Commission File No.:A07-001066-MMM

FINANCIAL SERVICES COMMISSION OF ONTARIO

BETWEEN:

SONIA BAINS

-and-

Applicant

R.B.C. INSURANCE COMPANY OF CANADA

Insurer

APPLICANT'S BOOK OF DEMONSTRATIVE EVIDENCE

Counsel for the Plaintiffs

H. A. Fancy
(*Certified Specialist (Civil Litigation)*

Monica Chakravarti

Fancy Barristers, P.C.
5975 Whittle Road
Suite 120
Mississauga, Ont.
L4Z 3N1

Ph: (905) 501-9330
Fax: (905) 501-9336

Pre-Accident Life

"Ms. Bains was very active in social and leisure activities prior to the accident. She went to temple and was actively involved with her children."[1] + "...the client was also involved in volunteer work as part of a requirement for her nursing diploma and reportedly also had worked part time."[2]

R.B.C. IME: 2008

"3. Please advise if there are any concurrent or pre-accident conditions that contribute to the current presentation and, within your scope of expertise, comment on how these conditions may have been affected by the injury(ies) sustained in the accident."[3]

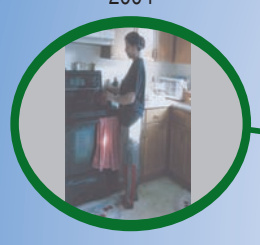
"There appears to be no concurrent or pre-accident conditions that contribute to Mrs. Bains current clinical presentation."[4]

With daughter, March/April 2004

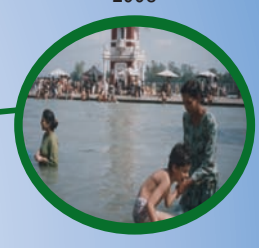
Graduation as Nurse, April 2004

Snowboarding, January 2004

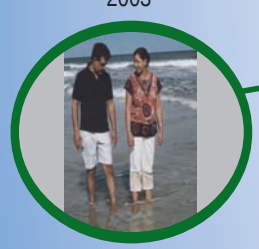
2004



1998



2003



2001

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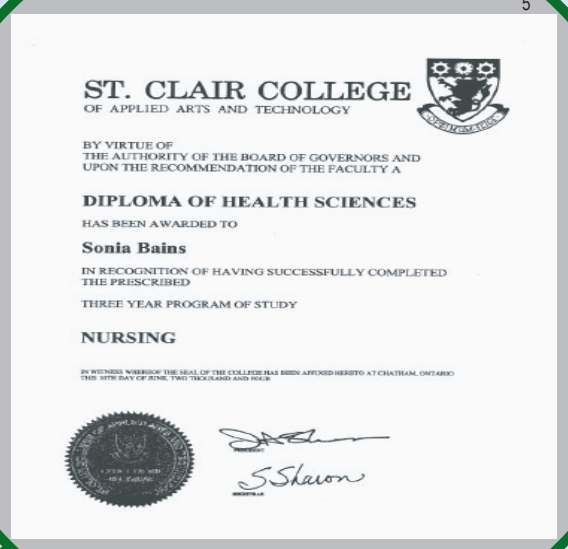


ST. CLAIR COLLEGE
OF APPLIED ARTS AND TECHNOLOGY

BY VIRTUE OF
THE AUTHORITY OF THE BOARD OF GOVERNORS AND
UPON THE RECOMMENDATION OF THE FACULTY A

DIPLOMA OF HEALTH SCIENCES

HAS BEEN AWARDED TO

Sonia Bains

IN RECOGNITION OF HAVING SUCCESSFULLY COMPLETED
THE PRESCRIBED

THREE YEAR PROGRAM OF STUDY

NURSING

IN WITNESS WHEREOF THE SEAL OF THE COLLEGE HAS BEEN AFFIXED HERETO AT CHATHAM, ONTARIO
THIS 10TH DAY OF JUNE, TWO THOUSAND AND FOUR

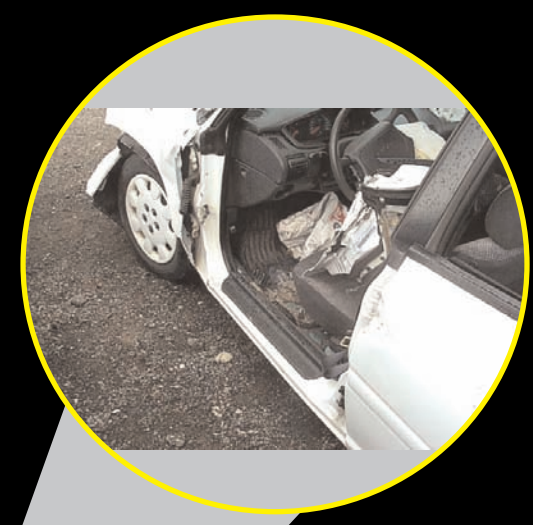
[1] Optimal Outcomes Inc., Rehabilitation Management Report, August 1, 2007 Initial.
[2] Optimal Outcomes Inc., Rehabilitation Management Report, August 1, 2007 Initial.
[3] Dr. Wahby's (SOMA) IME dated January 23, 2008.
[4] Dr. Wahby's (SOMA) IME dated January 23, 2008.
[5] Nursing Diploma from St. Clair College dated June 10, 2004.

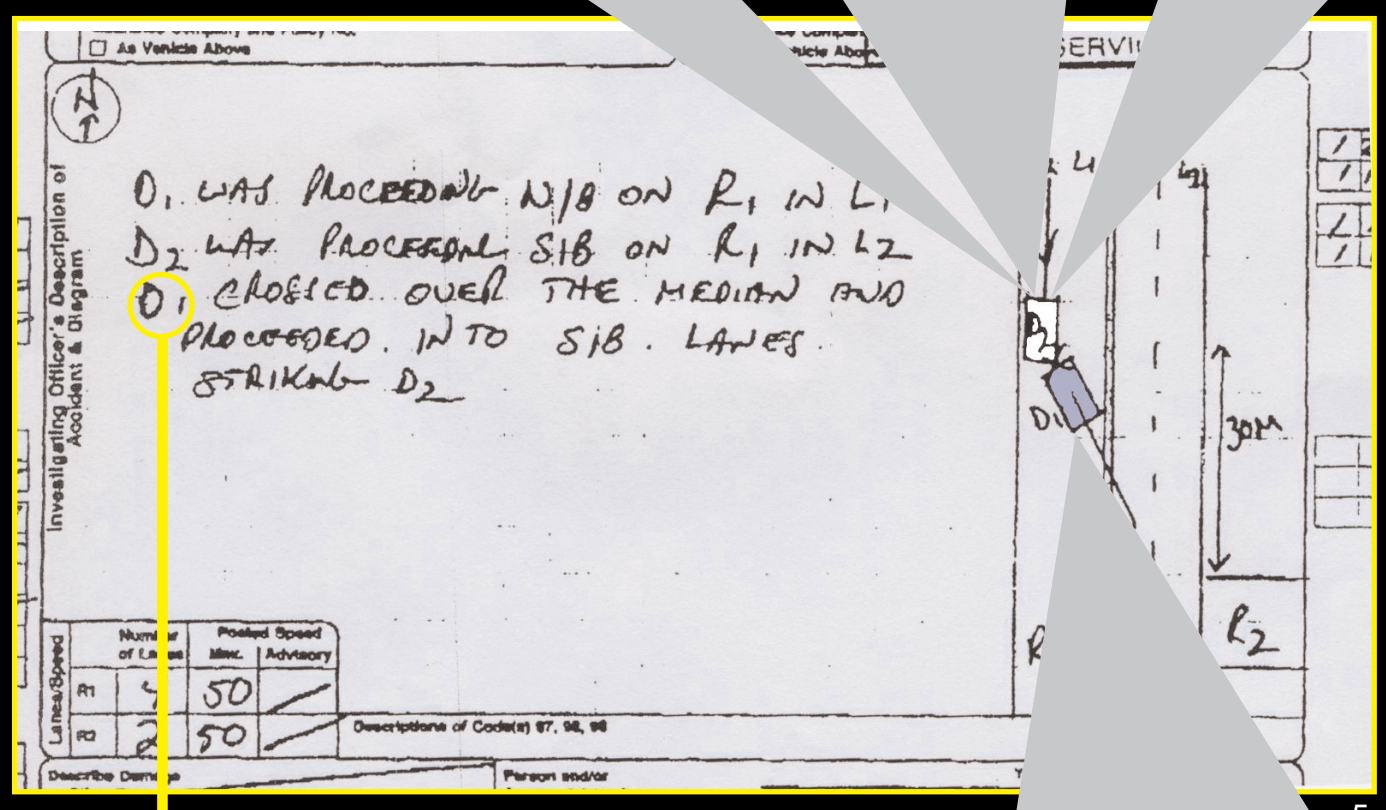
"Front center"[1] Collision: May 12, 2004

"Front seat belt passenger...air bag deployed..."[2] + "...air bag hit face."[3]
"extricate patient"[4] + "Demolished"[5]

R.B.C. IME: 2008

"Upon review of documentation, it is apparent the accident was quite severe with Mrs. Bains having to be extricated from the car."[6]





