

1 disks.

2 MR. JANES: Dr. Purcell.

3 (Whereupon, a recess was taken in this  
4 matter, and after the recess, the following took  
5 place in open court, with the Court and all  
6 parties being present)

7 (Whereupon, the sworn Jury entered the  
8 courtroom)

9 THE COURT: Okay, folks, good afternoon,  
10 we are now ready to proceed with -- Mr. Zilberg,  
11 you still up.

12 MR. ZILBERG: Yes. Plaintiff the  
13 Plaintiff calls Dr. Struhl.

14 D-O-C-T-O-R S-T-E-V-E-N S-T-R-U-H-L, having been  
15 called as a witness by and on behalf of the Plaintiff,  
16 having been first duly sworn by the Clerk of the Court,  
17 testified as follows:

18 COURT CLERK: Have a seat. Please state  
19 your name and business address for the record.

20 THE WITNESS: Steven Struhl,  
21 S-T-R-U-H-L, 57 West 57th Street, New York, New  
22 York.

23 DIRECT EXAMINATION

24 BY MR. ZILBERG:

25 Q Good afternoon, Dr. Struhl.

1 A Good afternoon.

2 Q Dr. Struhl, are you a physician duly  
3 licensed to practice medicine in the State of New York?

4 A Yes.

5 Q And when were you so licensed?

6 A Excuse me?

7 Q When were you so licensed?

8 A 1986.

9 Q And can you please tell us about your  
10 educational background?

11 A I went to undergrad at MIT, Massachusetts  
12 Institute of Technology, graduated in 1980. Then, I  
13 went to medical school at University of California in  
14 San Francisco. Graduated '84. Did an internship and  
15 residency in general surgery at University of Michigan,  
16 finishing in 1986, and I did a residency in orthopedic  
17 surgery at Montefiore Medical Center and Albert  
18 Einstein, finishing in 1990, and then I did an extra  
19 year of sports medicine, training and arthroscopy at  
20 Penn State University and I finished in '91.

21 Q And, Doctor, can you please explain what is  
22 an orthopedic surgeon?

23 A An orthopedic surgeon is a doctor who  
24 specializes in treatment, primarily of bones and  
25 joints.

1 Q And are you board certified?

2 A I'm board certified and re-certified.

3 Q Yes, and can you please explain what that  
4 entailed?

5 A In order to become board certified, you have  
6 to complete an accredited training program, such as I  
7 did in Montefiore in orthopedic surgery in this  
8 country. And then it's necessary to take a test in two  
9 parts. The first is a written part at the end of your  
10 training, and then after you did a practice for two  
11 years, you can sit for the oral boards which is an oral  
12 exam. And once you pass that, you became board  
13 certified.

14 Q And do you have any, are you affiliated with  
15 any hospitals?

16 A I'm affiliated with NYU, Hospital for Joint  
17 Diseases, New York Medical Center and the Westchester  
18 Ambulatory Surgery Center.

19 Q And do you engage in any medical teaching?

20 A I'm on the clinical faculty of NYU.

21 Q And have you been published?

22 A I have fifteen papers, most recent of which  
23 was about a year ago.

24 Q Are you actively involved in the area of  
25 orthopedic surgery?

1 A Very much so.

2 Q Do you treat patients on a regular basis?

3 A Yes.

4 Q And how many days out of the year do you  
5 devote to treating patients?

6 A Well, I work about forty-five weeks a year,  
7 forty-six weeks a year, and see people two or three  
8 days a week in the office, and operate two days a week,  
9 two hundred and thirty, two hundred and forty, I guess.

10 Q How many surgeries do you perform in a given  
11 month?

12 A Roughly four hundred a year, thirty-five a  
13 month.

14 Q When was your last surgery?

15 A Yesterday.

16 Q When is your next one?

17 A Thursday.

18 Q Doctor, are you being compensated for your  
19 time here today?

20 A Yes.

21 Q At what rate?

22 A Seventy-five hundred dollars for a half day.

23 Q And, if you were not here today, what would  
24 you be doing?

25 A Probably seeing patients.

1 Q Have you been called upon to testify in  
2 court before?

3 A Yes.

4 Q And, have you been accepted as a medical  
5 expert in court before?

6 A Yes.

7 Q And approximately how many times per year do  
8 you find yourself testifying in court?

9 A Probably two or three times a year. This  
10 year may be four or five times this year.

11 Q Have you and I met before?

12 A Once.

13 Q That was to discuss this case?

14 A Yes.

15 Q And have you ever testified in court  
16 previously with me as an attorney questioning you?

17 A No, I have not.

18 Q Dr. Struhl, in the course of your medical  
19 practice, did you at some point come to examine and  
20 meet Ms. DeCastro?

