THE JACK DANIELS’
LOS ANGELES ABOTA
TRIAL SCHOOL

TRIAL DEMONSTRATION

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The American Board of Trial Advocates

Presents

THE JACK DANIELS'
LOS ANGELES CHAPTER
TRIAL SCHOOL
Trial Demonstration
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6. DEPOSITION OF KEN OBENSKI (Accident Reconstructionist for Plaintiff)

7. DEPOSITION OF ALLAN ASAY (Accident Reconstructionist for Nii Addy)
Introduction

This case study for the Jack Daniels' Los Angeles trial school is based on a real case where the plaintiffs were represented by a fellow ABOTA member Wylie A. Aitken. Defendant Allen Oldsmobile-Cadillac was represented by Peter Zell, who is also a fellow ABOTA member.

The case was not tried, and it was settled for a confidential amount.

In order to make the case study suitable for the trial school, I have limited the parties to plaintiff Milton Halsted and defendant Nii Addy. In the actual case, the 1991 Chevy Suburban was owned by the Finley people through Mrs. Finley's corporation Bigby Havis Association Inc. Co-defendant Allen Oldsmobile had serviced the Suburban before the trip. The tire that failed was manufactured by Uniroyal Goodrich Tire Company. Uniroyal Goodrich Tire Company was represented by Yukevich and Sonnett.

I have limited almost all of the discovery that was involved in the actual case. I have also cut down on the depositions of Milton Halsted and Nii Addy.

The focus of the student and the faculty at the trial school should be on the negligence or lack thereof of Nii Addy, and the comparative fault, if any, of Milton Halsted.

The case lends itself to many different approaches depending upon the style and creativity of the trial lawyer. I think there is sufficient evidence contained in the materials provided for an argument on the apportionment of fault of Allen Oldsmobile and Uniroyal Goodrich Tire Company under the "all others" portion of the special verdict which is included in the materials.

A special challenge to the students who are designated lawyers for Nii Addy will be how they handled the obvious sympathy factor of Lindsay Halsted’s tragic and untimely death. In the actual case there was a conflict of laws problem regarding Lindsay Halsted’s failure to wear a seatbelt. Under UTAH law, only the driver and the front seat passenger are required to wear seatbelt. Under California law, all individuals in the vehicle must wear a seatbelt, and the driver of the vehicle is responsible for making sure that all of his/her passengers are belted.

For the purpose of the trial school, you are to assume that California law applies so there will be further argument that Lindsay Halsted was not wearing a seatbelt. This raises the issue of comparative fault of the decedent.

The fact situation also presents a special challenge to the students representing the Halsted family. They will need to deal with the comparative fault of Mr. Halsted as to whether or not he grabbed the stirring wheel during the accident sequence. It also provides a challenge in both opening statements and closing arguments on the issue of damages because Mr. Halsted not only has damages for the loss of his daughter but also his damages under Dillon v. Legg because he was a percipient witness to his daughter’s death.
The fact situation also presents a possibility of the jury finding the defendant Nii Addy negligent for the manner in which he operates the vehicle during the accident sequence, but find that is not the cause of Lindsay Halsted's death. The jury could decide that Lindsay Halsted's death was caused by her own failure to wear a seat belt.

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Jack Daniels
DANIELS, FINE, ISRAEL, SCHONBUCH & LEBOVITS
1801 Century Park East
Ninth Floor
Los Angeles, California 90067
310.556.7900
**Stipulated Facts**

This accident occurred on S-15 approximately 20 miles north of Beaver, Utah. It was a single car accident involving a 1991 Chevy Suburban owned by Bigby Havis Associates, Inc. Bigby Havis Associates Inc. was the professional corporation for Mrs. Janet Finley. Even though the vehicle had become the property of Janet Finley, since the dissolution of Bigby Havis Associates Inc., she had not changed the registration to show herself as the individual owner.

The purpose of the trip was a vacation to the Finley family condominium in Utah. Matt Finley, and the decedent, Lindsay Halsted were boyfriend and girlfriend at the time of this accident on August 12, 1997. Mr. Halsted decided to go on the trip at the last minute because he wanted to chaperone his 16 year old daughter. Matt Finley is the son of Janet Finley. The two Shah brothers are friends of Matt Finleys.

Nii Addy, the driver of the Suburban at the time of the accident is also a friend of Matt Finley.

The accident occurred on August 12, 1997. Mr. Halsted birthday was August 13, 1937.

The first day of the trip was uneventful. The plan was to rotate the driving until the group reached Las Vegas. For the first night, they stayed with Matt Finley’s grandparents at their home in Las Vegas. The next day Milton Halsted was the original driver. While he was driving the car, the right rear tire failed. Mr. Halsted was able to keep the vehicle under control and then drove the vehicle to a service station where a new tire was purchased for the right rear of the 1991 Chevy Suburban.

After purchasing the new tire, the group proceeded on with their trip. After lunch, Nii Addy took over driving the vehicle. The accident occurred shortly after noon on Tuesday, August 12, 1997. The accident sequence was precipitated with the left rear tire failing at the beginning of the accident sequence. Nii Addy was unable to control the vehicle and the vehicle ended up rolling over in the median of this divided highway. The vehicle ended up on its wheels. Mr. Halsted was in the right front passenger seat. He and Nii Addy were the only ones that were wearing seat belts. Even though Vishal Shah was not wearing a seat belt, he was not ejected or injured in the accident. Ravi Shah was not belted and was injured. Matt Finley was not belted and was ejected from the vehicle as was Lindsay Halsted. The Shah brothers were sitting in the middle seat and Matt and Lindsay were sitting in the rear seat of the Suburban. Matt’s dog was in the middle portion of the vehicle next to the Shah brothers.

Lindsay Halsted was pronounced dead at the local hospital in Beaver Utah. It was the opinion of the post-accident observers that she had no vital signs at the accident scene.

The report of the Utah highway patrol is included in the material. In order to fully understand the entries in the report, the students must use the codes sheets which will explain the numbers used on the report.
The plan view hand drawn schematic of the car was part of the actual Utah highway patrol report and was prepared by Trp. C.O. Collings. The purpose of the schematic was to show his observations of the four tires on the Chevy Suburban. His observations of the tires is as follows:

Left front - still air
            - good tread
Right front - good tread
            - off wheel from slide
Left rear - missing tread
            - flat
Right rear - pulled off from a side slide
            - new with blue side wall

Under the law of the State of California, the negligence of the decedent Lindsay Halsted, for failing to wear a seat belt, is imputed to her father Milton Halsted.

Special damages to the Plaintiff:

Beaver Utah Hospital - $5,000
Funeral and Burial Expenses - $15,000

According to the life expectancy table in BAJI, the life expectancy for a 16 year old, White female is 64.3 years. The life expectancy of a 60 year old, White male is 19.3 years.
**ACCIDENT INFORMATION**

- **Place Where Accident Occurred**: Beaver, PA
- **Road on Which Accident Occurred**: SR-15
- **Location**: Northbound median

**VEHICLE INFORMATION**

- **Vehicle Identification Number**: 1GBERL6K6MF119446
- **Make**: Chev Suburban Util.
- **Model**: 07 White
- **License Plate Info**: 98 05 CA 3UW727
- **Disposition of Vehicle**: 1 Beaver Valley Chevron
- **Cost of Repair**: $15,000.00

**Insurers**

- **Insurance Company**: USAA
- **Policy Number**: 000772067U 71015

**Injury**

<table>
<thead>
<tr>
<th>Name</th>
<th>Date of Birth</th>
<th>Age</th>
<th>Sex</th>
<th>Inury Type</th>
<th>Cause</th>
<th>Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milton J. Halsted</td>
<td>San Juan Capistrano, CA</td>
<td>60</td>
<td>M</td>
<td>-</td>
<td>-</td>
<td>0 1</td>
</tr>
<tr>
<td>Ravi Shah</td>
<td>Lombard, IL</td>
<td>18</td>
<td>M</td>
<td>3 4 8 7 0 3</td>
<td>2 13</td>
<td></td>
</tr>
<tr>
<td>Vishal Shah</td>
<td>Lombard, IL</td>
<td>15</td>
<td>M</td>
<td>3 1 - -</td>
<td>0 1</td>
<td></td>
</tr>
<tr>
<td>Matt Finley</td>
<td>San Juan Capistrano, CA</td>
<td>19</td>
<td>M</td>
<td>3 4 4 3</td>
<td>0 1</td>
<td></td>
</tr>
</tbody>
</table>
Vehicle #1 was northbound on I-15 in the right-hand lane (Ln #2 NB). The left, rear tire failed, shredding the tread. The driver was unable to maintain control due to the tire failure. The vehicle started to rotate and slide sideways to the left and into the median. The vehicle rolled two(2) times, ejecting two(2) passengers. Three of the six passengers were injured, one fatally.

If Hazardous Materials were involved list the placard number from off the commercial vehicle.

WITNESSES

Patrick C. McKann
Address: 1029 NW 39th Dr., Gainesville, FL Phone (352)378-6673
Lynn G. Digby
Address: 14-13th Street, Plainwell, MI Phone (616)685-9235

FIRST AID ADMINISTERED BY

INJURED TAKEN BY

1- Ambulance, Private
2- Ambulance, Fire
3- Paramedics
4- Private Vehicle
5- Helicopter
6- Other

TIME: Amb. Called: ______ Arrived: ______

INJURED TAKEN TO Beaver Valley Hospital

POLICE ACTIVITY

Date Notified of Accident

Month Day Year

TIME: Notified of Accident

[ ] 1249

NAME & ADDRESS OF INJURED

NAME: ____________________________
ADDRESS: ____________________________
PHONE: ____________________________

INVESTIGATION

Date Initialled: 12/11/97

INVESTIGATION

DATE: 12/12/97

INVESTIGATOR

Name: ____________________________
Charge: ____________________________

CVSA Inspection: Yes, No

Other action taken

PRINT: ____________________________

STATE LAW REQUIRES THAT REPORT BE FORWARD TO:

Driver License Division Financial: P.O. Box 3
Salt Lake City, Utah 84130-0560

8pt. of Public Safety within 10 days following completion of investigation. Mail ORIGINAL OF REPORT TO
### Vehicle Information

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case Number</td>
<td>11971449</td>
</tr>
<tr>
<td>Place Where Accident Occurred</td>
<td>Beaver 01</td>
</tr>
<tr>
<td>Road on Which Accident Occurred</td>
<td>SR-15</td>
</tr>
<tr>
<td>Intersection Type</td>
<td>Northbound median</td>
</tr>
</tbody>
</table>