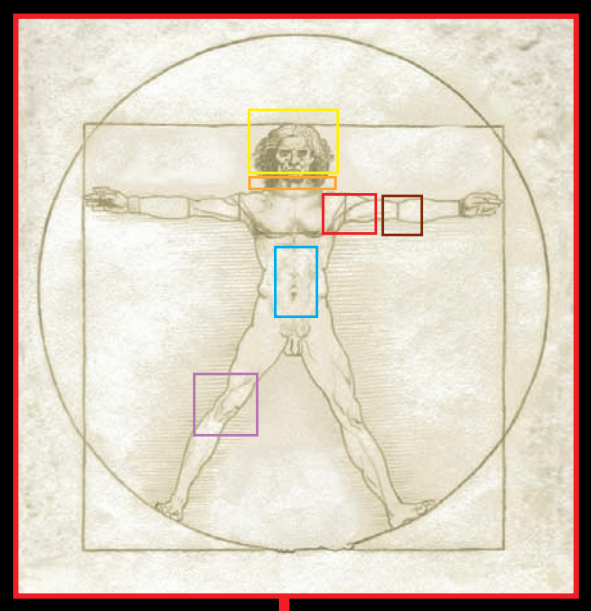
5

D1 - Tortfeasor's Vehicle

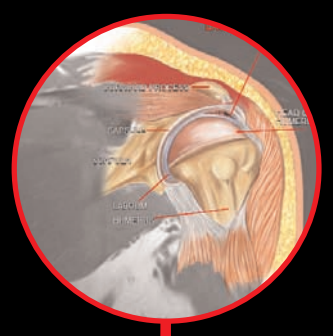
[1] Motor Vehicle Accident Report, Peel Regional Police dated May 12, 2004.
[2] Emergency Notes dated May 12, 2004.
[3] Clinical notes and records from Windsor Walk-In Chiropractic & Rehabilitation dated March 12, 2005 to August 31, 2005. Quote from note dated March 15, 2005.
[4] William Osler Health Center - Emergency Notes.
[5] Motor Vehicle Accident Report, Peel Regional Police dated May 12, 2004.
[6] Dr. Wahby's (SOMA) IME dated January 23, 2008.

Catastrophic Impairment: 74% Whole Body Impairment [1]

Anatomical Map of Bains' Injuries

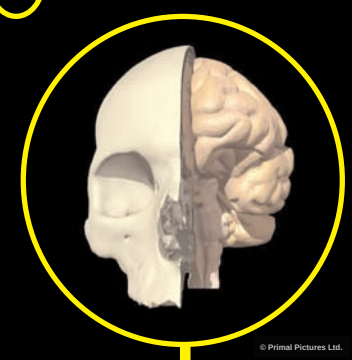


1 Left Shoulder: Detachment or Tear



"...diagnosis of a glenohumeral instability, labral detachment or tear."[3]

2 Head Trauma



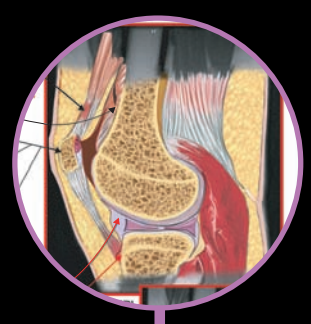
"Final Primary Problem: Head/Facial Trauma"[4]

R.B.C. IME: 2008

"2. In your opinion, are the diagnostic conditions and their apparent severity consistent with the mechanism of the accident in question?

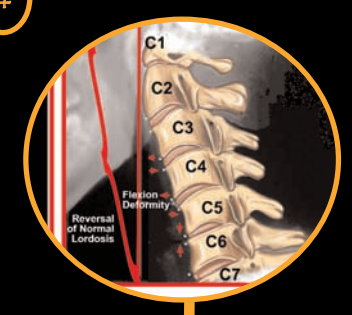
In my opinion, the dignostic conditions and their severity are consistent with the mechanism of the accident in question."[2]

3 Right Knee: Torn P.F. Ligament



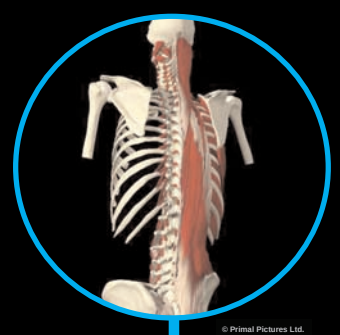
"...damage in the articular underneath the patella and the trochlea because of the patellofemoral instability, the torn patellofemoral ligament and the laterally postioned tibial tubercle."[5]

4 Neck



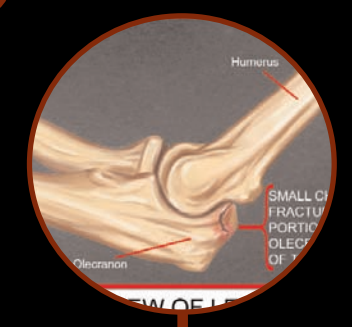
"Ms. Bains demonstrates a 25% impairment of the whole person as described by DRE catagory IV of the American Medical Association Guides to the Evaluation of Permanent Impairment, 4th Edition as a result of the loss of motion segment integrity at C3 and C4 (p 104)."[6]

5 Back



"Orthopaedic evaluation revealed positive findings for bilateral straight leg raise to 45 degrees. Hibb's, Yeoman's, Fabere's and Gaenslen's tests were positive for bilateral sacroiliac joint pain."[7]

6 Elbow



"Small chip fracture proximal portion of olecranon process of the ulna. No hemarthrosis."[8]

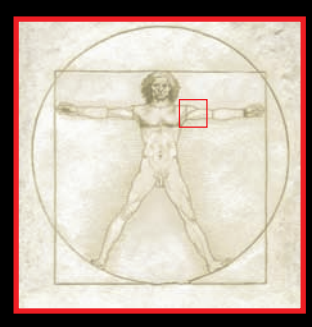
[1] Catastrophic Impairment Report of Dr. Rolbin dated February 25, 2008 at pg.7
[2] Dr. Wahby's (SOMA) IME dated January 23, 2008.
[3] MRI Report of Dr. Gary Gilyard dated January 30, 2006.
[4] Ambulance Call Report dated May 12, 2004.
[5] Report of Dr. Gary Gilyard dated January 30, 2006.
[6] Diagnostic Report of Dr. John Baird dated December 19, 2007.
[7] Dr. Wahby's (SOMA) IME dated January 23, 2008.
[8] X-ray Diagnostic Report dated September 20, 2004.

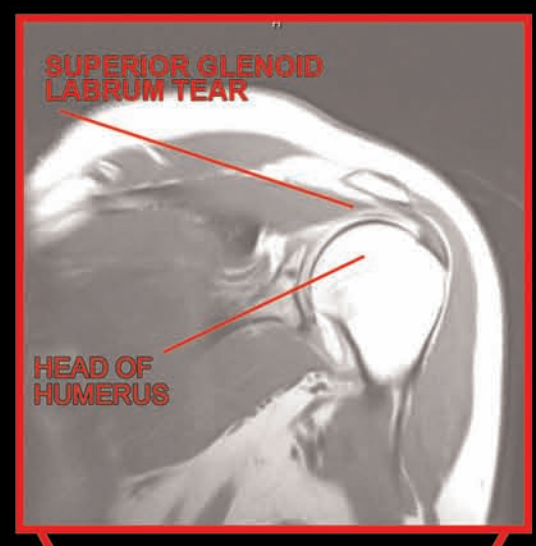
Upper Extremity Impairment: 34% WBI [1]

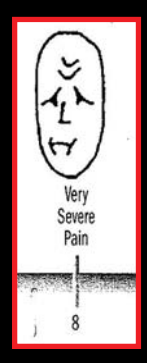
"...diagnosis of a glenohumeral instability, labral detachment or tear."[2] + unable to lift, bend. twist, or perform some household tasks for her clients as a result of her injuries."[3] + "Difficulty using left arm...Marked limitation of left arm use."[4]

R.B.C. IME: 2008

"Left shoulder depression was positive for left upper trapezius..."[5]

