

1 whatever they request in the particular tasking.

2 Q Okay. So when you receive a file that
3 comes with contact information for an insurance
4 company --

5 A Uh-huh.

6 Q -- and you just -- do you discuss
7 directly with the adjuster or the contact person
8 for the file?

9 A Most of the time, yes.

10 Q Okay. In this particular case, did you
11 have contact with the adjuster in this case?

12 A Originally, yes. The adjuster -- I
13 can't remember her name. Yes.

14 Q Okay. And --

15 A I did.

16 Q Okay. Who sets the scope of your
17 vocational rehabilitation services?

18 A I'm not sure if I understand the
19 question.

20 Q Okay. Well, do you receive a written
21 communication from the insurance company as to
22 what your vocational rehabilitation services

1 will involve?

2 A Sometimes.

3 Q Okay. Do you recall if you did in this
4 case?

5 A Yes.

6 Q Okay. And do you recall what those
7 directions were?

8 A Yeah. They were pretty clear. In this
9 case, job placement.

10 Q Okay. As a vocational rehabilitation
11 provider, what services are you supposed to
12 provide in the State of Virginia?

13 A Job placement services, translation
14 services when requested, since I speak Spanish
15 and any sort of medical case management, if I'm
16 requested to do so, primarily on behalf of the
17 insurance company's request as well as, again,
18 working with Hispanic claimants.

19 Q Okay. Help me understand about medical
20 case management.

21 Were you requested to do medical case
22 management in this case?

1 A Specifically, I don't remember.

2 Actually, I don't remember.

3 Normally, with a case where we're asked
4 to do job placement in the -- with the idea of
5 doing whatever it takes to help get the case
6 resolved.

7 Q Okay. What does it mean to get the
8 case resolved?

9 A To lead to resolution either by
10 settlement, job placement or a full duty release
11 return to work to the pre-injury job.

12 Q So of those 150 roughly people that you
13 have assisted with vocational rehabilitation
14 services, how many of those have ended in the
15 finding of a new job?

16 A I couldn't say. Some. But I can't --
17 I can't tell you exactly how many. It's just --

18 Q Ten?

19 A More than that.

20 Q 20?

21 A Perhaps.

22 Q Do you have a ballpark figure of the

1 150 that have ended in a settlement?

2 A Probably close to 60 to 70.

3 Q And is it fair to say that the
4 remaining number would be those who have either
5 received a full duty release or a release to --
6 well, of the remaining -- I'll strike that.

7 Of the remaining 150, how many of those
8 have received a full duty release?

9 A Honestly, I could not give you an
10 estimation on that.

11 Perhaps -- I don't -- I just don't
12 know. Sometimes -- often, we're not -- as the
13 case manager, I'm not necessarily made privy to
14 that information.

15 Q Okay. Did you make an estimate of what
16 your expenses were going to be in this case
17 prior to getting involved?

18 A No.

19 Q Okay. Do you do a vocational
20 management cost projection?

21 A No.

22 Q If I could show the witness a piece of

1 paper here. I'm not going to mark it yet.

2 Do you recognize that document?

3 A Vaguely. It's been a long time since
4 I've seen one of these.

5 I don't get a lot of Zurich files to
6 begin with. But I believe that there is a cost
7 projection.

8 I thought you were referring to
9 something that we do ongoing, not initially.

10 The case -- this is something we do
11 cost projection wise prior to even starting the
12 case.

13 Q Okay. That was my intention is to ask
14 if you do a cost projection ahead of when you
15 get the file or starting the case.

16 A Well, I just did not remember. Again,
17 Zurich is the only company that we deal with
18 that requires this.

19 Q Okay.

20 A And I do them very, very seldomly. I
21 have very few Zurich files.

22 Q Okay. Did you prepare this or did

1 Zurich prepare this?

2 A The form itself?

3 Q Yes.

4 A I didn't prepare it. I don't know who
5 did.

6 Q Okay.

7 A Oh, are you talking about the numbers
8 that are in there?

9 Q Yes.

10 A I prepared that. The form itself, I
11 did not. The template, no.

12 But I put the numbers in there. And
13 even honestly, I can't even remember how I did
14 that.

15 Q Okay.

16 A I'd have to go through it again. I'd
17 have to go through the guidelines in how to do
18 that and then resubmit it, if you will. But I
19 just don't remember --

20 Q Okay.

21 A -- for how I came up with those
22 numbers.

1 Q Okay. Well, if it says estimated six
2 hours for in person visits to M.D. with
3 claimant, is that -- did you put in that six
4 hour number?

5 A Possibly. Again, I would -- I don't
6 remember the specifics of that --

7 Q Okay.

8 A -- how I came about those -- those
9 numbers or what's even on the form.

10 Q Okay. If this has a date of October
11 13th on it -- of 2011, do you have any reason to
12 disagree with -- that that was the date you
13 filled that form in?

