 A. I don't know the place but I know it was
19 the place where they have the trains.

20 Q. You did not witness this incident,
21 correct?

22 A. No.

23 Q. Do you know what company he was
24 working for at the time of the incident?

25 A. There were two companies but I don't

Page 12

1 know. One was Tull, but I'm not certain about
2 the other.

3 Q. Did he tell you anything about the
4 incident?

5 A. No. He told me that he fell.

6 Q. Anything more?

7 A. He just said that he had some --
8 carrying something on his back and he fell and
9 he a had a lot of pain.

10 Q. Now, you said he complained to you
11 about pain, was this immediately after the
12 incident?

13 A. When he came back from the hospital,
14 when he came home. He came back with a lot of
15 pain.

16 Q. Did you visit him in the hospital?

17 A. By the time I found out about the
18 accident it was nighttime, and they didn't want
19 to take me. And I just waited for my son at
20 home.

21 Q. How long was your husband in the
22 hospital for?

23 A. I don't know when the accident happened
24 because they didn't tell me, but I know he slept
25 there. I don't know what time he came. I was

1 too nervous.

2 Q. Did he receive any medical
3 treatment following the hospital?

4 A. Yes, he was going to the doctors.

5 Q. From what doctors?

6 A. I don't know because it was my
7 brother-in-law who took them.

8 Q. Does he receive any physical
9 therapy?

10 A. Yes.

11 Q. What type of physical therapy?

12 A. I don't know. I just know he went to
13 therapy.

14 Q. Has physical therapy helped his
15 condition?

16 A. He was always complaining a lot. It
17 didn't seem like it helped him much.

18 Q. Did he undergo any diagnostic
19 tests?

20 A. As I told you, my brother-in-law is the
21 one who goes with my husband, I don't know.
22 He's the one that knows.

23 Q. What's your brother-in-law's name?

24 A. Antonio Jose Amendoeira.

25 Q. Do you also live with Antonio?

Page 14

1 A. No.

2 Q. Only the sister-in-law?

3 A. The one who bought the house is another
4 brother, the younger one.

5 Q. So, what's that sister-in-law's
6 name, and that brother-in-law's name that you
7 live with?

8 A. Maria Ellison. Marcus Ellison Rua
9 Amendoeira.

10 Q. Now, did your husband miss time
11 from work because of the incident?

12 A. Yes. He's not working.

13 Q. What is he unable to do at work, if
14 you know?

15 A. He doesn't do anything now.

16 Q. Well, the reason why he can't go
17 back to work is presumably because he can't do
18 things -- just strike that. So, he has not
19 returned to work following the incident,
20 correct?

21 A. No. He never went back to work.

22 Q. Have his doctors limited him from
23 going back to work?

24 A. I think so. He goes to the doctors and
25 they say he can't work and he has a lot of pain.

1 Q. Now, before the incident, did he
2 have any hobbies?

3 A. What's that, "hobbies"? Helping at
4 home?

5 Q. Hobbies is activities he would like
6 to do for fun?

7 A. Before he liked to dancing and go to the
8 clubs and all. But now, he can't do it anymore.

9 Q. What clubs?

10 A. Portuguese.

11 Q. Where is that located?

12 A. Mineola.

13 Q. That's like a dance club?

14 A. It's a club of members where they do
15 parties.

16 Q. Aside from yourself and his
17 brother-in-law, Antonio, does anyone else have
18 knowledge as to your husband's inability to
19 dance and go to clubs?

20 A. My other brother-in-law and the
21 Portuguese people that used to see us there
22 dancing. And now, they don't.

23 Q. Now, as far as housekeeping, who
24 cleans your house?

25 A. Myself.

1 Q. Before the incident, did he clean
2 the house, your husband that is?

3 A. Yes, he helped.

4 Q. Now, before the incident, who
5 performed chores such as trash removal?

6 A. It was him.

7 Q. Who performs trash removal now?

8 A. It's me and my brother-in-law.

9 Q. Before the incident, who did the
10 grocery shopping?

11 A. He would go a lot of times.

12 Q. Now, who does the grocery shopping?

13 A. It's me and my brother-in-law.

14 Q. Does your husband perform any tasks
15 around the house?

16 A. No.

17 Q. Before the incident, what tasks did
18 he perform around the house, if not already
19 covered?

20 A. He cooked. He would do laundry.

21 Q. Has your husband recovered from any
22 injuries since the incident occurred?

23 A. Injuries, how?

24 Q. Have any of the injuries that he's
25 complained about gotten better?

Page 17

1 A. No. He's always complaining. It's very
2 slow.

3 Q. In the last ten years prior to the
4 incident, has your husband been injured?

5 A. No.

6 Q. From the claim that was filed by
7 your attorney's office, your husband is claiming
8 injuries to his head, his neck, both shoulders,
9 his lower back, both knees, and mental injuries.
10 Has he ever suffered injuries to any of these
11 parts in ten years prior to the incident?

12 A. No.

13 Q. In the last ten years before the
14 incident, has your husband been involved in any
15 auto or motorcycle accident?

16 A. No.

17 Q. In the last ten years prior to the
18 incident, has he been hospitalized for any
19 reason?

20 A. He had some stones, you know.

21 Q. Like gall or kidney stones?

22 A. They gave him medication and he came
23 home. That was all.

24 Q. Has he suffered any accidents since
25 his incident on January 31st, 2015?

1 A. No.

2 Q. Since the incident, has your
3 relationship with your husband been affected?

4 A. Very much.

5 Q. How so?

6 A. Too much.

7 Q. Can you be specific?

8 A. He's always very nervous and then I get
9 nervous as well. And our relations as well.

10 Q. By "relations" you mean physical
11 relations?

12 A. Yes.

13 Q. Is there anything else that's been
14 affected?

15 A. No. That's all I feel, you know.

16 Q. I have here a notice of claim, and
17 your husband's name appears to be on it, Manuel
18 Amendoeira. Is your attorney's office
19 Pasternack Tilker Napoli Bern, LLP, if you know?

20 A. I don't know.

21 MR. ADLER: I'd like to mark this
22 as Respondent Exhibit 3.

23 [Whereupon exhibit was marked
24 Respondent's Exhibit 3.]

25 Q. Is your address 194 Franklin

1 Avenue, Mineola, New York 11571?

2 A. Franklin Avenue, Mineola.

3 Q. Take a look at this --

4 A. I don't know English.

5 Q. Well, the contents, they may refer
6 to you as "Anna Amendoeira"?

7 A. But my name is not Anna.

8 Q. The claims made inside this claim
9 state that you've been deprived of services,
10 societies, companionship and consortium of your
11 husband, Manuel Amendoeira?

12 A. What does that mean?

13 Q. Do you recall making these claims
14 through your attorney?

15 A. Yes. Everything I said here I told my
16 attorney.

17 (Continued on the following page
18 to accommodate the jurat.)

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Q. Okay. That's all the questions I have for today.

A. My relations, I told my attorney about that.

Q. Okay.

[TIME NOTED: 4:10 p.m.]

Maria T. Amendoeira

MARIA AMENDOEIRA

Sworn and subscribed to before me, on.

this 26th day of June 2015

Notary Isabel Gomes

My Commission Expires Sept 27, 2015

ISABEL GOMES
Notary Public, State of New York
No. 01GO6170577
Qualified in Nassau County
Commission Expires September 27, 2015

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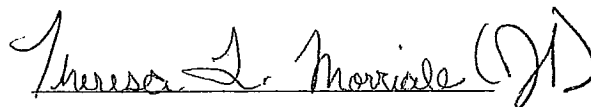
C E R T I F I C A T I O N

I, Theresa L. Morriale, a Notary Public for
and within the State of New York, do hereby certify:

That the witness whose testimony as herein
set forth, was duly sworn by me; and that the within
transcript is a true record of the testimony given by
said witness.

I further certify that I am not related to
any of the parties to this action by blood or marriage,
and that I am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 19th day of May, 2015.



Theresa L. Morriale

* * *

ERRATA SHEET

PAGE/LINE

CORRECTION

4/6

zip code - 11501

6/22

Maria Teresa Figueiredo Morais
Amendoeira

7/2-5

At school where I work, there were two Teresa's
so I'm known as Maria at work only

8/17

Tully construction

12/1

Tully

14/8

Maria Assunção Amendoeira

15/17

Antonio is Manuel's brother not
brother in law

19/1

11501

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ERRATA SHEET
Priority-One Court Reporting/Veritext
718-983-1234
ASSIGNMENT NO. P1-2073462
CASE NAME: Amendoeira, Manuel and Maria v. City of New York
DATE OF DEPOSITION: 5/19/2015
WITNESS' NAME: Maria Amendoeira

PAGE/LINE(S)/	CHANGE	REASON
4 / 6 /	11501	wrong zip code
6 / 22 /	MORAIS	Spelled wrong
7 / 2-5 /	TERESA	In known as Teresa at work
8 / 17 /	Tully Construction	spelled wrong
12 / 1 /	Tully	spelled wrong
14 / 8 /	Mania Assuncao Amendoeira	Wrong name
15 / 17 /	Antonio	Antonio is Manuel's brother not brother in Law
19 / 1 /	11501	wrong zip code

Maria Amendoeira
(Notary not required in California)
SUBSCRIBED AND SWORN TO
BEFORE ME THIS _____ DAY
OF _____, 2015.

NOTARY PUBLIC
MY COMMISSION EXPIRES _____

[& - court]

Page 1

&	9	attempt 4:20	carrying 12:8
& 1:11 2:7	983-1234 1:24	attention 11:11	case 22:3
0	a	attorney 2:5,9 3:6 19:14,16 20:3	certain 12:1
07039 1:23	ability 5:16,20	attorney's 6:10,11 17:7 18:18	certify 21:4,9
1	accident 12:18,23 17:15	authority 1:6,7 4:14 4:15	change 22:5
10118 2:4	accidents 17:24	auto 17:15	children 8:7
10271 1:12 2:8	accommodate 19:18	avenue 1:22 2:4 4:5 9:2 19:1,2	cholesterol 5:22
11501 9:7	accuracy 6:5	b	chores 16:5
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IN THE MATTER OF THE CLAIM OF

-----X

MANUEL AMENDOEIRA and MARIA AMENDOEIRA,
Claimant(s),

ORIGINAL

-against-

CITY OF NEW YORK, NEW YORK CITY TRANSIT
AUTHORITY, and the METROPOLITAN TRANSPORTATION
AUTHORITY,

Respondent(s).

-----X

Landman Corsi Ballaine & Ford, P.C.
120 Broadway
27th Floor
New York, New York 10271

May 19, 2015
11:12 a.m.

EXAMINATION of MANUEL AMENDOEIRA, a
Claimant, and held at the above-mentioned time and
place, pursuant to Section 50(h) of the General
Municipal Law, and taken before Theresa L. Morriale, a
Notary Public of the State of New York.

PRIORITY-ONE
COURT REPORTING SERVICES, INC.
290 West Mt. Pleasant Avenue
Suite 2260
Livingston, New Jersey 07039
(718) 983-1234

Job No. 2073462

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Pasternack Tilker Napoli Bern, LLP
Empire State Building
350 Fifth Avenue
New York, New York 10118
BY: GARY V. PUSTEL, ESQ.
Attorney for the Claimant(s)

Landman Corsi Ballaine & Ford, P.C.
120 Broadway
27th Floor
New York, New York 10271
BY: JONATHAN B. ADLER, ESQ.
Attorney for the Respondent(s)

ALSO PRESENT: Debora Vieira, the interpreter.

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I N D E X

EXAMINATION BY		PAGE
JONATHAN B. ADLER, ESQ.		4

E X H I B I T S

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ALL EXHIBITS RETAINED BY: Attorney

R E Q U E S T S

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NONE		

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1 D E B O R A V I E I R A,

2 The interpreter, having been first duly sworn by
3 a Notary Public, interpreted the testimony as follows:

4 M A N U E L A M E N D O E I R A,

5 Residing at 194 Franklin Avenue, Mineola, New
6 York 11571, having been duly sworn testifies as
7 follows:8
9 DIRECT EXAMINATION BY MR. ADLER:

10

11 Q. Good morning. My name is Jonathan
12 Adler. I'm an attorney from the law firm of
13 Landman Corsi Ballaine and Ford, and we
14 represent the City of New York, New York City
15 Transit Authority and the Metropolitan Transit
16 Authority in this matter. I'm going to ask you
17 a series of questions involving an incident that
18 forms a basis of your claim. And you will be
19 responding to these questions under oath. If
20 there's anything that you don't understand,
21 please tell me and I'll attempt to rephrase it
22 for you.

23 A. Okay.

24 Q. If there's a question you did not
25 hear please let me know and either I or the

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1 court reporter will rephrase it. If you answer
2 a question, it'll be presumed that you heard the
3 question and understood, and have given your
4 best answer.

5 A. Yes.

6 Q. Let me advise you, the court
7 reporter cannot adequately record two people
8 speaking at once. And she can't take down a
9 head nod, or "um-hm" and "Uh-huh". So, I need
10 the answers in "yes" or "no", something
11 affirmative. Do you have any questions?

12 A. No.

13 Q. Are you suffering from any illness
14 which could affect your ability to testify
15 truthfully and accurately today?

16 A. Yes, I'm in pain.

17 Q. Will it affect your testimony?

18 A. No. No.

19 Q. And if you need to take a break,
20 just let me know?

21 A. No. No. I don't need one.

22 Q. Have you taken any medication today
23 that would affect your ability to testify
24 truthfully and accurately today?

25 A. I only took it for my diabetes and pain.

1 But, no.

2 Q. Did you fail to take any medication
3 today that would affect your ability to testify
4 truthfully?

5 A. No.

6 Q. You're represented here by counsel
7 to your right; is that correct?

8 A. Yes.

9 Q. What's your attorney's office name?

10 A. I don't remember.

11 Q. Have you ever been a witness before
12 for a deposition?

13 A. To witness for myself? Or someone else?

14 Q. Just in any proceeding similar to
15 the one that's occurring right now?

16 A. No. No.

17 Q. Have you met with counsel in
18 preparation for your examination?

19 A. Yes.

20 Q. Have you discussed this matter with
21 anyone other than your attorney?

22 A. No.

23 Q. Have you reviewed any document in
24 preparation for today?

25 A. No.

1 Q. Can you please state your name for
2 the record?

3 A. Manuel Amendoeira.

4 Q. Are you known by any other
5 nicknames or alias?

6 A. I also have a middle name. Manuel Rua
7 Amendoeira, R-U-A.

8 Q. Does anyone ever refer to you as
9 "Rua"?

10 A. No.

11 Q. What's your date of birth?

12 A. [REDACTED] 59.

13 Q. So, [REDACTED], 1959?

14 A. Yes.

15 Q. Where were you born?

16 A. In Portugal.

17 Q. What's your status here in the
18 United States?

19 A. Mineola.

20 Q. Are you a citizen?

21 A. Yes.

22 Q. When did you become a citizen in
23 the United States?

24 A. I'm not quite sure. About three years
25 ago, maybe. I'm not quite sure.

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1 Q. What's your Social Security Number?