### Driver Information

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner First Name</td>
<td>Linsey Ann Halsted</td>
</tr>
<tr>
<td>Owner Last Name</td>
<td></td>
</tr>
<tr>
<td>Operator Initial</td>
<td></td>
</tr>
<tr>
<td>Operator Last Name</td>
<td></td>
</tr>
<tr>
<td>License Series</td>
<td></td>
</tr>
<tr>
<td>Driver Initial</td>
<td></td>
</tr>
<tr>
<td>Driver Last Name</td>
<td></td>
</tr>
</tbody>
</table>

### Accident Description

- **Date of Injury**: 08 12 97
- **Military Time**: 1240
- **Hours of Mile Post**: 131
- **Damage**: Right side window

<table>
<thead>
<tr>
<th>Field</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Injury Type</td>
<td></td>
</tr>
<tr>
<td>Cause</td>
<td></td>
</tr>
<tr>
<td>Area</td>
<td>Right side window</td>
</tr>
</tbody>
</table>
### Accident Severity

1. No injury
2. Possible injury
3. Bruises & Abrasions
4. Broken bones or bleeding wounds
5. Fatal

### Type of Collision

#### SEE LIST ABOVE ON BACK OF FRONT COVER

<table>
<thead>
<tr>
<th>TYPE OF DISTRACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. No Distraction</td>
</tr>
<tr>
<td>2. Distraction</td>
</tr>
<tr>
<td>3. Distraction</td>
</tr>
<tr>
<td>4. Distraction</td>
</tr>
<tr>
<td>5. Distraction</td>
</tr>
</tbody>
</table>

### Contributing Circumstances

<table>
<thead>
<tr>
<th>00 Did Not Contribute</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 Speed Too Fast</td>
</tr>
<tr>
<td>02 Failed To Yield Right Of Way</td>
</tr>
<tr>
<td>03 Drove Left Of Center</td>
</tr>
<tr>
<td>04 Improper Overtaking</td>
</tr>
<tr>
<td>05 Passed Stop Sign</td>
</tr>
<tr>
<td>06 Disregarded Traffic Signal</td>
</tr>
<tr>
<td>07 Followed Too Closely</td>
</tr>
<tr>
<td>08 Made Improper Turn</td>
</tr>
<tr>
<td>09 Had Been Drinking</td>
</tr>
<tr>
<td>10 Under The Influence Of Drugs</td>
</tr>
<tr>
<td>11 Eyewitness Evidence Unavailable</td>
</tr>
<tr>
<td>12 Age</td>
</tr>
<tr>
<td>13 Fatigue</td>
</tr>
<tr>
<td>14 Ill</td>
</tr>
<tr>
<td>15 Improper Parking</td>
</tr>
<tr>
<td>16 Improper Lookout</td>
</tr>
<tr>
<td>17 Failed To Signal</td>
</tr>
<tr>
<td>18 Other Improper Driving</td>
</tr>
<tr>
<td>19 Brakes Defective</td>
</tr>
<tr>
<td>20 Headlight Insufficient or Out</td>
</tr>
</tbody>
</table>

### VEHICLE MANEUVER (DRIVER INTENT)

<table>
<thead>
<tr>
<th>01 Go Straight Ahead</th>
</tr>
</thead>
<tbody>
<tr>
<td>02 Overtake (Passing)</td>
</tr>
<tr>
<td>03 Make Right Turn</td>
</tr>
<tr>
<td>04 Make Left Turn</td>
</tr>
<tr>
<td>05 Start From Parked Position</td>
</tr>
</tbody>
</table>

### OBJECT STRUCK

| A. Animal |
| B.Guardrail |
| C. Utility Pole |
| D. Sign Pole |
| E. Median Barrier |
| F. Bridge Girder or Other |
| G. Highway Structure |

### COLLISION WITH OBJECT

| 1. Not Obscured |
| 2. Rain, Snow, Etc. On Windshield |
| 3. Windshield Otherwise Obscured By Vehicle Lead |
| 4. Vision Obscured By Vehicle Lead |
| 5. Trees, Shrubs, Etc. |
| 6. Building |
| 7. Embankment |

### PAVEMENT SURFACE TYPE

| 1. Concrete |
| 2. Blacktop (Bituminous) |
| 3. Brick or Block |
| 4. Gravel; Stone |

### Pedestrian/Bicyclist Action

<table>
<thead>
<tr>
<th>01 Crossing Against Signal</th>
</tr>
</thead>
<tbody>
<tr>
<td>02 Crossing Against Signal</td>
</tr>
<tr>
<td>03 Crossing At Intersection - No Signal</td>
</tr>
<tr>
<td>04 Crossing At Intersection - Diagonally</td>
</tr>
<tr>
<td>05 Crossing Not At Intersection</td>
</tr>
<tr>
<td>06 Walking in Roadway - With Traffic</td>
</tr>
<tr>
<td>07 Walking in Roadway - Against Traffic</td>
</tr>
<tr>
<td>08 Standing on Median Island in Crosswalk</td>
</tr>
<tr>
<td>09 Other Standing in Roadway</td>
</tr>
<tr>
<td>10 Getting On Or Off Bus</td>
</tr>
<tr>
<td>11 Getting On Or Off Other Vehicle</td>
</tr>
<tr>
<td>12 Parking or Working in Roadway</td>
</tr>
<tr>
<td>13 Other Working In Roadway</td>
</tr>
<tr>
<td>14 Playing In Roadway</td>
</tr>
<tr>
<td>15 Coming From Entering Parked Cars</td>
</tr>
<tr>
<td>16 Hitching On Vehicle</td>
</tr>
<tr>
<td>17 Lying In Roadway</td>
</tr>
<tr>
<td>18 Vehicular In Roadway</td>
</tr>
<tr>
<td>19 Other In Roadway</td>
</tr>
<tr>
<td>20 Not In Roadway</td>
</tr>
</tbody>
</table>

### Alcohol/Drug Test

1. No Test
2. Blood
3. Breath
4. Other

### Alcohol/Drug Test Results

| 21. Riding In Roadway With Traffic |
| 22. Riding In Roadway Against Traffic |
| 23. Walking To Or From School |
| 24. Walking on Sidewalk |
| 25. Riding on Sidewalk |
| 26. Not Stated |

###通过区域

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>AGE</th>
<th>SEX</th>
<th>BOOTH TYPE</th>
<th>CAUSE AREA</th>
<th>EXTRACT</th>
<th>THROUGH WHAT AREA IJECTED</th>
</tr>
</thead>
</table>

### Summary

This document contains a comprehensive guide for recording accident details, including sections on accident severity, type of collision, contributing circumstances, vehicle maneuvers, object struck, collision with object, pavement surface type, pedestrian/bicyclist action, alcohol/drug test, and through what area ejected. It is designed to be filled out by law enforcement or accident investigators to document the circumstances of an accident comprehensively.
PLACE WHERE ACCIDENT OCCURRED

County

County

Indicate the county where the accident occurred. Do not abbreviate.
Code the two digit number representing the county using the following list:

<table>
<thead>
<tr>
<th>County</th>
<th>01 Beaver</th>
<th>02 Box Elder</th>
<th>03 Cache</th>
<th>04 Carbon</th>
<th>05 Daggett</th>
<th>06 Davis</th>
<th>07 Duchesne</th>
<th>08 Emery</th>
<th>09 Garfield</th>
<th>10 Grand</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>21 Iron</td>
<td>23 Juab</td>
<td>25 Kane</td>
<td>27 Millard</td>
<td>29 Morgan</td>
<td>31 Piute</td>
<td>33 Rich</td>
<td>35 Salt Lake</td>
<td>37 San Juan</td>
<td>39 Sanpete</td>
</tr>
</tbody>
</table>

Body Style/Type Code

Enter the body style or type of vehicle (for example, 2-door sedan, 4-door sedan, etc.). Also place the two-digit code describing the vehicle type in the space provided by using the following codes:

<table>
<thead>
<tr>
<th>Style</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car - regular</td>
<td>01</td>
</tr>
<tr>
<td>Car - compact</td>
<td>02</td>
</tr>
<tr>
<td>MPV</td>
<td>03</td>
</tr>
<tr>
<td>Pickup or panel</td>
<td>07</td>
</tr>
<tr>
<td>Pickup or panel &amp; house trailer</td>
<td>08</td>
</tr>
<tr>
<td>Pickup or panel &amp; horse trailer</td>
<td>09</td>
</tr>
<tr>
<td>Pickup or panel &amp; truck</td>
<td>10</td>
</tr>
<tr>
<td>Pickup or panel &amp; other</td>
<td>11</td>
</tr>
<tr>
<td>Pickup or panel &amp; public-owned</td>
<td>12</td>
</tr>
<tr>
<td>Single Unit &amp; other</td>
<td>13</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over</td>
<td>14</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box</td>
<td>15</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>16</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>17</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>18</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>19</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>20</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>21</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>22</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>23</td>
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<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
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</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>25</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>26</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>27</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>28</td>
</tr>
</tbody>
</table>

Disposition Of Vehicle Code

Source of Carrier Name

Type

Indicate the type of vehicle to be used in the accident. Use the following code list:

<table>
<thead>
<tr>
<th>Type</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car</td>
<td>01</td>
</tr>
<tr>
<td>2-door sedan</td>
<td>02</td>
</tr>
<tr>
<td>4-door sedan</td>
<td>03</td>
</tr>
<tr>
<td>MPV</td>
<td>04</td>
</tr>
<tr>
<td>Pickup or panel</td>
<td>05</td>
</tr>
<tr>
<td>Pickup or panel &amp; house trailer</td>
<td>06</td>
</tr>
<tr>
<td>Pickup or panel &amp; horse trailer</td>
<td>07</td>
</tr>
<tr>
<td>Pickup or panel &amp; truck</td>
<td>08</td>
</tr>
<tr>
<td>Pickup or panel &amp; other</td>
<td>09</td>
</tr>
<tr>
<td>Pickup or panel &amp; public-owned</td>
<td>10</td>
</tr>
<tr>
<td>Single Unit &amp; other</td>
<td>11</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over</td>
<td>12</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box</td>
<td>13</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>14</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>15</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>16</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
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</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
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</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
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<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
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</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
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<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>22</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>23</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>24</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>25</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>26</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>27</td>
</tr>
<tr>
<td>Single Unit &amp; other cab-over box (Minimum 2 axles &amp; 6 tires)</td>
<td>28</td>
</tr>
</tbody>
</table>