21 A Yes.

22 Q And when was that?

23 A If I can refer to my chart here.

24 Q Please, Doctor?

25 A First seen by me December 13th of 2006.

1 Q And on that day, did you elicit a history?

2 A Yes, I did.

3 Q Can you please first tell the Jury what a  
4 history is, and why it is important?

5 A A history is the initial part of the  
6 thorough medical evaluation. It's essentially an  
7 interview with focus on the patient's complaints and  
8 causes and symptoms and other things.

9 Q What was the history that you received?

10 A That she was a 42-year old female who  
11 injured her knee when she slipped and fell on September  
12 11th. So, she was seen well over a year before she  
13 injured herself, well over a year before I saw her.  
14 And as a result of the injury, she had a knee pain and  
15 pain was present on a daily basis. Particularly going  
16 up and down stairs.

17 Q And did you perform a clinical examination  
18 on that day as well?

19 A I did.

20 Q And what did that reveal?

21 A I'm sorry.

22 Q What did that reveal?

23 A It revealed that she had a lot of symptoms  
24 localizing damage to and around her knee cap area, pain  
25 was when the knee was forcibly flexed all the way. She

1 had patella femoral crepitus, a sensation of an  
2 irregular joint surface that you can feel with your  
3 hand, as you bend the knee back and forth, and that her  
4 ligaments were otherwise normal.

5 Q Did you review any prior medical records  
6 during your evaluation of the Plaintiff?

7 A I was given an MRI report.

8 Q And after that initial evaluation, what was  
9 your diagnosis?

10 A I thought that she had a chondral lesion  
11 around her knee cap, either around the patella, and I  
12 realize I'm using terms we have to discuss.

13 Q Doctor --

14 THE COURT: Excuse me.

15 (Whereupon, there was a pause in the  
16 Proceedings)

17 THE COURT: I'm sorry.

18 Q Doctor, would it be helpful to use a knee  
19 model in order to explain to the Jury the type of  
20 injury that the Plaintiff sustained?

21 A Yes.

22 (Whereupon, the exhibit was handed to  
23 the Witness)

24 Q If you could just please explain to the  
25 Jury?

1 A Where do you want me to start?

2 Q You can -- sorry?

3 A You want me.

4 Q Yes, please, sorry, sorry?

5 A This is a model of the knee.

6 MR. JANES: Note my objection. No  
7 question.

8 THE COURT: Is there a question?

9 MR. ZILBERG: Yes, to explain the injury  
10 that the Plaintiff sustained using the model of  
11 the knee.

12 MR. JANES: Withdrawn.

13 THE COURT: Okay.

14 MR. ZILBERG: Thank you, Judge.

15 THE COURT: Go ahead.

16 A This is a model of the knee. This is the  
17 femur, this is the tibia, and in the middle of the  
18 knee, there are some other structures. This is the  
19 meniscus, this is potentially padding between the two  
20 bones to create more of a shock absorption. And on the  
21 side, you see these ligaments here, the medial lateral  
22 and this is the ACL ligament. If you follow the sports  
23 page, you hear a lot about that. In fact, there is a  
24 posterior cruciate ligament. In this case, all those  
25 appear to be normal. The main thing you want to see

1 here on the surface of the femur is articular  
2 cartilage, I guess, in the sense it doesn't show well  
3 on the model, because it distinguishes from the bone,  
4 end of the chicken, you see the white cartilage that  
5 covers the bone. On the surface of all the bones of  
6 the knee, whether it's the femur, or the tibia, or the  
7 knee cap, there is a, there is a three to seven  
8 millimeter thick layer, we call articular cartilage,  
9 that's the protective surface that creates the  
10 articulation that allows us to move smoothly and  
11 without pain. So, in her case, she sustained an injury  
12 to the trochlear groove. If you look at this, it looks  
13 like a groove, you see the trochlear groove. The knee  
14 cap as you can see here, bend the knee back and forth  
15 and articulates in this groove. As you bend your knee  
16 back and forth, these two surfaces in a normal patient  
17 are completely smooth. Okay. In her case, she had a  
18 crater right in the center of the trochlear groove,  
19 like a crater in the street, a pothole, that creates an  
20 irregular -- you see it on the pictures. Circular  
21 lesion right here, that creates an irregular surface  
22 and that causes pain.