2 And for your protection, we can just put the
3 last four on the record.

4 A. 4149.

5 Q. What's the full -- I need the full
6 Social Security.

7 A. XX-XX-4149.

8 Q. How tall are you?

9 A. Six feet.

10 Q. How much do you currently weigh?

11 A. Two hundred and sixteen, 218,
12 approximately.

13 Q. Is that the weight that you were at
14 the time of the incident?

15 A. Yes. It's been more or less the same.
16 I don't know.

17 Q. What's your marital status?

18 A. Yes, I'm married.

19 Q. What's the name of your spouse?

20 A. Maria. Maria Teresa Figueiredo Moaes
21 Amendoeira.

22 Q. How do you spell Figueiredo?

23 A. F-I-G-U-E-I-R-E-D-O.

24 MR. ADLER: Off the record.

25 [Discussion held off the record.]

1 Q. How old is Maria?

2 A. Fifty-six, also.

3 Q. What does she do for work, if
4 anything?

5 A. She works in a high school as cook.

6 Q. Which high school?

7 A. In Mineola.

8 Q. How long has she been there?

9 A. Four or five years. It's approximately.
10 I'm not quite sure.

11 Q. Do you have any children?

12 A. Yes.

13 Q. What are there names?

14 A. Steven Moaes Amendoeira. My daughter's
15 name is Andrea Caetano Moaes Amendoeira.

16 Q. Okay.

17 A. I have also two grandchildren.

18 Q. How old is Steven?

19 A. Twenty.

20 Q. How old is Andrea?

21 A. Thirty-five or 36. She was born in '81.

22 Q. Where do you currently reside?

23 A. In Mineola.

24 Q. What's your address?

25 A. [REDACTED] Mineola, New York

1 11501 is the ZIP.[sic]

2 Q. How long have you been living
3 there, approximately?

4 A. Twelve years.

5 Q. So, you were living at this address
6 at the time of the incident, correct?

7 A. Yes.

8 Q. Do you rent or own this apartment
9 or house?

10 A. I own it.

11 Q. Is it a house or apartment?

12 A. It's a house.

13 Q. Are there any stairs to get into
14 your house?

15 A. I live in the first floor.

16 Q. Do you have access to another floor
17 in your house?

18 A. In the second floor is where my brother
19 lives.

20 Q. What's your brother's name?

21 A. Fernando Paulo Rua Amendoeira.

22 Q. Do you live with anyone else?

23 A. No. No, that's it. No one else.

24 Q. Your wife lives with you, correct?

25 A. Yeah.

1 Q. None of your children live with
2 you?

3 A. My son.

4 Q. What does your brother do for work?

5 A. Construction, also.

6 Q. Does your son work?

7 A. Yeah. He works with me.

8 Q. How long have you been working with
9 your son?

10 A. About two and a half years.

11 Q. Was he present the day of the
12 incident in question?

13 A. No. It was in another job -- oh, no.
14 The same job but four or five blocks down.

15 Q. Have you made any modification to
16 your residence since the incident?

17 A. No.

18 Q. Have you been in the military.

19 A. No.

20 Q. Have you ever been arrested?

21 A. No.

22 MR. PUSTEL: Do you need to stand
23 up?

24 THE WITNESS: It's okay. I don't
25 want to pick it up. Too much pressure.

1 MR. ADLER: Off the record.

2 [Discussion held off the record.]

3 THE WITNESS: I need to sit up once
4 in a while but you can continue -- I
5 mean, get up once in awhile because of
6 the pressure.

7 Q. If you ever feel pressure, you need
8 to walk or move, or shift, let me know?

9 A. For the moment it's okay.

10 MR. ADLER: Can you read back the
11 last question, please?

12 [The requested portion of the
13 record was read.]

14 Q. Have you ever been convicted of a
15 crime?

16 A. No.

17 Q. Have you ever filed for bankruptcy?

18 A. No.

19 Q. Have you ever attended school?

20 A. Here, no. I have -- I reached fourth
21 grade in Portugal.

22 Q. Is that the highest level of
23 education?

24 A. In Portugal?

25 Q. Yes.

1 A. No. There's much more. I have fourth
2 grade. I believe, that's the lowest in
3 Portugal.

4 Q. What's your highest level of
5 education?

6 A. Fourth grade.

7 Q. What's the highest level of
8 education you have achieved?

9 A. Fourth grade.

10 Q. Okay.

11 A. I don't know what the equivalency is
12 here.

13 Q. Have you been to any school after
14 you completed fourth grade in Portugal?

15 A. No. No. I didn't do anything else.

16 Q. Do you have any specialized
17 training?

18 A. No. No.

19 Q. Do you have any certifications or
20 licenses?

21 A. I have a driver's license.

22 Q. Do you have any certifications,
23 licenses or training for work?

24 A. Yes. Yes.

25 Q. Can you please elaborate on what

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1 they are?

2 A. To work in the railroads, I had some
3 training some years ago. Another one at the
4 airport, I had some training. Also, with flags.
5 Also, training guiding planes and the runways at
6 the airport.

7 Q. Is that what you meant by using
8 flags?

9 A. No. When I fell -- when I fell, I was
10 changing scaffolding and wood.

11 MR. ADLER: Can you repeat back
12 his answer?

13 [The requested portion of the record
14 was read.]

15 MR. PUSTEL: Answer only the
16 questions that he asks you. You have to
17 focus on what he's asking you.

18 Q. What training did you receive to
19 work at the railroad?

20 A. We went to a class in Brooklyn.

21 Q. How long ago was that?

22 A. Four or five years. The card is
23 expiring any day.

24 Q. Did you need this to work on the
25 project that is the subject of the incident?

1 A. At this job, I didn't need it.

2 Q. Okay.

3 A. When I was in the other one, yes, I
4 needed it.

5 Q. "Other one," as in other worksite?

6 A. Yes. In another place of work.

7 Q. How long ago did you receive the
8 training to work at the airport?

9 A. Two years.

10 Q. Two years ago?

11 A. Yes, two years ago.

12 Q. Where was that class?

13 A. It was at the airport. There at the
14 airport.

15 Q. Which airport?

16 A. Kennedy.

17 Q. Have you ever received workers'
18 comps benefits?

19 A. Yes. I received it in the past when I
20 had a big cut on my big toe in '93. I was out
21 of work about a month and a half. That's it.

22 Q. Where were you working at the time
23 of that workers comp claim?

24 A. In -- in Brooklyn at Eastern Parkway.

25 Q. Who was your employer?

Page 16

1 A. Tull, T-U-L-L, Construction.

2 Q. Are you presently working for Tull
3 Construction?

4 A. Not now. Not since I...

5 Q. Were they your employer at the time
6 of the incident?

7 A. He was associated with another company,
8 E.E. Cruz, C-R-U-Z. E.E. Cruz was the main one.

9 Q. So, it was only E.E. Cruz, not Tull
10 Construction?

11 A. No. E.E. Cruz and Tull together.

12 Q. When did you first start working
13 for Tull Construction?

14 A. In '85.

15 Q. Where is Tull Construction located?

16 A. Northern Boulevard in Flushing by Shea
17 Stadium.

18 Q. Now, I believe it's City Field; is
19 that correct?

20 A. How do you mean?

21 Q. The new place the Mets play?

22 A. Yes. Yes. Yeah, the Northern
23 Boulevard.

24 Q. Okay.

25 A. There's a gas station there.

1 Q. When did you start working for E.E.
2 Cruz?

3 A. E.E. Cruz, I worked there a year before
4 because I was never in one job. But E.E. Cruz
5 is the same job as Tull, also, the same work. I
6 was working there two, three weeks. And then, I
7 went to another job. And I came in September,
8 until I got hurt.

9 Q. When you say you went to another
10 job, was there another company you were working
11 for as well?

12 A. No. No. Only for Tulli.

13 Q. Is it Tulli? Or Tull?

14 A. It's Tull.

15 Q. Have you ever received disability
16 benefits?

17 A. Now? Or before?

18 Q. Before.

19 A. Only when I was injured in my big toe,
20 but not before.

21 Q. Did you ever receive unemployment
22 benefits?

23 A. No. I never received anything. I
24 always worked.

25 Q. Did you ever receive Social

1 Security benefits?

2 A. When I first got here I went about a
3 week or two to unemployment in the beginning.
4 And then, never again.

5 Q. Have you ever received any pension
6 plan?

7 A. No. I don't receive anything.

8 Q. Have you received any other
9 government benefits?

10 A. The only thing I get is when I do my
11 taxes, when I pay. And then, I receive nothing
12 else.

13 Q. Do you have health insurance?

14 A. I have the insurance from my union.

15 Q. What's that health insurance?

16 A. MagnaCare.

17 Q. How long have you had MagnaCare?

18 A. Since I started working.

19 Q. So, it's when you started in 1985?

20 A. Yeah. Yeah.

21 Q. Have you had any other health
22 insurance?

23 A. No, nothing else.

24 Q. You said that you're getting these
25 benefits through your union, correct?

1 A. Yeah. Yeah.

2 Q. Which union?

3 A. 1010.

4 Q. How long have you been involved
5 with 1010?

6 A. Since I started.

7 Q. In 1985?

8 A. '85.

9 Q. Are you a member of any other
10 unions?

11 A. No. No. No.

12 Q. Do you have a primary care
13 physician?

14 A. Yes.

15 Q. What's that doctor's name?

16 A. I have a card here. One minute, please.
17 It's Doctor, A-P-U-Z-Z-O.

18 Q. What's Doctor Apuzzo's first name?
19 Is that on the card?

20 A. Keith.

21 Q. You may want to keep that out. I'm
22 going to ask you a few other questions. Where
23 is Doctor Apuzzo's office? If you need to, look
24 at the card to refresh your recollection.

25 A. Carle Place. C-A-R-L-E, Place.

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1 Q. Is that a city? Or address?

2 MR. PUSTEL: It's a city.

3 MR. ADLER: Just for the record,
4 the claimant has produced a card from
5 Doctor Apuzzo. The address is 536
6 Mineola Avenue, Carle Place, New York
7 11514.

8 Q. How long have you been seeing
9 Doctor Apuzzo?

10 A. About four years -- four, five years. I
11 don't remember.

12 Q. Did you see Doctor Apuzzo for the
13 injuries you sustained in this incident?

14 A. Yes. I went to him, and he sent me to
15 another doctor.

16 Q. Did you have your primary care
17 physician before Doctor Apuzzo?

18 A. Yes, I did but he died.

19 Q. Do you know that doctor's name?

20 A. I don't know the name.

21 Q. Are you currently employed?

22 A. No.

23 Q. Are you receiving benefits related
24 to unemployment at this time?

25 A. Yes. I'm receiving compensation.

1 Q. Workers compensation?

2 A. Yeah.

3 Q. When did those benefits start?

4 A. I was hurt on the 31st. A week later
5 they began to pay me.

6 Q. Is there an end date on your
7 benefits?

8 A. I don't know. I was never in this
9 before.

10 Q. At the time of the incident, you
11 were working for E.E. Cruz and Tull
12 Construction, correct?

13 A. Yeah. Yeah. Yes.

14 Q. Where is E.E. Cruz located?

15 A. I don't know, because -- I don't know if
16 it's in New Jersey or in the city. I don't
17 know.

18 Q. Did you have a supervisor at the
19 time of the incident?

20 A. I don't remember. They had to have
21 supers there, but I don't know if there was
22 anyone there.

23 Q. Was there someone you reported to?

24 A. When I was there, they had their, the
25 safety -- I don't remember. I just remember

1 when I was at the hospital.

2 Q. Was there a specific person that
3 was your boss?

4 A. I had supers. But there was a super,
5 but he was sent away. And the one that was
6 there, I don't know.

7 Q. Who was the super that was no
8 longer there?

9 A. It was the one that was there. I don't
10 know his last name. The first name was John.

11 Q. That's the super that was no longer
12 working at the time of the incident?

13 A. No. That's the one that's there now.
14 But I don't think he was there that day.

15 Q. Who was the super before John?

16 A. Honestly, I don't remember. I don't
17 remember. My mind is -- I don't remember.

18 MR. PUSTEL: If you don't remember
19 something, you can say you don't
20 remember.

21 THE WITNESS: I don't remember. I
22 don't remember.

23 MR. PUSTEL: Okay.

24 Q. Were there any supervisors present
25 at the time of the incident?

1 A. No. There was no one there.

2 Q. What type of work were you doing at
3 the time of the incident?

4 A. I was cleaning. I was pick up the
5 scaffold and the wood to take it to the other
6 side of the track.

7 Q. Just to backtrack, what was the
8 date of the incident?

9 A. January 31st.

10 Q. That's 2015?

11 A. Yes.

12 Q. Approximately, what time did the
13 incident occur?

14 A. I don't remember exactly, but I think it
15 should have been around 11:00.

16 Q. You said that you were picking up
17 scaffold and you were taking it to the other
18 side of the track at the time of the incident;
19 is that correct?

20 A. No. No. They're rooms. I was getting
21 it from the room, and I was coming out, and I
22 was taking it to another side.

23 Q. Did anyone tell you to do this
24 work?

25 A. I had to do the work because we were

1 moving location.

2 Q. Did anyone, specifically, tell you
3 to do this task?

4 A. The super the day before told me what I
5 had to do.

6 Q. You're referring to John, correct?

7 A. Yeah, John. He gave me a sheet with the
8 work I had to do.

9 Q. How long were you working at this
10 specific location?

11 A. You don't get a specific location. One
12 day you work here. The next day you work a
13 couple blocks down. There's never a specific
14 location.

15 Q. Where were you working at the time
16 of the incident?

17 A. I think it was 80 or 86 -- I think it
18 was 86. I don't remember exactly.

19 Q. But you believe it's 86th Street?

20 A. I don't remember correctly. I don't
21 remember the name of the street.

22 Q. How long were you working on this
23 specific project?

24 A. What do you mean by "project"?

25 Q. Is this a Second Avenue Line

1 project?

2 A. From September to January 31st.

3 Q. So, just a few months on this
4 specific project, correct?

5 A. Yeah.

6 Q. Was this job a full time or
7 part-time job?

8 A. No. It was full time.

9 Q. What was your schedule?

10 A. It was from seven, but it would, again,
11 depend. Sometimes it would be from 7:00 to 3:00
12 but sometimes I would have overtime.

13 Q. How would you get paid for this
14 work?

15 A. It was 47 -- yeah, 47. But sometimes my
16 boss paid me, not always, 53.

17 Q. It's 53 an hour?

18 A. Almost. Almost 53.

19 Q. What were your job duties for this
20 project?

21 A. I had to do everything. It depends.
22 One day it would be one thing. Other days, it
23 would be something else.

24 Q. Can you explain what those things
25 are?

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1 A. One day, I would be doing the concrete
2 with the plower. And other days, covering the
3 holes from the electrical pipes. Other days,
4 cleaning. Other days, other workers might have
5 done a wall or a job wrong and I had to correct
6 it.