Injury Type-Cause Area

Indicate the area of the victim's body that suffered the most severe injury using these codes:

<table>
<thead>
<tr>
<th>Area</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head</td>
<td>31</td>
</tr>
<tr>
<td>Face</td>
<td>32</td>
</tr>
<tr>
<td>Neck</td>
<td>33</td>
</tr>
<tr>
<td>Chest</td>
<td>34</td>
</tr>
<tr>
<td>Back</td>
<td>35</td>
</tr>
</tbody>
</table>

Extraction - Fill in appropriate number

<table>
<thead>
<tr>
<th>Extraction</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ejected</td>
<td>1</td>
</tr>
<tr>
<td>1 - Partially ejected</td>
<td>2</td>
</tr>
<tr>
<td>2 - Partially ejected</td>
<td>3</td>
</tr>
</tbody>
</table>

Description of Cargo

Indicate the type of cargo carried by the vehicle. Use the following code list:

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Freight</td>
<td>A</td>
</tr>
<tr>
<td>Household Goods</td>
<td>B</td>
</tr>
<tr>
<td>Heavy Machinery</td>
<td>C</td>
</tr>
<tr>
<td>Motor Vehicles</td>
<td>D</td>
</tr>
<tr>
<td>Livestock</td>
<td>F</td>
</tr>
<tr>
<td>Other</td>
<td>*</td>
</tr>
</tbody>
</table>

Source of Carrier Name

1. Towed
2. Impounded
3. Retained by owner/insurer
4. Hit and run

Injury Type-Cause Area

Indicate the type of injury suffered by the vehicle using these codes:

<table>
<thead>
<tr>
<th>Injury Type</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>No injury</td>
<td>1</td>
</tr>
<tr>
<td>Possible injury</td>
<td>2</td>
</tr>
<tr>
<td>Bruises &amp; abrasions</td>
<td>3</td>
</tr>
<tr>
<td>Broken bones or bleeding wounds</td>
<td>4</td>
</tr>
<tr>
<td>Fatal</td>
<td>5</td>
</tr>
</tbody>
</table>
Pull off from New Side Slide off Blue Side Wall.

Still Air good Tread

Good Tread off wheel from slide

Tread Flat
PRELIMINARY TOXICOLOGY REPORT
Division of Epidemiology and Laboratory Services
Utah Department of Health
Law Enforcement Toxicology Section
Telephone: 584-8462

Name of Subject: ADDY, NII M.
Date of Evidence: 08/25/97
Agency Submission: 11971449
Laboratory Number: L97-1808

The following includes the blood alcohol and/or blood/urine drug screening results. A final report will be sent after confirmation of the drug screening results by a separate, more specific test. In a few instances, the confirmation test will be negative for a positive screening test. In such instances, the final report will indicate "no drugs identified".

BLOOD ALCOHOL: Negative

DRUG SCREENING TEST RESULTS:

Marijuana or metabolite Blood

Urine NEG

Toxicologist: WES Date: 09/04/1997
<table>
<thead>
<tr>
<th>DATA ENTRY</th>
<th>CAD</th>
<th>AUTO</th>
<th>SKADE-II</th>
</tr>
</thead>
<tbody>
<tr>
<td>00. Agency:</td>
<td>01. Inc #:</td>
<td>02. Rec By:</td>
<td></td>
</tr>
<tr>
<td>03. Date Reported:</td>
<td>04. Time Reported:</td>
<td>05. Shift:</td>
<td></td>
</tr>
<tr>
<td>06. Activity:</td>
<td>07. Priority:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19. Rem:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20. Units:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>32. Time Disp:</td>
<td>Arr:</td>
<td>Comp:</td>
<td><em>Trans</em> Enrt:</td>
</tr>
<tr>
<td>38. Other Agcy:</td>
<td>40. Ad:</td>
<td>41. Dsp By:</td>
<td>42. Case #:</td>
</tr>
<tr>
<td>44. Line-1:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>45. Line-2:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>46. Line-3:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>47. Line-4:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>48. Line-5:</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1-C/Fld 2-Acc Units 3-Name Srch 4-Case #: 5-Timer 6-Inc/Updt 7-Post 8-Unit On/Of 9-C/Mod 10-Multi Dsp 11-Cn Cs 12-Q/Ent 13-Alrm 14-Run 15-Triage 21-Hist 22-AUT
Page 1

(1) SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

(2) MILTON HALSTED, AND
   STEPHANIE HALSTED,
   )

(3) )
(4)  PLAINTIFFS,

(5) )
(6)  VS.,
(7)  ) CASE NO. 795327

(8) NII ABDY, BIGBY, BAVILS & ASSOCIATES,
(9) INC., DAVID FINLEY, JANET FINLEY,
(10) JANET HAVIS, MATTHEW FINLEY, THE
(11) S.F. GOODRICH COMPANY, MICHELIN
(12) NORTH AMERICA, INC., THE UNIORAL
(13) GOODRICH TIRE COMPANY, AND DOES 1
(14) THROUGH 100, INCLUSIVE,
(15) )
(16) DEFENDANTS,

(17) )
(18) DEPOSITION OF:
(19) MILTON HALSTED

(20) DATE & TIME: THURSDAY, APRIL 22, 1999, 2:12 P.M.
(21) PLACE: 3 IMPERIAL PROMENADE
(22) SUITE 800
(23) SANTA ANA, CALIFORNIA
(24) REPORTER: DENISE DAVIES, CSR
(25) CERTIFICATE NUMBER 10728

Page 2

(1) DEPOSITION OF MILTON HALSTED, TAKEN BEFORE
(2) DENISE DAVIES, A CERTIFIED SHORTHAND REPORTER FOR THE
(3) STATE OF CALIFORNIA, WITH PRINCIPAL OFFICE IN THE
(4) COUNTY OF ORANGE, COMMENCING ON THURSDAY, APRIL 22,
(5) 1999, 2:12 P.M., AT 3 IMPERIAL PROMENADE, SUITE 800,
(6) SANTA ANA, CALIFORNIA.

(7) )
(8) APPEARANCES OF COUNSEL:
(9) FOR THE PLAINTIFFS:
(10) LAW OFFICES OF WYLI A. ALLEN
(11) BY: RICHARD A. COHN
(12) ATTORNEY AT LAW
(13) 3 IMPERIAL PROMENADE
(14) SUITE 800
(15) SANTA ANA, CALIFORNIA 92707-0055
(16) (714) 414-1424

(17) FOR THE DEFENDANTS ALLEN OLDMOBILE:
(18) STEWART, DIMOCK, MARSHALL & ZELL
(19) BY: PETER R. ZELL
(20) ATTORNEY AT LAW
(21) 2030 MAIN STREET
(22) SUITE 600
(23) IRVINE, CALIFORNIA 92614
(24) (949) 222-0590

(25) FOR THE DEFENDANTS THE UNIORAL GOODRICH TIRE
(26) COMPANY:
(27) YUKEVICH & BRENNT
(28) BY: ALEXANDER G. CALFO
(29) ATTORNEY AT LAW
(30) 601 SOUTH FIGUERDA STREET
(31) THIRTY-EIGHTH FLOOR

Page 3

(1) APPEARANCES OF COUNSEL (CONTINUED):
(2) FOR THE DEFENDANTS THE FINLEY'S AND NII
(3) ABDY:
(4) DANIELS, BARAKAT & FINE
(5) BY: JAY DANIELS
(6) ATTORNEY AT LAW
(7) 1801 CENTURY PARK EAST
(8) NINTH FLOOR
(9) LOS ANGELES, CALIFORNIA 90067
(10) (310) 556-7500

(11) ALSO PRESENT:
(12) TOM WEST
(13) 
(14) 
(15) 
(16) 
(17) 
(18) 
(19) 
(20) 
(21) 
(22) 
(23) 
(24) 
(25)
(1) **MILTON HALSTED,**

(2) CALLED AS A WITNESS BY AND ON THE BEHALF OF THE

(3) DEFENDANTS, HAVING BEEN FIRST DUTY SWORN BY THE

(4) CERTIFIED SHORTHAND REPORTER, WAS EXAMINED AND

(5) TESTIFIED AS FOLLOWS:

(6)

(7) **EXAMINATION**

(8) BY MR. ZELL;

(9) Q MR. HALSTED, WOULD YOU STATE YOUR FULL

(10) NAME, PLEASE.

(11) **A MILTON J. HALSTED.**

(12) **Q YOU'RE THE PLAINTIFF OR A PLAINTIFF IN THE**

(13) **ORANGE COUNTY SUPERIOR COURT ACTION BROUGHT AGAINST**

(14) **THE VARIOUS DEFENDANTS, INCLUDING ALLEN OLDSMOBILE,**

(15) **AS A RESULT OF AN ACCIDENT THAT OCCURRED ON OR ABOUT**

(16) **AUGUST 12, 1987?**

(17) **A YES.**

(18) **Q I UNDERSTAND YOU WERE ACTUALLY INVOLVED IN**

(19) **THE ACCIDENT?**

(20) **A I WAS A PASSENGER.**

(21) **Q MY NAME IS PETER ZELL. I REPRESENT ALLEN**

(22) **OLDSMOBILE.**

(23) **HAVE YOU EVER GIVEN A DEPOSITION BEFORE?**

(24) **A YES.**

(25) **Q IN FRONT OF A COURT REPORTER WITH LAWYERS
Halsted vs. Addy Depo: Milton Halsted 4/22/99

Page 8

(1) Q OKAY.
(2) A OKAY.
(3) Q LASTLY, TRY TO LET ME FINISH MY ENTIRE
(4) QUESTION BEFORE YOU START YOUR ANSWER. SOMETIMES
(5) I’LL PAUSE IN ORDER TO THINK OF A PROPER PHRASE OR
(6) WHATEVER TO MAKE IT A COMPLETE SENTENCE.
(7) A OKAY.
(8) Q WHAT’S YOUR PRESENT RESIDENCE ADDRESS?
(9) A 27204 PASO LOMITA, SAN JUAN CAPISTRANO.
(10) Q WHAT DO YOU DO FOR A LIVING?
(11) A I WORK IN A MARKETING CAPACITY AT A PRODUCT
(12) DEVELOPMENT COMPANY.
(13) Q WHAT TYPE OF PRODUCT?
(14) A THE COMPANY IS OWNED BY BMW. WE DESIGN
(15) THEIR CARS AND OTHER PRODUCTS FOR OTHER COMPANIES.
(16) Q HOW LONG HAVE YOU LIVED IN SAN JUAN
(17) CAPISTRANO?
(18) A SINCE 1975.
(19) Q YOU'RE CURRENTLY MARRIED?
(20) A YES.