14 A No. But I don't know what the context
15 of the date is.

16 Q Okay. Is this the only vocational case
17 management cost projection you've done?

18 A It's probably the last one I've done.

19 I think I've had two other Zurich files
20 in the past that were required as a prerequisite
21 to beginning work.

22 Q Okay. When you say here that you have

1 an estimated six hours in person visits to M.D.
2 with claimant, was it your expectation at that
3 time that you were going to be going to his
4 medical appointments with him?

5 A Again, I have no idea what my
6 expectations were at that time.

7 I just can't recollect with that --
8 with that form or any other case where I do an
9 advance form. It's a prerequisite for the
10 insurance company.

11 Q Was it your intention to go to his
12 doctor's appointments with him?

13 A I have no idea.

14 Q Well, did you actually attempt to go to
15 his doctor's appointments with him?

16 A I did once, yes.

17 Q Did you go and talk to Dr. R [REDACTED] as
18 well or talk to him on the phone?

19 A I did.

20 Q Did you have any conversations with Dr.

21 B [REDACTED]

22 A No.

1 Q Did you have any conversations with Dr.

2 P [REDACTED] or his office?

3 A No.

4 Q Did you have communications with Dr.

5 P [REDACTED] or his office?

6 A Yes.

7 Q Who did you have communications with in

8 Dr. P [REDACTED] office?

9 A I believe his assistant. I can't
10 remember his name.

11 Q Would that have been N [REDACTED]?

12 A Perhaps.

13 Q Okay. Do you recall the content of any
14 of those conversations with Dr. P [REDACTED] s office?

15 A Right off, no.

16 Q At any point in this case, did you
17 inform Mr. [REDACTED] that your role had changed
18 from assistance with vocational job finding to a
19 medical management role?

20 A No. There's no reason why I would have
21 or should have informed Mr. R [REDACTED] of that.

22 Q Did you consider yourself a medical

1 case manager in this case?

2 A I always consider myself an agent of
3 the insurance company, whatever they request us
4 to do.

5 Q Did you provide anything in writing to
6 my office or to Mr. [REDACTED] that stated that
7 you were working as an agent of the insurance
8 company as a medical care manager?

9 A No, I did not.

10 Q Are you aware that most attorneys
11 refuse to allow their clients to speak with
12 nurse case managers?

13 MS. [REDACTED] Objection. Calls for
14 speculation. You might not do it.

15 BY MR. YOUNG:

16 Q Are you aware that my office does not
17 allow communication with nurse case managers?

18 A I think on a couple of occasions,
19 you've given me letters but -- along those
20 lines. But it's nothing I signed or concurred
21 with.

22 Q In your role as a vocational case

1 manager, do you consider yourself to have any
2 duty to the claimant?

3 A Without question, absolutely, yes.

4 Q Okay. And what is that duty?

5 A That duty is to help the claimant to
6 properly market his or herself for a job that's
7 commensurate with his or her skills, their
8 physical capabilities, wage earning capacity,
9 education, all the things that we cover in
10 initial vocational assessments, assuming that
11 the claimant/client is willing to put his or her
12 best foot forward and market his or herself
13 appropriately for employment.

14 And then yes, absolutely, I'm beholding
15 to assist that individual.

16 Q If that individual asks you not to
17 discuss his medical information with treating
18 doctors, do you have any obligation to honor
19 that?

20 A Not only do I not understand the
21 question, Mr. Young --

22 Q Did Mr. [REDACTED] ask you not to get

1 involved in his medical treatment?

2 A Specifically, I can't -- I can't
3 remember an instance when he asked me -- asked
4 me to do that.

5 And even if he had, I'm under no
6 obligation to do that.

7 Again, this is on behalf of the
8 insurance company's request. I don't have to
9 meet with the doctor the same time as Mr.
10 [REDACTED]. I'm allowed to meet with the doctor,
11 so long as the doctor approves.

12 Q Okay. Do you recall receiving an
13 e-mail from Mr. [REDACTED] asking him to stay out
14 of his medical business?

15 A I'm sorry. Say again.

16 Q Did you receive an e-mail from Mr.
17 [REDACTED] telling you -- directing you to stay
18 out of his medical business?

19 A I can't remember. I received a number
20 of e-mails from Mr. [REDACTED]

21 Q Okay. But it's your testimony that you
22 wouldn't have to honor such a request anyway,

1 even if you had?

2 A Well, I'm not sure if I put it that
3 way. I don't think I put it that way.

4 Q How would you put it?

5 A I'm not sure how to answer that
6 question, honestly.

7 Again, I provide case management on
8 behalf of the insurance company.

9 Q And part of that case management is
10 managing his medical?

11 A I've never managed any of his medicals.

12 Q Well, did you arrange for a panel of --
13 strike that.

14 Did you send Dr. P [REDACTED] or his office a
15 list of questions about Mr. [REDACTED] medical
16 status?

17 A Well, if you're trying to define that
18 as medical case management, that's not.
19 Absolutely, I did.

20 Q Okay. Did you provide Mr. [REDACTED]
21 with a panel of doctors?

22 A At his request.

1 Q Did you schedule an appointment with
2 one of the doctors on the panel for Mr.
3 [REDACTED]?

4 A I don't remember if I scheduled an
5 appointment or Mr. [REDACTED] did.

6 Q If Dr. R [REDACTED] office notes report that
7 Mr. [REDACTED] -- or excuse me, that you referred
8 Mr. [REDACTED] to their office, do you disagree
9 with that?