7 Q. Now, you said "electrical pipes,"
8 is any of your work electrician based?

9 A. No.

10 Q. Are those the same duties that you
11 had for E.E. Cruz and Tull Construction?

12 A. Yeah. Yes, because E.E. Cruz and Tulli
13 are associated. I worked for both.

14 Q. So, you didn't have any other
15 duties through for Tull or E.E.?

16 A. What do you mean, "other"?

17 Q. Not specifically on this project,
18 other projects?

19 A. Yes. I had other jobs, yes. It was
20 also WhiteStone. It was, also, from both. E.E.
21 Cruz has also jobs that are just to zone. And
22 Tulli has jobs that are just to zone.

23 Q. So, what other duties did you have
24 to carry out through your employment?

25 MR. PUSTEL: Like

1 responsibilities?

2 MR. ADLER: Like responsibilities,
3 correct.

4 A. Once, I was there. But now, and other
5 times, I was never in just one job.

6 Q. Now, you said that you worked on
7 the Whitestone. Are there any other projects
8 that you worked on?

9 A. Whitestone, maybe I would go there one
10 day. One day, that's it.

11 Q. What other projects did you work
12 on, other than the Whitestone and the Second
13 Avenue Subway? Are there any other ones?

14 A. At that time, I only worked in those two
15 jobs from September until January.

16 Q. I'm not talking about those
17 specific times. I'm talking about any more
18 since you began working for Tull in 1985.

19 A. Oh, yes. I did a lot of jobs.

20 Q. Can you state them specifically?

21 A. I had jobs making curbs, sidewalks, more
22 finishing work.

23 Q. Where were some of those projects?

24 A. Through the city, through Queens, every
25 where. Everywhere.

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1 Q. Was this work for anyone other than
2 E.E. or Tull?

3 A. No. The two aren't associated from
4 Whitestone. It was just Tulli.

5 MR. ADLER: Can you read back his
6 last answer?

7 [The requested portion of the record
8 was read.]

9 Q. So, you're saying that through E.E.
10 and Tull, you rotated to different construction
11 sites, correct?

12 A. Yes. And jobs just from Tull. But not
13 at that time from September to January. Only
14 one or two days the Whitestone and the rest was
15 there.

16 Q. As in the WhiteStone Bridge?

17 A. Yeah, WhiteStone Bridge. Before the
18 bridge, the access ramp.

19 Q. What type of work were you doing on
20 the Whitestone Bridge?

21 A. Pouring concrete.

22 Q. How many days a week were you
23 working on the Second Avenue project?

24 A. Normally, it was five days. And
25 sometimes, I would work weekends but not always.

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1 Q. Now, you said that you would work
2 from 7:00 to 3:00 does this include when you
3 were working on the WhiteStone Bridge as well?

4 A. I don't understand.

5 Q. I can rephrase it. What were your
6 hours that you were working on the WhiteStone
7 Bridge?

8 A. My steady work was nine hours a day,
9 steady.

10 Q. When did you start and finish?

11 A. I started at 7 to 3:30. Sometimes, like
12 I said, I would do overtime.

13 Q. This was for both the WhiteStone
14 Bridge and Second Avenue project, correct?

15 A. When I would go to Whitestone, I would
16 begin the day and end it there.

17 Q. I'm not saying that you're
18 splitting the time. I'm saying for both
19 projects, if you worked on a project for a
20 specific day, it would be 7 o'clock to,
21 approximately, 3:00 or 3:30?

22 A. Yes. Yes. The usual schedule was nine
23 hours a day. That was the usual schedule.

24 Q. Did your hours ever change?

25 A. Almost never.

1 Q. Did you receive any training to
2 work on the Second Avenue project?

3 A. No.

4 Q. Did you need any specific license
5 to work on that project?

6 A. When I went there, no. Nothing.

7 Q. What were some of the physical
8 activities involved in your work duties?

9 A. I don't understand that.

10 Q. Did you have any lifting, or
11 pulling, or any physical activities?

12 A. I had to do everything. Do everything.

13 Q. Can you be more specific?

14 A. What do you mean by "specific"? What
15 does that mean, "specific"?

16 Q. All of the physical activities that
17 were necessary to fulfill your work. So, if you
18 needed to carry things, if you need to walk for
19 long periods of time, pulling, pushing,
20 etcetera?

21 A. Before I had the accident?

22 Q. Correct.

23 A. I did everything. And now, I can't do
24 anything.

25 Q. What defines everything?

1 A. What did I do? I did everything. I
2 would go to a party I would dance. Now, I see
3 my friends dance and I can't dance.

4 Q. I'm talking about specific
5 activities required to fulfill your work
6 position.

7 MR. PUSTEL: You want to ask about
8 equipment, maybe? Because I don't think
9 he understands it.

10 MR. ADLER: I don't think so
11 either.

12 Q. Did you have to walk for long
13 periods of time during work? Stay on your feet?

14 A. Yes. I had to walk a lot because I
15 would have some men working in one area, others
16 in another, and I would have to go check all
17 their work.

18 Q. How far would you walk a day at
19 work, approximately?

20 A. I walked -- I walked a lot. A lot.

21 Q. Did you have to lift items in
22 excess of 20 pounds?

23 A. How much more. How much more.

24 Q. Is that a "yes" or "no"?

25 A. Yes, I did. I picked up more than 20,

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1 yes. If I pick up a bag of cement, it was more
2 than 20 pounds.

3 Q. Did you have to pull or push any
4 items at work?

5 A. Well, I had to pick them up and move
6 them around.

7 Q. Were there any special
8 certifications required for work?

9 A. No. No.

10 Q. How did you travel to work?

11 A. How did I get there? Well, it's a lot
12 of experience I had working.

13 Q. Did you drive to work? Did you
14 take the subway?

15 A. No, I drove.

16 Q. Did you drive with anyone? Was
17 your son in the car?

18 A. Yeah, I did.

19 Q. Now, besides the injuries that
20 you're claiming for this specific incident, did
21 you miss any work because of any other
22 illnesses, or surgeries, or injuries?

23 A. I never missed a day of work except for
24 now.

25 Q. You're not currently working,

1 correct?

2 A. I don't know. It depends on the
3 doctors, what the doctors say.

4 Q. Are you working at the current
5 time?

6 A. No. No.

7 Q. Do you pay dues to 1010?

8 A. I pay. I do.

9 Q. Do you receive Medicare or
10 Medicaid?

11 A. No.

12 Q. Now, you said that you have health
13 insurance through your union, correct?

14 A. Yeah.

15 Q. Have you incurred any medical
16 expenses for your injuries from this incident?

17 A. Yeah. In the beginning I bought some
18 pills and I had to pay out of pocket.

19 Q. Is that the only part of your
20 treatment that you have paid for by yourself,
21 and has not been covered by your health
22 insurance?

23 A. Yeah. Yeah.

24 Q. So, everything else is covered,
25 correct?

1 A. Yes, compensation.

2 Q. Are you talking about workers
3 compensation?

4 A. Yeah. Workers compensation, yeah.

5 Q. Are you receiving bills from
6 providers that are not being paid for by workers
7 compensation?

8 A. Until now, no, they have paid
9 everything..

10 Q. Now, I noticed you're wearing
11 glasses?

12 A. I use it always. Except for when I
13 sleep.

14 Q. When is the last time that you had
15 an eye exam?

16 A. It was in December.

17 Q. December 2014?

18 A. Yeah. Yeah.

19 Q. What's the name of your eye doctor?

20 A. Doctor Bacatao.

21 MR. ADLER: For the record, it's
22 B-A-C-A-T-A-O.

23 Q. What's Doctor Bacatao's first name?

24 A. I don't remember. I don't know.

25 Q. How long have you been seeing

1 Doctor Bacatao?

2 A. Four, five years ago.

3 Q. Did you have a doctor before Doctor
4 Bacatao?

5 A. No.

6 Q. Did you have glasses before Doctor
7 Bacatao?

8 A. Well, I used to get the kind of cheaper
9 glasses before, that you go there and they see
10 the pressure in your eye and you just get the
11 cheap glasses.

12 Q. Were you wearing your eyeglasses at
13 the time of the incident?

14 A. Yeah.

15 Q. Have you ever had any vision
16 problems?

17 A. No.

18 Q. Are you near or farsighted? Only
19 if you know.

20 A. Both things.

21 Q. Do you have any astigmatisms?

22 A. No.

23 Q. Now, prior to this incident, had
24 you ever fallen while wearing your glasses?

25 A. No, never.

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1 Q. In the last ten years, had you
2 sustained any injuries -- strike that. In the
3 last ten years, have you sustained any injuries
4 unrelated to this incident?

5 A. No. No. No. No.

6 Q. Now, on January 31st, 2015, what
7 day was that; if you can recall?

8 A. It was a Saturday.

9 Q. Do you remember the weather on that
10 day?

11 A. I know it was cold.

12 Q. Was it snowing or raining?

13 A. I dont remember. I was downstairs. I
14 was in the hole.

15 Q. Now, when you say, "in the hole,"
16 that means you were inside the tunnel?

17 A. Yes, the tunnel. Three, four levels
18 down below.

19 Q. Approximately, how far down were
20 you working in the tunnel?

21 A. It was about 400 or 500 feet from the
22 entrance, but I don't remember exactly.

23 Q. Now, is this area shielded from the
24 elements of outside?

25 A. No. It had different levels. It was

1 divide by levels.

2 Q. Well, you said you were working 400
3 or 500 feet down from the entrance of the
4 tunnel, correct?

5 A. I don't remember exactly how many feet.

6 Q. Well, you were working inside the
7 tunnel; is that correct?

8 A. Yeah. Yeah. Yeah.

9 Q. Is there any snow, or rain, or
10 anything that can come in from the outside where
11 you were working?

12 A. Yes, it had water. Because it had holes
13 and the water would seep in.

14 Q. You're talking about the location
15 you were working at the time of the incident,
16 correct?

17 A. Yeah. Yeah.

18 Q. Do you need to take a break?

19 A. No, it's okay. No. No.

20 Q. Okay.

21 A. I would like to keep talking so I could
22 finish.

23 MR. ADLER: Can you read back my
24 last question and his last answer?

25 [The requested portion of the record

1 was read.]

2 Q. Now, I just want to make clear for
3 the record that the elements could get into the
4 portion of the project that you were working on,
5 not just where you enter; is that correct?

6 A. Yeah. Because there was a lot of water
7 running through. Because there was a big hole
8 above and the water would seep in. And there
9 was a lot of water there.

10 Q. Did you have to carry an umbrella
11 where you were working?

12 A. No.

13 Q. Was there any covering over the
14 area?

15 A. Yes, it did. Yes, it did.

16 Q. Outside, before you went into the
17 tunnel, do you recall if the ground was dry or
18 wet?

19 A. Well, that day I think there was --
20 well, it had to be because there was snow.

21 Q. Now, before the incident, what type
22 of shoes were you wearing?

23 A. I use work boots.

24 Q. They have shoelaces, correct?

25 A. Yeah, they do.

1 Q. Were they tied prior to the
2 incident?

3 A. Yes, they were.

4 Q. They had rubber soles, correct?

5 A. Yeah, it did.

6 Q. Do you know the brand of your work
7 boots?

8 A. Red Wing.

9 Q. How old are these shoes?

10 A. Maybe four or five months.

11 Q. What condition were the shoes in at
12 the time of the incident?

13 A. No, they were good.

14 Q. What else were you wearing on the
15 day of the incident?

16 A. I had pants, I had long johns
17 underneath, I had the shirts and jackets.

18 Q. Were you required to wear anything
19 specifically for this job?

20 A. No.

21 Q. Were you wearing a jacket?

22 A. Yeah. Yeah.

23 Q. What type of jacket?

24 A. It's specific jackets for work. They're
25 strong and they have these reflective strips

1 that's already what they have you wear for work.

2 Q. Do you know the brand?

3 A. I don't remember the brand.

4 Q. Were you carrying anything
5 immediately prior to the incident?

6 A. Yes, I was changing the scaffold.

7 Q. How were you carrying this?

8 A. I was picking it up so I could take it
9 from one room over to the other side.

10 Q. Now, did you ever actually pick up
11 this scaffold piece?

12 A. Yes. I had it over my shoulder.

13 Q. Were you wearing a hardhat?

14 A. Yeah.

15 Q. Safety glasses?

16 A. No. I only had these.

17 Q. And the jacket you had, is that a
18 high-visibility safety vest?

19 A. Yeah, but I also had the vest.

20 Q. Were you using any tools, or
21 machinery, or equipment?

22 A. No. Just the hammer.

23 Q. Were you doing anything else at the
24 time that you were walking with the scaffolding?

25 A. No. I was just moving it. I was

1 exactly moving it at that time.

2 Q. So, there is nothing at the time
3 that was distracting you? You weren't speaking
4 on a walkie talkie or anything of that nature?

5 A. No. I was by myself.

6 Q. Now, what was the purpose of you
7 lifting the scaffold? What were you going to
8 use that for?

9 A. The location that we were moving to you
10 couldn't use electrical lifters. So, we were
11 moving the scaffold so you could access the area
12 and work on it.

13 Q. So, you had to lift the scaffold
14 manually to get it to the new position?

15 A. Yeah. To take to the other side.

16 Q. How far away is the other side that
17 you're referring to?

18 A. It was one side of the track, about
19 50 feet. It was the other room and it was on
20 the other side of the track.

21 Q. So, it was approximately 50 feet
22 away, is what you're saying?

23 A. No. It was more. I had to walk 50 feet
24 straight, and then go into the room, and then
25 the track was on the other side.

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1 Q. So, it was across from you is what
2 you're saying? After you went into the room?

3 A. How do you mean?

4 Q. Let's me be more specific. You
5 said that there are multiple levels for this
6 project, correct?

7 A. There was one, two, three -- I believe
8 it was on the fourth -- let me see. I was in
9 the third. Yes, I was in the third.

10 Q. Now, are these levels at different
11 heights?

12 A. I don't know. I don't know.

13 Q. What do you mean by "levels"?

14 A. Okay. There was one floor, it was a
15 ground level. And you would go a floor down,
16 and then, you were on the second floor. And
17 then, you go down the stairs, you go to the
18 third level.

19 Q. So, they're all sublevels; is that
20 correct?

21 A. Yes. Everything underground, yes.
22 Everything -- everything underground.

23 Q. So, how many sublevels down were
24 you working?

25 A. Well, at that time, I believe -- I think

1 it was third. Let me see -- yeah.

2 Q. Was there a level below you?

3 A. There was. But it was just so that the
4 water, it came -- it would run through it. I
5 don't remember. I never worked there.

6 Q. Approximately, how far below you is
7 that level?

8 A. I don't know. I don't know.

9 Q. What were you walking on at the
10 time of the incident?

11 A. I was leaving the room and I was walking
12 on the platform two feet, two and a half feet
13 wide to go to the other side.

14 Q. When you mean to go to the other
15 side, were you walking parallel to the platform?
16 Or were you crossing the platform?

17 A. No. I was walking on it.

18 Q. The catwalk is parallel with the
19 platform; is that correct?

20 A. Can you repeat that?

21 Q. Approximately, how wide is the
22 entire work space?

23 A. The work area, wow. The work area was
24 big.

25 Q. So, when you were walking, was it a

1 catwalk? Or was it a platform? What's the
2 specific name for it?