Page 9

(1) Q AND LIVING WITH YOUR WIFE?
(2) A YES.
(3) Q YOUR WIFE'S NAME?
(4) A STEPHANIE.
(5) Q SHE'S ALSO A PLAINTIFF IN THE CASE?
(6) A YES.
(7) Q HOW LONG HAVE YOU BEEN MARRIED TO
(8) MRS. HALSTED?
(9) A TWENTY-SIX YEARS.
(10) Q HOW MANY KIDS HAVE YOU HAD WITH
(11) MRS. HALSTED -- STEPHANIE?
(12) A THE TWO GIRLS, LAUREN AND LINDSEY.
(13) Q HOW OLD IS LAUREN?
(14) A NINETEEN.
(15) Q DOES SHE LIVE AT HOME?
(16) A SHE'S ATTENDING U.C. SANTA BARBARA.
(17) Q DID THE AUGUST 12, 1997, ACCIDENT HAPPEN IN
(18) THE STATE OF UTAH?
(19) A YES.
(20) Q WHAT TYPE OF TRIP WERE YOU ON?
(21) A A SHORT SUMMER BREAK VACATION.
(22) Q WHAT WAS YOUR DESTINATION ON THE TRIP?
(23) A ASPEN.
(24) Q WHAT WERE YOU GOING TO DO IN ASPEN?
(25) A WE WERE GOING TO SPEND ABOUT A WEEK THERE.

Page 10

(1) AT A -- I DON'T KNOW IF IT'S A CONDOMINIUM OR A
(2) TIMESHARE HOUSE THAT WAS OWNED BY THE FINLEYS.
(3) Q DID YOU AND/OR YOUR WIFE KNOW THE FINLEYS
(4) BEFORE THE ACCIDENT?
(5) A YES.
(6) Q WERE YOU SOCIAL FRIENDS WITH THE FINLEYS?
(7) A NO.
(8) Q HOW DID YOU KNOW THEM?
(9) A THROUGH THE SCHOOL WHERE THEIR SON AND OUR
(10) KIDS WENT.
(11) Q U.C.S.B.?
(12) A NO. SAINT MARGARET EPISCOPAL IN SAN JUAN.
(13) Q IS THAT A HIGH SCHOOL?
(14) A YES. ITS PRE-SCHOOL THROUGH HIGH SCHOOL.
(15) Q SO YOU NEVER SOCIALIZED WITH THE FINLEYS?
(16) A NO.
(17) Q THEY HAD A SON THAT WAS ON THIS TRIP,
(18) CORRECT?
(19) A YES.
(20) Q WAS THAT MATTHEW?
(21) A YES.
(22) Q I UNDERSTAND THERE WAS A FELLOW NAMED -- IS
(23) IT NII, N-II?
(24) A YES.
(25) Q ADDY, A-D-D-Y?

Page 11

(1) A YES.
(2) Q DID YOU KNOW NII BEFORE THE TRIP?
(3) A OCCASIONALLY, HE WOULD COME OVER AS A
(4) SCHOOLMATE KIND OF ACTIVITY WITH LAUREN.
(5) Q DO YOU KNOW WHERE -- I'M SORRY, I
(6) INTERRUPTED YOU. I VIOLATED MY OWN RULES.
(7) A WELL, YOUR QUESTION WAS: DID WE KNOW HIM
(8) BEFORE THE ACCIDENT?
(9) Q YEAH. AND HOW YOU KNEW HIM.
(10) A JUST AS PART OF THE SCHOOL RELATIONSHIP
(11) BETWEEN THE KIDS.
(12) Q DID HE ATTEND SAINT MARGARET?
(13) A YES.
(14) Q WERE YOU SOCIAL FRIENDS WITH HIS PARENTS?
(15) A NO.
(16) Q WAS HE A FRIEND OF MATT FINLEY'S?
(17) A YES.
(18) Q WAS HE A FRIEND OF LINDSEYS?
(19) A HE WAS MORE OF A FRIEND OF MATT'S.
(20) Q WHO ELSE WAS ON THE TRIP besides you,
(21) LINDSEY, NII, AND MATT FINLEY?
(22) A THERE WERE TWO OTHER FRIENDS. I CAN'T
(23) REMEMBER THEIR NAMES. THEY WERE FRIENDS OF MATT'S.
(24) Q YOUNG MEN?
(25) A YES.
Page 12

1. Q COLLEGE AGE?
2. A I BELIEVE THEY WERE 18, 19 YEARS OLD.
3. Q YOU WERE THE ONLY ADULT ON THE TRIP?
4. MR. COHN: WELL --
5. Q BY MR. ZELL: STRIKE THAT.
6. Q YOU WERE THE ONLY PERSON OVER THE AGE OF 21 ON THE TRIP?
7. A YES.
9. A THE TRIP PLANNING, IF YOU WILL, WAS STARTED BY MATT AND LINDSEY AS A QUICK BREAK TO SOME OTHER THINGS THEY WERE GOING TO DO IN THE SUMMER. THE TIMESHARE BECAME AVAILABLE. IT LOOKED LIKE SOMETHING THAT WOULD BE DOABLE. THE ORIGINAL PLAN WERE FOR THEM TO GO ALONE -- THE KIDS TO GO ALONE. WE VETOED THAT. THEN I WAS ABLE TO ARRANGE MY WORK SCHEDULE, AND I AGREED TO GO ALONG WITH THEM PRIMARILY BECAUSE OF LINDSEY'S AGE.
10. Q HOW OLD WAS LINDSEY?
11. A FIFTEEN.
12. Q AND HER DATE OF BIRTH?

Page 13

1. A SEPTEMBER 15TH, '81.
2. Q WHOSE TIMESHARE WAS IT?
3. A THE FINLEY'S.
5. A YES. I'M NOT SURE OF THE MODEL YEAR. I THINK THAT'S WHAT I REMEMBER SEEING IN A REPORT SOMEWHERE.
6. Q DO YOU KNOW THE VEHICLE LICENSE NUMBER?
7. A NO.
8. Q DID YOU SEE THE VEHICLE AFTER THE ACCIDENT IN ITS DAMAGED CONDITION?
9. A YES.
10. Q LET ME SHOW YOU TWO PHOTOS THAT I'LL MARK AS -- I'LL JUST SHOW YOU ONE. I'LL MARK IT AS "A."
11. WHEREUPON, THE DOCUMENT WAS MARKED AS DEFENDANT'S EXHIBIT NUMBER A FOR IDENTIFICATION, A COPY OF WHICH IS ATTACHED HERETO.)
12. Q IS THAT THE VEHICLE THAT WAS INVOLVED IN THE ACCIDENT?
13. A IT COULD BE.
14. Q THE FLASH, APPARENTLY, HAS OBSCURED THE DIGITS ON THE LICENSE.

Page 14

1. Q OTHERWISE, IT LOOKS GENERALLY LIKE THE VEHICLE?
2. A YES. IT WAS A WHITE SUBURBAN ABOUT THAT MODEL YEAR.
3. Q LET ME SHOW YOU TWO MORE THAT APPEAR TO BE THE DRIVER'S SIDE OF THE VEHICLE. I WILL MARK THEM AS "B" AND "C."
4. WHEREUPON, THE DOCUMENTS WERE MARKED AS DEFENDANTS EXHIBIT NUMBERS B & C FOR IDENTIFICATION, COPIES OF WHICH ARE ATTACHED HERETO.)
5. Q THESE ALSO APPEAR TO BE THE VEHICLE?
6. A IF YOU KNOW.
7. Q THE WITNESS: IT PROBABLY IS. I DON'T KNOW FOR SURE.
8. A BY MR. ZELL: DO YOU RECOGNIZE THE COLORS?
9. A YEAH. THE WHITE COLOR AND THE GREEN OR WHATEVER.
10. Q THE BLUSH COLOR?
11. A THE BLUSH COLOR, YEAH.
12. Q HOW MANY SEATS WERE IN THE VEHICLE?
Page 16

(1) SAID AND WHAT SHE SAID.
(2) A IT WAS IN THE DRIVEWAY OF THEIR CAR — OF
(3) THEIR HOME. WE HAD RETURNED THERE TO PICK UP SOME
(4) ITEM MATT FINLEY HAD FORGOT TO BRING ON THE TRIP, AND
(5) JANET WAS IN THE DRIVEWAY.
(6) SHE VOLUNTEERED TO SAY, AND I'M NOT SURE OF
(7) THE EXACT WORDS, SOMETHING TO THE EFFECT THAT THE CAR
(8) HAD JUST BEEN SERVICED AND THE TIRES HAD BEEN ROTATED
(9) AND IT SEEMED TO BE IN SAFE CONDITION FOR THE TRIP.
(10) Q THAT'S WHAT YOU RECALL HER SAYING?
(11) A YES.
(12) Q DO YOU HAVE A PRESENT MEMORY OF HER
(13) SAYING THAT THE CAR SEEMED TO BE IN SAFE CONDITION
(14) FOR THE TRIP, OR IS THAT SOMETHING THAT YOU'RE
(15) CHARACTERIZING?
(16) A I'M NOT SURE. I'M PROBABLY CHARACTERIZING
(17) THAT.
(18) Q DO YOU HAVE A PRESENT MEMORY, AS YOU SIT
(19) HERE TODAY, THAT JANET FINLEY SAID THAT THE TIRES HAD
(20) BEEN ROTATED?
(21) A YES.
(22) Q DO YOU HAVE A PRESENT MEMORY, AS YOU SIT
(23) HERE TODAY, THAT JANET FINLEY SAID THAT THE CAR HAD
(24) JUST BEEN SERVICED?
(25) A YES.

