

The Honorable Tana Lin

UNITED STATES DISTRICT COURT IN AND FOR
THE WESTERN DISTRICT OF WASHINGTON IN SEATTLE

KA WAI JIMMY LO,

Plaintiff,

v.

UNITED STATES of AMERICA,

Defendant.

No. 2:17-cv-01202-TL

~~AGREED~~ PRETRIAL ORDER
[AMENDED]

I. FEDERAL JURISDICTION

Jurisdiction in this matter is premised upon the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346(b) and 2679(b)(1). The United States has only waived sovereign immunity for the negligent or wrongful acts or omissions of any federal employee acting within the scope of employment, under circumstances where the United States, if a private person, would be liable to the plaintiff in accordance with the law of the place where the act or omission occurred. 28 U.S.C. §§ 1346(b). Venue is proper under 28 U.S.C. § 1402(b). The parties agree that Washington State law substantively governs the claim to be adjudicated at trial in this matter.

II. CLAIMS AND DEFENSES

At trial, Plaintiff will pursue the following claims:

Plaintiff will pursue economic, general, and special damages for the injuries Mr. Lo suffered and

1 continues to suffer as a result of the motor vehicle collision that occurred on November 23, 2012.

2 **The United States will pursue the following affirmative defenses:**

3 1. Plaintiff's injuries and damages were not proximately caused by the negligent or
4 wrongful act or omission of any agent, employee, or representative of the United States.
5 Plaintiff's injuries and damages, if any, were caused by other preexisting or unrelated sicknesses,
6 injuries, or other medical conditions.

7 2. Plaintiff's total damages must be limited to no more than \$300,000.00, the sum
8 certain set forth in Plaintiff's administrative claim form. *See* U.S.C. § 2675(b).

9 3. Plaintiff failed to mitigate, obviate, diminish or otherwise act to lessen or reduce
10 the injuries, damages and disabilities alleged. The damages Plaintiff claims (if proven) must be
11 decreased by the portion of his responsibility in failing to mitigate the same.

12 4. Plaintiff's claims for both past and future earnings as well as earning capacity (if
13 proven) must be decreased by the portion of his responsibility in failing to mitigate the same.

14 5. Pursuant to 28 U.S.C. § 2678, Plaintiff is not entitled to a separate award of
15 attorney's fees, expenses, or costs. Nor is Plaintiff entitled to any pre-judgment interest against
16 the United States.

17 6. All future damages, if any, must be reduced to present value.

18 **III. ADMITTED FACTS**

19 Defendant has "concluded that it does not contest liability in this matter." Dkt. 63, Pg 1,
20 ln. 22-23. This Court has granted Defendant's summary judgment motion on the special
21 damages as it relates to *past*¹ medical bills. The Court also excluded the following via pretrial
22

23 _____
24 ¹ *To the extent that this order reflects substantive changes from the parties' joint proposed pretrial order (Dkt. No. 138), additions have been marked in bold and italics, while deletions have been marked with a strikethrough.*

1 motions: (1) testimony from Plaintiff's expert Dr. Sanford Wright regarding Plaintiff's hip,
2 mental health, and complex regional pain syndrome; (2) vocational testing performed by
3 Plaintiff's life care planner; and (3) portions of Plaintiff's life care plan pertaining to future
4 mental health care. The parties also stipulated to the present cash value of the portions of the
5 life care plan that remain and agree to present those figures through the report of Defendant's
6 retained economist, Lorraine Barrick, without the need to call Ms. Barrick to testify.

7 1. Plaintiff was involved in a motor vehicle collision with a United States Postal
8 Service ("USPS") employee, Christian Tanuyan, on November 23, 2012, at approximately 2 PM.

9 2. The collision occurred at the intersection of 87th Avenue S. and S. 123rd Street in
10 Renton, Washington.

11 3. Plaintiff was operating a 2011 Toyota Yaris, and was traveling southbound on 87th
12 Avenue S., proceeding straight.

13 4. Mr. Tanuyan was also traveling southbound on 87th Avenue S., but had pulled to
14 the right of the road, at the entrance of S. 123rd Street, to attempt to cross over 87th Avenue S. and
15 travel north (in essence, a U-turn).

16 5. Mr. Tanuyan collided with the front right corner of Plaintiff's vehicle and
17 Plaintiff's vehicle spun. There was a secondary impact with the left front of Plaintiff's vehicle.

18 6. Plaintiff was traveling approximately 25 MPH at time of impact.

19 7. Plaintiff was transported on scene to UW Valley Medical Center for further
20 treatment via ambulance.

21 8. The United States does not contest liability but disputes the nature and extent of
22 Plaintiff's damages.

23 9. The property damage to Plaintiff's vehicle was separately adjudicated and is not
24 an issue remaining for trial.

1 **IV. ISSUES OF LAW**

2 **The following issues of law must be determined by the Court:**

- 3 1. What injuries to Plaintiff has Plaintiff proved were proximately caused by Defendant's
4 negligence by a preponderance of the evidence?
- 5 2. Has Plaintiff proved by a preponderance of the evidence that he sustained economic
6 damages? Specifically:
- 7 a. That he requires future medical care as a result of the collision.
 - 8 b. That such care is reasonable, necessary, and related to the subject collision.
 - 9 c. That he lost earnings as a result of the collision.
 - 10 d. The reasonable value of those earnings to the present time.
 - 11 e. That he will, continue to lose earnings and/or earning capacity.
 - 12 f. The reasonable value of earning and/or earning capacity that will, with reasonable
13 probability, be lost in the future.
- 14 3. Has Plaintiff proved by a preponderance of the evidence that he sustained non-economic
15 damages? Specifically:
- 16 a. What damages, if any, has Plaintiff proved by a preponderance of the evidence
17 related to the nature and extent of his injuries?
 - 18 b. What damages, if any, has Plaintiff proved by a preponderance of the evidence
19 concerning his disability, disfigurement, and loss of enjoyment of life, experienced
20 and with reasonable probability to be experienced in the future?
 - 21 c. What damages, if any, has Plaintiff proved by a preponderance of the evidence
22 related to the pain and suffering, both mental and physical, inconvenience, mental
23 anguish, and emotional distress?
- 24

1 4. Has the United States proved by a preponderance of evidence that Plaintiff failed to
2 mitigate any of the above damages?