3 A. It was a platform.

4 Q. Okay.

5 A. Can I speak?

6 Q. Sure.

7 A. There's a track on this side. There's a
8 track on that side. And in the middle, there's
9 a platform and that's where the rooms are. From
10 here to here is the platform, but there are
11 rooms in the middle, you understand?

12 Q. I have a diagram here. Maybe this
13 can clear it up. Can you take a look at this
14 with your attorney, and let me know if this is
15 an accurate depiction of where you were working?

16 A. This was the track. The steps here are
17 very far from where I fell.

18 Q. I'm not talking about the steps.
19 Do you see the X that's circled there? Now, of
20 course this drawing is not to scale, but does
21 this look similar?

22 A. I understand. I understand. See where
23 these steps are? These are the steps, right?

24 Q. Let me see.

25 A. Yes, it says here that it's steps.

1 Q. Okay.

2 MR. PUSTEL: You want to see it,
3 or no?

4 A. This is very far from where I fell. I
5 fell up this way. Because by the steps there
6 was a platform where people wait.

7 MR. ADLER: Claimant was
8 indicating that it was an area far away
9 from the steps, as indicated on the
10 paper that I handed him.

11 A. Okay. This is the track. And I was
12 walking here because these are rooms.

13 Q. So --

14 A. And I was walking in this area.

15 MR. PUSTEL: Which area?

16 Q. Which area?

17 A. This one. This narrow one here,
18 straight line.

19 MR. PUSTEL: Is that on the left
20 or the right of the diagram?

21 THE WITNESS: No. On the left.

22 MR. PUSTEL: Off the record.

23 [Discussion held off the record.]

24 Q. Now, from the indication of this
25 diagram that you're looking at, were you walking

1 across the --

2 A. No. I was walking straight here on the
3 platform.

4 Q. -- or were you walking this way?

5 A. No, like this. Long ways.

6 MR. PUSTEL: From right to left on
7 the diagram.

8 A. And then, I would turn here. This is
9 the diagram, but make believe the rooms are
10 here. This is the platform. You would turn
11 this way, and this would be the other side. I
12 would cross. And I would lay down the things
13 over here.

14 Q. Can you indicate on the paper where
15 the rooms are? I can give you a pen if that
16 will help.

17 A. The rooms are starting here -- I don't
18 know. I can't say it's straight because the
19 stairs here.

20 Q. Forget the stairs being there.

21 A. These are the stairs from the third
22 floor that are going up to the second, and from
23 here, to where I fell is quite a distance.

24 Q. Okay.

25 A. It's towards this area, because all of

1 these are rooms.

2 Q. So, you're indicating that there
3 are rooms. If you're looking at the diagram
4 with the stairs on the right of the diagram, the
5 rooms are to the left of the diagram all the way
6 to the end of the paper?

7 A. From here to where I fell I tell you is
8 very far.

9 Q. You were walking from right to
10 left, correct?

11 A. Yes. Yeah, and through here.

12 MR. ADLER: I'd like to mark this
13 as Respondent's Exhibit 1, just to be
14 used as a point of reference.

15 [Whereupon exhibit was marked
16 Respondent's Exhibit 1.]

17 Q. Now, you said the platform is about
18 two to two and a half feet wide?

19 A. Yeah, more or less. Two and a half
20 feet. I never measured it though. And it's not
21 more than 30 inches. No more than 30 inches.

22 Q. Approximately, how far did you walk
23 on the platform?

24 A. Well, when I came out of the room and I
25 walked about 34 feet and bam, and I fell.

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1 Q. How far was the room from where you
2 initially picked up the scaffold?

3 A. From where I fell to where I picked up
4 the scaffold.

5 Q. Did you pick up the scaffold in the
6 room?

7 A. Yes. In the room, yes. And then, I went
8 ahead.

9 Q. So, after you walked out of the
10 room is when you fell?

11 A. Yeah.

12 Q. Now, on this diagram which has now
13 been marked as R1, where, if anywhere, on there
14 -- strike that. Could you indicate where the
15 room was that you walked out of? Or is that not
16 able to be indicated because of the size of it?

17 A. There are no rooms here. There's no
18 blueprints here. They have no rooms.

19 MR. PUSTEL: So, he's not able to
20 indicate.

21 MR. ADLER: That's fine.

22 Q. Now, what was E.E. and Tull's job
23 at this worksite?

24 A. To clean, to make the floors finish,
25 everything. Everything that had to be done.

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1 Q. Now, were you specifically involved
2 at all with the bidding for this job?

3 A. No.

4 Q. Do you know who retained E.E. or
5 Tull for this job?

6 A. No.

7 Q. When was the completion date
8 supposed to be for this job?

9 A. To finish it?

10 Q. Yes.

11 A. I don't know.

12 Q. Were there any check-in procedures
13 before starting work at this job?

14 A. No. No.

15 Q. Did you have to report to anyone
16 specific?

17 A. Yeah, the superintendent.

18 Q. That's John, correct?

19 A. Yeah.

20 Q. Anyone else?

21 A. There were more. But there's so many I
22 don't know their names.

23 Q. Are there any that you know their
24 names?

25 A. The company Cruz was sold. And they

1 were bringing in new people. A lot of new
2 people into the job.

3 Q. Is that the reason why you don't
4 know these peoples names?

5 A. Yeah. I don't remember. I also didn't
6 talk much with them.

7 Q. Now, on the day of the incident,
8 did any of those people give you instructions
9 for your work?

10 A. Like I said, the day before, the super
11 called me and gave me a sheet with the
12 instructions on what to do.

13 Q. Do you have that sheet?

14 A. No. That was long ago, lost. It was in
15 my pocket in my jacket. When they ripped the
16 clothes, everything went to the trash.

17 Q. Now, when Cruz was sold, you said
18 that there were other people who were
19 supervisors that you didn't know, correct?

20 A. It was a lot of new people I didn't
21 know.

22 Q. Was it Cruz that you were working
23 for, at the time of the incident?

24 A. The checks say "Cruz" and "Tull."

25 Q. I'm just trying to clarify if these

1 people could have been from somewhere else,
2 other than E.E. Cruz?

3 A. Other people there working?

4 Q. We'll move on. Were there any
5 other subcontractors on the site at the date of
6 the incident?

7 A. There were a lot of men. There were a
8 lot of companies, yeah. Yeah.

9 Q. Which companies were they?

10 A. Plumbers, electricians, wireworkers. A
11 lot -- a lot of them.

12 Q. Do you know where they were from?

13 A. No. No.

14 Q. Usually, who was at the site that
15 you were working on, on the date of the
16 incident?

17 A. Near me, there was no one. Maybe about
18 50 feet away were the men working on the
19 air-conditioning.

20 Q. Now, did you have any meetings for
21 this worksite?

22 A. We had meetings every Monday for safety
23 purposes.

24 Q. For these safety meetings, were
25 there handouts or sign-in sheets?

1 A. Yeah. We signed all the forms. It had
2 sheets that they would give you at the office.
3 And then, at the work place, they also had
4 sheets available.

5 Q. Who held these meetings?

6 A. The superintendents and the safety guys.

7 Q. This was put together by E.E. and
8 Tull?

9 A. Yeah. Yeah.

10 Q. Now, did you have toolbox meetings
11 to discuss the type of work that was going to be
12 done?

13 A. The top super would give the super the
14 work. And then, he would distribute it to the
15 individual workers, and say, "You have to do
16 this, this, and this." And you would know what
17 the job was for the day.

18 Q. When you said "him", top super
19 gives who that work? Was it you?

20 A. He would give it to the regular super,
21 the one that would be at the worksite. And the
22 engineers also.

23 Q. Okay.

24 A. Would give him the...

25 Q. So, eventually there would be

1 worksheets handed to you?

2 A. The engineer would give it to the super,
3 the super would give it to me and go on location
4 and say, "You do this, and you do this." And
5 that's it.

6 Q. Now, had you ever been to this
7 location where the incident occurred before?

8 A. How many times?

9 Q. How many times.

10 A. Oh, man. Maybe thousands. More than a
11 thousands.

12 Q. So, you were in that area pretty
13 much every day that you were at that site,
14 correct?

15 A. Not every day. But because there are
16 many rooms and I was there doing the floors,
17 straightening it out.

18 Q. What were you doing on the floor,
19 specifically?

20 A. Doing -- straightening it out. Making
21 the finish work.

22 Q. So, you were finishing the floors?

23 A. No. Not at the time. I wasn't doing
24 that.

25 Q. Had you experienced any difficulty

Page 54

1 walking in the specific area before the day of
2 the incident?

3 A. No. No.

4 Q. Was this specific area opened to
5 the public?

6 A. No. No. For the people who worked
7 there.

8 Q. How would you describe the
9 condition of the area that you fell from --
10 strike that. How would you describe the
11 condition of the premise you were working on?

12 A. I'm not understanding.

13 Q. Was the platform in good condition?

14 A. Yeah. Yeah, it was.

15 Q. How long before you got to the site
16 was construction ongoing? If you know, how long
17 was construction ongoing on the site?

18 A. There were a few days we hadn't been
19 working in that area.

20 Q. Now, on the platform, who
21 constructed platform?

22 A. The carpenters. Carpenters do that.

23 Q. Were the carpenters employed by
24 E.E. or Tull?

25 A. Yeah. Yeah.

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1 Q. When was the platform constructed?

2 A. I don't know. I wasn't there.

3 Q. What was the platform made of?

4 A. Concrete.

5 Q. You said it's about two to two and
6 a half feet wide?

7 A. Yes. Yes. No more than 30 inches.

8 Q. How long was the platform?

9 A. It was long. It was very long. It was
10 maybe about 150 feet. This is an idea, more or
11 less.

12 Q. Along the platform there are rooms;
13 is that correct?

14 A. Yes. There are rooms.

15 Q. Have you observed any problems in
16 the past on the platform?

17 A. No.

18 Q. Have there been any complaints made
19 about the platform?

20 A. That I know, no.

21 Q. Have you made any complaints about
22 the platform?

23 A. No. Not at all.

24 Q. Now, on the day of the incident,
25 did you notice any debris or material on the

1 platform?

2 A. The platform was wet. I have pieces of
3 wood.

4 Q. This is on the day of the incident?

5 A. This is all the time. It always had
6 things in it. It had things. Not a lot but...

7 Q. Was the platform wet on the day of
8 the incident?

9 A. Well, the platform was -- well, there
10 was snow and the water would run down, so...

11 Q. Did you see any precipitation or
12 wetness on the platform on the day of the
13 incident?

14 A. It was humid. Well, it was every day,
15 anyway.

16 MR. ADLER: Can you repeat back
17 that last answer?

18 [The requested portion of the record
19 was read.]

20 Q. Listen very carefully. Did you see
21 any precipitation or wetness on the platform
22 before you slipped on the day of the incident?

23 A. The platform was wet. Every day it was
24 wet.

25 Q. You said there was wood and other

Page 57

1 things on the platform?

2 A. Yeah, a little bit. Not a lot.

3 Q. Approximately, how big?

4 A. Pieces like this. Pieces of concrete.

5 MR. ADLER: Claimant was
6 indicating about two and a half feet
7 long; is that correct?

8 A. You mean wide?

9 Q. Wide would work as well.

10 A. It doesn't have more than 30 inches.
11 But it's very long.

12 Q. Are you describing the platform or
13 the wood?

14 A. No. No, the platform.

15 Q. The platform is made of concrete,
16 correct?

17 A. Yeah.

18 Q. It's not made of anything else?

19 A. No, concrete. Concrete.

20 Q. Was there anything protecting
21 someone from falling off the platform?

22 A. No, nothing. It had nothing.

23 Q. So, there were no railings on the
24 platform?

25 A. No. It had nothing.

1 Q. How far down below was the next
2 level from the platform?

3 A. Six feet -- more than six. Close to
4 seven feet, maybe. I don't know. I never
5 measured it.

6 Q. Approximately?

7 A. Yeah. Yeah, approximately. Maybe more.
8 Maybe less. I don't know.

9 Q. Now, did the platform have any
10 openings or doors located on it?

11 A. The platform didn't have anything on it,
12 except that every 50 feet it had the stairs to
13 go down.

14 Q. Okay.

15 A. But stairs made out of wood.

16 Q. Were there any ramps or runways on
17 the platform?

18 A. No.

19 Q. Was there a ladder attached to the
20 platform?

21 A. From the track up? From the floor
22 beneath up?

23 Q. Yes.

24 A. The stairs from the first floor up, it
25 had a handrail. But to the track and the

Page 59

1 platform where I fell, I had nothing to hold
2 onto.

3 MR. PUSTEL: Off the record off the
4 record.

5 [Discussion held off the record.]

6 MR. ADLER: We're taking a break
7 for a half hour lunch.

8 [Whereupon, a lunch break was
9 taken from 1:11 p.m. to 1:45 p.m.]

10 MR. ADLER: Can you read back the
11 last few questions and answers.

12 [The requested portion of the record
13 was read.]

14 Q. Now, in reference to the specific
15 area where your fall occurred, was there any
16 debris or material in that immediate area on the
17 platform?

18 A. I don't remember. I don't remember.

19 Q. In that immediate area, was there
20 an opening, such as a door or a portal of some
21 sort?

22 A. That area where the tracks were? I
23 don't know if they already had the tracks
24 installed, but it was the track area.

25 Q. So, the platform was just a strip

Page 60

1 of concrete; is that correct?

2 A. Yes. Yes.

3 Q. Now, where were you looking when
4 you were walking on the platform?

5 A. I was walking.

6 Q. Were you looking straight forward?
7 Were you looking down at your feet? Somewhere
8 else?

9 A. I was looking forward.

10 Q. Can you describe how you fell?

11 A. I was leaving the room. Then, I was
12 walking down the platform and I heard someone
13 say behind me, "Excuse me." I tried to look
14 behind and it was too late, I fell.

15 Q. Now, do you know who the person is
16 who said, "Excuse me"?

17 A. I didn't get to turn back. As soon as I
18 started to, that's when I fell.

19 Q. Now, before you indicated that
20 there was no people working in the immediate
21 area where the incident occurred; is that
22 correct or not correct?

23 A. I didn't see anyone. I didn't see
24 anyone. I don't know where they came from.
25 Must have come from a room.

1 Q. So, did you slip, trip, or fall?

2 A. I fell. I went straight down.

3 Q. Do you know what caused you to
4 fall?

5 A. I don't remember. I don't know the
6 details. I don't know if I passed out or didn't
7 pass out. I don't remember. I don't remember
8 anything.

9 Q. Now, you're talking about passing
10 out. That seemingly sounds like after you fell
11 and hit the ground, I'm talking about
12 beforehand.

13 A. No. Before I was just normal. I was
14 getting the things and I was fine. I was a
15 hundred percent.

16 Q. Would it be fair to say that when
17 that person said, "Excuse me." It distracted
18 you, which caused you to fall?

19 MR. PUSTEL: Objection.

20 A. So, when I was walking, I heard someone
21 say, "Excuse me." And I was afraid. And when I
22 looked back -- when I tried to look back, that's
23 when I fell.