Page 17

(1) Q DID SHE SAY ANYTHING ELSE ABOUT THE
(2) SERVICING OR ANY RECENT WORK ON THE CAR OR ANY OTHER
(3) SAFETY ISSUE ON THE CAR IN THAT CONVERSATION?
(4) A NO.
(5) Q DID YOU HAVE ANY CONVERSATION WITH MATT
(6) FINLEY OR HIS FATHER ABOUT THE VEHICLE SAFETY OR
(7) MAINTENANCE OR SERVICING JUST BEFORE THE TRIP?
(8) A WE HAD A TELEPHONE CONVERSATION WITH JANET
(9) A DAY OR TWO BEFORE THE TRIP OF SOMETHING TO THE
(10) EFFECT THAT THE VEHICLE WAS AVAILABLE FOR THIS TRIP
(11) AND THAT IT SHOULDN'T — I DON'T KNOW.
(12) IT SHOULDN'T PRESENT ANY — SOME NORMAL
(13) CONVERSATION ABOUT THE CAR'S AVAILABLE. IT'S
(14) SUITABLE FOR THE SIX OF YOU.* WE DIDN'T HAVE A CAR
(15) LIKE THAT TO MAKE THIS TRIP, SO I THINK SHE WAS JUST
(16) OFFERING THE USE OF IT FOR THE EVENT.
(17) Q IN OTHER WORDS, IT WAS A BIG ENOUGH CAR TO
(18) ACCOMMODATE SIX PEOPLE?
(19) A RIGHT.
(20) Q AND YOUR FAMILY DIDN'T HAVE A CAR THAT
(21) WOULD SEAT SIX PEOPLE?
(22) A RIGHT.
(23) Q YOU DID NOT ASK ANY MEMBER OF THE FINLEY
(24) FAMILY BEFORE THE ACCIDENT ANY SPECIFIC QUESTIONS
(25) ABOUT THE CAR'S MAINTENANCE OR SERVICING LIKE, FOR

Page 18

(1) INSTANCE, THE TIRES OR BRAKES?
(2) A NO.
(3) Q WHAT WAS YOUR INFORMATION AS TO HOW MANY
(4) MILES YOU WERE GOING TO HAVE TO DRIVE TO GET TO THE
(5) TIMESHARE IN ASPEN?
(6) A I HADN'T DRIVEN THAT PARTICULAR STRETCH.
(7) WE HAD DECIDED TO DIVIDE THE TRIP INTO TWO SEGMENTS.
(8) Q I THINK I HAD ANTICIPATED FROM LAS VEGAS TO ASPEN TO
(9) TAKE ROUGHLY A FULL DAY.
(10) Q HOW ABOUT MILES? DID YOU HAVE ANY IDEA
(11) BEFORE THE TRIP IN MILES HOW LONG YOU WOULD HAVE TO
(12) DRIVE?
(13) A WE MAY HAVE HAD SOME CONVERSATION ABOUT IT.
(14) IT'S PROBABLY AN 800-MILE KIND OF A TRIP.
(15) Q WAS THE IDEA TO MAKE IT IN TWO DAYS OF
(16) DRIVING?
(17) A YES.
(18) Q BEFORE YOU STARTED ON YOUR TRIP, DID YOU
(19) HAVE A PLAN OF WHERE YOU WERE GOING TO STAY THE FIRST
(20) NIGHT?
(21) A YES.
(22) Q WAS THAT LAS VEGAS?
(23) A YES.
(24) Q AND THE ACCIDENT HAD HAPPENED BETWEEN LAS
(25) VEGAS AND ASPEN?
(1) FIRST DAY OF THE TRIP, HAD YOU INSTRUCTED ANY OF THE
(2) PASSENGERS TO BE SURE TO FASTEN THEIR SEAT BELTS?
(3) A YES.
(4) Q HOW MANY TIMES HAD YOU DONE THAT THE FIRST
(5) DAY?
(6) A WELL, WHEN WE STARTED INITIALLY. I DON'T
(7) REMEMBER IF I REPEATED IT. IT WAS VERY MUCH A NORMAL
(8) PART OF OUR PROCESS. YOU ASKED EARLIER ABOUT
(9) INSPECTING THE SEAT BELTS. WHEN WE GET IN, WE STRAP
(10) UP. THEY'RE VERIFYING IT. SO YOU KIND OF FIGURE THE
(11) SEAT BELTS ARE THERE.
(12) Q YOU USED YOUR SEAT BELT?
(13) A YES.
(14) Q WAS IT A LAP AND SHOULDER?
(15) A YES.
(16) Q DID IT WORK PROPERLY?
(17) A YES.
(18) Q BOTH THE FIRST AND SECOND DAY, DID YOU USE
(19) YOUR SEAT BELT AT ALL TIMES?
(20) A YES.
(21) Q AS YOU WERE STARTING OFF ON THE TRIP ON THE
(22) FIRST DAY, YOU WOULD HEAR OTHER PEOPLE CLICKING IN
(23) THEIR SEAT BELTS AND THAT KIND OF THING?
(24) A WELL, OUR Routine, normally, is you get in.
(25) YOU STRAP UP, AND YOU SORT OF YELL "BUCKLE UP" OR

(1) SOMETHING TO THAT EFFECT.
(2) Q WELL, DO YOU RECALL ON THAT FIRST DAY THAT
(3) YOU WERE ABLE TO VERIFY IN ANY RESPECT THAT EVERYBODY
(4) WAS BUCKLING UP BY EITHER SEEING THEM FASTENING THEIR
(5) SEAT BELTS OR HEARING THE GENERAL SOUND OF THE SEAT
(6) BELTS BEING CLICKED IN?
(7) A NO.
(8) Q ON THE FIRST DAY, DID YOU EVER DISCOVER BY
(9) SEEING SOMETHING OR SOMEBODY TELLING YOU THAT
(10) SOMEBODY WAS NOT FASTENING THEIR SEAT BELT?
(11) A NO.
(12) Q ON THE SECOND DAY BEFORE THE ACCIDENT, DID
(13) YOU AGAIN INSTRUCT PEOPLE TO PUT THEIR SEAT BELTS ON?
(14) A YES.
(15) Q AND YOU USED YOURS?
(16) A YES.
(17) Q DID YOU LEARN BEFORE THE ACCIDENT ON ANY
(18) SEGMENT OF THE TRIP ON THE SECOND DAY THAT ANYONE HAD
(19) NOT BEEN FASTENING THEIR SEAT BELT?
(20) A NO.
(21) Q DO YOU HAVE ANY INFORMATION THAT ANY OF THE
(22) OCCUPANTS OF THE VEHICLE WERE NOT SEAT BELTED AT THE
(23) TIME OF THE ACCIDENT?
(24) A SAY THAT AGAIN.
(25) Q DO YOU HAVE ANY INFORMATION OR KNOWLEDGE

(19) HAVE YOU LEARNED FROM ANY SOURCE, OTHER
(20) THAN YOUR ATTORNEYS, THAT ANYONE IN THE VEHICLE MAY
(21) HAVE NOT HAD A SEAT BELT ON AT THE TIME OF THE
(22) ACCIDENT?
(23) THE WITNESS: YES.
(24) Q BY MR. ZELL: WHO TOLD YOU?
(25) MR. COHN: YOU CAN GIVE YOUR BEST RECOLLECTION
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(1) IF YOU'RE HAVING TROUBLE RECALLING EXACTLY WHO TOLD YOU.
(2) THE WITNESS: I DON'T RECALL. WE HAD A COUPLE CONVERSATIONS FROM THE POLICE IN UTAH. IT MAY HAVE BEEN THERE. I DON'T KNOW. I DON'T REMEMBER IF THERE WAS -- I CAN'T RECALL A SPECIFIC NAME SAYING, "THEY WEREN'T ALL BELTED UP." I DID HEAR THAT FROM SOMEONE.
(3) Q BY MR. ZELL: DID MATT FINLEY TELL YOU THAT NOT EVERYBODY WAS BELTED UP?
(4) A NO. IT WASN'T MATT FINLEY. IT WASN'T ME. IT WASN'T THE OTHER TWO BOYS.
(5) Q WAS IT ONE OF THE OCCUPANTS OF THE VEHICLE?
(6) A NO. NO.
(7) Q WAS IT YOUR INFORMATION THAT YOUR DAUGHTER WAS NOT BELTED?
(8) A THAT'S WHAT I'VE HEARD, YES.
(9) Q AGAIN, EXCLUDING ANY CONVERSATION YOU'VE HAD WITH YOUR ATTORNEYS, HAVE YOU LEARNED FROM ANY SOURCE UP TO THE PRESENT TIME WHETHER OR NOT ANY OF THE SEAT BELTS IN THAT VEHICLE WERE NOT OPERATING PROPERLY?
(10) A NO.
(11) Q AT THE TIME OF THE ACCIDENT, WHERE WERE YOU SEATED?

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(1) THEM SEATED BACK THERE BEFORE THE ACCIDENT?
(2) A YES.
(3) Q WHEN WAS THE LAST TIME BEFORE THE ACCIDENT THAT YOU SAW THEM BACK THERE?
(4) A SHORTLY BEFORE THE ACCIDENT, THERE WAS A PERIOD OF TIME THAT THE KIDS WERE SINGING AND JOKING. THE DOG WAS BARKING OR SOMETHING. I GLANCED AROUND JUST TO TALK OR ADD INTO THE CONVERSATION.
(5) Q I THINK I LOOKED BACK THAT FAR. THAT'S A PRETTY GOOD DISTANCE BACK THERE. I WAS BELTED. I'M JUST NOT SURE IF I ACTUALLY FOCUSED ON THE TWO OF THEM IN THE VERY BACK. MY ATTENTION WAS TO THE DOG AND WHAT HE WAS DOING AND THE TWO BOYS.
(6) Q YOUR IMPRESSION, BASED ON YOUR OBSERVATIONS IN THE VEHICLE, WAS THAT, AT THE TIME OF THE ACCIDENT, YOUR DAUGHTER AND MATT WERE IN THE REAR-MOST SEAT; IS THAT RIGHT?
(7) A YES.
(8) Q NOW, I UNDERSTAND THAT BEFORE THE ACTUAL ACCIDENT OCCURRED, YOU HAD A PROBLEM WITH ONE OF THE TIRES ON THIS TRIP; IS THAT RIGHT?
(9) A YES.
(10) Q I'M NOT TALKING ABOUT THE ACCIDENT, BUT I'M TALKING ABOUT SOME INCIDENT EITHER A FEW HOURS OR THE DAY BEFORE; AM I CORRECT?