3 **V. PLAINTIFF'S WITNESSES**

4 (1) Ka Wai Jimmy Lo. *Will Testify In Person.* Mr. Lo is the Plaintiff in this action. He
5 will testify as to the facts and circumstances surrounding the collision, his subsequent
6 injuries, and the affect those injuries have had on his day-to-day life and relationships.
7 Address: 8416 South 120th Street, Seattle, WA 98178.

8 (2) Tiffany Chim. *Will Testify in Person.* Ms. Chim is Plaintiff's partner and will testify
9 regarding Plaintiff's injuries and the effects those injuries had on Plaintiff and his
10 day-to-day life. Address: 8416 South 120th Street, Seattle, WA 98178.

11 (3) Michael Chan. *Will Testify via Zoom.* Mr. Chan is a close friend of Plaintiff and may
12 testify regarding Plaintiff's injuries and the effects those injuries had on Plaintiff and
13 his day-to-day life. Address: 6681 Krieb Lake Ct., Las Vegas, NV 89148. Mr. Chan
14 previously agreed to testify when the parties stipulated to a zoom trial. He lives in
15 Las Vegas, and appearing in person will be a burden on him. Plaintiff accordingly
16 respectfully requests leave to allow him to testify by Zoom.

17 (4) Kimberly Tso. *Will Testify via Zoom.* Ms. Tso is a close friend of Plaintiff and may
18 testify regarding Plaintiff's injuries and the effects those injuries had on Plaintiff and
19 his day-to-day life. Address: 8802 SE 37th St., Mercer Island, WA 98040. Ms. Tso
20 agreed to testify when the case was to proceed as a Zoom-only trial. She works full
21 time, and scheduling her for an in person appearance will disrupt her schedule.
22 Plaintiff accordingly respectfully requests leave to allow her to testify by Zoom.

23 (5) Dr. Sanford Wright, MD. *Will Testify via Zoom.* Dr. Wright is an expert retained by
24 Plaintiff and will testify regarding Plaintiff's medical treatment and injuries. Dr.

1 Wright may also be called to rebut testimony of Defendant's expert witnesses.
2 Address: 3726 Broadway Suite 201, Everett, WA 98201. Phone: (425) 317-9119.
3 Dr. Wright maintains an active practice mixing medical and legal consultations. He
4 was previously scheduled when the parties had stipulated to a zoom trial. He is
5 booked far in advance, and it would therefore be a hardship for him to reschedule
6 appointments to take the additional time to travel to the Courthouse and potentially
7 wait for his turn to testify. Plaintiff accordingly respectfully requests leave to allow
8 him to testify by Zoom.

9 (6) Dr. Michelle Brown, PsyD. *Will Testify via Zoom.* Ms. Johnson is an expert retained
10 by Plaintiff and will testify regarding Plaintiff's emotional and psychological state,
11 the effects of the motor vehicle collision on his general mental health, and injuries.
12 Dr. Brown may also be called to rebut testimony of Defendant's expert witnesses.
13 Address: 4711 44th Ave SW, Suite C, Seattle WA 98116. Phone: (206) 317-4646.
14 Dr. Brown was previously scheduled when the parties stipulated to a zoom trial. She
15 maintains a largely clinical practice and therefore it would be a hardship to reschedule
16 many clients receiving mental health treatment for her to physically come to the Court
17 to testify. Plaintiff accordingly respectfully requests leave to allow her to testify by
18 Zoom.

19 (7) Cloie B. Johnson, M.Ed., A.B.V.E., C.C.M. *Will Testify via Zoom.* Ms. Johnson is an
20 expert retained by Plaintiff and will testify regarding Plaintiff's economic loss. Ms.
21 Johnson may also be called to rebut testimony of Defendant's expert witnesses.
22 Address: 10132 NE 185th St., Bothell, WA 98011. Phone: (425) 486-4040. Ms.
23 Johnson had a previously scheduled vacation that coincided with the Court's re-
24 noting of trial. She is willing to testify during trial, but it would be a hardship for her

1 to testify in person. Plaintiff accordingly respectfully requests leave to allow her to
2 testify by Zoom.

3 **VI. DEFENDANT'S WITNESSES**

4 **The following expert witnesses may be called by the United States at trial:**

- 5 1. Brad L. Bates, Ph.D. – *Will testify live.*
6 Tacoma Psychology, PLLC
7 2102 N. 30th Street, Suite B
8 Tacoma, WA 98403
9 Phone: (253) 383-0101

10 Dr. Bates is a licensed clinical psychologist who was retained by the United States to
11 perform an independent mental health examination on February 5, 2021. He will testify regarding
12 his own examination as well as Plaintiff's post-collision treatment history, diagnoses, and
13 prognoses as it relates to apparent mental health disorders. He will also address testimony from
14 Plaintiff's expert(s) regarding future care and treatment. Dr. Bates meets the vaccine
15 requirements set forth by the Court via email on April 13, 2022, and thus, will appear in-person.

- 16 2. Patrick N. Bays, D.O. – *Will testify live.*
17 NOVA Medical Experts
18 140 4th Avenue N, Suite 170
19 Seattle, WA 98109
20 Phone: (206) 960-4119

21 Dr. Bays is a board-certified orthopedic surgeon who was retained by the United States to provide
22 opinion regarding the alleged orthopedic injuries, including the cervical and lumbar spine as well
23 as the upper extremity pain/discomfort. He will testify regarding Plaintiff's post-collision
24 treatment history, diagnoses, and prognoses including Plaintiff's unrelated degenerative
conditions impacting the spine. He will also discuss the apparent need for surgical intervention
in the lower back. Lastly, he will address testimony from Plaintiff's expert(s) regarding future
care and treatment. Dr. Bays meets the vaccine requirements set forth by the Court via email on
April 13, 2022, and thus, will appear in-person.