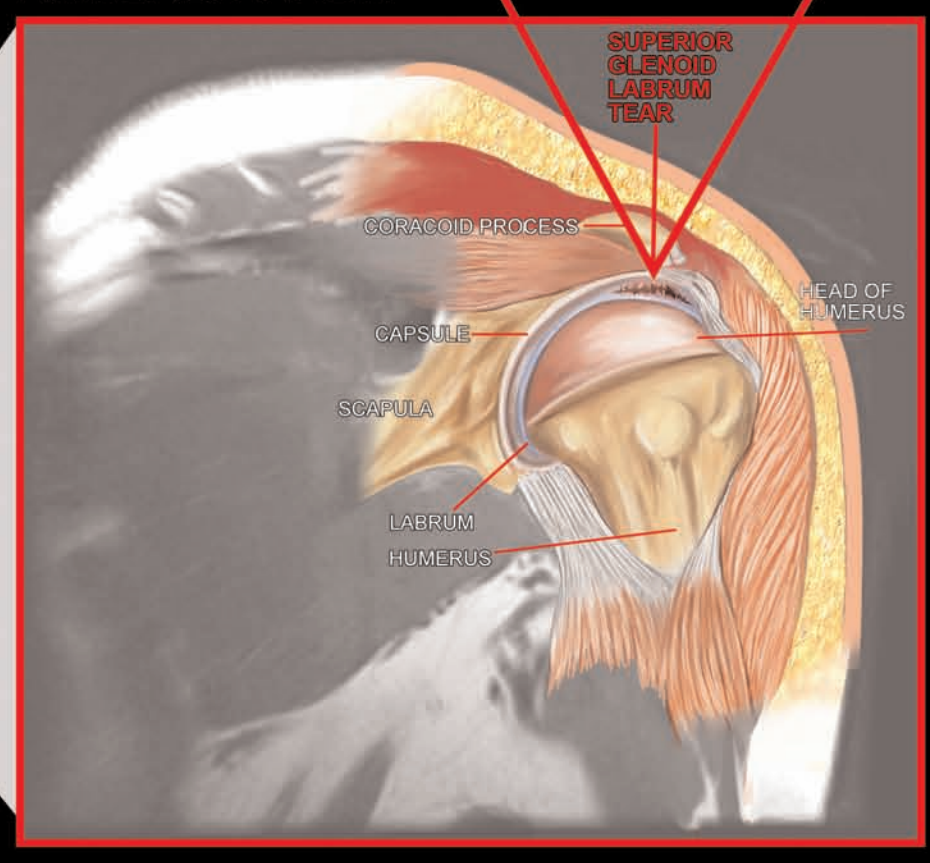


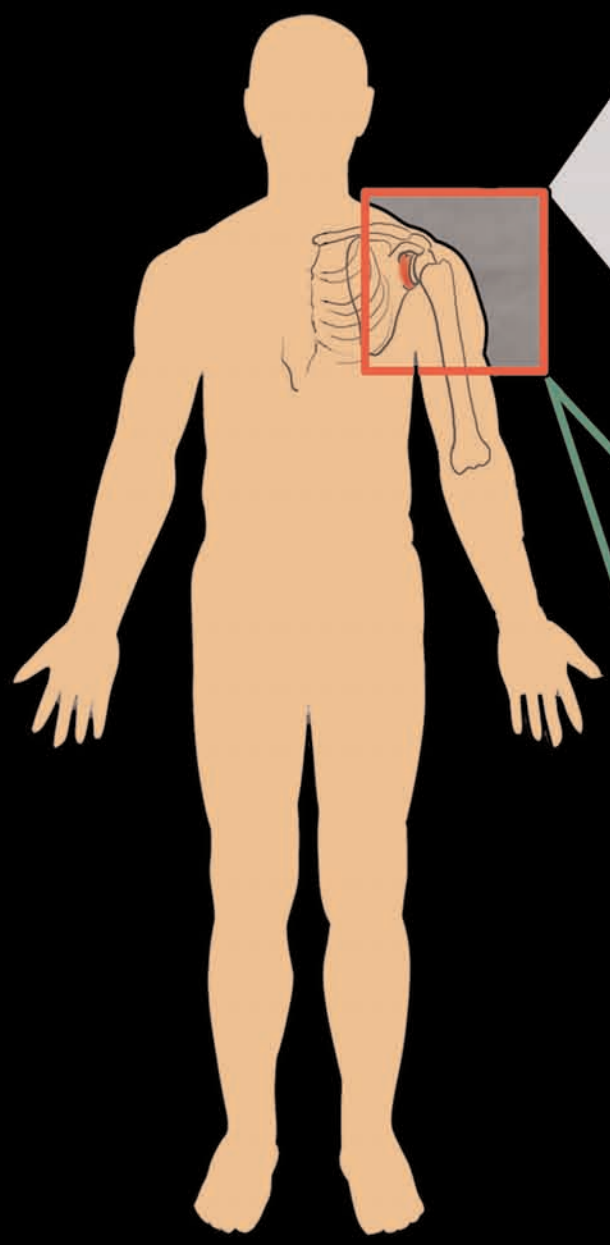




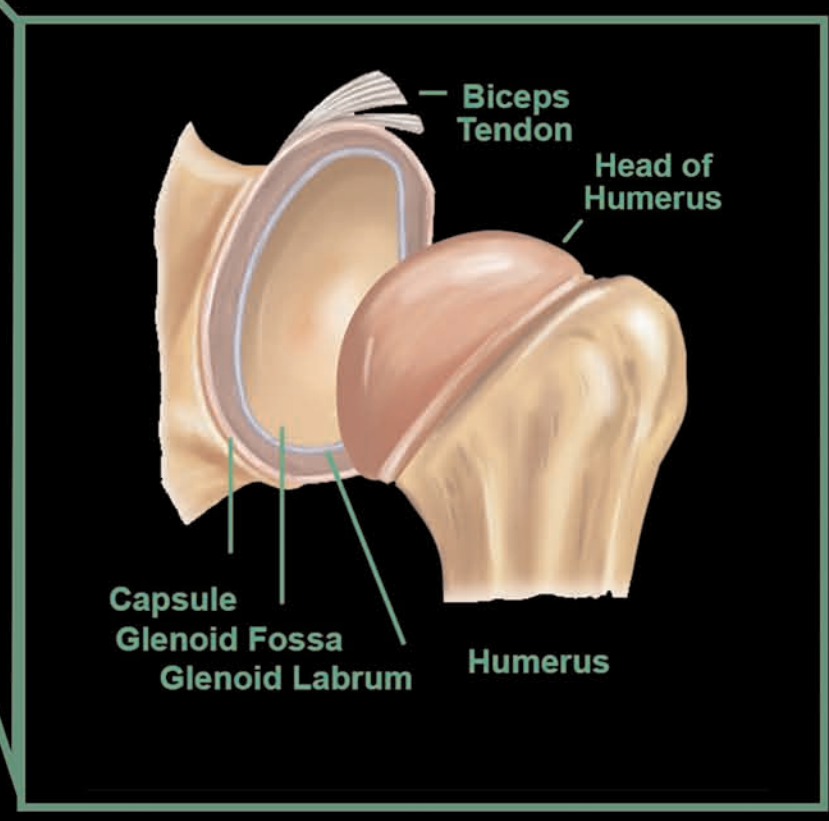
"...shoulder pain will exacerbate to 8/10 on the VAS up to 3-4 times per week."[6]

ANTERIOR VIEW





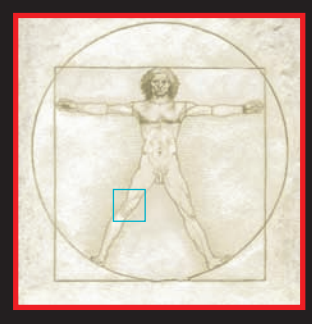
NORMAL ANATOMY



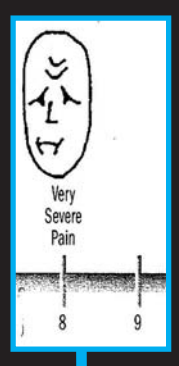
[1] Catastrophic Impairment Report of Dr. Rolbin dated February 25, 2008 at pg. 5.
[2] MRI Report of Dr. Gary Gilyard dated January 30, 2006.
[3] Disability Certificate dated June 5, 2004.
[4] OCF-18 Form signed by Dr. G. Kempe dated May 31, 2004.
[5] Dr. Wahby's (SOMA) IME dated January 23, 2008.
[6] Comprehensive Medical-Legal Assessment of Dr. Rolbin dated February 25, 2007. at pg. 4.

Gait Disturbance: 7% WBI [1]

"...subcutaneous hematoma over the anteromedial knee." [2] + "...knee pain..." [3] + "...damage in the articular underneath the patella and the trochlea because of the patellofemoral instability, the torn patellofemoral ligament and the laterally postioned tibial tubercle." [4]