23 Q Okay. Thank you, Doctor. And after that  
24 initial evaluation, did you recommend a course of  
25 treatment?

1 A Yes, at that point, I thought she needed  
2 surgery because she was so far out.

3 Q And, did you perform surgery?

4 A I did.

5 Q When was that?

6 A That was on January 18th, 2007.

7 Q Okay, and can you please describe to the  
8 Jury what that surgery consisted of?

9 A Well, the procedure was something called an  
10 arthroscopy, a very common procedure we do on the knee.  
11 In order to get at these parts of the knee, we have to  
12 get into the knee. The old days, people had the knee  
13 cut open. That was very painful, took a long recovery,  
14 now we do it arthroscopically. What that means, we  
15 make two little holes, about this big, about a quarter  
16 of an inch, and we put an arthroscope, basically the  
17 size of a pencil in one of the holes. On the end of  
18 the arthroscope is a true view camera. We look up at  
19 it on the screen, see the end of the arthroscope. We  
20 see the inside of the knee with nothing more than a  
21 quarter inch incision, we make another quarter inch  
22 incision on the other side of the knee, allows us to  
23 put working instruments to treat whatever we need to  
24 treat. With two little holes, we can see everything  
25 and treat a large number of things in a fairly complex

1 thing, if necessary. That's the basic --

2 THE COURT: Just a minute, I'm sorry.  
3 It does actually relate to the case.

4 (Whereupon, there was a pause in the  
5 Proceedings)

6 THE COURT: Whenever it's convenient to  
7 break on that other issue I have some information.  
8 If you want to continue or you want to break now.

9 MR. ZILBERG: Whatever, your Honor, you  
10 have more information.

11 THE COURT: Why don't we take a break.  
12 There is an issue that needs to be resolved  
13 concerning this case. And we're going to do it  
14 now, so, I'm sorry to interrupt, but please go  
15 upstairs.

16 (Whereupon, the sworn Jury exited the  
17 courtroom)

18 THE COURT: Okay. Dr. Struhl.

19 (Whereupon, the sworn Jury entered the  
20 courtroom)

21 THE COURT: Okay, sorry, for the  
22 interruption. We are now ready to proceed.

23 MR. ZILBERG: Thank you, Judge.

24 DIRECT EXAMINATION CONT'D

25 BY MR. ZILBERG:

1 Q I'm sorry, Doctor, I think that we were in  
2 the middle of your description of the surgery, if you  
3 can proceed. Was there anything more, were you  
4 finished describing?

5 A Well, I don't think I described what I  
6 actually did to her. I described an arthroscopy. Her  
7 case, she had a small area of damage in the center of  
8 the trochlear groove and the cartilage was not normal,  
9 was loose and fragmented, partially detached, causing  
10 pain. What we did, we cleaned out all of the pieces  
11 not really stable, to get a good stable smooth area of  
12 cartilage. But, what it did, it left her with an area  
13 of damage that was full thickness. In other words, the  
14 full thickness of the layer was gone in a small area  
15 right down to the bone. So, what I would like to do in  
16 these cases is to try to not just take away the bad  
17 stuff, but I want to restore the cartilage if possible.  
18 So, we did a procedure called a microfracture, called a  
19 drilling, we take a small, like microscopic pick, looks  
20 like an ice pick, make little holes in the bone. The  
21 holes go deep enough to the marrow, three millimeters  
22 in and brings the marrow cells to the surface. The  
23 marrow cells are stem cells, and over a period of time,  
24 those cells will actually form new cartilage. And so,  
25 the area will be resurfaced with this new cartilage.

1 However, new cartilage is fibrocartilage, not normal  
2 cartilage, so it's better than nothing. We're not  
3 actually getting as good as new, get her better than  
4 she was but still not normal. We did a clean out and a  
5 microfraction to the trochlear groove.

6 Q Now, Doctor, was this, was the surgery done  
7 under general anesthesia or?

8 A Yes.

9 Q Okay. While you were performing surgery,  
10 were you able to see the inside of the knee on the  
11 screen?

12 A Yes.

13 Q Through the scope?

14 A Yes.

15 Q And, did you see, from what you saw, did you  
16 see any indication of degenerative changes?

17 A No. In fact, the knee was pretty much  
18 completely and totally normal except for this one area.

19 Q And, during the surgery, using the scope,  
20 were photographs taken of what you were doing?

21 A Yes.

22 Q And do you have those photographs with you  
23 today?

24 A I do.

25 Q May I see them, please?

1 A Yes. These are the originals.

2 Q Thank you, Doctor. And, these photographs  
3 were taken during your surgery?

4 A Yes.

5 Q And they are part of your medical chart?

6 A Yes.

7 Q And they were maintained in the ordinary  
8 course of business?

9 A Yes.

10 MR. ZILBERG: Judge, I offer these into  
11 evidence.

12 MR. JANES: No objection.

13 THE COURT: How many?

14 MR. ZILBERG: There are eleven sheets,  
15 collectively as Plaintiff's 5.

16 THE COURT: Okay. You want them each  
17 marked, 5A, 5B.

18 MR. ZILBERG: They are actually  
19 numbered.

20 THE COURT: Just collectively. I don't  
21 want each.

22 MR. ZILBERG: I'll refer to them by  
23 number. Each photograph has a number. Four  
24 photographs per page and each one has a number.