1 3. John Berg, M.Ed., CRC, IPEC, ABVE/Diplomate – *Will testify live.*
2 Vocational Consulting, Inc.
3 3515 SW Alaska Street
 Seattle, WA 98126
 Phone: (206) 933-8870

4 Mr. Berg is a vocational rehabilitation counselor who was retained by the United States
5 to provide opinion regarding whether Plaintiff’s employability had been impacted by the subject
6 collision. He will testify regarding Plaintiff’s employment history both prior and subsequent to
7 the collision (including the viability of Plaintiff’s many attempted business ventures) and discuss
8 the type(s) of employment available to Plaintiff presently. He will address testimony from
9 Plaintiff’s expert(s) regarding future earning capacity loss and/or the apparent need for vocational
10 retraining or education. Mr. Berg meets the vaccine requirements set forth by the Court via email
11 on April 13, 2022 and thus, will appear in-person.

12 4. Edward I. Dagher, M.D.—*Will testify live.*
13 Center for Musculoskeletal Evaluations
14 1822 Black Lake Boulevard SW, Suite 102
 Olympia, WA 98512
 Phone: (360) 878-8862

15 Dr. Dagher is a board-certified physical medicine and rehabilitation physician who was
16 retained by the United States to provide opinion regarding the alleged physical injuries, including
17 the cervical and lumbar spine as well as the upper extremity pain/discomfort. He will testify
18 regarding Plaintiff’s post-collision treatment history, diagnoses, and prognoses including
19 Plaintiff’s unrelated degenerative conditions impacting the spine. He will also discuss the
20 apparent need for surgical intervention in the lumbar spine and/or interventional spinal procedures
21 (e.g., ablation) in the cervical spine. Lastly, he will address testimony from Plaintiff’s expert(s)
22 regarding future care and treatment. Dr. Dagher meets the vaccine requirements set forth by the
23 Court via email on April 13, 2022 and thus, will appear in-person.

1 **The following lay witnesses may be called by the United States at trial:**

- 2 1. Christian Tanuyan – *Possible Witness Only*
 3 c/o Erin K. Hoar, Assistant United States Attorney, Counsel for United States

4 Mr. Tanuyan was the driver of the USPS vehicle that collided with Plaintiff's vehicle on
 5 November 23, 2012. Mr. Tanuyan may be called by the United States to rebut any claims by
 6 Plaintiff regarding the mechanism of the collision and Plaintiff's presentation at the scene.

7 **VII. PLAINTIFF'S EXHIBITS**

8 Plaintiff intends to introduce the following exhibits at trial:

<u>No.</u>	<u>Description</u>	<u>Authenticity</u>	<u>Admissibility</u>	<u>Objection</u>	<u>Admitted</u>
P-1.	Property Damage Photographs	Stipulated	Stipulated		
P-2.	Property Damage Correspondence	Stipulated	Disputed	401-402; 802	
P-3.	Police Report	Stipulated	Stipulated		
P-4.	Initial Report of Dr. Wright	Stipulated	Disputed	802	
P-5.	Initial Report of Ms. Johnson	Stipulated	Disputed	802	
P-6.	Initial Report of Dr. Brown	Stipulated	Disputed	802	
P-7.	Rebuttal Report of Dr. Wright	Stipulated	Disputed	802	
P-8.	Rebuttal Report of Ms. Johnson	Stipulated	Disputed	802	
P-9.	Rebuttal Report of Dr. Brown	Stipulated	Disputed	802	
P-10.	Supplemental Report of Dr. Wright	<i>Withdrawn</i>			
P-11.	Supplemental Report of Ms. Johnson	<i>Withdrawn</i>			
P-12.	Supplemental Report of Dr. Brown	<i>Withdrawn</i>			
P-13.	Tax Records	Stipulated	Stipulated		
P-14.	Property Records	Disputed	Disputed	401-402; 602; 802; 901	
P-15.	Business Records	Stipulated	Disputed	401-402; 602; 802; 901	
P-16.	Records: Social Security Administration	Stipulated	Stipulated		
P-17.	Records: WA Employment Security Department	Stipulated	Stipulated		
P-18.	Accident Scene Photographs	Stipulated	Stipulated		
P-19.	Photographs: Mr. Lo	Withdrawn			

1	P-20.	Educational Records: Mr. Lo	Stipulated	Stipulated		
2	P-21.	Radiology Images: Proliance Orthopedic	Stipulated	Stipulated		
3	P-22.	Radiology Images: MultiCare	Stipulated	Stipulated		
4	P-23.	Radiology Images: Updated MultiCare	Stipulated	Stipulated		
5	P-24.	Employment Records: KT Building Supply	Stipulated	Stipulated		
6	P-25.	Employment Records: Western Homes Realty Inc	Stipulated	Stipulated		
7	P-26.	Medical Specials Summary	Withdrawn			
8	P-27.	Medical & Billing Records: Assoc Emergency Phys	Stipulated	Stipulated		
9	P-28.	Medical & Billing Records: Bellevue Bone and Joint	Stipulated	Stipulated		
10	P-29.	Medical & Billing Records: Clark Chiropractic	Stipulated	Stipulated		
11	P-30.	Medical & Billing Records: Columbia City Chiropractic	Stipulated	Stipulated		
12	P-31.	Medical & Billing Records: Daniel Fosmire, MD	Stipulated	Stipulated		
13	P-32.	Medical & Billing Records: Diagnostic Imaging NW	Stipulated	Stipulated		
14	P-33.	Medical & Billing Records: Evergreen Health	Stipulated	Stipulated		
15	P-34.	Medical & Billing Records: Massage Envy	Stipulated	Stipulated		
16	P-35.	Medical & Billing Records: Prescription Receipts	Withdrawn			
17	P-36.	Medical & Billing Records: MultiCare	Stipulated	Stipulated		
18	P-37.	Medical & Billing Records: Navos Mental Health	Stipulated	Stipulated		
19	P-38.	Medical & Billing Records: NeighborCare	Stipulated	Stipulated		
20	P-39.	Medical & Billing Records: Overlake Hospital	Stipulated	Stipulated		
21	P-40.	Medical & Billing Records: Overlake Medical Clinic	Stipulated	Stipulated		
22	P-41.	Medical & Billing Records: Proliance Orthopedic	Stipulated	Stipulated		
23	P-42.	Medical & Billing Records: Steven M. Hall, M.D.	Stipulated	Stipulated		
24	P-43.	Medical & Billing Records: UW Physicians	Stipulated	Stipulated		
	P-44.	Medical & Billing Records: UW Valley Medical Center & Clinics	Stipulated	Stipulated		