24 Q. Now, on the concrete platform, was
25 there any sort of warning strip on the side that

1 would indicate that you're coming close to the
2 edge?

3 A. No. It had nothing. Nothing. Nothing.

4 Q. Now, what did you land on?

5 A. I fell on the cement and on one of the
6 supports of the scaffold. I don't know exactly
7 how I fell.

8 Q. The cement that you're talking
9 about is not the platform? Or is it the
10 platform?

11 A. No. The concrete of the tracks below.

12 Q. That you said is about six feet
13 below, approximately?

14 A. Yes, more or less. I'm not sure. I
15 don't know if it's more or less, I don't know.

16 Q. What part of your body contacted
17 the cement and the platform first?

18 A. This side. The left side.

19 Q. Are you indicating the left side of
20 your body? Your torso? Which part?

21 A. Yes, all of it. All of it.

22 Q. After you fell, what was the
23 resting position of your body. In other words,
24 was your back directly on the ground or
25 something else?

1 A. Yeah. My back was on the floor, yes.

2 Q. Now, did you feel any pain or
3 discomfort immediately after the fall?

4 A. Pain. Pain. I don't even want to
5 remember. It was such a pain that I felt like I
6 wanted to throw up. I don't even want to think
7 about it.

8 Q. Where did you feel the pain?

9 A. Every where. All over.

10 Q. Did you injure your head?

11 A. Yes, I have a lot of headaches, yeah.

12 Q. Was that hurt at the time that you
13 fell? Did you feel pain in your head?

14 A. I think so. As I fell, I had to hit my
15 head too.

16 Q. Immediately after the accident, did
17 you feel pain in both shoulders?

18 A. I had pain all over.

19 Q. So, that includes your lower back?

20 A. Back, everything. Everything hurt.

21 Q. How about your knees?

22 A. The knees too.

23 Q. Did your knees strike the ground?

24 A. I don't know. When I fell, I don't know
25 how I fell.

1 Q. Now, was there an EMT on site?

2 A. They had safety guys.

3 Q. Do you know what an EMT is?

4 A. No. No EMTs. Just the safety people,
5 just to see everybody is working safely.

6 Q. Now, was an ambulance called?

7 A. Yeah.

8 Q. When was the ambulance called?

9 A. I think the ambulance took about five or
10 ten minutes.

11 Q. So, called immediately afterward,
12 and showed up about five minutes after the
13 accident?

14 A. I think so. They must have called them.

15 Q. Now, on the platform, was there any
16 lighting?

17 A. Yes. It has lighting. You don't see a
18 hundred percent, but...

19 Q. Could you read a newspaper, for
20 instance? Was there enough lighting to do that?

21 A. If you bring it up to the light, yes.

22 Q. Okay.

23 A. Because it didn't have the lights in a
24 row.

25 Q. Approximately, how far away was the

1 nearest light?

2 A. I don't know. I don't know. And the
3 platforms had these little lamps, but they were
4 very weak.

5 Q. How far could you look using the
6 light? How far was visibility?

7 A. If you go up to it to read a newspaper,
8 you almost couldn't. For me, I couldn't read,
9 not even with the glasses.

10 Q. Could you see clearly over ten feet
11 away from you?

12 A. Yes. Yes.

13 Q. Were you given any portable lights?

14 A. No.

15 Q. Any flashlights?

16 A. No.

17 Q. Now, just to recap, John, your
18 supervisor directed you to perform this task,
19 correct?

20 A. Yes. They gave me the sheet with the
21 work instructions.

22 Q. Who's John employed by?

23 A. John works for E. Cruz -- Tull and E.
24 Cruz, but he works for the E. Cruz company.

25 Q. How do you know he's employed by

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1 E.E. Cruz and Tull?

2 A. He came from the part of Cruz not from
3 the other part.

4 Q. Before the day of the incident --
5 strike that. Before the incident, did you take
6 any medication within 24 hours?

7 A. No. I never took anything.

8 Q. Okay.

9 A. Only for the diabetes, cholesterol, and
10 hypertension.

11 Q. Did you drink or take any alcohol
12 or drugs that day?

13 A. No.

14 Q. Now, were you walking, running, or
15 something else on the platform before you fell?

16 A. No. I was just moving the things, I was
17 moving the scaffold.

18 Q. Now, did you feel -- strike that.
19 What did you do immediately after the fall?

20 A. I don't know what I did. I went to the
21 hospital.

22 Q. Did you scream for someone? Did
23 you stand up? Was there any other action that
24 you did?

25 A. I was calling -- I was calling for

Page 67

1 someone, but I didn't have -- I didn't have my
2 voice.

3 Q. Who were you calling for?

4 A. Some -- some plumbers were about 20 or
5 30 feet down. They were helping with the
6 air-conditioning.

7 Q. Now, after the fall, were you able
8 to stand up on your own?

9 A. I tried to get up on my own. I was
10 trying to feel my way, holding on to the
11 platform. I wasn't making much headway. And
12 then, I tried waving at one of them that was
13 down there. And someone saw me, and came and
14 asked me what happened. But I really didn't
15 talk because I felt like throwing up.

16 Q. So, were you able to get up? You
17 said you were waving. Were you able to get to
18 your feet?

19 A. Yes, I was able to stand up. And I was
20 supported by the other platform, the other side,
21 because it's low. It came to a certain point
22 that I couldn't walk anymore because more pain
23 came and I wanted to throw up.

24 Q. How much time passed between the
25 moment you struck the ground and the time that

1 you were able to stand up?

2 A. I don't remember. I don't know if I
3 passed out. I don't remember.

4 Q. You waved at someone you saw who
5 was working on the site, correct?

6 A. It was the plumbers, I mentioned they
7 were there. I was trying to talk but I had no
8 strength.

9 Q. Did the plumbers see you wave at
10 them?

11 A. I went about 30 feet, and then, I
12 started waving at them, and it was about four or
13 five of them. And then, maybe 20 feet, maybe
14 less, and they saw me and they came up to me.

15 Q. Now, to your knowledge, did anyone
16 see you fall?

17 A. I asked them if anyone saw. They said,
18 nobody saw.

19 Q. Now, do you know the plumbers'
20 names?

21 A. No. I don't know.

22 Q. Have you seen these plumbers since
23 the day of the accident?

24 A. I saw them there -- I saw them there
25 working, doing their work.

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1 Q. After the day of the incident?

2 A. No. I never saw anyone. I never saw
3 anyone anymore.

4 Q. Now, the plumbers offered you
5 assistance, correct?

6 A. It was the plumbers. They went -- they
7 tried to call my men, they were working a few
8 blocks down. And I don't know if it was them
9 who called the ambulance.

10 Q. Did you have to report this
11 incident to anyone?

12 A. The doctors did the report.

13 Q. Anyone at work, did you have to
14 report to?

15 A. I spoke with the supervisor, so he could
16 give me the paperwork for the insurance.

17 Q. When did you speak with the
18 supervisor?

19 A. I don't remember. A day or two
20 afterwards.

21 Q. Was this over the phone?

22 A. Yeah.

23 Q. What's the supervisor's name? Is
24 this John?

25 A. There's John, but there are others

1 there. There are others above him.

2 Q. So, you reported the incident --

3 A. The general supervisor, his name is
4 Shawn.

5 Q. Do you know his last name?

6 A. All these people they're all new now,
7 they all came.

8 Q. So, the general supervisor, Shawn,
9 is from the successor company to E.E. Cruz?

10 A. I don't know what company he came from
11 but he's from the side of Cruz.

12 Q. So, you reported the incident to
13 Shawn and John, correct?

14 A. And the safety guy also the same day.

15 Q. Do you know the safety guy's name?

16 A. I don't know. I don't know. I forget
17 the name.

18 Q. Did you have to make a report with
19 any of these people?

20 A. I didn't fill anything. The policeman
21 went there and the fireman, and they filled
22 everything. I don't know who gave the
23 information. The company must have given the
24 information.

25 Q. So, did you have to complete or

Page 71

1 sign any paperwork in connection with your
2 conversation with Shawn or John?

3 A. I signed because I was two days at the
4 hospital. I don't know if any of my men or my
5 son signed anything, I don't know.

6 Q. Just talking about you. The only
7 papers that you're saying you filled out in
8 connection with this report are at the hospital?

9 A. I only remember from there. When I was
10 ready to leave, that's about it.

11 Q. Other than Shawn and John, have you
12 given a statement to anyone at any time after
13 the incident?

14 A. I didn't speak with anyone.

15 Q. Now, what did you tell Shawn and
16 John after the incident?

17 A. I didn't speak. Someone from my family
18 spoke with them, I don't know. My brother
19 maybe, I don't know.

20 Q. So, did you have any conversations
21 with Shawn or John after the incident?

22 A. No. I never spoke more with anyone.

23 Q. Now, you're saying you didn't speak
24 more with anyone, did you speak with them after
25 the incident?

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1 A. No. I never spoke with anyone.

2 Q. Earlier you said you reported the

3 incident to Shawn and John and a safety guy.

4 Was it not you who was reporting the incident?

5 A. I didn't speak with anyone.

6 Q. Now, have you returned to the scene

7 of the incident?

8 A. No.

9 Q. Have you or anyone that you know,

10 taken video of the site of the incident or

11 photographs?

12 A. I don't know. I don't know if anyone

13 did.

14 Q. You said that you received medical

15 attention as a result of the fall, correct?

16 A. Yeah.

17 Q. Where did you go for that medical

18 attention?

19 A. When I fell I went to the hospital. I

20 was there for two days. And now, I'm going to

21 other doctors.

22 Q. Which hospital?

23 A. Cornell Hospital.

24 Q. Is it Weill Cornell Hospital?

25 A. I don't know.

1 Q. Where is the hospital located?

2 A. I don't know. It was close to the job
3 site.

4 Q. How much time since the time that
5 you fell, did it take to get to the hospital?

6 A. It didn't take very long.

7 Q. Can you approximate?

8 A. I don't remember. Why would I remember?

9 Q. You were in the hospital for two
10 days, correct?

11 A. Yeah.

12 Q. Did they take you to the hospital
13 in an ambulance?

14 A. Yes.

15 Q. Did anyone travel in the ambulance
16 with you?

17 A. Yes. The nurses and my son.

18 Q. Were you on a stretcher?

19 A. Yeah.

20 Q. Were you receiving medical
21 attention while you were in the ambulance?

22 A. When they went downstairs to the track,
23 they gave me that -- what's it called? They
24 gave me a bag with --

25 Q. They gave you an IV?

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1 A. I think morphine or something -- no.
2 Something for the pain.

3 Q. So, some sort of injection into
4 your arm?

5 A. They -- they placed something there and
6 connected it to a bag of morphine.

7 MR. ADLER: I was indicating that
8 there was an injection in his arm where
9 they connected whatever medicine was
10 being given to him.

11 MR. PUSTEL: The left arm.

12 Q. When you went to the hospital, you
13 were taken to the emergency room, correct?

14 A. It was.

15 Q. Other than your son, was anyone
16 else that you know present with you at the
17 hospital?

18 A. No. I didn't know anyone.

19 Q. What was your initial complaint?

20 A. My first complaint was that everything
21 hurt.

22 Q. What type of treatment did you
23 receive at the hospital?

24 A. They took I think a CAT scan, took some
25 pictures, X-rays.

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1 Q. Where did they perform these tests
2 on? What part of your body?

3 A. They did it to the neck and the back. I
4 didn't have my full awareness, I don't know. I
5 don't know if they did the whole body. I don't
6 know.

7 Q. Did they give you any other
8 treatment?

9 A. Treatment like what? They gave me
10 medicine. They gave me morphine. They gave me
11 so many things they gave me there.

12 Q. Who administered the test? The CT
13 scan and the X-ray?

14 A. At the hospital?

15 Q. Yes.

16 A. I don't know. Doctors, nurses -- I
17 don't know.

18 Q. Did you receive the results to
19 these tests?

20 A. Yes.

21 Q. What were the results?

22 A. I got a hernia in my neck, four or five
23 disks. Hernia in my back and two disks -- more
24 than two.

25 Q. Were you given any medication?

1 A. Yes, they did.

2 Q. What type of medication?

3 A. Medication for the pain.

4 Q. Do you know the name of it?

5 A. I don't know. I just took them and I
6 don't even know the name.

7 Q. Did they tell you anything specific
8 regarding your injuries?

9 A. It affected everything. If I want to do
10 something, I can't do anything.

11 Q. Did the doctors tell you that you
12 needed future medical treatment?

13 A. They said that they were going to give
14 an injection in my column. And if that doesn't
15 work, to do a surgery in my neck. And perhaps,
16 later on, in my back as well. And I may never
17 be able to get up again because the nerve is
18 touching that area.

19 Q. What doctor told you this?

20 MR. PUSTEL: Alex Garcia,
21 adult/pediatric spinal specialist from
22 the New York Spine Institute.

23 A. He's also going to open up an office in
24 New Jersey.

25 Q. Now, is Doctor Alex Garcia at the

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1 hospital?

2 A. No. He works at a hospital in the city,
3 he also works here. Surgeries all over the
4 place.

5 Q. Right now, specifically, we're
6 talking about the hospital you went to right
7 after the fall?

8 A. I don't know.

9 Q. Do you know a doctor's name there
10 that treated you at that hospital?

11 A. I don't remember. It was more than one.

12 Q. Now, at the hospital, were you put
13 in a cast? Or given any medical equipment of
14 any sort?

15 A. No. No. They just said that I had to
16 go see my doctor, and had to get injections in
17 my muscles because I had a lot of pain in my
18 muscles.

19 Q. You were discharged two days after
20 you first went to the hospital, correct?

21 A. Yeah.

22 Q. You completed paperwork in
23 connection with your discharge, correct?

24 A. Yeah. Yeah. Yeah.

25 Q. Do you have a copy of this

1 paperwork?

2 A. I have it home.

3 Q. I just ask that you preserve that,
4 we may be requesting it later on. Now, did you
5 receive medical bills from the hospital?

6 A. I received it at the beginning. But I
7 gave it to the lawyer and he called the
8 insurance and they took care of it.

9 Q. So, it was covered by your health
10 insurance, correct?

11 A. Yeah.

12 Q. Where did you go after you were
13 released from the hospital?

14 A. I went home.

15 Q. Who took you back to your house?

16 A. My brother.

17 Q. Was anyone else with him?

18 A. No. No one.

19 Q. Now, just going back to the
20 incident, were there any witnesses to the
21 incident?

22 A. What do you mean witnesses? If someone
23 saw me?

24 Q. Did anyone see it?

25 A. No.

1 Q. What type of injuries are you
2 experiencing, as a result of the incident now?

3 A. Oh, the pain. Everything hurts.

4 Q. Can you be specific?

5 A. What do you mean specific? What do you
6 mean by that?

7 Q. Are there particular body parts
8 that hurt?

9 A. The knees, the back, the neck, and the
10 head, and my hip.

11 MR. ADLER: I believe he's
12 indicating his left hip.

13 Q. Now, after you left the hospital,
14 did you require any further hospitalization?

15 A. No.

16 Q. Have you had any surgery after you
17 first went to the hospital?

18 A. No.

19 Q. Did you receive any further
20 treatment after you went to the hospital?

21 A. Yes. I'm going to a lot of doctors.

22 Q. What doctors have you been to since
23 you were discharged from the hospital?

24 A. I don't have the other ones.

25 MR. ADLER: Claimant has produced

1 a card of V-I-L-O-R,
2 S-H-P-I-T-A-L-N-I-K, MD, PhD. He's
3 located at 9709 64th Road in Rego Park,
4 New York 11374. Claimant has also
5 produced, David G. Khanan, MD, PhD,
6 K-H-A-N-A-N, from the New York Spine
7 Institute.