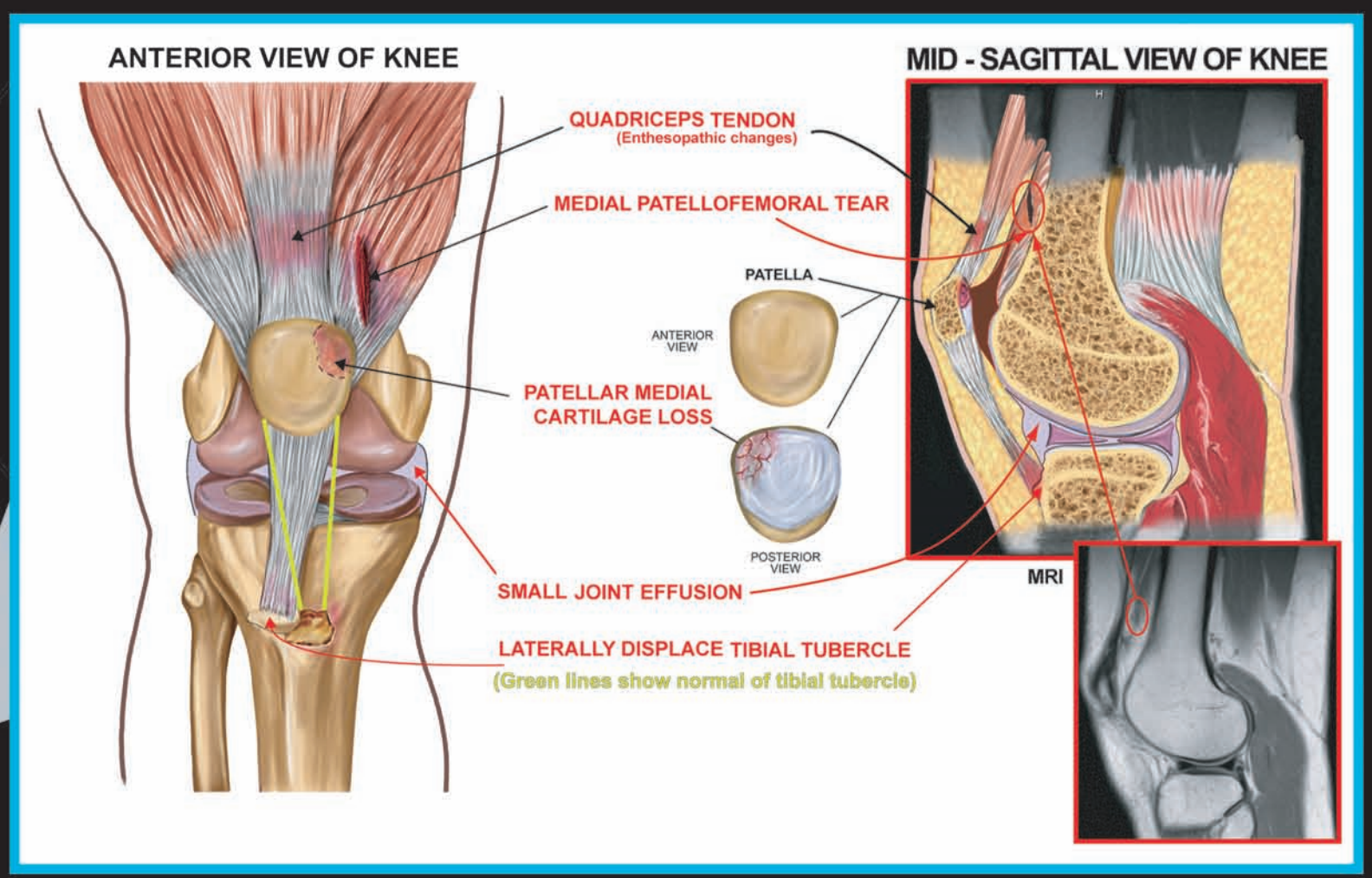


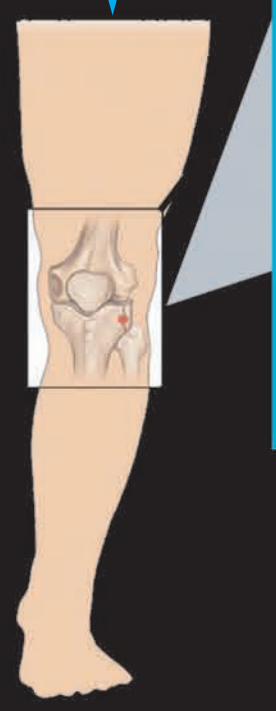
R.B.C. IME: 2008



"It will exacerbate to these more severe levels of pain at least two times per week several hours." [6]

"Orthopedic assessment revealed positive McMurray's and Apley's Compression for generalized pain with palpable medial joint line tenderness." [5]

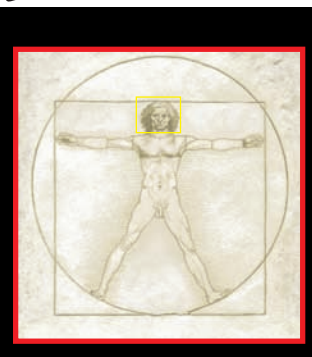


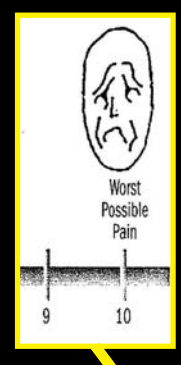


[1] Catastrophic Impairment Report of Dr. Rolbin dated February 25, 2008 at pg. 5.
[2] Windsor Regional Hospital - Consultation Report (Dr. Koppart - Orthopedic) dated May 15, 2004.
[3] William Osler Health Center - Emergency Record.
[4] MRI Report of Dr. Gary Gilyard dated January 30, 2006.
[5] Dr. Wahby's (SOMA) IME dated January 23, 2008.
[6] Comprehensive Medical-Legal Assessment of Dr. Rolbin dated February 25, 2007. at pg. 4.

Mental & Behavioural Impairments: 35% WBI [1]

"Final Primary Problem: Head/Facial Trauma" [2] + "Hematoma to left side of forehead..." [3] + "...Major Depressive Disorder..." [4] + "...frequent headaches & sleep disorders..." [5]





"She describes the headache pain as being very sharp. It is severe in nature, averaging 9-10/10 on the VAS" [12]

"Diagnostic Impression: Axis 1: "Major Depressive Disorder" "...looks depressed, and has disturbed neuro-vegetative function in the form of decreased sleep, decreased appetite and loss of motivation and ability to enjoy things in life." [6]

"Her physical findings today, in particular her lack of smell and signs and symptoms associated with her neck and pain, are suggestive of the distinct possibility of a traumatic brain injury." [11]

"Cognitive difficulties may arise from her chronic pain or pyschological problems, however, it is also possible that a mild traumatic brain injury has been sustained." [7]

"The left frontal area was tender, whereas it was 3 kg elsewhere. This suggests that this area is now hypersensitive and could act as a site of focal headaches." [10]

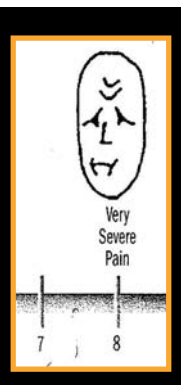
"Ms. Bains expressed a significant degree of pessimism and...features of depressions including social withdrawal...low motivation and sadness." [8]

"...appears to meet the diagnostic criteria for a Major Depressive Episode. Currently, her depressive symptomology falls in the severe range and there are concerns regarding suicidal ideation." [9]

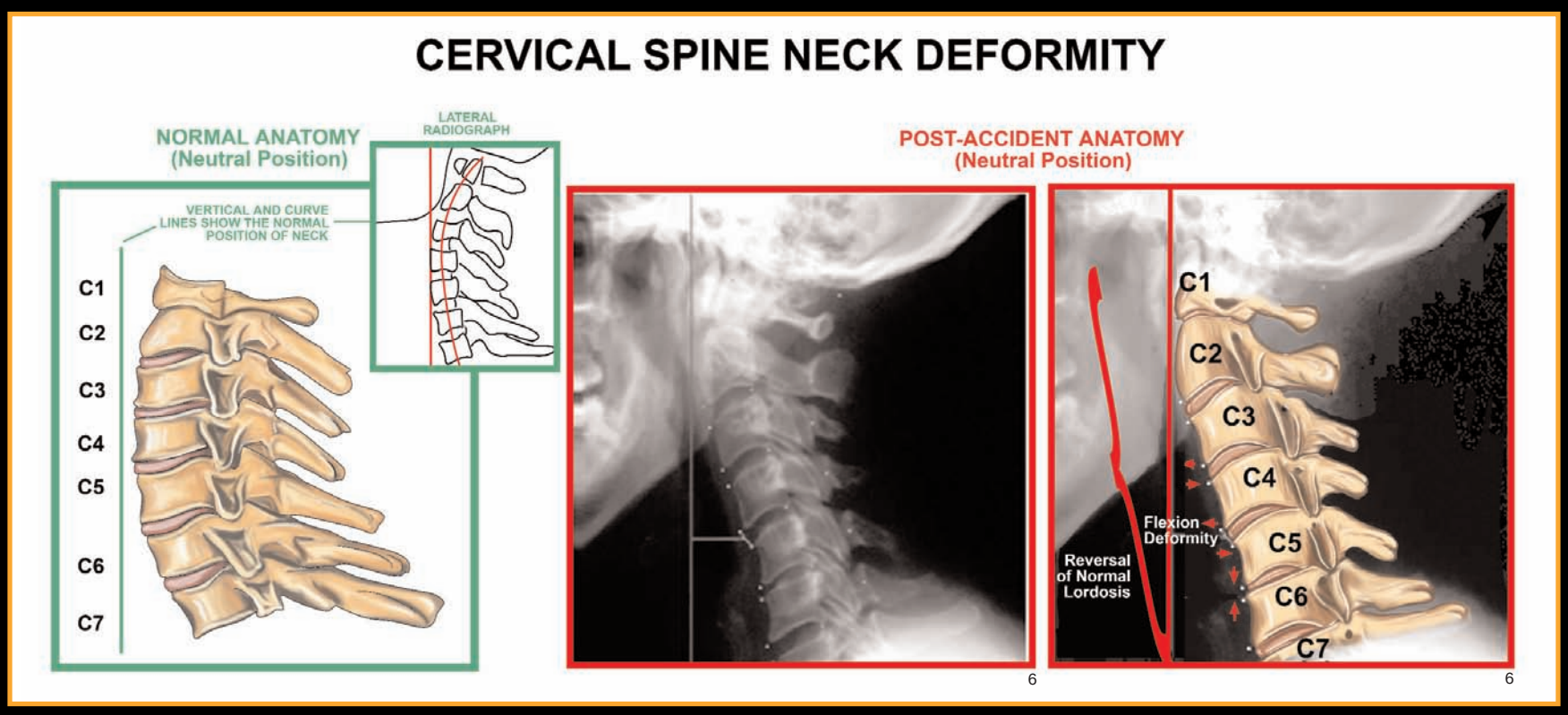
[1] Catastrophic Impairment Report of Dr. Rolbin dated February 25, 2008 at pg. 4.
[2] Ambulance Call Report dated May 12, 2004.
[3] Ambulance Call Report dated May 12, 2004.
[4] OCF-22 Application Form signed by Dr. G. Kempe dated July 13, 2004.
[5] Dr. Salama (Psychologist's Note) dated October 6, 2005.
[6] Dr. Salama (Psychologist's Note) dated October 6, 2005.
[7] Optimal Outcomes Rehabilitation Management Report dated August 2007 at pg. 6.
[8] Dr. McGrory [IME] dated April 5, 2005.
[9] Dr. McGrory [IME] dated April 5, 2005.
[10] Dr. Gavel's Report dated January 10, 2005.
[11] Comprehensive Medical-Legal Assessment of Dr. Rolbin dated February 25, 2007.
[12] Comprehensive Medical-Legal Assessment of Dr. Rolbin dated February 25, 2007. at pg. 6