P-45.	Medical & Billing Records: Valley Medical Center & Urology	Withdrawn			
P-46.	Medical & Billing Records: Vantage Radiology	Stipulated	Stipulated		

VIII. DEFENDANT'S EXHIBITS

The United States may offer the following exhibits at trial, in addition to any exhibits identified by Plaintiff:

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-1.	CTs of Cervical Spine and Chest, Abdomen and Pelvis, Dated 11/17/2006 (USAO_Lo 949, 951 + 2612)	Stipulated	Stipulated	N/A	
D-2.	Renton Fire and Emergency Services Incident Report Form, Dated 11/23/12 (USAO Lo PLTF 765)	Stipulated	Stipulated	N/A	
D-3.	Tri-Med Ambulance Records, Dated 11/23/12 (USAO Lo PLTF 766-769)	Stipulated	Stipulated	N/A	
D-4.	Valley Medical Center ER Records, Dated 11/23/12 (USAO Lo PLTF 731-735)	Stipulated	Stipulated	N/A	
D-5.	XR of Right Ankle, Dated 11/23/12 (USAO Lo 942)	Stipulated	Stipulated	N/A	
D-6.	XR of Cervical Spine, Dated 11/23/12 (USAO_Lo 943 + 2612)	Stipulated	Stipulated	N/A	
D-7.	CT of Chest, Abdomen and Pelvis, Dated 11/23/12 (USAO Lo 945-946 + 2612)	Stipulated	Stipulated	N/A	
D-8.	Valley Orthopedic Associates Record, Dated 1/17/13 (USAO_Lo 2056-2058)	Stipulated	Stipulated	N/A	
D-9.	XR of Lumbar Spine, Dated 1/17/13 (USAO Lo 2618)	Stipulated	Stipulated	N/A	
D-10.	MRI of Lumbar Spine, Dated 1/29/13 (USAO_Lo 2074-2075 + 2618)	Stipulated	Stipulated	N/A	
D-11.	Valley Orthopedic Associates Record, Dated 3/1/13 (USAO_Lo 2054-2055)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-12.	Neighborcare Health Record, Dated 7/8/14 (USAO_Lo_PLTF 1129-1132)	Stipulated	Stipulated	N/A	
D-13.	Outpatient Physical Therapy Discharge, Dated 5/29/13 (USAO Lo PLTF 1158)	Stipulated	Stipulated	N/A	
D-14.	Columbia City Chiropractic Record, Dated 8/15/14 (USAO Lo 39-41)	Stipulated	Stipulated	N/A	
D-15.	Valley Cities Behavioral Health Record, Dated 11/12/14 (USAO_Lo 2764-2780)	Stipulated	Stipulated	N/A	
D-16.	MRI of Lumbar Spine, Dated 11/25/14 (USAO Lo 725-726)	Stipulated	Stipulated	N/A	
D-17.	MRI of Cervical Spine, Dated 11/25/14 (USAO Lo 2615 + 734-736)	Stipulated	Stipulated	N/A	
D-18.	Steven Hall, MD Records, Dated 12/1/14 to 4/8/15 (USAO Lo 702 + 715-724)	Stipulated	Stipulated	N/A	
D-19.	Bellevue Bone & Joint Record, Dated 12/8/14 (USAO Lo 12-13)	Stipulated	Stipulated	N/A	
D-20.	Overlake L3-L4 ESI, Dated 12/11/14 (USAO Lo 2614)	Stipulated	Stipulated	N/A	
D-21.	Bellevue Bone & Joint Record, Dated 12/24/14 (USAO Lo 10-11)	Stipulated	Stipulated	N/A	
D-22.	Outpatient Physical Therapy Discharge, Dated 1/2/15 (USAO Lo 728)	Stipulated	Stipulated	N/A	
D-23.	Bellevue Bone & Joint Record, Dated 1/28/15 (USAO Lo 8-9)	Stipulated	Stipulated	N/A	
D-24.	MRI of Cervical Spine, Dated 1/29/15 (USAO Lo 2614)	Stipulated	Stipulated	N/A	
D-25.	MRI of Lumbar & Thoracic Spine, Dated 1/30/15 (USAO Lo 2614)	Stipulated	Stipulated	N/A	
D-26.	Bellevue Bone & Joint Record, Dated 2/2/15 (USAO Lo 7)	Stipulated	Stipulated	N/A	
D-27.	Bellevue Bone & Joint Record, Dated 2/2/15 (USAO_Lo 5-6)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-28.	Ginger Allen, MD Record, Dated 3/9/15 USAO Lo 757-760)	Stipulated	Stipulated	N/A	
D-29.	Ginger Allen, MD Record, Dated 4/7/15 USAO Lo 761-763)	Stipulated	Stipulated	N/A	
D-30.	Ginger Allen, MD Record, Dated 5/5/15 (USAO Lo 765-767)	Stipulated	Stipulated	N/A	
D-31.	Ginger Allen, MD Record, Dated 6/1/15 (USAO Lo 768-770)	Stipulated	Stipulated	N/A	
D-32.	Ginger Allen, MD Record, Dated 6/2/15 (USAO Lo 771-773)	Stipulated	Stipulated	N/A	
D-33.	Ginger Allen, MD Record, Dated 6/16/15 (USAO Lo 777-780)	Stipulated	Stipulated	N/A	
D-34.	Ginger Allen, MD Record, Dated 7/14/15 (USAO Lo 784-786)	Stipulated	Stipulated	N/A	
D-35.	Ginger Allen, MD Record, Dated 8/10/15 (USAO Lo 789-792)	Stipulated	Stipulated	N/A	
D-36.	Daniel Fosmire, MD Records, Dated 8/11/15 to 5/19/16 (USAO_Lo 669- 690)	Stipulated	Stipulated	N/A	
D-37.	MRI of Brachial Plexus, Dated 8/12/15 (USAO Lo 675 + 2614)	Stipulated	Stipulated	N/A	
D-38.	EMG Nerve Conduction Study, Dated 8/12/15 (USAO Lo 3490-3496)	Stipulated	Stipulated	N/A	
D-39.	Ginger Allen, MD Record, Dated 9/10/15 (USAO Lo 794-796)	Stipulated	Stipulated	N/A	
D-40.	Ginger Allen, MD Record, Dated 9/24/15 (USAO Lo 798-800)	Stipulated	Stipulated	N/A	
D-41.	Ginger Allen, MD Record, Dated 10/15/15 (USAO Lo 801-803)	Stipulated	Stipulated	N/A	
D-42.	Xray of Cervical Spine, Dated 10/29/15 (USAO Lo 2616 + 2654)	Stipulated	Stipulated	N/A	