10 A Mr. [REDACTED] referred himself to their
11 office.

12 Q Okay. Did you have a conversation with
13 [REDACTED] regarding Mr. [REDACTED] job
14 duties?

15 A No.

16 Q Okay. Did you, at some point, receive
17 a job description from [REDACTED] [REDACTED]?

18 A Yes.

19 Q Okay. And what is your understanding
20 of that job description and what it relates to?

21 A My understanding of that job
22 description, when I looked at -- from looking at

1 it -- and I see you have a copy of it right
2 there -- that essentially outlines what Mr.
3 [REDACTED] did in his pre-injury job.

4 Q Did you ever ask Mr. [REDACTED] what he
5 did in his pre-injury job?

6 A Yes.

7 Q Did you take that into account when you
8 were providing the doctors with information?

9 A I take everything into account.

10 Q Do you know who actually filled out
11 this form for the job description?

12 A I don't.

13 Q How did you get the form?

14 A It was sent to me by the insurance
15 company.

16 Q Do you recall when you had a
17 conversation with [REDACTED] about Mr.
18 [REDACTED] job description?

19 MS. [REDACTED] Objection. He said he
20 had no conversations with [REDACTED] about
21 the job description.

22 BY MR. YOUNG:

1 Q Did you have a conversation with [REDACTED]
2 [REDACTED] about the job description?

3 A No.

4 Q Did you have a conversation with [REDACTED]
5 [REDACTED] about Mr. [REDACTED]

6 A Yes.

7 Q Okay. Do you recall who you spoke
8 with?

9 A I can't remember the name.

10 Q Okay. Do you recall the content of
11 that conversation?

12 A It happened in the fall of last year, I
13 believe.

14 And at that time, I had contact -- and
15 I can't remember the name of the person -- but
16 to ask them if they had any position that might
17 be made available to Mr. [REDACTED] to return to
18 with his physical capabilities.

19 Q Okay. And was it before or after that
20 conversation that you received a job description
21 from [REDACTED] -- or from the insurer,
22 excuse me?

1 A It was before.

2 Q Is it your understanding -- well,
3 strike that.

4 Is it your assumption that this is a
5 description of his pre-injury work?

6 A Yes.

7 Q Okay. Are you familiar with physically
8 what it takes to be a working superintendent of
9 a job?

10 A It depends on how you define working.
11 It depends on how you define superintendent and
12 it also depends on the employer.

13 Q Okay. Well, in the construction trade,
14 would you say that somebody has to lift more
15 than ten pounds?

16 A Possibly.

17 Q Okay. For [REDACTED], are you
18 aware of any position in [REDACTED] on
19 site that requires --

20 (Thereupon, Mr. R [REDACTED] entered the
21 deposition room.)

22 MR. R [REDACTED] Hey, everybody. Am I early

1 or am I late?

2 MR. YOUNG: You're okay. You're
3 actually early.

4 MR. R [REDACTED] Too early?

5 MR. YOUNG: Yeah. About a half hour.

6 MR. R [REDACTED] Okay.

7 MS. [REDACTED]: If you want to give us
8 your cell phone, we'll call you.

9 MR. R [REDACTED] I'll just check back later.

10 MS. [REDACTED]: Okay.

11 (Thereupon, Mr. R [REDACTED] left the room.)

12 MR. YOUNG: I think we're still on the
13 record.

14 MS. [REDACTED]: Sorry. I didn't even
15 think about that.

16 MR. YOUNG: Well, I thought about it
17 too late. We're still on the record. All
18 right.

19 BY MR. YOUNG:

20 Q When you spoke with someone at [REDACTED]
21 [REDACTED] about a light duty position or a
22 position within Mr. [REDACTED] restrictions, do

1 you recall what type of job you were looking
2 for?

3 A Anything.

4 Q Okay. Did they indicate that they had
5 something?

6 A They indicated they did not have
7 something --

8 Q Okay.

9 A -- at that time -- whoever I spoke
10 with.

11 Actually, it was to be researched. And
12 I never heard back.

13 Q And so is it fair to say that the next
14 communication you received or were aware of from
15 [REDACTED] was this job description?

16 A Fair to say.

17 Q Okay. After receiving this job
18 description, did you call anyone at [REDACTED]
19 [REDACTED] and ask whether this was a
20 description of Mr. [REDACTED] pre-injury
21 employment or if this was an offer for a
22 position with -- basically a light duty position