Cervical & Thoracic Impairments: 25% WBI [1]

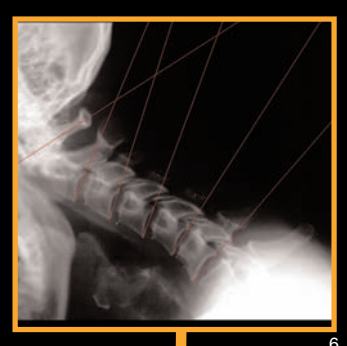
"...neck pain..."[2] + "...left lateral neck pain..."[3] + "Ms. Bains demonstrates a 25% impairment of the whole person as described by DRE catagory IV of the American Medical Association Guides to the Evaluation of Permanent Impairment, 4th Edition as a result of the loss of motion segment integrity at C3 and C4 (p 104)."[4]



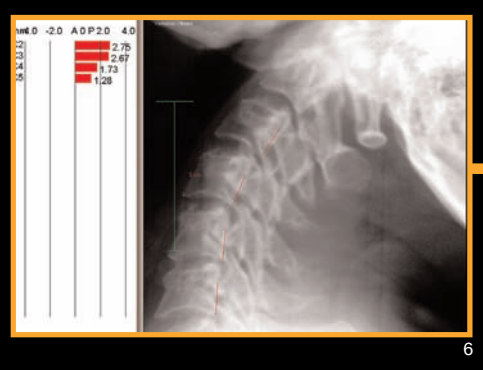
"The rating for the severity of the pain in her neck is usually similar to the severity in her left shoulder..."[5]



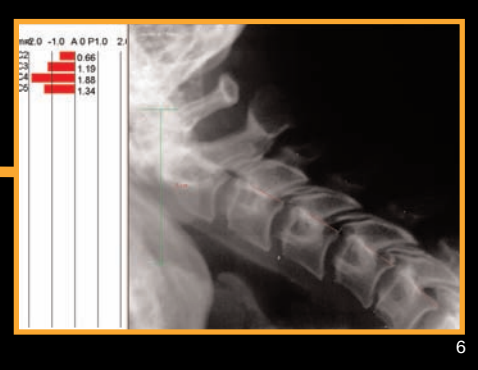
CS Flexion Baselines



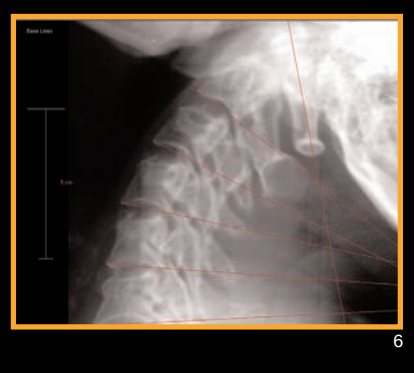
CS Extension Offsets



CS Flexion Offsets



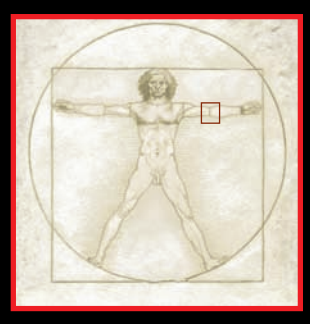
CS Extension Baselines



[1] Catastrophic Impairment Report of Dr. Rolbin dated February 25, 2008 at pg. 5.
[2] William Osler Health Center - Emergency Notes dated May 12, 2004.
[3] Ambulance Call Report dated May 12, 2004.
[4] Diagnostic Report of Dr. John Baird dated December 19, 2007.
[5] Comprehensive Medical-Legal Assessment of Dr. Rolbin dated February 25, 2007. at pg. 5.
[6] Diagnostic Report of Dr. John Baird dated December 19, 2007.