D-43.	Xray of Lumbar Spine, Dated 10/29/15 (USAO Lo 2656)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-44.	MultiCare Orthopedic Record, Dated 10/29/15 (USAO Lo 410-429)	Stipulated	Stipulated	N/A	
D-45.	Navos Mental Health Intake Evaluation, Dated 11/6/15 (USAO Lo 2332-2356)	Stipulated	Stipulated	N/A	
D-46.	Navos Mental Health PHQ-9 Assessment, Dated 11/12/15 (USAO Lo 2357-2358)	Stipulated	Stipulated	N/A	
D-47.	Ginger Allen, MD Record, Dated 11/16/15 (USAO Lo 804-806)	Stipulated	Stipulated	N/A	
D-48.	MRI of Lumbar Spine, Dated 11/21/15 (USAO Lo 2616 + 2658-2659)	Stipulated	Stipulated	N/A	
D-49.	MRI of Cervical Spine, Dated 11/21/15 (USAO Lo 2616 + 2660-2661)	Stipulated	Stipulated	N/A	
D-50.	Evergreen Surgical Center Operative Report, Dated 12/3/15 (USAO Lo PLTF 973-975)	Stipulated	Stipulated	N/A	
D-51.	Navos Mental Health Counseling, Dated 12/7/15 (USAO Lo 2118-2120)	Stipulated	Stipulated	N/A	
D-52.	Ginger Allen, MD Record, Dated 12/11/15 (USAO Lo 807-809)	Stipulated	Stipulated	N/A	
D-53.	MultiCare Orthopedic Record, Dated 12/14/15 (USAO Lo 220-230)	Stipulated	Stipulated	N/A	
D-54.	MultiCare Orthopedic Record, Dated 12/29/15 (USAO Lo 246-248)	Stipulated	Stipulated	N/A	
D-55.	Ginger Allen, MD Record, Dated 1/11/16 (USAO Lo 810-812)	Stipulated	Stipulated	N/A	
D-56.	Navos Mental Health Counseling, Dated 1/5/16 (USAO Lo 2121-2123)	Stipulated	Stipulated	N/A	
D-57.	Navos OP Nursing Note, Dated 1/26/16 (USAO Lo 2124-2126)	Stipulated	Stipulated	N/A	
D-58.	Navos Mental Health Psychiatric Consult, Dated 1/29/16 (USAO Lo 2127-2130)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-59.	Evergreen Surgical Center Operative Report, Dated 2/9/16 (USAO Lo PLTF 993-994)	Stipulated	Stipulated	N/A	
D-60.	Ginger Allen, MD Record, Dated 2/12/16 (USAO Lo 813-815)	Stipulated	Stipulated	N/A	
D-61.	Evergreen Surgical Center Operative Report, Dated 2/16/16 (USAO_Lo_PLTF 1012-1013)	Stipulated	Stipulated	N/A	
D-62.	Navos Mental Health Counseling, Dated 2/19/16 (USAO Lo 2131)	Stipulated	Stipulated	N/A	
D-63.	Navos Mental Health Psychiatric Consult, Dated 2/22/16 (USAO_Lo 2133-2135)	Stipulated	Stipulated	N/A	
D-64.	Navos Mental Health Counseling, Dated 3/3/16 (USAO Lo 2136-2138)	Stipulated	Stipulated	N/A	
D-65.	Navos Mental Health Psychiatric Consult, Dated 3/21/16 (USAO_Lo 2139-2141)	Stipulated	Stipulated	N/A	
D-66.	Evergreen Surgical Center Operative Report, Dated 3/24/16 (USAO_Lo_PLTF 1028-1029)	Stipulated	Stipulated	N/A	
D-67.	Ginger Allen, MD Record, Dated 3/25/16 (USAO Lo 818-820)	Stipulated	Stipulated	N/A	
D-68.	Navos Mental Health Psychiatric Consult, Dated 4/4/16 (USAO_Lo 2142-2144)	Stipulated	Stipulated	N/A	
D-69.	Navos Mental Health Psychiatric Consult, Dated 5/2/16 (USAO_Lo 2146-2148)	Stipulated	Stipulated	N/A	
D-70.	Navos Mental Health Psychiatric Consult, Dated 5/16/16 (USAO_Lo 2149-2151)	Stipulated	Stipulated	N/A	
D-71.	Ginger Allen, MD Record, Dated 5/23/16 (USAO_Lo 822-824)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-72.	Navos Mental Health Counseling, Dated 6/10/16 (USAO Lo 2152-2154)	Stipulated	Stipulated	N/A	
D-73.	Navos Mental Health Psychiatric Consult, Dated 6/27/16 (USAO_Lo 2158-2161)	Stipulated	Stipulated	N/A	
D-74.	Navos Mental Health Psychiatric Consult, Dated 7/25/16 (USAO_Lo 2166-2169)	Stipulated	Stipulated	N/A	
D-75.	MultiCare Orthopedic (Dr. Chen) Record with Lumbar MRI, Dated 8/2/16 (USAO Lo 264-268)	Stipulated	Stipulated	N/A	
D-76.	MultiCare Orthopedic (Dr. Chen) Record, Dated 8/16/16 (USAO_Lo 289-307)	Stipulated	Stipulated	N/A	
D-77.	Ginger Allen, MD Record, Dated 8/19/16 (USAO Lo 825-827)	Stipulated	Stipulated	N/A	
D-78.	Navos Mental Health Counseling, Dated 8/22/16 (USAO Lo 2171-2173)	Stipulated	Stipulated	N/A	
D-79.	Navos Mental Health Psychiatric Consult, Dated 8/26/16 (USAO_Lo 2174-2176)	Stipulated	Stipulated	N/A	
D-80.	MultiCare Orthopedic Post-Op, Dated 9/9/16 (USAO Lo 323-324)	Stipulated	Stipulated	N/A	
D-81.	MultiCare Orthopedic Post-Op, Dated 9/13/16 (USAO Lo 331-342)	Stipulated	Stipulated	N/A	
D-82.	Ginger Allen, MD Record, Dated 9/19/16 (USAO Lo 829-832)	Stipulated	Stipulated	N/A	
D-83.	Navos Mental Health Psychiatric Consult, Dated 10/7/16 (USAO_Lo 2177-2179)	Stipulated	Stipulated	N/A	
D-84.	Navos Mental Health Counseling, Dated 10/7/16 (USAO Lo 2180-2182)	Stipulated	Stipulated	N/A	