25 THE COURT: That's excellent.

1 (At this time, Plaintiff's Exhibit 5,  
2 consisting of photographs, were marked and  
3 received in evidence)

4 THE COURT: These are called intra-  
5 operative photos.

6 THE WITNESS: Yes, sir.

7 Q Doctor, I would like to show you a sheet  
8 that contains photographs 29, 30, 31 and 32?

9 (Whereupon, the exhibit was handed to  
10 the Witness)

11 Q And just looking up at 29 and 30, can you  
12 please tell us what that is?

13 A Well, the picture shows the area of damage.  
14 And on the model, it's right in the center of this  
15 groove. The picture, you see pretty much what it looks  
16 like in the model. Except the difference, that surface  
17 isn't smooth, the fragmentation and defect in the  
18 center. That's the problem. That's the first picture.  
19 By the last picture, I've cleaned it out and am  
20 drilling it, and you see the ice pick poised to go into  
21 the bone.

22 Q Now, Doctor, from that picture, can you tell  
23 whether there is any degeneration?

24 A Yes.

25 MR. JANES: Note my objection.

1 THE COURT: Overruled.

2 A Yes.

3 Q Is there?

4 A No.

5 Q And how can you tell?

6 A The cartilage is normal, except for that  
7 area.

8 Q And can you describe what you mean by  
9 normal?

10 A It's smooth, it's unblemished, there is no  
11 defects. It just looks normal.

12 Q Can you describe whether the lesion that  
13 appears in the photograph is a product of damaging or  
14 is a trauma related lesion?

15 MR. JANES: Note my objection.

16 THE COURT: Yeah, sustained, rephrase  
17 the question.

18 Q Can you tell from looking at that photograph  
19 that the lesion on the photograph, whether to a  
20 reasonable degree of medical certainty, whether that is  
21 a lesion that was caused by a trauma?

22 A Yes, I can.

23 MR. JANES: Note my objection.

24 THE COURT: Can you tell with a  
25 reasonable degree of medical certainty what caused

1 the lesion?

2 A Yes, trauma caused the lesion, no question.

3 Q Can you explain why?

4 A Because the cartilage is normal. It's a  
5 focal defect meaning just one localized area, and it's  
6 full thickness. The surrounding cartilage is normal  
7 and, you know, in the context of her mechanism of  
8 injury, it completely makes sense.

9 MR. ZILBERG: Judge, can we publish the  
10 photo to the Jury.

11 (Whereupon, that exhibit is published to  
12 the Jury)

13 THE COURT: Proceed.

14 Q Doctor, I would now like to show you a  
15 photograph that has photograph numbers 41, 42, 43 and  
16 44 on it, and specifically regarding photographs 41 and  
17 42?

18 (Whereupon, the exhibit was handed to  
19 the Witness)

20 Q Can you please explain what is in those  
21 photographs?

22 A Those are taken, these are the last four  
23 pictures taken at the conclusion of the surgery. And  
24 it's 41 and 42 show nicely that documents the fact that  
25 I've cleaned out all the loose particles, the rim is

1 stable. There is a pool of blood at the bottom. That  
2 indicates that the area that did the microfraction was  
3 deep enough to draw the marrow cells in and that's  
4 pretty much it.

5 Q And can you explain what is the significance  
6 of drawing the marrow cells in?

7 A You have to go deep enough to draw the  
8 marrow cells in, because the micro cells are the stem  
9 cells, once they get to the surface, they re-define  
10 themselves and become cartilage, become cartilage  
11 cells. You have to make sure you get enough marrow  
12 cells in there to perform the biological magic.

13 MR. ZILBERG: May we have that  
14 photograph published to the Jury, Judge.

15 THE COURT: Go ahead.

16 (Whereupon, that Exhibit is published to  
17 the Jury)

18 THE COURT: Thank you.

19 Q Now, Doctor, did you have occasion to  
20 examine the Plaintiff, Ms. DeCastro, after this  
21 surgery?

22 A Yes.

23 Q And when was that?

24 A She was seen twice, once on January 23rd,  
25 and also on May 15th of '07.

1 Q And, did Ms. DeCastro undergo any post-  
2 surgical treatment?

3 A Physical therapy, yes.

4 Q What kind?

5 A Physical therapy.

6 Q Okay. And did you order that?

7 A Yes.

8 Q And, Doctor, what is, with regard to the  
9 history that you took and with regard to what you saw  
10 yourself while conducting the surgery, did you come to  
11 a reasonable conclusion to a reasonable degree of  
12 medical certainty as to whether the injury sustained by  
13 the Plaintiff was related to her incident of September  
14 11th, 2005?