8 Q. Are those the only doctors you've
9 seen?

10 A. I believe there's another one, the one
11 that gave me the injection. You already have
12 Apuzzo?

13 Q. Yes.

14 A. There's the other one for the therapy.

15 Q. Are there any others?

16 A. I don't remember any more.

17 Q. There's also Doctor Alex Garcia?

18 A. Yes, that's the surgeon of the...

19 Q. What type of treatment did you
20 receive after your trip to the hospital?

21 A. I took more injections here.

22 MR. ADLER: He's indicating his
23 shoulders.

24 A. And my shoulders. I don't know how many
25 I already took.

1 Q. Who gave you the injections?

2 A. Doctor Khanan.

3 Q. Now, who recommended Doctor Khanan
4 to you?

5 A. It was my primary doctor.

6 Q. That's Doctor Apuzzo, correct?

7 A. Yeah. Yeah. It's my family doctor.

8 Q. How did you travel to and from
9 these appointments with these different doctors?

10 A. When it's further out, my brother takes
11 me.

12 Q. How about the other times?

13 A. If it's a mile or so, then I take
14 myself.

15 Q. Okay.

16 A. If it's more then he goes.

17 Q. Now, did these doctors conduct
18 physical examinations on you.

19 A. What do you mean exams? Yes, of course
20 they have to exam you.

21 Q. Did they perform tests on you?

22 A. Yeah.

23 Q. What type of tests?

24 A. An MRI.

25 Q. Is there anything else?

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1 A. They did it to my neck and the back.
2 And now, I'm waiting to do it to my knees and
3 the head.

4 MR. ADLER: Can you repeat back
5 that last answer?

6 [The requested portion of the record
7 was read.]

8 Q. Are you referring to an MRI?

9 A. Yeah, an MRI.

10 Q. Where were these tests performed,
11 the diagnostic tests?

12 A. I don't remember what it was. I think
13 at the end of February or March, I don't
14 remember.

15 Q. Do you know what facility you went
16 to for these tests?

17 A. It was in Carle Place.

18 MR. PUSTEL: Westbury.

19 Q. If you don't remember, it's okay.

20 A. I don't remember the name of the town I
21 think Westbury, I think.

22 MR. ADLER: Can you read back the
23 question and answer before this one?

24 [The requested portion of the record
25 was read.]

1 Q. So, who was the first doctor that
2 you went to after the emergency room? Was that
3 Doctor Apuzzo?

4 A. Yes, Doctor Apuzzo.

5 Q. Now, Doctor Apuzzo referred you to
6 somewhere else?

7 A. Yeah.

8 Q. Who did he refer you to?

9 A. He sent me to another for the back. He
10 sent me to another one, but he wasn't in the
11 plan, so I went to this one.

12 Q. Who is the one that you ultimately
13 saw?

14 A. I was going by and I saw the sign of a
15 back surgeon, and I said, "Let me go try it." I
16 went there.

17 Q. What's that doctor's name?

18 A. Alex Garcia.

19 Q. So, Doctor Garcia was the next
20 person you saw after Doctor Apuzzo?

21 A. After the hospital, I saw Doctor Apuzzo.

22 Q. Right.

23 A. And then, I went to Garcia.

24 Q. What did Doctor Garcia tell you
25 about your injuries?

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1 A. So, he examined me. Then he had me go
2 to the MRIs. And after I did the MRIs was when
3 they saw I had all the hernias and the disks in
4 this state.

5 Q. Did Doctor Garcia prescribe any
6 medications to you?

7 A. Yeah.

8 Q. What type of medication?

9 A. He gave me three. Ibuprofen --

10 Q. Cyclobenzaprine and hydrocodone.

11 How many times did you see Doctor Garcia?

12 A. Doctor Garcia I saw about three times
13 already.

14 Q. Did Doctor Garcia refer you
15 somewhere else?

16 A. No. Just told me I had to get operated,
17 but if I wanted to get a second opinion...

18 Q. What part of your body needs an
19 operation according to Doctor Garcia?

20 A. For now, it's the neck. And later, on
21 the back.

22 Q. What type of surgery?

23 A. The neck has two hernias and four or
24 five disks. And the back, it's the same, hernia
25 and disks.

1 Q. Were you prescribed any physical
2 therapy?

3 A. Yeah.

4 Q. Where do you receive physical
5 therapy?

6 A. At Doctor Garcia's.

7 Q. How often do you receive physical
8 therapy?

9 A. They do it to my back, my neck, with the
10 electrical things in my shoulders.

11 Q. Like electric stimulation?

12 A. Yeah.

13 Q. How often did you receive physical
14 therapy?

15 A. About six or seven times. But they
16 stopped because workers compensation wouldn't
17 pay anymore. But now, the doctor called and
18 they okayed it again and to go start on
19 Thursday.

20 Q. Has physical therapy helped your
21 injuries?

22 A. It helped a little.

23 Q. So, your medical bills for your
24 physical therapy were paid for?

25 A. Compensation work pays for everything,

1 they pay.

2 Q. Now, where does Doctor Shpitalnik
3 and Doctor Khanan come in?

4 A. Shpitalnik I believe it was in
5 February -- it was both of them, more or less,
6 around the same time. I don't remember clearly.

7 Q. Who referred you to Doctor
8 Shpitalnik?

9 A. Doctor Garcia.

10 Q. Why did you get referred to him?

11 A. Because I have so many headaches.

12 Q. How many times have you seen this
13 doctor?

14 A. Two or three times. I'm not sure.

15 Q. Why did you stop treating with him?

16 A. With whom?

17 Q. Doctor Shpitalnik?

18 A. No. I'm still going.

19 Q. You're still going, okay. Do you
20 have future appointments with Doctor Shpitalnik?

21 A. I believe I have the 4th or 5th of June.

22 Q. What type of treatment do you
23 receive by Doctor Shpitalnik?

24 A. He gives me medicine and he checks me up
25 to see if I'm okay.

1 Q. What type of medication?

2 A. The one I took this morning. And I took
3 it and left it with my wife.

4 Q. What does the medication do?

5 A. For the headaches.

6 Q. So, it alleviates pain?

7 A. Yeah.

8 Q. When did you first see Doctor
9 Khanan?

10 A. I don't remember.

11 Q. What type of treatment do you
12 receive from Doctor Khanan?

13 A. It's the one giving me the treatment for
14 the muscles.

15 Q. What type of treatment for your
16 muscles?

17 A. The injections.

18 Q. Did he prescribe you any
19 medication?

20 A. No. He didn't prescribe anything.

21 Q. How many times have you seen Doctor
22 Khanan?

23 A. That one, quite a few. I don't remember
24 how many but a few -- excuse me, I was
25 forgetting. He prescribed braces for my knees.

1 Q. Which doctor is this?

2 A. Doctor Khanan.

3 Q. Did he prescribe any other type of
4 treatment or equipment?

5 A. No.

6 MR. ADLER: Claimant is indicating
7 he's got some sort of a belt that goes
8 around his abdomen.

9 Q. Now, all of the providers we just
10 discussed, all of their bills were paid for by
11 workers compensation is what you were saying,
12 correct?

13 A. Yeah. Yeah. Everything related to the
14 accident, workers compensation is paying for
15 everything.

16 Q. Are you still treating with all of
17 these providers we discussed?

18 A. Yeah. Yeah.

19 Q. Other than Doctor Garcia, did
20 anyone else indicate that you needed surgery?

21 A. The doctor said that I need it. But if
22 I don't believe him, get a second opinion.

23 Q. Have any of the other doctors
24 you've seen, other than Garcia, told you needed
25 surgery?

1 A. I haven't gone to see anyone else yet.

2 Q. So, you said you received physical
3 therapy about six or seven times?

4 A. Six or seven times. And now, they
5 okayed for me to do it again.

6 Q. It is at Doctor Garcia's facility?

7 A. Yeah.

8 Q. How often are you planning to go?
9 Did they say a set number of times a week?

10 A. They called saying that they got the
11 okay to continue the treatment. And on Thursday
12 when I go back there is when I find out what
13 exactly what treatment I'm going to need.

14 Q. Did you have to perform exercises
15 during your physical therapy?

16 A. No. I can't do it. I can't do it.

17 Q. Did they tell you to do anything at
18 home in terms of stretching or exercises?

19 A. No. I can't -- I can't do it. I can't
20 move.

21 Q. How did you get to physical
22 therapy?

23 A. So, they would attach these things to my
24 arms and they would move that. And then, attach
25 something to my knees and try to do exercises,

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1 touching the tips of my feet and heels.

2 Q. Sounds like you're indicating that
3 you were trying to stretch something, does that
4 sound about right?

5 A. I don't know what they're going to do
6 now.

7 Q. Okay.

8 A. They also did the electrical thing in
9 the back.

10 Q. Did they give you a heating pad, or
11 ice, or another device?

12 A. Hot. The hot ones, yes.

13 Q. Has this physical therapy improved
14 your condition?

15 A. It helped a little bit.

16 Q. Have they given any devices that
17 you needed to pay for out of your own pocket?

18 A. No.

19 Q. You have not been back to work as a
20 result of the incident, correct?

21 A. No.

22 Q. Have any of the providers that we
23 discussed told you that you can't go back to
24 work?

25 A. The doctors said I can't go to work

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1 anymore. I want to go, but they say I can't.

2 Q. Which doctor?

3 A. All the doctors. All of them.

4 Q. Did they give you a time frame on
5 when you could possibly return to work?

6 A. No. They didn't tell me anything.

7 Q. Now, did you have to inform E.E.
8 Cruz or Tull that you were unable to work?

9 A. No. I haven't said anything yet.

10 Q. Are you still employed by E.E. Cruz
11 or Tull?

12 A. Workers compensation is paying me, E.E.
13 Cruz and Tull.

14 Q. Did you have to submit any
15 paperwork to E.E. Cruz or Tull, in connection
16 with the time you've been missing from work?

17 A. I don't remember filling anything. I
18 don't know if anyone in my family filled any
19 papers, but I don't remember filling anything.

20 Q. Now, have you had to submit any
21 paperwork to your union to indicate you were
22 injured?

23 A. To the union, I sent the papers from
24 workers compensation.

25 Q. Have you spoken to any coworkers

1 about the incident?

2 A. I didn't speak with anyone. Who am I
3 going to talk to?

4 Q. Have you spoken to your son about
5 the incident?

6 A. With my son, yeah. I talk about it
7 every day.

8 Q. Are you confined to your home as a
9 result of the incident?

10 A. I have to stay at home. Where else am I
11 going to go?

12 Q. Did any doctor tell you to stay
13 home?

14 A. Well, I have to stay home. I can't do
15 anything.

16 Q. Now, when you're at home, are you
17 confined to your bed?

18 A. I walk a little bit in the backyard,
19 around the block.

20 Q. Are there any activities of your
21 daily living that you're unable to perform now,
22 as a result of the incident?

23 A. How many things are there that I could
24 do before and now I can't.

25 Q. Could you list some, specifically?

1 A. In the party, I see my friends dances.
2 I can't dance. I want to work, I can't do, I
3 cant work. I would come home from work and I
4 would help my wife. And now, I can't do
5 anything. The rest forget it. But I can't. I
6 do it but not like it used to be before.

7 Q. In terms of helping your wife out
8 and doing other chores around the house, who now
9 assists with these activities?

10 A. She has to do it herself.

11 Q. Have you hired any help to perform
12 work around the house?

13 A. No. No.

14 Q. Has any doctor told you not to
15 perform any activities around the house?

16 A. If I can't do it, how am I going to do
17 it?

18 Q. Do you experience any mental
19 suffering as a result of the incident?

20 A. I forget everything. I'm about to do
21 something, I'm going to get something, and I
22 forget what I was doing.

23 Q. Is that the entire extent of mental
24 injuries that you've incurred as a result of the
25 incident?

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1 A. I wasn't like that. I'm always
2 stressed. I don't let anybody rest. I can't
3 sleep. When my son goes to work, I'm already
4 up, I can't sleep.

5 Q. Are you having nightmares?

6 A. Yeah. Yeah.

7 Q. Can you describe? Or do you have
8 fears? Nightmares, etcetera?

9 A. Let me tell you, I worked in the World
10 Trade Center. And now, with this I'm feeling it
11 again.

12 Q. Are you referring to the attack on
13 the World Trade Center on September 11th?

14 A. Yes. Because when that happened I was
15 one of the first to go there to help with the
16 cleanup work.

17 Q. So, you weren't there on the actual
18 September 11th?

19 A. Oh, no. No. No.

20 Q. Are you seeing anyone to discuss
21 your mental state?

22 A. I'm seeing Doctor Vilor Shpitalnik.

23 Q. Do you talk about your fears and
24 anxiety or nightmares with him?

25 A. Yeah.

1 Q. Does he give you any
2 recommendations?

3 A. For now, he's giving me medication. I
4 don't know what else.

5 Q. Do you know what that medication is
6 called?

7 A. No. I don't remember.

8 MR. ADLER: Off the record.

9 [Discussion held off the record.]

10 Q. Do you need a break? Or you can
11 continue?

12 A. You can continue.

13 Q. Okay. Have you incurred any
14 out-of-pocket expenses that may be associated
15 with transportation costs, appliances, or
16 equipment? Anything of that sort?

17 A. For now, I take down everything. I
18 write everything down, my expenses. And they
19 say workers compensation will pay, but as I tell
20 you I've never been in a situation like this
21 before, so I don't know.

22 Q. Today workers compensation has paid
23 for it though, correct?

24 A. Gas, car, and things like that, they
25 haven't paid for anything like that, but we

1 haven't spoken about it.

2 Q. Now, gas and car, you're talking
3 about your transportation to your medical
4 treatment, correct?

5 A. Yeah. To the doctors, yeah.

6 Q. You said you haven't been involved
7 in any accidents before this incident, correct?

8 A. No, never. Never had anything. Just
9 the big toe, that's it.

10 Q. So, you've never injured any areas,
11 including when you said your head, your neck,
12 your shoulders --

13 MR. PUSTEL: Wait until he
14 finishes.

15 Q. Head, neck, shoulders, back, both
16 knees, you've never had injuries to those areas
17 before, correct?

18 A. No, nothing. Never.

19 Q. Have you suffered from nightmares,
20 fears, or stress?

21 A. No. No.

22 Q. Now, you said that you did suffer
23 from stress from cleaning up after the
24 September 11th occurrence, correct?

25 A. Well, because I saw them take a lot of

1 people -- a lot of bodies out.