D-85.	MultiCare Orthopedic Post-Op, Dated 10/14/16 (USAO Lo 352-362)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-86.	Ginger Allen, MD Record, Dated 11/4/16 (USAO Lo 833-835)	Stipulated	Stipulated	N/A	
D-87.	Navos Mental Health Psychiatric Consult, Dated 11/7/16 (USAO_Lo 2185-2187)	Stipulated	Stipulated	N/A	
D-88.	Navos Mental Health Psychiatric Consult, Dated 12/5/16 (USAO_Lo 2189-2191)	Stipulated	Stipulated	N/A	
D-89.	MultiCare Orthopedic Record with Cervical MRI, Dated 12/13/16 (USAO Lo 387-400)	Stipulated	Stipulated	N/A	
D-90.	Ginger Allen, MD Record, Dated 1/31/17 (USAO Lo 839-842)	Stipulated	Stipulated	N/A	
D-91.	Navos Mental Health Counseling, Dated 2/21/17 (USAO Lo 2200-2201)	Stipulated	Stipulated	N/A	
D-92.	Navos Mental Health Counseling, Dated 3/22/17 (USAO Lo 2203-2204)	Stipulated	Stipulated	N/A	
D-93.	Navos Mental Health Psychiatric Consult, Dated 3/22/17 (USAO_Lo 2205-2207)	Stipulated	Stipulated	N/A	
D-94.	Navos Mental Health Counseling, Dated 4/20/17 (USAO Lo 2209)	Stipulated	Stipulated	N/A	
D-95.	Navos Mental Health Psychiatric Consult, Dated 4/24/17 (USAO_Lo 2210-2212)	Stipulated	Stipulated	N/A	
D-96.	Navos Mental Health Psychiatric Consult, Dated 6/5/17 (USAO_Lo 2214-2216)	Stipulated	Stipulated	N/A	
D-97.	Ginger Allen, MD Record, Dated 7/10/17 (USAO Lo 844-847)	Stipulated	Stipulated	N/A	
D-98.	Navos Mental Health Psychiatric Consult, Dated 8/14/17 (USAO_Lo 2222-2224)	Stipulated	Stipulated	N/A	
D-99.	Navos Mental Health Counseling, Dated 9/12/17 (USAO Lo 2225-2226)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-100.	Ginger Allen, MD Record, Dated 9/12/17 (USAO Lo 849-851)	Stipulated	Stipulated	N/A	
D-101.	Navos Mental Health Counseling, Dated 11/13/17 (USAO Lo 2392-2394)	Stipulated	Stipulated	N/A	
D-102.	Navos Mental Health Counseling, Dated 2/15/18 (USAO Lo 2235)	Stipulated	Stipulated	N/A	
D-103.	Navos Mental Health Counseling, Dated 3/13/18 (USAO Lo 2237-2239)	Stipulated	Stipulated	N/A	
D-104.	Navos Mental Health Psychiatric Consult, Dated 3/14/18 (USAO_Lo 2240-2242)	Stipulated	Stipulated	N/A	
D-105.	Ginger Allen, MD Record, Dated 4/7/18 (USAO Lo 853-858)	Stipulated	Stipulated	N/A	
D-106.	Navos Mental Health Psychiatric Consult, Dated 4/18/18 (USAO_Lo 2244-2246)	Stipulated	Stipulated	N/A	
D-107.	Navos Mental Health Counseling, Dated 5/1/18 (USAO Lo 2247-2248)	Stipulated	Stipulated	N/A	
D-108.	Navos Mental Health Psychiatric Consult, Dated 5/14/18 (USAO_Lo 2249-2251)	Stipulated	Stipulated	N/A	
D-109.	Ginger Allen, MD Record, Dated 5/29/18 (USAO Lo 863-865)	Stipulated	Stipulated	N/A	
D-110.	Navos Mental Health Counseling, Dated 6/5/18 (USAO Lo 2252-2253)	Stipulated	Stipulated	N/A	
D-111.	Navos Mental Health Counseling, Dated 6/26/18 (USAO Lo 2255-2556)	Stipulated	Stipulated	N/A	
D-112.	Navos Mental Health Psychiatric Consult, Dated 7/2/18 (USAO_Lo 2257-2259)	Stipulated	Stipulated	N/A	
D-113.	Navos Mental Health Psychiatric Consult, Dated 8/6/18 (USAO_Lo 2263-2265)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-114.	Ginger Allen, MD Record, Dated 8/7/18 (USAO Lo 867-870)	Stipulated	Stipulated	N/A	
D-115.	MultiCare (Dr. Hou) ESI, Dated 9/12/18 (USAO Lo 1461)	Stipulated	Stipulated	N/A	
D-116.	Navos Mental Health Psychiatric Consult, Dated 9/17/18 (USAO_Lo 2267-2269)	Stipulated	Stipulated	N/A	
D-117.	Navos Mental Health Counseling, Dated 10/29/18 (USAO Lo 2271)	Stipulated	Stipulated	N/A	
D-118.	Navos Mental Health Psychiatric Consult, Dated 10/29/18 (USAO_Lo 2272-2274)	Stipulated	Stipulated	N/A	
D-119.	Navos Mental Health Counseling, Dated 11/5/18 (USAO Lo 2275-2276)	Stipulated	Stipulated	N/A	
D-120.	Navos Mental Health Counseling, Dated 11/15/18 (USAO Lo 2277-2278)	Stipulated	Stipulated	N/A	
D-121.	Navos Mental Health Psychiatric Consult, Dated 11/28/18 (USAO_Lo 2281-2283)	Stipulated	Stipulated	N/A	
D-122.	Ginger Allen, MD Record, Dated 12/7/18 (USAO Lo 1101-1105)	Stipulated	Stipulated	N/A	
D-123.	XR of Right Hand, Dated 12/7/18 (USAO Lo 2617)	Stipulated	Stipulated	N/A	
D-124.	Navos Mental Health Psychiatric Consult, Dated 1/7/19 (USAO_Lo 2285-2287)	Stipulated	Stipulated	N/A	
D-125.	Ginger Allen, MD Record, Dated 3/15/19 (USAO Lo 1116-1120)	Stipulated	Stipulated	N/A	
D-126.	Navos Mental Health Psychiatric Consult, Dated 3/20/19 (USAO_Lo 2292-2294)	Stipulated	Stipulated	N/A	