15 MR. JANES: Note my objection.

16 A Yes, I definitely thought it was related.

17 Q And can you explain?

18 A Again, it was a traumatic lesion and  
19 otherwise normal knee. She fell on the knee in a flex  
20 position, so you can imagine, if you fall on the knee  
21 and the knee is flexed, the knee cap becomes the hammer  
22 and this becomes the wood, so to speak. So, a more  
23 dramatic impact, you fall on your knee and you do  
24 damage right to that area of the trochlear groove,  
25 right like that. It totally fits.

1 Q All right. Thank you, Doctor. What is your  
2 prognosis with regard to Ms. DeCastro?

3 A Well, she had a very good response to the  
4 surgery. Unfortunately, in the long term, the  
5 fibrocartilage growth that she got or presumed to have  
6 because she's doing better, will not last. And that  
7 area is subject to breakdown over time. And, normally,  
8 what happens after a period of years, it's variable  
9 patient to patient. It could be three years, five  
10 years, ten years, the cartilage on the edges of that  
11 area break down because there is, the material is  
12 different stiffness, when there is a different  
13 stiffness, the edge becomes susceptible to breakdown  
14 and that's exactly what happens. So little by little,  
15 the area of damage widens and becomes more severe,  
16 takes a long time to develop, because she has a high  
17 probability for further treatment.

18 Q Do you have an opinion to a reasonable  
19 degree of medical certainty whether Ms. DeCastro is  
20 going to need future knee surgery regarding this  
21 particular injury?

22 MR. JANES: Note my objection.

23 THE COURT: Yes, sustained. Don't lead.

24 Q Doctor, have you ever discussed with Ms.  
25 DeCastro as to whether she's going to require future

1 knee surgery regarding this particular injury?

2 MR. JANES: Note my objection.

3 THE COURT: Sustained.

4 MR. ZILBERG: Judge, may we approach.

5 THE COURT: Sure.

6 (Whereupon, an off the record bench  
7 conference was held)

8 Q Doctor, can you tell us to a reasonable  
9 degree of medical certainty what further treatment Ms.  
10 DeCastro is going to need in the future?

11 A I think she's likely to need further  
12 arthroscopic work, and long term, probably some re-  
13 surfacing to that area, arthroplasty. Limited  
14 arthroplasty.

15 Q And to a reasonable degree of medical  
16 certainty, can you tell us what the cost of such work  
17 is?

18 MR. JANES: Note my objection.

19 THE COURT: You want to lay a foundation  
20 that we did with the other witness.

21 MR. ZILBERG: Sure.

22 Q Doctor, are you familiar with what such  
23 procedures cost?

24 A Roughly.

25 Q Okay. Can you tell us roughly what the cost

1 is anticipated to be regarding the future knee surgery  
2 or knee procedures that you've just indicated?

3 MR. JANES: Note my objection.

4 THE COURT: Overruled.

5 A The full cost, you know, of revision or  
6 arthroscopy, depending upon various things is probably  
7 ten to twenty thousand dollars. Therapy afterwards,  
8 five or so thousand, depending upon how much therapy  
9 and resurfacing, would probably be twice that.

10 Q Doctor, during your evaluation of Ms.  
11 DeCastro, did you have occasion to review any MRI films  
12 with regard to her right knee?

13 A Yes.

14 Q Did you find those to be helpful in your  
15 diagnosis or treatment?

16 MR. JANES: No objection.

17 A No, I don't believe I saw the films prior to  
18 the surgery. I think I saw them more recently.

19 MR. ZILBERG: Okay.

20 Q Having seen the films, do the films portray  
21 the injury that the Plaintiff, Ms. DeCastro, had?

22 MR. JANES: Note my objection.

23 THE COURT: Sustained.

24 MR. ZILBERG: All right, can we take a  
25 look at the films.

1 Q Doctor, can you please show the Jury whether  
2 this particular injury can be visualized on these  
3 films?

4 MR. JANES: Just note my objection.

5 A Not particularly well.

6 THE COURT: Your objection is, you don't  
7 understand what injury he's talking about.

8 MR. JANES: Objection.

9 THE COURT: Because, otherwise I don't  
10 see your objection.

11 MR. JANES: Can we approach, your Honor.

12 THE COURT: Come up.

13 (Whereupon, an off the record bench  
14 conference was held)

15 THE COURT: Okay, withdrawn.

16 MR. JANES: Yes.

17 THE COURT: Okay.

18 (Whereupon, an MRI film is displayed on  
19 the shadow box)

20 Q Okay, can you show the Jury whether it's  
21 possible to see the injury that you performed surgery  
22 on, on these films?

23 A I would say indirectly. In the sense that  
24 the articular cartilage doesn't show up particularly  
25 well on MRIs without a lot of sophisticated imaging,

1 that's not typically done. However, when there is  
2 damage to the cartilage, the bone underneath the  
3 cartilage has some typical signal changes that you see  
4 here. So, you see the nodes of underlying bone, tip of  
5 it above that is probably suspect. And, here you see  
6 right here, the knee cap. We're in the groove, just  
7 like you saw in the model. You see some white specks  
8 here that shows this edema, extra fluid in the bone.  
9 What happens when it's injured, which usually means  
10 cartilage overlying and it's problematic.