2 Q. So, after that, you had some sort
3 of stress and mental anguish, correct?

4 A. I remember those things now.

5 Q. How long did the mental stress
6 occur after the cleanup from September 11th?

7 A. Before, there wasn't much time to think
8 about it because you're busy, you're tired. Now
9 that you're home, there isn't much going on, so
10 your mind goes towards those things.

11 Q. So, you're saying you're now
12 remembering the cleanup from September 11th, and
13 that's giving you mental anguish, correct?

14 A. Yeah. Yeah, I remember more.

15 Q. Did you engage in any exercise
16 before the incident?

17 A. I did some before the accident. I
18 didn't have time for much, and I came home tired
19 from work. But I did some.

20 Q. What type?

21 A. The treadmill and the stationary
22 bicycle.

23 Q. How often would you do that?

24 A. It depended. When I would come home a
25 bit more tired, I wouldn't do it. It was more

1 on the weekends I would do it more.

2 Q. Have you done any exercise since
3 the incident?

4 A. I can't move. I can't move. How can I
5 do it if I can't move?

6 Q. Were you a member of any health
7 club?

8 A. No.

9 Q. Did you have any hobbies before the
10 accident?

11 A. I would go to a club where I had a
12 membership.

13 Q. What type of club?

14 A. Where they do parties.

15 Q. What's this club's name?

16 A. Portuguese Club.

17 Q. Where is that located?

18 A. In Mineola -- Jericho.

19 Q. Did you play any sports before the
20 incident?

21 A. No.

22 Q. Did you travel before the incident?

23 A. Yes.

24 Q. Where would you go?

25 A. Portugal.

1 Q. How often?

2 A. Before, I used to go every year.

3 Recently, I was going every other year.

4 Q. Since the incident, have you
5 traveled?

6 A. No.

7 Q. Now, before the incident, did you
8 perform household chores?

9 A. Yeah. I used to help around the house.

10 Q. Which chores?

11 A. I used to help her to clean the house
12 and cook.

13 Q. Can you do either of these
14 activities now?

15 A. No, I can't. I can't.

16 Q. How about grocery shopping?

17 A. No.

18 Q. Did you do that before the
19 incident?

20 A. Before, I did.

21 Q. Is there anything else that you
22 can't do now that you could do before the
23 incident?

24 A. Before, I did everything. Now, I do
25 nothing.

1 Q. Specifically?

2 A. Before, I did a lot. Now, I do nothing.

3 Q. Has this affected your relationship
4 with your wife?

5 A. Yes. A lot.

6 Q. How so?

7 A. With everything.

8 Q. Going back ten years before this
9 incident, have you ever been involved in an auto
10 or motorcycle accident?

11 A. Thank God, no. I never had an accident.

12 Q. In the past years, have you treated
13 with any physician that we have not discussed
14 today?

15 A. No.

16 Q. Have you ever been a plaintiff or a
17 defendant in a lawsuit?

18 A. No, never.

19 Q. Before this incident in the last
20 ten years, have you filed an insurance claim for
21 disability?

22 A. No. No. I always worked.

23 Q. Have you ever been involved in any
24 accidents since this incident?

25 A. No.

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1 Q. Have you sustained any new injuries
2 since the date of the incident?

3 A. No.

4 Q. As we sit here today, do you
5 complain of any pain, as a result of this
6 incident?

7 A. Right now, I'm here full of pain.

8 Q. Where are you experiencing pain?

9 A. Now, I'm feeling it on my knees. On my
10 back too. I took the pills, but it doesn't get
11 the pain a hundred percent gone.

12 Q. Have your injuries improved over
13 time?

14 A. Nothing has improved.

15 Q. So, not from treatment? Not with
16 medication?

17 A. The one that help a little bit, almost
18 nothing with the therapy. But the pills, they
19 help every other moment. As soon as the effect
20 is gone, the pain is back.

21 Q. Have any doctors told you that your
22 injuries are permanent?

23 A. The doctors said that if I'm not
24 operated one day, I can bend over and never be
25 able to stretch up again.

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1 Q. What type of damages are you
2 seeking for the incident?

3 A. I didn't want anything. All I wanted
4 was to get well.

5 Q. Have you received any money from
6 any source, in connection with the incident?

7 A. I don't receive anything. The only
8 thing I received was from compensation for the
9 treatment, but I don't receive any money.

10 Q. I have here a notice of claim.
11 Please, take a look at this. With your
12 attorney?

13 MR. ADLER: I'd like to mark this a
14 Respondent's Exhibit 2.

15 [Whereupon exhibit was marked
16 Respondent's Exhibit 2.]

17 A. It says what?

18 Q. That's the notice of claim.

19 A. No. I don't remember anything.

20 Q. I understand it's in English. Are
21 you able to read the contents of that?

22 A. I get a general idea, but I can't read.

23 MR. PUSTEL: You have a specific
24 question?

25 MR. ADLER: Off the record.

1 [Discussion held off the record.]

2 Q. Do you see your name on the front
3 page of that? Is that your name?

4 A. Yes. This is my name, yes.

5 Q. Is that your address?

6 A. Yes. It's this one here.

7 Q. Are these your attorneys,
8 Pasternack Tiller Napoli Bern, LLP?

9 A. Yeah.

10 Q. You have made a claim through your
11 attorneys; is that correct?

12 A. Yeah.

13 Q. That's all the questions I have for
14 today, thank you.

15 [TIME NOTED: 3:27 p.m.]

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MANUEL AMENDOEIRA

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Sworn and subscribed to before me, on

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this _____ day

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of _____, 2015

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Notary _____

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My Commission Expires _____

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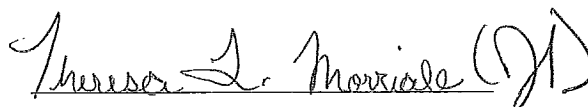
C E R T I F I C A T I O N

I, Theresa L. Morriale, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of May, 2015.



Theresa L. Morriale

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ERRATA SHEET

Priority-One Court Reporting/Veritext

718-983-1234

ASSIGNMENT NO. P1-2073462

CASE NAME: Amendoeira, Manuel and Maria v. City of New York

DATE OF DEPOSITION: 5/19/2015

WITNESS' NAME: Manuel Amendoeira

PAGE/LINE(S) /	CHANGE	REASON
4 / 6 /	11501	wrong zip code
8 / 20 /	Morais	spelled wrong
9 / 14 /	Morais	spelled wrong
9 / 15 /	Andreia Amendoeira	wrong way
/ /	Caetano	/
16 / 1 /	Tully	wrong spelling
34 / 22 /	Bacotti	wrong spelling
47 / 25 /	couple of feet	did not walk 34 feet
116 / 14 /	Shoulder	typos
4 / 5 /	Frank	wrong spelling
83 / 18 /	Alexander De Moura	There is no doctor Alex Garcia
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Manuel Amendoeira
Manuel Amendoeira

(Notary not required in California)
SUBSCRIBED AND SWORN TO
BEFORE ME THIS 26th DAY
OF June, 2015.

Isabel Gomes
NOTARY PUBLIC
MY COMMISSION EXPIRES Sept 27, 2015

ISABEL GOMES
Notary Public, State of New York
No. 01GO6170577
Qualified in Nassau County
Commission Expires September 27, 2015

[& - apuzzo]

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<p>v 2:5 4:1 80:1 105:3 veritext 105:1 vest 40:18,19 video 72:10 vieira 2:12 vilor 94:22 visibility 40:18 65:6 vision 35:15 voice 67:2</p>			<p>x 1:1,7 3:1,4 44:19 74:25 75:13 xx 8:7,7</p>
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[years - zone]

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york 1:5,5,11,11,19 2:4,4,8,8 4:6,14,14 9:25 20:6 76:22 80:4,6 104:4 105:3
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z 16:8 19:17,17 zip 10:1 zone 26:21,22

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
MANUEL AMENDOEIRA AND MARIA AMENDOERIA,

Index No.: 150123/2016

Plaintiff,

-against-

RESPONSE TO
DEMAND FOR
DISCOVERY

CITY OF NEW YORK, NEW YORK CITY TRANSIT
AUTHORITY AND THE METROPOLITAN
TRANSPORTATION AUTHORITY,

Defendants.

-----X

S I R S :

Plaintiffs, by their attorneys, BERN RIPKA, LLP., sets forth the following as and for their Response to Demand for Discovery, upon information and belief as follows:

1. Attached hereto and made a part hereof is an authorization to obtain the medical records from Dr. Orlando Ortiz, NY Spine Institute.
2. Attached hereto and made a part hereof is an authorization to obtain the medical records from New York Spine Institute.
3. Attached hereto and made a part hereof is an authorization to obtain the medical records from Dr. Keith Apuzzo.
4. Attached hereto and made a part hereof is an authorization to obtain the medical records from New York Presbyterian – Weill Cornell Hospital.
5. Attached hereto and made a part hereof is an authorization to obtain the medical records from Dr. David Khanan.
6. Attached hereto and made a part hereof is an authorization to obtain the medical records from Dr. Vilor Shpitalnik.

7. Attached hereto and made a part hereof is an authorization to obtain the medical records from Dr. Keith Appuzo.

Dated: New York, New York
August 26, 2016

Yours etc.,



ELLIOT M. SCHAKTMAN, ESQ.,
BERN RIPKA, LLP.,
Attorneys for Plaintiffs
MANUEL AMENDOEIRA AND
MARIA AMENDOEIRA
60 East 42nd Street – Suite #950
New York, New York 10165
Tel. No.: (212) 702-5000

TO: LANDMAN, CORSI, BALLAINE & FORD, P.C.,
Attorneys for Defendants
CITY OF NEW YORK, NEW YORK CITY
TRANSIT AUTHORITY AND THE
METROPOLITAN TRANSPORTATION AUTHORITY
120 Broadway – 27th Floor
New York, New York 10271-0079
Tel. No.: (212) 238-4800



AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA
[This form has been approved by the New York State Department of Health]

OCA Official Form No.: 960

Patient Name <i>Manuel Amendoeira</i>	Date of Birth [REDACTED] 1959	Social Security Number XXX-XX-4149
Patient Address [REDACTED] Mineola, N.Y. 11571		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

- This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
- If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
- I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
- I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
- Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
- THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:

Dr Orlando Ortiz, NY Spine Institute, 761 Merrick Ave

8. Name and address of person(s) or category of person to whom this information will be sent:

Landman Corsi Ballaine & Ford, P.C. 27th fl. 120 Broadway,

9(a). Specific information to be released: *Westbury, NY 11590*
New York, N.Y. 10271

- Medical Record from (insert date) _____ to (insert date) _____
- Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.
- Other: _____

Include: (Indicate by Initialing)

MA Alcohol/Drug Treatment

MA Mental Health Information

MA HIV-Related Information

Authorization to Discuss Health Information

(b) By initialing here _____ I authorize _____

Initials Name of individual health care provider

to discuss my health information with my attorney, or a governmental agency, listed here:

(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information: <input type="checkbox"/> At request of individual <input checked="" type="checkbox"/> Other: <i>Litigation</i>	11. Date or event on which this authorization will expire: <i>End of Litigation</i>
12. If not the patient, name of person signing form:	13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Manuel Amendoeira
Signature of patient or representative authorized by law.

Date: *8/26/16*

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

JOANN SEZER
Notary Public, State of New York
No. 01SE6017816
Qualified in Richmond County
Commission Expires December 21, 2018

Joann Sezer



OCA Official Form No.: 960

AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA

[This form has been approved by the New York State Department of Health]

Patient Name <i>Manuel Amendoeira</i>	Date of Birth [REDACTED] <i>1959</i>	Social Security Number <i>XXX-XX-4149</i>
Patient Address [REDACTED] <i>MINCOLA, N.Y. 11571</i>		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

- This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
- If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
- I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
- I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
- Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
- THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:
New York Spine Institute 761 Merrick Ave. Westbury, NY

8. Name and address of person(s) or category of person to whom this information will be sent:
Landman Corsi Ballone & Ford, P.C. 27th fl. 120 Broadway, 1590 New York, N.Y. 10271

9(a). Specific information to be released:

Medical Record from (insert date) _____ to (insert date) _____

Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.

Other: _____

Include: (Indicate by Initialing)

MA Alcohol/Drug Treatment

MA Mental Health Information

MA HIV-Related Information

Authorization to Discuss Health Information

(b) By initialing here _____ I authorize _____ Name of individual health care provider

to discuss my health information with my attorney, or a governmental agency, listed here:

(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information: <input type="checkbox"/> At request of individual <input checked="" type="checkbox"/> Other: <i>LITIGATION</i>	11. Date or event on which this authorization will expire: <i>END OF LITIGATION</i>
12. If not the patient, name of person signing form:	13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Manuel Amendoeira
Signature of patient or representative authorized by law. Date: *8/26/16*

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

JOANN SEZER
Notary Public, State of New York
No. 015E6017816
Qualified in Richmond County
Commission Expires December 21, 2018

Joann Sezer



OCA Official Form No. 960
AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA
[This form has been approved by the New York State Department of Health]

Patient Name <i>Manuel Amendoeira</i>	Date of Birth [REDACTED]-1959	Social Security Number XXX-XX-4149
Patient Address [REDACTED] Mineola, N.Y. 11571		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

- This authorization may include disclosure of information relating to ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT, except psychotherapy notes, and CONFIDENTIAL HIV* RELATED INFORMATION only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
- If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
- I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
- I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
- Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
- THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:
Dr. Keith Apuzzo, 536 Mineola Blvd. Carle Place, NY 11514

8. Name and address of person(s) or category of person to whom this information will be sent:
Landman Corsi Ballaine & Ford, P.C., 27th fl., 120 Broadway, New York, N.Y. 10271

9(a). Specific information to be released:

Medical Record from (insert date) _____ to (insert date) _____

Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.

Other: _____

Include: (Indicate by Initialing)

MA Alcohol/Drug Treatment

MA Mental Health Information

MA HIV-Related Information

Authorization to Discuss Health Information

(b) By initialing here _____ I authorize _____ Name of individual health care provider

to discuss my health information with my attorney, or a governmental agency, listed here:

_____ (Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information: <input type="checkbox"/> At request of individual <input checked="" type="checkbox"/> Other: <i>Litigation</i>	11. Date or event on which this authorization will expire: <i>END OF LITIGATION</i>
12. If not the patient, name of person signing form:	13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Manuel Amendoeira
Signature of patient or representative authorized by law. Date: *8/26/16*

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

JOANN SEZER
Notary Public, State of New York
No. 01SE6017816
Qualified in Richmond County
Commission Expires December 21, 2018
Joann Sezer



OCA Official Form No.: 960
AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA
(This form has been approved by the New York State Department of Health)

Patient Name: Manuel Amendoeira
Date of Birth: [redacted]-1959
Social Security Number: XXX-XX-4149
Patient Address: [redacted] Mineola, N.Y. 11571

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

- 1. This authorization may include disclosure of information relating to ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT, except psychotherapy notes, and CONFIDENTIAL HIV* RELATED INFORMATION only if I place my initials on the appropriate line in Item 9(a).
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below.
4. I understand that signing this authorization is voluntary.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).