D-127.	Navos Mental Health Psychiatric Consult, Dated 4/17/19 (USAO_Lo 2289-2291)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-128.	Ginger Allen, MD Record, Dated 5/6/19 (USAO Lo 1133-1138)	Stipulated	Stipulated	N/A	
D-129.	Navos Mental Health Psychiatric Consult, Dated 5/29/19 (USAO_Lo 2299-2301)	Stipulated	Stipulated	N/A	
D-130.	MultiCare (Dr. Hou) Medial Branch Block, Dated 7/1/19 (USAO Lo 1583-1584)	Stipulated	Stipulated	N/A	
D-131.	Navos Mental Health Psychiatric Consult, Dated 7/22/19 (USAO_Lo 2302-2304)	Stipulated	Stipulated	N/A	
D-132.	Proliance Orthopedics Hip Consult with Xray of Hip, Dated 8/16/19 (USAO Lo 2050-2053)	Stipulated	Stipulated	N/A	
D-133.	Navos Mental Health Counseling, Dated 9/9/19 (USAO Lo 2307-2308)	Stipulated	Stipulated	N/A	
D-134.	MultiCare (Dr. Hou) Medial Branch Block, Dated 9/13/19 (USAO Lo 1690)	Stipulated	Stipulated	N/A	
D-135.	Navos Mental Health Psychiatric Consult, Dated 9/25/19 (USAO_Lo 2309-2311)	Stipulated	Stipulated	N/A	
D-136.	Navos Mental Health Psychiatric Consult, Dated 11/6/19 (USAO Lo 2312)	Stipulated	Stipulated	N/A	
D-137.	Proliance Orthopedic Consult, Dated 11/15/19 (USAO_Lo 2047-2049)	Stipulated	Stipulated	N/A	
D-138.	Navos Mental Health Psychiatric Consult, Dated 11/25/19 (USAO_Lo 2313-2314)	Stipulated	Stipulated	N/A	
D-139.	Proliance Orthopedic Consult, Dated 11/27/19 (USAO Lo 2045-2046)	Stipulated	Stipulated	N/A	
D-140.	Proliance Orthopedic Consult, Dated 12/9/19 (USAO Lo 2043-2044)	Stipulated	Stipulated	N/A	
D-141.	Proliance Orthopedic Status Report, Dated 12/17/19 (USAO_Lo 2076-2078)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-142.	MultiCare (Dr. Hou), Progress Note, Dated 1/4/20 (USAO Lo 1827)	Stipulated	Stipulated	N/A	
D-143.	Navos Mental Health Counseling, Dated 1/17/20 (USAO Lo 2319-2320)	Stipulated	Stipulated	N/A	
D-144.	Navos Mental Health Psychiatric Consult, Dated 1/24/20 (USAO_Lo 2321- 2323)	Stipulated	Stipulated	N/A	
D-145.	Proliance Orthopedic Consult, Dated 2/10/20 (USAO Lo 2041-2042)	Stipulated	Stipulated	N/A	
D-146.	MultiCare (Dr. Hou) Medial Branch Block, Dated 3/2/20 (USAO Lo 1899)	Stipulated	Stipulated	N/A	
D-147.	Proliance Orthopedic Consult, Dated 3/8/20 (USAO Lo 1964)	Stipulated	Stipulated	N/A	
D-148.	MultiCare (Dr. Hou) Progress Report, Dated 3/8/20 (USAO Lo 2920)	Stipulated	Stipulated	N/A	
D-149.	Navos Mental Health Psychiatric Consult, Dated 3/27/20 (USAO_Lo 2324- 2325)	Stipulated	Stipulated	N/A	
D-150.	MultiCare (Dr. Hou) Cervical Ablation, Dated 6/26/20 (USAO_Lo 2991- 2992)	Stipulated	Stipulated	N/A	
D-151.	Proliance Orthopedic Consult, Dated 6/29/20 (USAO Lo 2739-2741)	Stipulated	Stipulated	N/A	
D-152.	Navos Mental Health Counseling, Dated 7/7/20 (USAO Lo 3579-3580)	Stipulated	Stipulated	N/A	
D-153.	Proliance Orthopedic Operative Report, Dated 7/2/20 (USAO_Lo 2744- 2745)	Stipulated	Stipulated	N/A	
D-154.	Proliance Orthopedic Consult, Dated 7/14/20 (USAO Lo 2738)	Stipulated	Stipulated	N/A	
D-155.	Proliance Orthopedic Consult, Dated 8/11/20 (USAO Lo 2737)	Stipulated	Stipulated	N/A	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-156.	Navos Mental Health Psychiatric Consult, Dated 8/12/20 (USAO_Lo 3582-3585)	Stipulated	Stipulated	N/A	
D-157.	Navos Mental Health Counseling, Dated 9/1/20 (USAO Lo 3587-3588)	Stipulated	Stipulated	N/A	
D-158.	Proliance Orthopedic Consult, Dated 9/22/20 (USAO Lo 2736)	Stipulated	Stipulated	N/A	
D-159.	Navos Mental Health Psychiatric Consult, Dated 11/17/20 (USAO_Lo 3622-3624)	Stipulated	Stipulated	N/A	
D-160.	Navos Mental Health Counseling, Dated 11/17/20 (USAO Lo 3625-3627)	Stipulated	Stipulated	N/A	
D-161.	Navos Mental Health Psychiatric Consult, Dated 1/19/21 (USAO_Lo 3630-3633)	Stipulated	Stipulated	N/A	
D-162.	Navos Mental Health Counseling, Dated 1/21/21 (USAO Lo 3634-3636)	Stipulated	Stipulated	N/A	
D-163.	Navos Mental Health Counseling, Dated 3/19/21 (USAO Lo 3637-3639)	Stipulated	Stipulated	N/A	
D-164.	Navos Mental Health Psychiatric Consult, Dated 3/23/21 (USAO_Lo 3642-3646)	Stipulated	Stipulated	N/A	
D-165.	KT Building Supply Payroll Records (USAO_Lo 2727-2732)	Stipulated	Stipulated	N/A	
D-166.	Western Homes Realty Records (USAO_Lo 3095-3143)	Stipulated	Stipulated	N/A	
D-167.	Tax Returns 2006-2019 (USAO Lo 3152-3224)	Stipulated	Stipulated	N/A	
D-168.	Employment Security Department Records (USAO_Lo 3478-3487)	Stipulated	Stipulated	N/A	
D-169.	Traffic Collision Report, Dated 3/23/17 (USAO_Lo 4509-4513)	No objection	Objection	FRE 401, 403; 801-805	