11 Q You didn't see these films before the  
12 surgery?

13 A I did not.

14 Q Were they necessary for you to form a  
15 diagnosis?

16 A No, a diagnosis is pretty obvious.

17 MR. ZILBERG: All right, thank you,  
18 Doctor. I have nothing further, Judge.

19 CROSS EXAMINATION

20 BY MR. JANES:

21 Q Good afternoon, Doctor.

22 A Good afternoon.

23 Q You are being paid for your time in court  
24 today, correct?

25 A That is right.

1 Q How much?

2 A Seventy-five hundred dollars.

3 Q Have you been compensated by Plaintiff's  
4 offices for any other services you provided in this  
5 litigation, narrative reports or any other  
6 consultations with them?

7 A I did a narrative report, yes.

8 Q How much was that?

9 A Probably six hundred dollars.

10 Q And do you normally provide narrative  
11 reports in the course of your practice for Plaintiff's  
12 firms, personal injury litigation?

13 A I get requests on a number of basis.

14 Q How many per year, approximately?

15 A Twenty.

16 Q How long have you been doing that, how long  
17 would you say for twenty years --

18 MR. JANES: Withdrawn.

19 Q For how long have you been giving  
20 approximately twenty narrative reports per year to the  
21 Plaintiff's bar, would you say?

22 A It's risen a little more lately, probably  
23 been doing ten to twenty a year, probably five, six  
24 seven years, all the patients that I've treated them.

25 Q And when you have come to court to testify,

1 it's been overwhelmingly for the Plaintiff's bar,  
2 correct?

3 A Entirely. Again, all with very little  
4 exceptions, my patients.

5 Q But there were other occasions when you did  
6 testify for individuals who weren't your patients?

7 A Once that I remember, in fifteen years.

8 Q And you said during your direct examination  
9 that you perform approximately four hundred surgeries  
10 per year?

11 A Yes.

12 Q That's more than one per day, on an average.

13 A I don't do it like that, but you can go like  
14 that.

15 Q And you prepared a report on December 13th,  
16 2006, correct? Regarding treatment of the Plaintiff,  
17 you can refer to your reports. Did you prepare a  
18 report on December 13th, 2006, regarding your treatment  
19 of the Plaintiff?

20 A Yes, I don't recall the report, my office--  
21 it's here somewhere.

22 Q And did you indicate in that report that the  
23 MRI of the Plaintiff was taken on December 16th, 2006,  
24 not December 16th, 2005?

25 A Yes, that was obviously a mistake.

1 Q And, the MRI report of the Plaintiff's right  
2 knee for December 16th, 2005 showed only a small amount  
3 of effusion, correct?

4 A Yes.

5 Q And there was no meniscal or chondral  
6 pathology?

7 A That is the report, yes.

8 Q And when you examined the Plaintiff on  
9 December 15th, 2006, you found only a moderate amount  
10 of effusion in her right knee, correct?

11 A Yes.

12 Q Would you agree with the statement, Dr.  
13 Struhl, that a grade 1 signal in an MRI for a knee is  
14 generally consistent with degenerative diseases?

15 A Absolutely not.

16 Q And when you performed the surgery on  
17 Plaintiff's knee on January 10th 2007, the medial  
18 meniscus and articular surface was normal?

19 A Correct.

20 Q ACL and PCL was normal?

21 A That is correct.

22 Q And lateral meniscus articular surface was  
23 found to be normal also?

24 A Yes.

25 Q And you find synovitis in the Plaintiff's

1 knee?

2 A Yes.

3 Q And synovitis generally is consistent with  
4 degenerative disease?

5 A Consistent with any injury to the knee.

6 Q But also consistent with degenerative  
7 disease?

8 A You see it with trauma, with degeneration,  
9 with any reason. Injury creates synovitis of any sort.

10 Q But also degenerative conditions create  
11 synovitis as well?

12 A Yes.

13 Q And Plaintiff had no tear in the right knee,  
14 had no type of tear in her right knee?

15 A Depends on what word you want to call to  
16 describe the chondral lesion, no ligament tears.

17 Q You, in your report, described her injury as  
18 a lesion, not a tear, correct?

19 A Yes.

20 Q When treating a patient, do you normally  
21 review their medical history?

22 A Excuse me?

23 Q When treating a patient, do you normally  
24 review their medical history?

25 A Yes.

1 Q And you reviewed the Plaintiff's records  
2 from Bronx Lebanon Hospital?

3 A I don't think so.

4 Q Why didn't do you that? Is that against  
5 your own procedure?

6 A No, you said medical history. Medical  
7 history is the interview with the patient. Maybe we're  
8 misinterpreting.