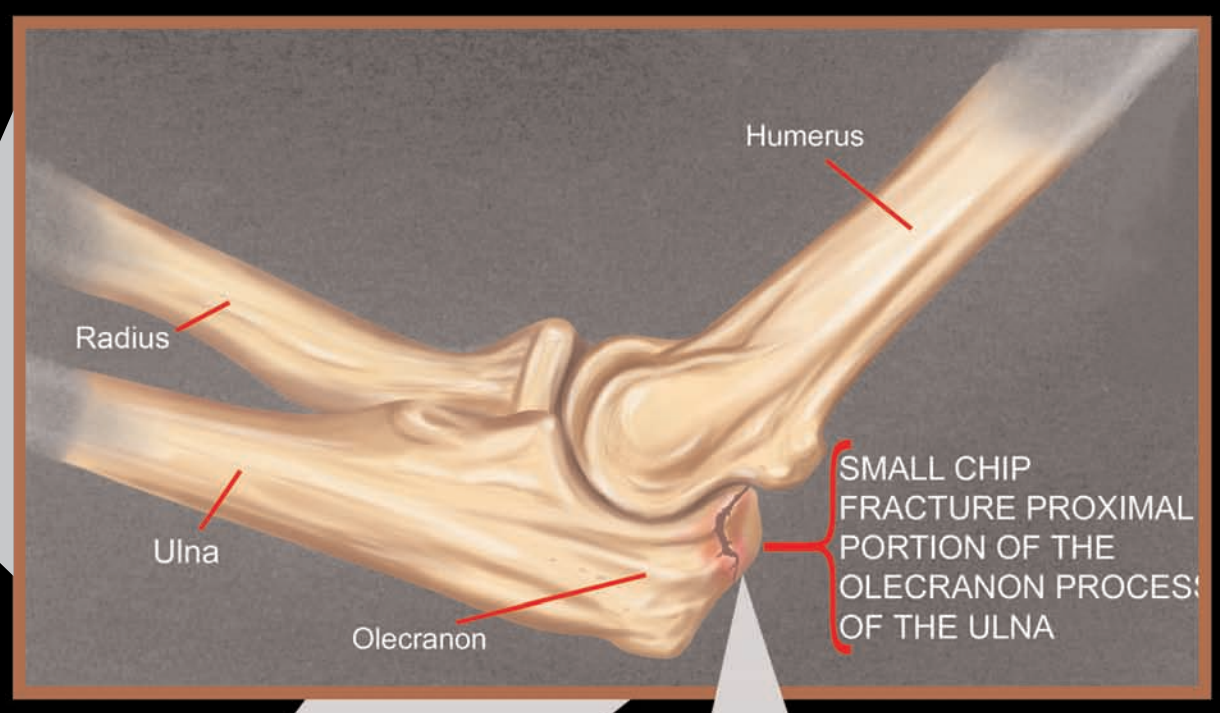
Left Elbow Fracture

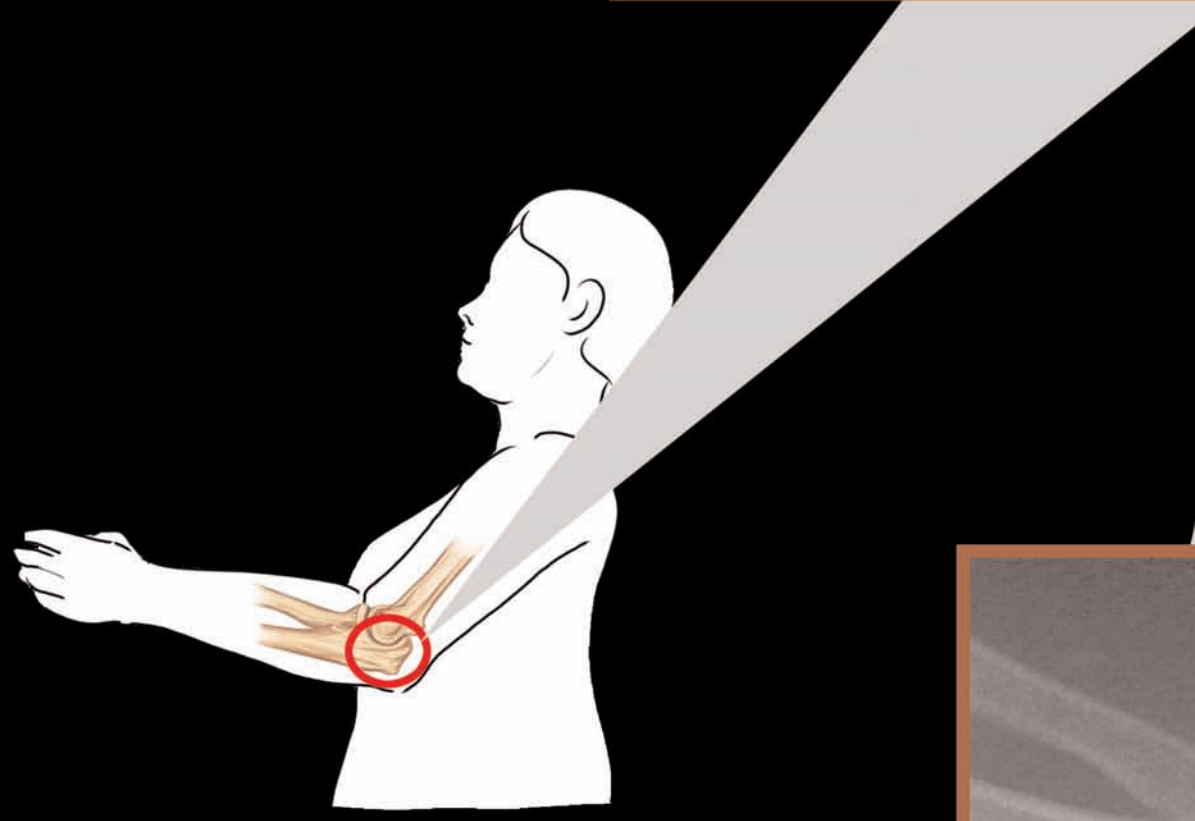
"Small chip fracture proximal portion of olecranon process of the ulna. No hemarthrosis." [1]



R.B.C. IME: 2008

"Left shoulder depression was positive for left upper trapezius, and left shoulder pain was positive for referral pain down posterior left arm to elbow." [2]

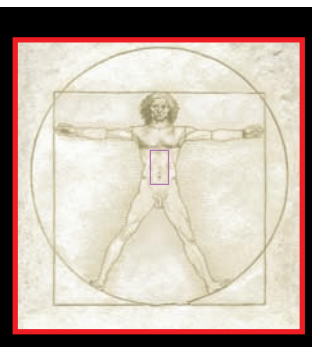




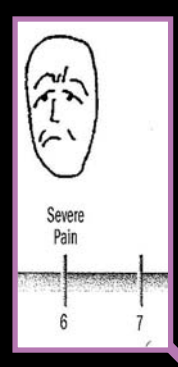
[1] X-ray Diagnostic Report dated September 20, 2004.
[2] Dr. Wahby's (SOMA) IME dated January 23, 2008.

Lumbar Spine: 5% WBI [1]

"Spinal precautions" [2] + "unable to lift, bend, twist, or perform some household tasks for her clients as a result of her injuries" [3] + "unable to perform routine duties, positions for prolonged period" [4]



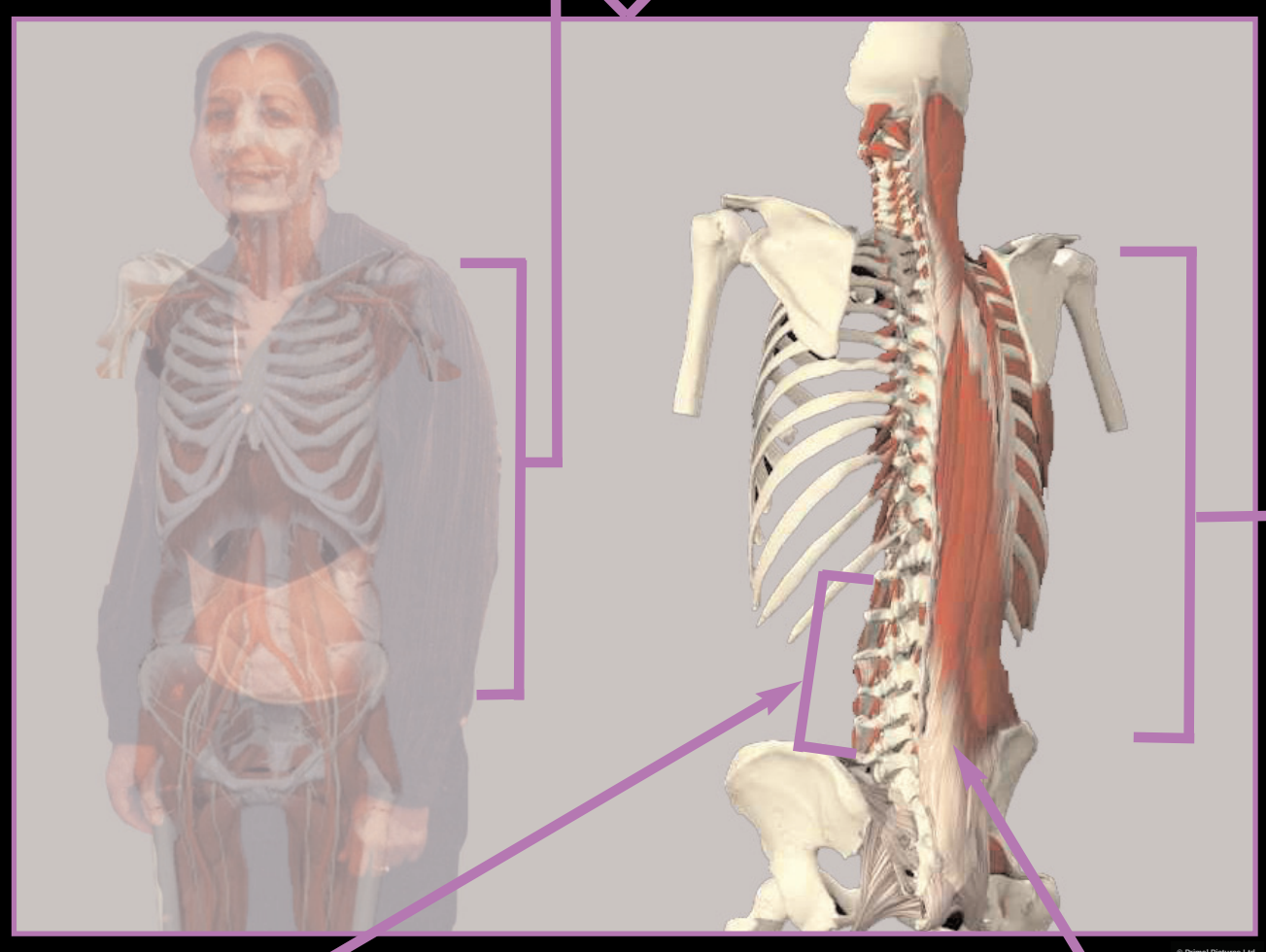
"Physical examination revealed a loss of lumbar range of motion upon active testing by approximately 50%. Point tenderness was elicited in the lumbar spine region and throughout the lumbar paraspinal musculature."[5]



"It is an aching pain which is continuous in nature. It will range from 1-9/10 on the VAS averaging 6-7/10."[6]

R.B.C. IME: 2008

"Resisted lumbar ranges of motion were +4/5, with report of pain during resisted flexion/extension and bilateral rotation. Orthopaedic evaluation revealed positive findings for bilateral straight leg raise to 45 degrees. Hibb's, Yeoman's, Fabere's and Gaenslen's tests were positive for bilateral sacroiliac joint pain. ASIS compression and sacroiliac spread tests were painful bilaterally. Kemp's test was positive for L2-5 facet joint pain."[7]