No.	Description	Authenticity	Admissibility	Objection	Admitted
D-170.	Farmers Insurance Payment Logs (USAO_Lo 4655 + 4186-4187)	No objection	Objection	FRE 401, 403; 801-805; <i>collateral source rule</i>	
D-171.	Kaitlin Lindquist Massage Therapy Records, Dated 6/5/17 to 2/8/18 (USAO_Lo 4379-4381; 4428-4429; 4383-4385; 4423-4427; 4440-4443; 4459-4463; 4470-4473; 4475-4479)	No objection	No objection	N/A	
D-172.	Farmers Insurance Correspondence, Dated 1/22/20 (USAO_Lo 4679-4680)	No objection	Objection	FRE 401, 403; 801-805; <i>collateral source rule</i>	
D-173.	Farmers Insurance Payment Log (USAO_Lo 4791)	No objection	Objection	FRE 401, 403; 801-805; <i>collateral source rule</i>	
D-174.	Farmers Insurance Claim History (USAO_Lo 4547-4562)	No objection	Objection	FRE 401, 403; 801-805; <i>collateral source rule</i>	
D-175.	Revised Present Cash Value Computations by Lorraine Barrick	No objection	No objection		

The parties reserve the right to introduce:

- Any documents exchanged during discovery;
- Any demonstrative and illustrative exhibit;
- Any exhibit for impeachment purposes; and/or
- To designate any rebuttal exhibits.

~~The parties reserve the right to make changes to this pretrial statement before the final agreed pretrial order is entered.~~

1 **IX. DEPOSITION TRANSCRIPTS**

2 The parties may offer portions of the deposition transcripts of the parties and/or the
3 parties' retained experts for impeachment purposes per *Fed. R. Civ. P.* 32(a)(2). Furthermore,
4 the parties may use the deposition of its listed witnesses to refresh their recollection.

5 **X. TRIAL LOGISTICS AND LENGTH**

6 *The parties attended a pretrial conference via Zoom on May 5, 2022 at 9:30 AM.* The
7 parties requested the length of trial remain five days, with a possible sixth day (May 16, 2022)
8 reserved for closing arguments.

9 Plaintiff agreed to a modified in-person/by Zoom trial. However, because of the prior
10 stipulation with regard to an all Zoom trial, Plaintiff requested leave of court for his witnesses
11 identified above to be allowed to testify via Zoom. Further, Plaintiff counsel Ms. Wang has a
12 pregnancy-related hardship. Plaintiff counsel Ms. Wang is expecting a child with a due date in
13 late July. Ms. Wang has been experiencing pregnancy-related complications since mid-March
14 2022. Ms. Wang anticipates that she would be experiencing physical hardship if having to appear
15 in person during her third and last trimester, given her pregnancy-related complications. Plaintiff
16 accordingly has asked leave of Court for Ms. Wang to appear remotely as well. Plaintiff's other
17 counsel, Anthony Marsh, will appear in-person.

18 Defendant is agreeable to the accommodations requested by Plaintiff. Counsel for
19 Defendant will appear in-person as will all witnesses called by the Defendant (as noted
20 specifically above).

21 **XI. ACTION BY THE COURT**

22 (a) This case is scheduled for trial without a jury on May 9, 2022 at *1 P. The Court*
23 *believes that four days, or twenty trial hours, is sufficient in this case. Accordingly,*
24

1 *each side SHALL be allotted 10 hours of trial time. The Court may allocate additional*
2 *time at its discretion upon good cause shown.*


3 ~~(b) Trial briefs shall be submitted to the Court on or before April 29, 2022.~~

4 (c) *Plaintiff's request for certain witnesses identified above to be allowed to testify via*
5 *Zoom and for Plaintiff's counsel Ms. Wang to appear via Zoom is GRANTED.*

6 (d) This Order has been approved by the parties as evidenced by the signatures of their
7 counsel *and their agreement during the May 5, 2022 pretrial conference.* This Order
8 shall control the subsequent course of the action unless modified by subsequent order.
9 This Order shall not be amended except by order of the Court pursuant to agreement
10 of the parties or to prevent manifest injustice.

11 IT IS SO ORDERED.

12 DATED this 5th day of May 2022.

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16 _____
17 Tana Lin
18 United States District Judge
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1 APPROVED AS TO FORM.

2 HERMANN LAW GROUP

NICHOLAS W. BROWN
United States Attorney

3

/s/ Anthony Marsh

s/ Erin K. Hoar

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5 /s/ Cissy Wang

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