9 Q Not their records?

10 A If their records are available, I'll review  
11 the records if they provide them to me.

12 Q Do you think if someone suffers from a  
13 traumatic injury, you should review the date of that  
14 injury, when she was treated?

15 A Preparing a legal case and providing care  
16 for the patient, I take a history, I do an exam, and  
17 whatever information I think I need in addition to that  
18 process, to lead to a good conclusion and plan, I do.  
19 On the rare occasion that requires getting other  
20 records, I may do that. It's pretty unusual where  
21 that's necessary, in my experience.

22 Q But you didn't review the records of Bronx  
23 Lebanon Hospital?

24 A That's correct.

25 MR. ZILBERG: Objection.

1 THE COURT: Objection sustained.

2 Q Are you aware Bronx Lebanon Hospital records  
3 indicate the Plaintiff suffered a knee sprain?

4 A As I said, I didn't see those records.

5 Q You never reviewed them even before you  
6 testified today?

7 A I reviewed some other records, I'm just  
8 trying to recollect. I don't remember offhand.

9 Q Would you say that a diagnosis of a right  
10 knee sprain is consistent with the injury you found on  
11 the Plaintiff?

12 A It is inconsistent, completely.

13 Q Are you aware that X-rays on the date of the  
14 Plaintiff's accident at Bronx Lebanon Hospital revealed  
15 no large amount of effusion in her right knee?

16 A No.

17 Q And you testified earlier that following  
18 Plaintiff's surgery, January 18, 2007, you continued to  
19 treat the Plaintiff?

20 A Yes, I saw her one more time.

21 Q Two more times?

22 A I saw her in May of '07.

23 Q Didn't you see her January?

24 A I thought you said after January, yes.

25 Q And, specifically, May 15th,, 2007, you

1 treated and examined the Plaintiff, correct?

2 A Yes.

3 Q And, at that time, the Plaintiff was doing  
4 extremely well, correct?

5 A That's what I said, yes.

6 Q And the Plaintiff only had mild pain, which  
7 was improving, correct?

8 A That is correct.

9 Q And the Plaintiff's right knee range of  
10 motion was virtually full, correct?

11 A Correct.

12 Q In your examination on May 15th, 2007,  
13 revealing your surgery was a success?

14 A She was doing well.

15 Q That's because you are a good Doctor, you  
16 did a good job in the surgery?

17 A She was a good patient as well.

18 Q Well, you agree with the assessment, you did  
19 a good job in the surgery?

20 A I thought it went well.

21 Q Now, that prognosis has changed since then,  
22 correct?

23 A Who's saying anything about prognosis the  
24 first time. I was making a statement the way she was  
25 in that moment of time.

1 Q You provide a report on November 18th, 2008,  
2 correct?

3 A Yes.

4 Q And your assessment in that report was  
5 different than on May 15th, 2007, correct?

6 A No, you saw how --

7 Q Answer the question, Doctor. Let me  
8 followup. Plaintiff was doing very well at that time?

9 A When that report was done, was the report  
10 based on the review of records, I don't believe I saw  
11 her on that occasion.

12 Q When was the last time prior to November  
13 18th, 2008, that you saw the Plaintiff?

14 A May of '07.

15 Q Over a year before?

16 A That's correct.

17 Q Year and a half before?

18 A That's correct.

19 Q You have a website?

20 A I do.

21 Q Shoulders and knee?

22 A Shoulders and knees dot com.

23 Q And you describe microfracture procedure in  
24 that website?

25 A Yes.

1 Q Do you mention anything in the website about  
2 need for future care because the, I believe you  
3 testified the fibrocartilage won't last?

4 A That's correct.

5 Q That's on the website?

6 A I don't know. I'd have to review my  
7 website. I don't have it memorized.

8 Q You are not sure if it isn't or --

9 A I can't tell you for sure.

10 Q Even though it's your website?

11 A I don't have it memorized. Primary thing on  
12 it, I do on the website is show visual image.

13 Q That's fine, Doctor. Would you agree that  
14 loss of height in an MRI is generally consistent with  
15 degenerative disease?

16 A Loss of height of what?

17 Q On an MRI?

18 A Loss of height of what?

19 Q Of the knee joints, the joint space?

20 A You talking about the joint space, various  
21 things talk about height, narrowing of joint space.

22 Q Yes?

23 A If you have a narrow joint space, that  
24 generally could indicate degenerative disease.

25 Q Thank you, Doctor. You are not going to say

1 you're welcome?

2 MR. ZILBERG: Judge --

3 THE COURT: Sustained.

4 MR. JANES: Sorry.

5 Q Would you say it's common for individuals  
6 over the course of time, as they get older, to show  
7 degenerative conditions in joints such as the knee?