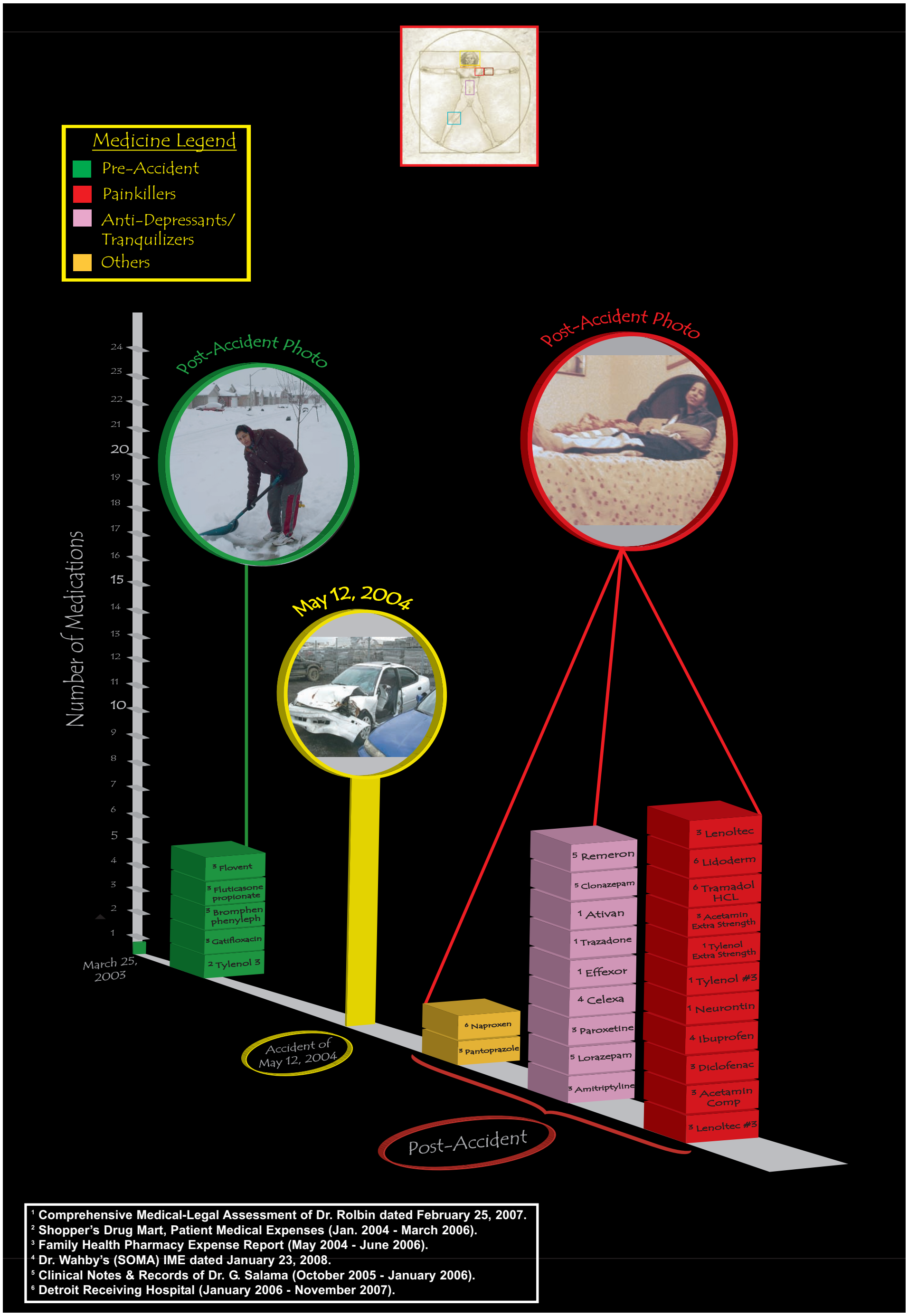


"Standing lumbar range of motion was 50% of normal and painful in flexion, extension and lateral flexion and 75% of normal in rotation all other ranges were within normal limits."[8]

"Lumbar spine - mild scoliosis convex to the right straightening of the lordotic curve"[9]

[1] Catastrophic Impairment Report of Dr. Rolbin dated February 25, 2008 at pg. 6.
[2] Ambulance Call Report dated May 12, 2004.
[3] OCF-18 Form signed by Dr. G. Kempe dated May 31, 2004.
[4] OCF-18 Form signed by Dr. G. Kempe dated May 31, 2004.
[5] Accident Injury Management Clinic - Progress Report dated July 27, 2004.
[6] Comprehensive Medical-Legal Assessment of Dr. Rolbin dated February 25, 2007. at pg. 8.
[7] Dr. Wahby's (SOMA) IME dated January 23, 2008.
[8] Diagnostic Report of Dr. John Baird dated December 19, 2007.
[9] X-ray Associates dated September 20, 2004.

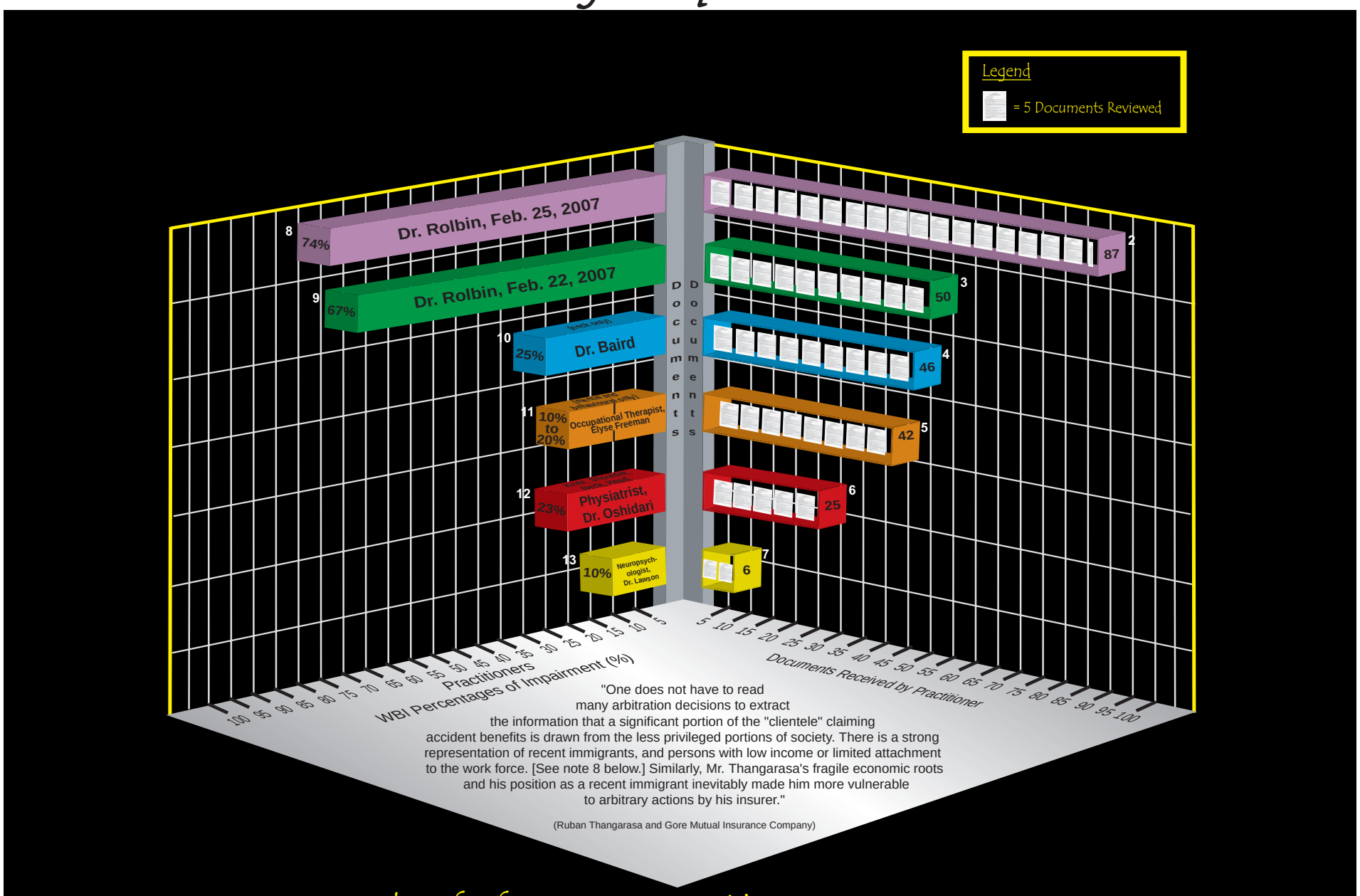
"The patient was healthy prior to the MVA of May 12, 2004. She does not smoke, drink alcohol, or use illicit drugs. She has no allergies to medications." [1]



[1] Comprehensive Medical-Legal Assessment of Dr. Rolbin dated February 25, 2007.
[2] Shopper's Drug Mart, Patient Medical Expenses (Jan. 2004 - March 2006).
[3] Family Health Pharmacy Expense Report (May 2004 - June 2006).
[4] Dr. Wahby's (SOMA) IME dated January 23, 2008.
[5] Clinical Notes & Records of Dr. G. Salama (October 2005 - January 2006).
[6] Detroit Receiving Hospital (January 2006 - November 2007).

"...Impairment Evaluation..."

"In practice, the first key to effecting an accurate impairment evaluation is a review office and hospital records maintained by the physicians who have cared for the patient since the onset of the medical condition. Such records include clinical notes, medical consultation reports, hospital records, admission and discharge summaries, notes on operations, pathology and laboratory test reports, and reports on special tests and diagnostic procedures."[1]



"One does not have to read
many arbitration decisions to extract
the information that a significant portion of the "clientele" claiming
accident benefits is drawn from the less privileged portions of society. There is a strong
representation of recent immigrants, and persons with low income or limited attachment
to the work force. [See note 8 below.] Similarly, Mr. Thangarasa's fragile economic roots
and his position as a recent immigrant inevitably made him more vulnerable
to arbitrary actions by his insurer."