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(1) A FRONT PASSENGER.
(2) Q AND NIH WAS DRIVING?
(3) A YES.
(4) Q WHERE WAS MATT FINLEY SEATED?
(5) A MATT WAS IN THE FURTHEST BACKSEAT.
(6) Q WAS THERE ANYBODY ELSE WITH HIM BACK THERE?
(7) A LINDSEY WAS THERE.
(8) Q THEN WHO WAS IN THE MIDDLE?
(9) A THE TWO INDIAN BOYS.
(10) Q WHO WE DONT KNOW THE NAMES OF?
(11) A I'M SURE THEY'RE IN THE RECORDS.
(12) Q YOU WEREN'T ABLE TO GIVE ME THE NAMES?
(13) A NO.
(14) Q LET ME SHOW YOU WHAT I'LL MARK AS "D." WHEREUPON, THE DOCUMENT WAS MARKED AS DEFENDANT'S EXHIBIT NUMBER D FOR IDENTIFICATION, A COPY OF WHICH IS ATTACHED HERETO.
(15) IS THIS THE LAST BENCH SEAT AT THE REAR OF THE VEHICLE?
(16) A IT LOOKS LIKE IT.
(17) Q THANK YOU. THAT'S WHERE MATT AND LINDSEY WOULD HAVE BEEN SEATED; CORRECT?
(18) A YES.
(19) Q ON THE SECOND DAY, DID YOU ACTUALLY SEE
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(1) A I WAS DRIVING.
(2) Q WHAT HAPPENED?
(3) A I WAS DRIVING ON THE TRIP. WE HEARD THIS EXPLOSION, THIS BIG NOISE. I ASSUMED IT WAS A BLOWOUT. I JUST SLOWED THE CAR DOWN AND PULLED OVER TO THE SHOULDER. IT WAS A PRETTY NARROW SHOULDER.
(4) Q IT WASN'T REALLY WIDE ENOUGH TO GET TOTALLY OFF THE ROAD.
(5) A I GOT OUT, I TOLD THE KIDS, "STAY INSIDE."
(6) Q I WENT OUT. I DIDN'T KNOW IF IT WAS FRONT OR REAR.
(7) A IT SOUNDED LIKE THE REAR. I WENT AROUND TO THE PASSENGER'S SIDE. REAR TIRE, AND IT WAS SHREDDED. THE TREAD WAS OFF, BUT IT HAD NOT COLLAPSED. IT DID NOT BLOW OUT.
(8) Q IT WAS STILL INFLATED?
(9) A IT WAS STILL INFLATED.
(10) Q WERE THERE ANY PIECES OF TREAD OR RUBBER OR TIRE ANYWHERE EITHER THERE OR BEHIND THE VEHICLE?
(11) A WE COULDN'T SEE ANY IN THE IMMEDIATE AREA OF THE CAR. THERE WAS SOME LOOSE PIECES ON THE TIRE.
(12) Q LOOSE PIECES OF RUBBER?
(13) A YES.
(14) Q COULD YOU SEE ANY BRASS WIRES STICKING OUT OF THE ENDS OF ANY PIECES OF RUBBER?
(15) A IT WOULDN'T BE BRASS.

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(1) Q METAL TYPE OF WIRES.
(2) A I CAN'T SAY IF I ACTUALLY SAW THE CORDING OR NOT. THE TREAD WAS MISSING IN CERTAIN SECTIONS OF IT, AND THERE WAS STILL TREAD ON OTHER PARTS.
(3) Q ON ANY PART OF THIS TRIP FROM ITS INCEPTION FROM SOUTHERN CALIFORNIA UP TO THE TIME OF THIS INCIDENT WITH THE TIRE, HAD YOU SUBJECTED THAT PASSENGER REAR TIRE TO ANY KIND OF TRAUMA LIKE GOING THROUGH A POTHOLE OR OVER A CURB OR HITTING SOME OBJECT FORCEFULLY OR RUNNING OVER SOME JAGGED OBJECT?
(4) A NO.
(5) Q IN THE FEW MINUTES BEFORE THE INCIDENT WITH THE TIRE, HAD YOU HIT A BUMP OR FELT ANY KIND OF FEELING AS IF YOU HAD RUN OVER SOMETHING?
(6) A NO. THE HIGHWAY WAS SMOOTH AND CLEAR.
(7) Q WHAT WAS THE WEATHER LIKE ON THAT DAY AT THE TIME OF THE FIRST INCIDENT WITH THE TIRE?
(8) A IT WAS A CLEAR SUMMER MORNING AND FAIRLY EARLY. THE SUN WAS STILL FAIRLY LOW ON THE HORIZON.
(9) Q WAS IT BEFORE 6:00?
(10) A IT WAS ABOUT 6:30 FROM WHAT I -- NO. I'M SORRY. IT WAS ABOUT 7:30 WHEN IT HAPPENED. I REMEMBER BECAUSE OF THE TIME IT TOOK US TO GET TO THE TIRE PLACE AND THEN WAIT AND SO FORTH. SO I BACKTRACKED.

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(1) Q LET ME BACK UP A MINUTE.
(2) Q THE FIRST DAY OF THE TRIP, I GUESS, TOOK YOU FROM SOUTHERN CALIFORNIA TO LAS VEGAS; IS THAT RIGHT?
(3) A YES.
(4) Q ON THE SECOND DAY, YOU WENT FROM LAS VEGAS.
(5) Q DID YOU INTEND TO GET TO ASPEN ON THAT SECOND DAY?
(6) A THAT WAS OUR PLAN.
(7) Q SO THE INCIDENT WITH THE FIRST TIRE AND THE ACCIDENT HAPPENED ON THE SAME DAY; IS THAT RIGHT?
(8) A SAY THAT AGAIN.
(9) Q DID THE INCIDENT WITH THE FIRST TIRE AND THE ACCIDENT IN WHICH YOUR DAUGHTER WAS KILLED HAPPEN ON THE SAME DAY?
(10) A NO.
(11) Q DID THIS INCIDENT WITH THE FIRST TIRE INTERRUPT YOUR PLANS SO THAT YOU HAD TO STAY OVERNIGHT ON THE ROAD AN EXTRA DAY AS OPPOSED TO GETTING INTO ASPEN THAT DAY?
(12) A I DON'T KNOW IF IT WOULD HAVE AFFECTED IT OR NOT. WE WERE STILL ON THE WAY. I DIDN'T KNOW HOW MUCH LONGER IT WAS GOING TO TAKE US TO GET TO ASPEN.
(13) Q WERE YOU ABLE TO DRIVE -- LET'S BACK UP.
(14) Q LET'S RETURN TO THE FIRST INCIDENT WITH THE TIRE.
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1. YOU COULD SEE THE GAS STATION, WHICH WE WERE HOPING
2. WE COULD GET A TIRE THERE. AS IT TURNED OUT, THEY
3. DIDN'T HAVE TIRES THERE. SO THEY SAID, 'THE PLACE
4. ACROSS THE STREET IS WHERE YOU CAN DO THAT.'
5. Q. DO YOU KNOW THE NAME OF THE GAS STATION?
6. A. IT WAS A CHEVRON GAS STATION.
7. Q. DO YOU KNOW THE NAME OF THE PLACE ACROSS
8. THE STREET THAT HAD THE TIRES?
9. A. NO.
10. Q. DO YOU KNOW THE CLOSEST TOWN TO THIS GAS
11. STATION?
12. A. PROBABLY LAS VEGAS.
13. Q. SOMEONE IN THE CASE HAS MENTIONED A TOWN
15. Q. HAVE YOU HEARD OF THAT?
16. A. NO.
17. Q. WAS THE CHEVRON ON THE EAST SIDE OF --
18. STRIKE THAT. INTERSTATE 15 WAS NORTH AND SOUTH AT
19. THAT POINT; CORRECT?
20. A. CORRECT.
21. Q. WAS THE CHEVRON STATION ON THE EAST SIDE OR
22. THE WEST SIDE?
23. A. IT WOULD BE ON THE WEST SIDE.
24. Q. SO YOU GOT THE TIRE ON THE EAST SIDE,
25. CORRECT, ACROSS THE STREET FROM THE CHEVRON?

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1. A. YES.
2. Q. DID YOU INSPECT THAT TIRE WHEN YOU WERE ON
3. THE SHOULDER OF THE ROAD -- THE DAMAGED TIRE?
4. A. DID I INSPECT IT? I LOOKED AT IT. IT WAS
5. HOLDING AIR. BECAUSE OF THE LACK OF SPACE AROUND THE
6. VEHICLE AND SO FORTH, I DECIDED IT WAS PROBABLY NOT A
7. GOOD IDEA TO TRY TO CHANGE THAT TIRE. SO I SAID,
8. "WELL, LET'S JUST PROCEED SLOWLY. WE'LL FIND A PLACE
9. UP THE ROAD HERE."
10. Q. DID YOU SEE EMBEDDED IN THE TIRE OR ON THE
11. TIRE ANY OBJECT?
12. A. NO.
13. Q. NO NAILS? NOTHING LIKE THAT?
14. A. NO.
15. Q. DID YOU LOOK BEHIND YOU AT THE ROAD AT ALL,
16. THE SURFACE OF THE ROAD, TO SEE IF THERE WAS ANYTHING
17. IRREGULAR THERE?
18. A. I LOOKED BEHIND THE CAR ITSELF TO SEE IF
19. THERE WAS ANYTHING THAT HAD COME LOOSE OR WHATSOEVER.
20. Q. I DIDN'T SEE ANY EVIDENCE OF THAT.
21. Q. CAN YOU THINK OF ANYTHING THAT APPEARED
22. UNUSUAL ABOUT THAT DAMAGED TIRE BESIDES THE FACT THAT
23. THE TREAD WAS SHREDDED AND OFF? I MEAN, IS THERE
24. SOMETHING ELSE THAT YOU CAN TELL ME THAT YOU
25. REMEMBER?

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1. A. IT'S A PRETTY SORRY LOOKING CAR. NO.
2. Q. DID YOU LOOK TO SEE WHAT THE BRAND NAME OF
3. THE TIRE WAS ON THE TIRE?
4. A. NO.
5. Q. AT THAT TIME, DID YOU LOOK AT THE OTHER
6. REAR TIRE ON THE DRIVER'S SIDE?
7. A. I WALKED AROUND THE CAR AND DID A QUICK
8. LOOK OF THE TIRES TO SEE IF THERE WERE ANY OTHER LOW
9. TIRES OR ANY DAMAGES. I THINK MATT AND I BOTH WALKED
10. AROUND THE CAR.
11. Q. LOOKING AT THE TREAD OF THE REMAINING
12. TIRES?
13. A. YEAH. WELL, LOOKING AT THE GENERAL
14. CONDITION OF THEM TO SEE IF THEY LOOKED PROPERLY
15. INFLATED AND ANY OBVIOUS DAMAGE OR ANYTHING THAT
16. LOOKED UNUSUAL. IT LOOKED FINE.
17. Q. WERE YOU LOOKING FOR LIKE A BALD SPOT OR A
18. BALD TIRE?
19. A. WELL, JUST LOOKING TO SEE IF MAYBE ONE OF
20. THE OTHERS HAD PICKED UP DEBRIS OR SOMETHING.
21. Q. HOW MANY OF THOSE REMAINING THREE TIRES DID
22. YOU LOOK AT ON THE SHOULDER OF THE ROAD?
23. A. I LOOKED AT ALL THREE OF THEM.
24. Q. DID YOU NOTICE ANYTHING IRREGULAR?
25. A. NO.