8 A Pretty general question. Some people do,  
9 some people don't.

10 Q Are you aware if Plaintiff had any treatment  
11 prior to September 11th, 2005, for either her left knee  
12 or right knee?

13 A I believe I was aware of the fact that she  
14 had no prior history of right knee problems, pain or  
15 trauma.

16 Q Were you aware of any left knee problems?

17 A No.

18 Q You were not?

19 A No.

20 Q Did you ask the Plaintiff her history  
21 regarding left knee?

22 A Left knee.

23 Q Yes?

24 A She wasn't complaining about her left knee,  
25 no.

1 Q Someone suffering from degenerative  
2 conditions, you should ask about the history of both  
3 joints?

4 A She wasn't suffering a degenerative  
5 condition.

6 Q Did you inquire, a person with a  
7 degenerative condition, whether she had any prior pain  
8 in left knee or right knee joint?

9 MR. ZILBERG: Objection.

10 THE COURT: Yes, sustained.

11 Q Do you know if Plaintiff has had any  
12 degenerative conditions in her left knee?

13 A I was unaware of having a degenerative  
14 condition in any knee.

15 Q You never reviewed the MRI films prior to  
16 surgery?

17 A Correct.

18 Q Do you know the films existed prior to your  
19 surgery?

20 A Yes, I said in my note.

21 Q Thank you. Doctor, thank you very much.

22 A Thank you. You are welcome.

23 THE COURT: Just a moment.

24 REDIRECT EXAMINATION

25 BY MR. ZILBERG:

1 Q Doctor, you and defense Counsel spent some  
2 time discussing something called synovitis?

3 A Yes.

4 Q Can you please explain to the Jury what that  
5 is?

6 A Well, the synovium, the one thing that  
7 doesn't show up on this model. The inside of the knee  
8 joint, any joint in our body, the joint is a water-  
9 tight structure; has a lining on the inside. There is  
10 joint fluid, and because it's water tight, the fluid  
11 stays in the knee. The lining of the joint is made up  
12 of material called synovium. And so any time anybody  
13 has anything that's causing inflammation of the knee,  
14 whether it's a degenerative condition or an acute  
15 trauma or anything where there are fragments of  
16 anything floating around the knee for any reason, the  
17 knee can get inflamed. When the knee gets inflamed,  
18 the synovium becomes inflamed. That's the primary  
19 indicator of pain and people get synovitis.

20 Q And, so, the synovitis could be a result of  
21 either degeneration or trauma?

22 MR. JANES: Note my objection, asked and  
23 answered.

24 THE COURT: Well, what's the question?  
25 I didn't hear the question.

1 MR. ZILBERG: I'm just clarifying  
2 synovitis.

3 THE COURT: I know, I think, the  
4 objection was made before you asked the question.

5 MR. ZILBERG: I'm sorry.

6 MR. JANES: I thought it was done.

7 Q My question was, synovitis can be caused  
8 either --

9 THE COURT: That's not a question, you  
10 see. That's a statement.

11 Q Can synovitis be caused either by  
12 degeneration or by trauma?

13 MR. JANES: Note my objection.

14 THE COURT: Sustained. What causes  
15 synovitis?

16 A Any type of injury to the knee where cells  
17 break down from damage, whether it's from degenerative  
18 process or acute process, causes synovitis. When cells  
19 break down, the contents of the cells are released,  
20 they are toxic enzymes get released, the toxic enzymes  
21 cause damage to the lining of the knee. The lining of  
22 the knee gets inflamed, causes redness and it causes  
23 pain because the nerve endings of the synovium, so  
24 synovitis causes pain.

25 Q And, when you on the day of the surgery went

1 inside the knee of Ms. DeCastro with a scope, and were  
2 actually looking at what what's inside the knee, did  
3 you see anything that indicated degeneration?

4 MR. JANES: Note my objection.

5 THE COURT: Overruled.

6 A No, and in addition to looking, remember,  
7 we're feeling too. We have the probes and both visual  
8 and palpable exam.

9 MR. ZILBERG: I have nothing further.

10 Thank you.

11 MR. JANES: Nothing further.

12 THE COURT: Thank you Doctor. They are  
13 not in evidence. You could take them. The  
14 photos, you can't take. That you can take.

15 (Whereupon, the Witness was excused  
16 from the Witness Stand)

17 THE COURT: Okay, any further witnesses?

18 MR. CERTAIN: Plaintiff rests.

19 THE COURT: There you go. Okay, the  
20 Plaintiff has rested. We anticipate that the  
21 defendant will be calling a couple of witnesses  
22 tomorrow morning.

23 MR. JANES: Yes, your Honor.

24 THE COURT: We're hopeful, based on our  
25 experience here, in terms of length of doctors'