(Ruban Thangarasa and Gore Mutual Insurance Company)

Examples of Information Ignored by R.B.C. & CAT Assessors

"...she is unable to lift patients, turning them over, help them walk, etc. All these tasks are essential parts of a registered Nurse's job." *"we made further accommodations for Sonia due to the fact that her injuries affect her ability to continuously work."* *"The other nurse's are aware of Sonia's inability to work for more than 2 hours at a stretch."* Synopsis of Statement of Witness of Anna Alexander	*"...she was having headaches...they would typically occur in the morning, and were associciated with photophobia and phonophobia..."* *"...she was complaining of memory problems and dizziness. She would sometimes suddenly lose sight of where she was..."* *"...the left frontal area was tender, and where the haematoma had been the pain threshold was 2kg. whereas it was 3kg elsewhere. This suggests that this area is now hypersensitive, and could act a site of focal headaches..."* *"...in summary, Mrs. Bains has suffered an injury to her head and neck, as well as to her lumbar spine..."* Neurologist Report by Dr. M.J. Gawel (Dated: January 10, 2005)	*"...in reviewing the left shoulder her Apley's scratch test was limited throughout abduction and external rotation of the shoulder. Left shoulder abduction was limited to approximately 50 degrees. Impingement sign testing of the left shoulder was positive for tendonopathy. Upper extremity muscle testing to manual resistance revealed left upper extremity significantly weaker to manual resistance compared to the right..."* *"...Bilateral grip strength testing using a Jamar Dynomometer revealed right grip strength approximately 30 Kg, left grip strength was 0 Kg..."* *"...Radiological examination included a left rotator cuff ultrasound dated Aril 14, 2005 which outlines a partial tear is suspected involiing the inferior aspect of the supraspinatus tendon close to its bony insertion..."* Chiropractic DAC Assessment Report (Dated July 21, 2005) *Ignored by Dr. K. Lawson **above cited quotes ignored by Dr. A. Oshidari and OT Dr. E. Freedman	*"...Depressive symptoms/Post Traumatic Stress Disorder..."* *"...possible referral to psychiatry..."* Disability Certificate OCF-3, Prepared by Dr. Joshi (Dated Dec.17, 2004) *ignored by OT Dr. E. Freedman and Dr K. Lawson	*"...unable to perform routine duties, positions for prolonged periods... Total cost of $2218.60"* Explanation of Benefits Payable by Insurance Company (RE: Treatment Plan – OCF 18- dated May 18, 2004. By Dr. Kempe)	*"...patellofemoral instability, the torn patello-femoral ligament and the laterally positioned tibial tubercle..."* Report of Dr. Gilyard (MRI findings) dated January 30, 2006.

[1] Guides to the Evaluation of Permanent Impairment, 4th Ed., American Medical Association © 1993, §1.2 Structure and Use of the Guides.
[2] Catastrophic Impairment Report of Dr. Rolbin dated February 25, 2008 at Appendix B.
[3] Comprehensive Medical-Legal Assessment Report of Dr. Rolbin dated February 25, 2008 at Appendix "A".
[4] Diagnostic Report of Dr. John Baird dated December 19, 2007 at pgs. 3-4.
[5] Report of Elyse Freedman at pg. 2-4.
[6] Report of Dr. Oshidari dated May 19, 2007 at pg. 2-6.
[7] Report of Dr. Lawson dated May 7, 2007 at pg. 3-4.
[8] Catastrophic Impairment Report of Dr. Rolbin dated February 25, 2008 at pg. 7.
[9] Determination of Catastrophic Impairment Report of Dr. Rolbin dated February 25, 2007 at pg. 7.
[10] Diagnostic Report of Dr. John Baird dated December 19, 2007 at pg. 5.
[11] Report of Elyse Freedman at pg. 14,15,16,17 not independent with 28 of 35 tasks.
[12] Report of Dr. Oshidari at pg. 14.
[13] Report of Dr. Lawson dated May 7, 2007 at pg. 12.

Fundamentals: RBC CAT Assessors

"Using multiple sources of information and attempting to ensure that the sources are objective can help eliminate bias, an error introduced by selecting or encouraging one outcome over another."[1]

"...she walked with a slight limp favoring her right leg..."[5]

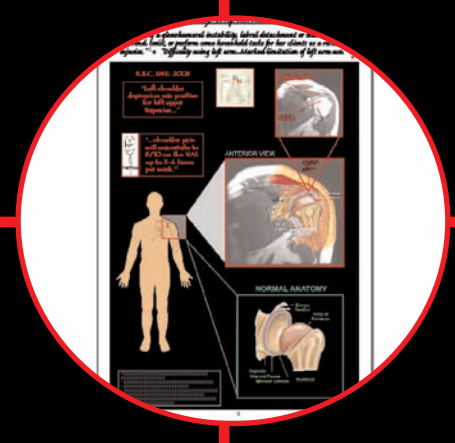
"...patellofemoral instability, the torn patellofemoral ligament and the laterally positioned tibial tubercle..."[2]

"...she is unable to lift patients, turning them over, help them walk, etc..."[3]

"...Ms.Bains...accident-related impairments include an obvious, right-sided antalgic gait...inability to squat down because of pain at the front of knee..."[4]

"Left shoulder depression was positive for left upper trapezius, and left shoulder pain, and was positive for referral pain down posterior left arm to elbow."[9]

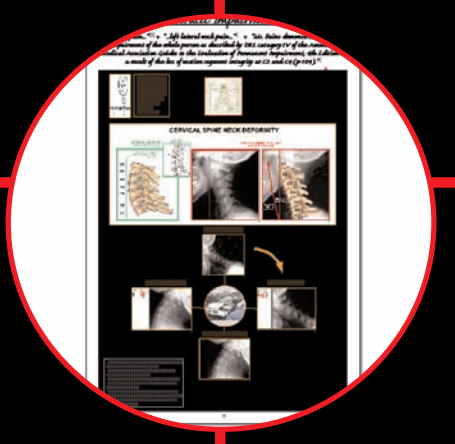
"... SLAP II Lesion involving the glenoid labrum..."[6]



"...she is unable to lift patients, turning them over, help them walk, etc..."[8]

"...Abnormal signal and morphology are seen involving the superior glenoid labrum consistent with a tear..."[7]

"...tenderness over the para-cervical and trapezius muscles on the left side of her neck..."[10]

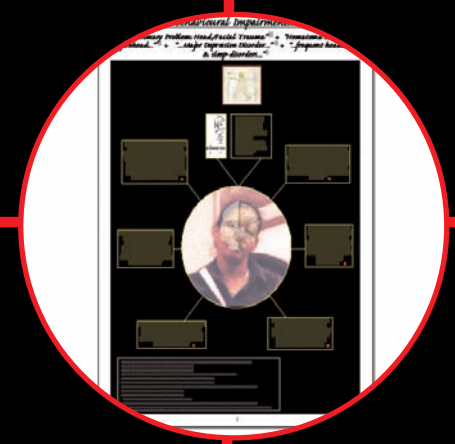


"...left lateral neck pain..."[11]

"Kemp's facet compression test was positive bilaterally in the cervical spine."[13]

"...she is unable to lift patients, turning them over, help them walk, etc..."[12]

"...this person sustained a mild head injury associated with a brief loss of consciousness..."[14]



"...Diagnostic Impression: Major Depressive Disorder..."[16]

"...Ms. Bains expressed a significant degree of pessimism and described hallmark features of depression including social withdrawal, loss of interest in pleasurable activities, low motivation and sadness..."[17]

"...looks depressed, and has disturbed neuro-vegitative function in the form of decreased sleep, concentration, decreased appetite and loss of motivation and ability to enjoy things in life..."[15]

[1] Guides to the Evaluation of Permanent Impairment, 4th Ed., American Medical Association © 1993, §1.2 Structure and Use of the Guides.
[2] Report of Dr. Gilyard (MRI findings) dated January 30, 2006.
[3] Witness Statement of Anna Alexander.
[4] Dr. French (Orthopaedic Assessment) dated September 20, 2005.
[5] R.B.C. IME dated January 21, 2008.
[6] Left Shoulder MRI findings dated December 29, 2005.
[7] Left Shoulder MRI findings dated December 29, 2005.
[8] Witness Statement of Anna Alexander.
[9] R.B.C. IME dated January 21, 2008.
[10] Dr. French (Orthopaedic Assessment) dated September 20, 2005.
[11] Ambulance Call Report dated May 12, 2004.
[12] Witness Statement of Anna Alexander.
[13] Report of Dr. Baird (Re: Neck X-rays) dated December 19, 2007.
[14] Neuropsychological Evaluation by Dr. K. Lawson dated May 7, 2007.
[15] Consultion- Mental Status Examination by Dr. Salama (Psychiatrist) dated October 6, 2005.
[16] Consultion- Mental Status Examination by Dr. Salama (Psychiatrist), dated October 6, 2005.
[17] Pychological Report by Dr. Jay McGrory dated April 5, 2005.