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1. Q. DID YOU SEE MATT LOOK AT ALL THREE OF THEM?
2. A. MATT AND I BOTH WALKED AROUND.
3. Q. DID MATT SAY ANYTHING TO YOU ABOUT ANYTHING
4. IRREGULAR THAT HE HAD NOTICED?
5. A. NO.
6. Q. SO NOW WE FAST-FORWARD AHEAD, AND YOU'VE
7. GONE FROM THE CHEVRON STATION ACROSS THE STREET TO
8. THE TIRE PLACE; CORRECT?
9. A. YES.
10. Q. DID YOU BUY A TIRE?
11. A. YES.
12. Q. DID YOU BUY THE TIRE, OR DID MATT BUY THE
13. TIRE?
14. A. MATT BOUGHT THE TIRE.
15. Q. HE USED HIS FAMILY'S CREDIT CARD?
16. A. I THINK SO, YEAH.
17. Q. WERE YOU PRESENT WHEN THE DAMAGED TIRE WAS
18. REMOVED?
19. A. YES.
20. Q. DID YOU TALK TO ANY OF THE PEOPLE AT THE
21. TIRE STORE OR THE REPAIR FACILITY THAT REPLACED THE
22. TIRE ABOUT THE DAMAGED TIRE LIKE WHAT MAY HAVE GONE
23. WRONG WITH IT OR WHAT MAY HAVE CAUSED THE DAMAGE OR
24. THE BLOWOUT?
25. A. NOTHING SPECIFIC.
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(1) Q YOU DON'T –
(2) A IT WAS A YOUNG GUY CHANGING THE TIRE.
(3) Q OBVIOUSLY, IT WAS DESTROYED.
(4) Q HE GAVE YOU NO THOUGHT OR EXPRESSION ABOUT WHAT HE THOUGHT MAY HAVE HAPPENED TO THE TIRE?
(5) A HE DIDN'T VOLUNTEER ANYTHING.
(6) Q DID YOU NOTICE ANYTHING IN ADDITION TO WHAT YOU HAD NOTICED WHEN YOU LOOKED AT THE TIRE ON THE SHOULDER OF THE ROAD?
(7) A NO.
(8) Q DID YOU SPEAK TO ANYONE ELSE BEIDES THE YOUNG MAN THAT CHANGED THE TIRE AT THE TIRE FACILITY ABOUT THE TIRE?
(9) A NO.
(10) Q WHAT ABOUT THE CHEVRON STATION? DID YOU TALK TO ANYBODY THERE ABOUT WHAT WAS WRONG WITH THIS TIRE AND WHAT HAD CAUSED IT TO BE DAMAGED?
(11) A NO. WE PURCHASED GAS, AND THEY REFERRED US ACROSS THE STREET. THAT WAS THE END OF IT.
(12) Q WAS IT A NEW TIRE HE BOUGHT?
(13) A YES.
(14) Q IT WAS PLACED AT THE RIGHT REAR – STRIKE THAT. THE NEW TIRE WAS PLACED AT THE REAR PASSENGER?
(15) A YES.
(16) Q WHAT HAPPENED TO THE DAMAGED TIRE? DID YOU

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(1) Q  LEAVE IT BEHIND?
(2) A  WE LEFT IT BEHIND.
(3) Q  DO YOU KNOW WHERE THAT TIRE IS RIGHT NOW?
(4) A  NO.
(5) Q  DID YOU EVER MAKE ANY ATTEMPT TO LOCATE THAT TIRE AFTER THE ACCIDENT?
(6) A  NO.
(7) Q  AM I CORRECT THAT ONLY ONE TIRE WAS BOUGHT AT THAT STORE?
(8) A  YES.
(9) Q  DID ALL OF THE OTHER UNDAMAGED TIRES REMAIN MOUNTED ON THE SAME WHEELS?
(10) A  YES.
(11) Q  WHEN YOU GOT OVER TO THE TIRE STORE OR AT THE CHEVRON STATION, FOR THAT MATTER, DID YOU DO ANY FURTHER INSPECTION OF THE REMAINING THREE UNDAMAGED TIRES?
(12) A  NO.
(13) Q  DID YOU ASK ANYBODY AT THE CHEVRON STATION OR THE TIRE STORE TO INSPECT THE REMAINING TIRES OR THE UNDAMAGED TIRES?
(14) A  I CAN'T REMEMBER. I CAN'T REMEMBER.
(15) Q  DO YOU KNOW IF ANYBODY DID INSPECT THOSE OTHER THREE TIRES?
(16) A  WELL, THAT'S WHAT I WAS WRESTLING WITH.
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(1) THAT SAID THEY WERE THE OWNER OF THE PLACE?
(2) A THERE WERE A COUPLE OTHER OLDER PEOPLE IN
(3) THE BUILDING MOVING SOME TIRES AROUND THAT COULD HAVE
(4) BEEN THE OWNER, I HAVE NO IDEA.
(5) Q DO YOU HAVE ANY IMPRESSION ABOUT WHETHER
(6) THE SAME PERSON THAT OWNED THE GROCERY STORE OWNED
(7) THE TIRE PLACE AND THAT THEY WERE CONNECTED IN SOME
(8) WAY?
(9) A WELL, MATT PAID FOR THE TIRE IN THE GROCERY
(10) STORE.
(11) Q HOW OLD WAS THE KID WHO CHANGED THE TIRE?
(12) A HE WAS PROBABLY MATT'S AGE.
(13) Q LATE TEENS?
(14) A LATE TEENS.
(15) Q WAS THERE ANYTHING DONE TO THE REMAINING THREE
(16) TIRES AT THAT FACILITY OR AT CHEVRON LIKE, FOR
(17) INSTANCE, ADDING AIR OR CHECKING AIR OR ANYTHING LIKE
(18) THAT?
(19) A I BELIEVE I RECALL THE BOY CHECKING THE AIR
(20) IN THE OTHER THREE TIRES.
(21) Q HE DIDN'T REPORT ANY TIRES BEING LOW OR
(22) OVERINFLATED?
(23) A NO, I DIDN'T HAVE A BIG CONCERN AT THAT
(24) TIME BECAUSE THE INFORMATION WE HAD WAS THAT THE

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(1) TIRES HAD BEEN INSPECTED AND ROTATED AND SO FORTH.
(2) Q WHEN YOU SAY THE INFORMATION YOU HAD WAS
(3) THAT THE TIRES HAD BEEN INSPECTED, WHAT WAS THAT
(4) INFORMATION?
(5) A THAT WAS FROM JANET FINLEY BEFORE WE
(6) STARTED THE TRIP.
(7) Q DO YOU HAVE A PRESENT MEMORY OF HER TELLING
(8) YOU THAT SHE HAD HAD THE TIRES INSPECTED USING THAT
(9) PHRASEOLOGY?
(10) A SHE SAID THAT THE CAR HAD BEEN SERVICED AND
(11) THAT THE TIRES HAD BEEN ROTATED.
(12) Q WHAT WAS THE TEMPERATURE OUT WHEN THE FIRST
(13) TIRE FAILED?
(14) A IT WAS EARLY MORNING, SO PROBABLY 70
(15) DEGREES, SOMETHING IN THAT RANGE.
(16) Q ABOUT WHAT TIME DID THE ACCIDENT HAPPEN?
(17) A SOMEWHERE AROUND 11:30, I BELIEVE.
(18) Q THE SAME DAY?
(19) A THE NEXT DAY.
(20) Q NOTHING UNUSUAL HAPPENS WITH THE TIRES THAT
(21) DAY; CORRECT?
(22) A CORRECT.
(23) Q THE NEXT DAY, WHICH WOULD BE THE SECOND DAY
(24) OF THE TRIP, THE FIRST TIRE FAILS AT ABOUT 7:30 IN
(25) THE MORNING; CORRECT?
(26) A CORRECT.
(27) Q ABOUT FOUR HOURS LATER AT ABOUT 11:30 THAT
(29) HAPPENS?
(30) A CORRECT.
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Q. BY MR. ZELL: BOTH TIRES FAILED THE SAME DAY, IS THAT RIGHT?
A. THREE HOURS APART.
Q. SAME DAY?
A. SAME DAY.
Q. WHICH WAS THE SECOND DAY OF THE TRIP?
A. CORRECT.
Q. WHAT WAS THE TEMPERATURE AT ABOUT THE TIME OF THE ACCIDENT?
A. IT WASN'T OVERLY HOT. IT WASN'T IN THE HUNDREDS. PROBABLY 85 TO 90. SOMETHING LIKE THAT.
I DON'T KNOW. I WASN'T AWARE OF ANY TEMPERATURE AT THAT POINT.
Q. NOW, ON THE FIRST DAY OF THE TRIP AT AROUND NOON OR 1:00 O'CLOCK OR SOMEWHERE IN THE MIDDAY, WHAT WAS THE TEMPERATURE APPROXIMATELY?
A. THE FIRST DAY?
Q. YEAH.
A. ON THE FIRST DAY AT NOON, WE WERE STILL IN SAN JUAN CAPISTRANO. WE LEFT ABOUT 3:00 O'CLOCK OR SOMEWHERE AROUND THERE.
Q. WHAT WAS THE TEMPERATURE WHEN YOU GOT INTO

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LAS VEGAS?
A. IT WAS NIGHTTIME. SO I DON'T KNOW.
WHATEVER IT IS IN SUMMER IN LAS VEGAS. IT WAS A PLEASANT EVENING. IT WASN'T UNUSUAL OR HOT.

Q. BY MR. ZELL: IN THE APPROXIMATE FOUR HOURS DURING WHICH YOU WERE DRIVING THE VEHICLE WITH THE NEW TIRE AND BEFORE THE ACCIDENT, DID ANYTHING UNUSUAL HAPPEN?
A. I WASN'T DRIVING AT THAT TIME.