7. Name and address of health provider or entity to release this information: New York Presbyterian-Wall Cornell Hospital, 525 E. 68th St. New York, N.Y. 10021

8. Name and address of person(s) or category of person to whom this information will be sent: Landman Corst Ballaine & Ford, P.C., Attn: J. J. 120 Broadway, New York, N.Y. 10271

9(a). Specific information to be released:
[] Medical Record from (insert date) to (insert date)
[X] Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.
[] Other:
Include: (Indicate by Initialing)
MA Alcohol/Drug Treatment
MA Mental Health Information
MA HIV-Related Information

Authorization to Discuss Health Information
(b) [] By initialing here I authorize Name of individual health care provider to discuss my health information with my attorney, or a governmental agency, listed here: (Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information: [] At request of individual [X] Other: Litigation
11. Date or event on which this authorization will expire: END OF LITIGATION
12. If not the patient, name of person signing form:
13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Manuel Amendoeira
Signature of patient or representative authorized by law.

Date: 8/26/16

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

JOANN SEZER
Notary Public, State of New York
No. 015E6017816
Qualified in Richmond County
Commission Expires December 21, 2018

Joann Sezer



OCA Official Form No.: 960
AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA
[This form has been approved by the New York State Department of Health]

Patient Name: Manuel Amendoeira
Date of Birth: [redacted]-1959
Social Security Number: XXX-XX-4149
Patient Address: [redacted] Mineola, N.Y. 11571

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- 1. This authorization may include disclosure of information relating to ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT, except psychotherapy notes, and CONFIDENTIAL HIV* RELATED INFORMATION only if I place my initials on the appropriate line in Item 9(a).
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below.
4. I understand that signing this authorization is voluntary.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).

7. Name and address of health provider or entity to release this information: Dr. David Khanan, 717 Front Street, Hempstead, N.Y. 11550

8. Name and address of person(s) or category of person to whom this information will be sent: Landman Corsi Ballaine & Ford, P.C., 27th Fl., 120 Broadway, New York, N.Y. 10271

9(a). Specific information to be released:
[] Medical Record from (insert date) to (insert date)
[X] Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.
[] Other:
Include: (Indicate by Initialing)
MA Alcohol/Drug Treatment
MA Mental Health Information
MA HIV-Related Information

Authorization to Discuss Health Information
(b) [] By initialing here I authorize Name of individual health care provider to discuss my health information with my attorney, or a governmental agency, listed here:
(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information:
[] At request of individual
[X] Other: LITIGATION
11. Date or event on which this authorization will expire: END OF LITIGATION
12. If not the patient, name of person signing form:
13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Signature of patient or representative authorized by law: Manuel Amendoeira
Date: 8/26/16

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

JOANN SEZER
Notary Public, State of New York
No. 01SE8017818
Qualified in Richmond County
Commission Expires December 21, 2018



AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA
[This form has been approved by the New York State Department of Health]

OCA Official Form No.: 960

Patient Name <i>Manuel Amendoeira</i>	Date of Birth [REDACTED]-1959	Social Security Number XXX-XX-4149
Patient Address [REDACTED] Mineola, N.Y. 11571		

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form: In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:

- This authorization may include disclosure of information relating to **ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT**, except psychotherapy notes, and **CONFIDENTIAL HIV* RELATED INFORMATION** only if I place my initials on the appropriate line in Item 9(a). In the event the health information described below includes any of these types of information, and I initial the line on the box in Item 9(a), I specifically authorize release of such information to the person(s) indicated in Item 8.
- If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law. I understand that I have the right to request a list of people who may receive or use my HIV-related information without authorization. If I experience discrimination because of the release or disclosure of HIV-related information, I may contact the New York State Division of Human Rights at (212) 480-2493 or the New York City Commission of Human Rights at (212) 306-7450. These agencies are responsible for protecting my rights.
- I have the right to revoke this authorization at any time by writing to the health care provider listed below. I understand that I may revoke this authorization except to the extent that action has already been taken based on this authorization.
- I understand that signing this authorization is voluntary. My treatment, payment, enrollment in a health plan, or eligibility for benefits will not be conditioned upon my authorization of this disclosure.
- Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
- THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).**

7. Name and address of health provider or entity to release this information:
DR. VILOR SHPITALNIK, 1723 E. 12th Street, Brooklyn, NY 11229

8. Name and address of person(s) or category of person to whom this information will be sent:
Landman Corsi Ballaine & Ford, P.C., 27th Fl., 120 Broadway, New York, N.Y. 10271

9(a). Specific information to be released:

Medical Record from (insert date) _____ to (insert date) _____

Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.

Other: _____

Include: (Indicate by Initialing)
MA Alcohol/Drug Treatment
MA Mental Health Information
MA HIV-Related Information

Authorization to Discuss Health Information
(b) By initialing here _____ I authorize _____
Initials Name of individual health care provider
to discuss my health information with my attorney, or a governmental agency, listed here:

(Attorney/Firm Name or Governmental Agency Name)

10. Reason for release of information: <input type="checkbox"/> At request of individual <input checked="" type="checkbox"/> Other: <i>LITIGATION</i>	11. Date or event on which this authorization will expire: <i>END OF LITIGATION</i>
12. If not the patient, name of person signing form:	13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.

Manuel Amendoeira
Signature of patient or representative authorized by law. Date: *8/26/16*

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

JOANN SEZER
Notary Public, State of New York
No. 0196017816
Qualified in Richmond County
Commission Expires December 21, 2018
Joann Sezer



OCA Official Form No. 960
AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION PURSUANT TO HIPAA
(This form has been approved by the New York State Department of Health)

Patient Name: Manuel Amendoeira
Date of Birth: [redacted] 1959
Social Security Number: XXX-XX-4149
Patient Address: [redacted] Mineola, N.Y. 11571

I, or my authorized representative, request that health information regarding my care and treatment be released as set forth on this form:
In accordance with New York State Law and the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), I understand that:
1. This authorization may include disclosure of information relating to ALCOHOL and DRUG ABUSE, MENTAL HEALTH TREATMENT, except psychotherapy notes, and CONFIDENTIAL HIV* RELATED INFORMATION only if I place my initials on the appropriate line in Item 9(a).
2. If I am authorizing the release of HIV-related, alcohol or drug treatment, or mental health treatment information, the recipient is prohibited from redisclosing such information without my authorization unless permitted to do so under federal or state law.
3. I have the right to revoke this authorization at any time by writing to the health care provider listed below.
4. I understand that signing this authorization is voluntary.
5. Information disclosed under this authorization might be redisclosed by the recipient (except as noted above in Item 2), and this redisclosure may no longer be protected by federal or state law.
6. THIS AUTHORIZATION DOES NOT AUTHORIZE YOU TO DISCUSS MY HEALTH INFORMATION OR MEDICAL CARE WITH ANYONE OTHER THAN THE ATTORNEY OR GOVERNMENTAL AGENCY SPECIFIED IN ITEM 9 (b).

7. Name and address of health provider or entity to release this information:
Dr. Keith Appuzo 536 Mineola Ave. Carle Place, NY 11514

8. Name and address of person(s) or category of person to whom this information will be sent:
Landman Corsi Ballaine & Ford, P.C. 27th Fl. 120 Broadway, New York, N.Y. 10271

9(a). Specific information to be released:
[] Medical Record from (insert date) to (insert date)
[X] Entire Medical Record, including patient histories, office notes (except psychotherapy notes), test results, radiology studies, films, referrals, consults, billing records, insurance records, and records sent to you by other health care providers.
[] Other:
Include: (Indicate by Initialing)
MA Alcohol/Drug Treatment
MA Mental Health Information
MA HIV-Related Information

Authorization to Discuss Health Information
(b) [] By initialing here I authorize
Initials Name of individual health care provider
to discuss my health information with my attorney, or a governmental agency, listed here:
(Architect/Firm Name or Governmental Agency Name)

10. Reason for release of information:
[] At request of individual
[X] Other: Litigation
11. Date or event on which this authorization will expire:
End of Litigation

12. If not the patient, name of person signing form:
13. Authority to sign on behalf of patient:

All items on this form have been completed and my questions about this form have been answered. In addition, I have been provided a copy of the form.
Signature of patient or representative authorized by law: Manuel Amendoeira
Date: 8/26/16

* Human Immunodeficiency Virus that causes AIDS. The New York State Public Health Law protects information which reasonably could identify someone as having HIV symptoms or infection and information regarding a person's contacts.

JOANN SEZER
Notary Public, State of New York
No. 01SE6017818
Qualified in Richmond County
Commission Expires December 21, 2016

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
MANUEL AMENDOEIRA AND MARIA AMENDOERIA,

INDEX NO.: 150123/2016

Plaintiffs,

AFFIDAVIT OF
SERVICE

-against-

CITY OF NEW YORK, NEW YORK CITY TRANSIT
AUTHORITY AND THE METROPOLITAN
TRANSPORTATION AUTHORITY,

Defendants.

-----X
STATE OF NEW YORK)

SS:

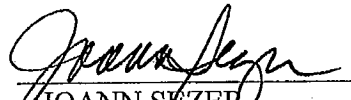
COUNTY OF NEW YORK)

JOANN SEZER, being duly sworn, deposes and says:

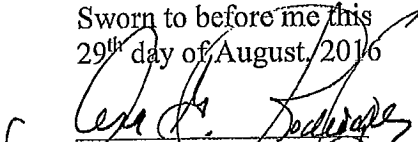
I am not a party to the action, am over 18 years of age and reside in New York County.

On August 29, 2016, I served the within RESPONSE TO DEMAND FOR DISCOVERY by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State addressed to each of the

LANDMAN, CORSE, BALLAINE & FORD, P.C.,
Attorneys for Defendants
CITY OF NEW YORK, NEW YORK CITY
TRANSIT AUTHORITY AND THE
METROPOLITAN TRANSPORTATION AUTHORITY
120 Broadway – 27th Floor
New York, New York 10271-0079


JOANN SEZER

Sworn to before me this
29th day of August, 2016


NOTARY PUBLIC

Ajia G. Rodriguez,
Commissioner of Deeds, City of New York
No. 3-7335
Cert. Filed in New York County
Commission Expires 8/1/17

Index No.: 150123/2016
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
MANUEL AMENDOEIRA AND MARIA AMENDOERIA,

Plaintiff,

-against-

CITY OF NEW YORK, NEW YORK CITY TRANSIT
AUTHORITY AND THE METROPOLITAN
TRANSPORTATION AUTHORITY,

Defendants.

-----X

RESPONSE TO DEMAND FOR DISCOVERY

BERN RIPKA, LLP.

Attorneys for: Plaintiffs

60 East 42nd Street, Suite 950

New York, New York 10165

(212) 702-5000

The undersigned attorney hereby certifies, pursuant to 22 NYCRR §130-1.1-a, that I have read the within papers and that to the best of my knowledge and belief they are not frivolous as that term is defined in 22 NYCRR § 130-1.1(c).

Attorney name: ELLIOT M. SCHAKTMAN, ESQ.,

Service of a copy of the within
Dated,

is hereby admitted.

ATTORNEY(S) FOR

PLEASE TAKE NOTICE:

NOTICE OF ENTRY

that the within is a (certified) true copy of an _____ duly entered in the _____ office
of the clerk of the within named court on _____, 200__.

NOTICE OF SETTLEMENT

that an order _____ of which the within is a true copy, will be presented for
settlement to the HON. _____ one of the judges of the
within named Court, at _____ on _____, 200__ at _____ O'clock ____ M.
Dated, _____

Yours, etc.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) s.s.:
COUNTY OF NEW YORK)

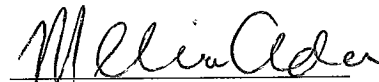
Melissa Adames, being duly sworn, deposes and says:

That affiant is not a party to this action and is over the age of 18 years and resides in the County of the Queens

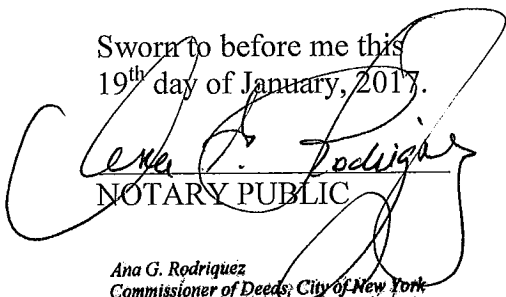
That on the 19th day of January, 2017, affiant served the within **PLAINTIFFS' RESPONSE TO COMPLIANCE CONFERENCE ORDER DATED JANUARY 3, 2017** upon the defendant(s) and/or attorney(s) for defendant(s) by depositing a true copy of same securely enclosed in a postpaid wrapper in a post office, official depository under the exclusive care and custody of the United States Postal Service within the State of New York, directed to said individuals or offices as follows:

LANDMAN, CORSI, BALLAINE & FORD, P.C.
120 Broadway, 27th Floor
New York, New York 10271-0079

That being the address within the State designated by them for purpose upon the preceding papers in this action of the respective places where they kept an office between which places there then was and now is a regular communication by mail.


Melissa Adames

Sworn to before me this
19th day of January, 2017.


NOTARY PUBLIC

Ana G. Rodriguez
Commissioner of Deeds, City of New York
No. 3-7355
Cert. Filed in New York County
Commission Expires 8/1/17

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
MANUEL AMENDOEIRA and MARIA AMENDOERIA,

Index No: 150123/2016

Plaintiffs,

-against-

CITY OF NEW YORK, NEW YORK CITY TRANSIT
AUTHORITY and the METROPOLITAN
TRANSPORTATION AUTHORITY,

Defendants.

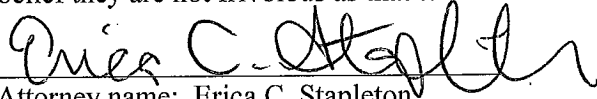
-----X

**PLAINTIFFS' RESPONSE TO COMPLIANCE CONFERENCE ORDER DATED
JANUARY 3, 2017**

MARC J. BERN & PARTNERS, LLP

Attorneys for: Plaintiff
60 E 42nd Street, Suite 950
New York, New York 10165
(212) 702-5000

The undersigned attorney hereby certifies, pursuant to 22 NYCRR §130-1.1-a, that I have read the within papers and that to the best of my knowledge and belief they are not frivolous as that term is defined in 22 NYCRR § 130-1.1(c).


Attorney name: Erica C. Stapleton

Service of a copy of the within _____ is hereby admitted.
Dated, _____

ATTORNEY(S) FOR

PLEASE TAKE NOTICE:

NOTICE OF ENTRY

that the within is a (certified) true copy of an _____ duly entered in the _____ office
of the clerk of the within named court on _____ 200__.

NOTICE OF SETTLEMENT

that an order _____ of which the within is a true copy, will be presented for
settlement to the HON. _____ one of the judges of the
within named Court, at _____ on _____ 200__ at _____ O'clock __.M.

Dated, _____

Yours, etc.
MARC J. BERN & PARTNERS, LLP