THE TERM "DID ANYTHING UNUSUAL HAPPEN." I THINK IT'S A VAGUE TERM AND IT'S AMBIGUOUS BECAUSE IT COULD -

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MR. ZELL: WELL, ALL YOU HAVE TO DO IS SAY,
"VAGUE AND AMBIGUOUS." I'LL WITHDRAW IT.
MR. COHN: ALL RIGHT. VAGUE AND AMBIGUOUS.
A. NO.
Q. WHAT WAS THE FIRST THING THAT HAPPENED IN THE ACCIDENT SEQUENCE THAT INDICATED TO YOU THAT SOMETHING WAS GOING WRONG?
A. THE BIG EXPLOSION OF THE TIRE. AGAIN, I ASSUMED IT WAS A BLOWOUT.
Q. NOW, AFTER THE ACCIDENT, WHEN WAS THE FIRST TIME YOU INSPECTED THAT SECOND DAMAGED TIRE?
THE WITNESS: I WENT BACK TO THE VEHICLE THAT WAS, BY THEN, TOWED TO A GAS STATION. I THINK IT WAS A GAS STATION. I WENT THERE TO RETRIEVE MY BAG WITH SOME CLEAN CLOTHES AND LINDSEY'S BACKPACK AND A COUPLE OF THINGS. I DIDN'T STAY AROUND INSPECTING THE CAR. IT WAS A TOTAL MESS. ALL THE TIRES, I THINK, WERE BLOWN.

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Q. BY MR. ZELL: DID SOMETHING HAPPEN TO YOUR TIRE IN THE ACCIDENT?
A. WELL, THERE WAS A BIG EXPLOSION. IT SOUNDED LIKE THE SAME THING THAT HAPPENED EARLIER THAT MORNING. I HAD BLOWOUTS BEFORE. IT SOUNDED LIKE A BLOWOUT TO ME.
Q. COULD YOU TELL FROM WHAT PART OF THE VEHICLE?
A. IT WAS FROM THE BACK. WE DIDN'T KNOW IF IT WAS EITHER SIDE. IT COULD HAVE BEEN EITHER SIDE.
Q. WHEN YOU RETURNED TO THE VEHICLE FOR YOUR BAG, DID YOU LOOK AT THE DRIVER'S REAR TIRE?
A. I THINK SO.
Q. WHAT CONDITION WAS IT IN?
A. IT WAS FLAT. IT WAS SHREDDED. I THINK ALL THE TIRES WERE SHREDDED.
Q. ALL?
(1) A WELL, THEY WERE ALL DEFATED. I DON'T KNOW
(2) WHAT TERM YOU WOULD USE.
(3) Q WELL, WHEN YOU SAY, "SHREDDED," WHAT DO YOU
(4) MEAN? DO YOU MEAN LIKE TORN RUBBER?
(5) A FLAT.
(6) Q JUST FLAT? THAT'S WHAT YOU MEAN BY
(7) "SHREDDED"?
(8) A WELL, YEAH. I GUESS THAT'S HOW I WOULD
(9) DESCRIBE IT.

(10) Q DID YOU SEE JAGGED RUBBER ON THE DRIVER'S
(11) REAR TIRE WHEN YOU RETURNED TO IT AFTER THE ACCIDENT?
(12) A I COULDN'T SWEAR TO IT. I DON'T KNOW.
(13) Q COULD YOU SEE ANY SEPARATED RUBBER?
(14) A I DIDN'T INSPECT THE TIRE.
(15) Q AT ANY TIME AFTER THAT DAY, DID YOU EVER
(16) INSPECT THE DRIVER'S REAR TIRE?
(17) A NO.
(18) Q OTHER THAN YOUR LAWYERS, HAVE YOU SPOKEN TO
(19) ANYONE SINCE THE ACCIDENT WHO HAS GIVEN YOU ANY
(20) INFORMATION ABOUT WHICH TIRE, IF ANY TIRE, FAILED IN
(21) THE ACCIDENT?
(22) (23) Q BY MR. ZELL: DO YOU BELIEVE THAT ANY TIRE
(24) FAILED IN THE ACCIDENT?
(25)
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(1) A WELL, TO ME, THAT TIRE FAILED.

(2) Q DO YOU BASE THAT ON THE FACT THAT YOU WERE DRIVING ALONG IN THE CAR, YOU HEARD AN EXPLOSION AT THE REAR, THE VEHICLE WENT OUT OF CONTROL, AND THE ACCIDENT HAPPENED?

(3) A YES.

(4) Q OTHER THAN CONVERSATIONS WITH YOUR ATTORNEYS, SINCE THE ACCIDENT, HAVE YOU EVER SPOKEN TO ANYONE WHO HAS TOLD YOU THAT THERE WAS ANY PROBLEM WITH ANY OF THE TIRES AND THAT THAT WAS THE CAUSE OF THE ACCIDENT?

(5) A NO.

(6) Q AFTER THE ACCIDENT, DID YOU EVER SPEAK WITH MRS. FINLEY ABOUT HER SERVICING OF THE VEHICLE AT ALLEN OLDSMOBILE OR ANY OTHER SERVICE AGENCY OR DEALERSHIP SHORTLY BEFORE THE ACCIDENT?

(7) A NO.

(8) Q WHEN YOU STAYED AT MATT FINLEY’S GRANDPARENTS’ HOUSE THE NIGHT BEFORE THE ACCIDENT, WERE THE GRANDPARENTS AT THE HOUSE?

(9) A YES.

(10) Q DID YOU EAT AT THE HOUSE OR GO OUT?

(11) A WE WENT OUT.

(12) Q DID MR. ADDY HAVE ANYTHING OF AN ALCOHOLIC NATURE TO CONSUME AT THE GRANDPARENTS’ HOUSE THAT EVENING?

(13) A NO.

(14) Q AT THE RESTAURANT THAT EVENING OR WHEREVER YOU WENT OUT TO EAT?

(15) A I DON’T THINK SO. WE ATE AT ONE OF THE CASINOS. WE WERE SPREAD APART. I DON’T KNOW WHAT HE ORDERED FOR DINNER.

(16) Q DID YOU EAT WITH MR. ADDY?

(17) A I SIT AT THE TABLE WITH THE GRANDPARENTS, AND THE KIDS WERE SCATTERED NEARBY.

(18) Q WHEN THEY WERE EATING?

(19) A YEAH.

(20) Q DID YOU SEE ANY OF THE KIDS HAVING ANY BEER

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(1) Q DID YOU EVER SPEAK TO ANYONE AT ALLEN OLDSMOBILE ABOUT THE SERVICING OF THE VEHICLE BEFORE THE ACCIDENT?

(2) A NO.

(3) Q WHEN YOU STAYED AT MATT FINLEY’S GRANDPARENTS’ HOUSE THE NIGHT BEFORE THE ACCIDENT, WERE THE GRANDPARENTS AT THE HOUSE?

(4) A YES.

(5) Q DID YOU EAT AT THE HOUSE OR GO OUT?

(6) A WE WENT OUT.

(7) Q DID MR. ADDY HAVE ANYTHING OF AN ALCOHOLIC NATURE TO CONSUME AT THE GRANDPARENTS’ HOUSE THAT EVENING?

(8) A NO.

(9) Q AT THE RESTAURANT THAT EVENING OR WHEREVER YOU WENT OUT TO EAT?

(10) A I DON’T THINK SO. WE ATE AT ONE OF THE CASINOS. WE WERE SPREAD APART. I DON’T KNOW WHAT HE ORDERED FOR DINNER.

(11) Q DID YOU EAT WITH MR. ADDY?

(12) A I SIT AT THE TABLE WITH THE GRANDPARENTS, AND THE KIDS WERE SCATTERED NEARBY.

(13) Q WHEN THEY WERE EATING?

(14) A YEAH.

(15) Q DID YOU SEE ANY OF THE KIDS HAVING ANY BEER

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(1) OR OTHER ALCOHOL?

(2) A NO.

(3) Q DO YOU HAVE ANY INFORMATION, OTHER THAN CONVERSATIONS WITH YOUR ATTORNEYS, THAT ANY OF THE OCCUPANTS OF THE VEHICLE HAD CONSUMED ANYTHING OF AN ALCOHOLIC NATURE THE EVENING BEFORE THE ACCIDENT?

(4) A NO.

(5) Q DO YOU HAVE ANY INFORMATION, OTHER THAN CONVERSATIONS WITH YOUR ATTORNEYS, THAT ANY OF THE OCCUPANTS OF THE VEHICLE HAD CONSUMED ANY DRUG OR MARIJUANA OR ANYTHING LIKE THAT THE EVENING BEFORE THE ACCIDENT?

(6) A NO.

(7) THE WITNESS: WE GOT A PHONE CALL FROM THE INVESTIGATING OFFICER A FEW DAYS LATER. I DON’T REMEMBER THE TIME FRAME. IT WAS SOME TIME AFTER THE ACCIDENT. HE CALLED ME AND TOLD ME THAT THEY HAD FOUND MARIJUANA IN MATT FINLEY’S BACKPACK IN HIS — I THINK IT WAS THE BACKPACK.

(8) Q BY MR. ZELL: DID THEY SAY ANYTHING ELSE?

(9) A I THINK HE ASKED ME IF I WAS AWARE OF IT OR DID I KNOW ABOUT IT OR DID I. I DON’T THINK HE PURSUED THAT TOO FAR OTHER THAN MAYBE A STATEMENT
Page 57

(1) A YES.

(2) Q CAN YOU DESCRIBE WHAT HAPPENED THEN AS FAR AS THE MOVEMENT OF THE VEHICLE?

(3) A WELL, WE WERE JUST GOING THROUGH MOTION. I'M LOOKING OUT THE WINDOW. THE NEXT THING I REMEMBER IS WE'RE APPROACHING THE GRASS AREA.

(4) Q THE MEDIAN?

(5) A THE MEDIAN.

(6) Q THERE WAS A GRASSY MEDIAN BETWEEN THE NORTH AND SOUTH LANES?

(7) A YEAH. THERE'S A CONSIDERABLE WIDTH OF SPACE THERE. THE THOUGHT THAT WAS RUNNING THROUGH MY HEAD WAS: WE'RE GOING TO GO RIGHT ON THROUGH THE MEDIAN AND CRASH INTO THE ONCOMING TRAFFIC ON THE OTHER SIDE. THEN WE JUST STOPPED.

(8) Q WAS THE MEDIAN LEVEL, OR WAS THAT DEPRESSED OR ELEVATED OR WHAT?

(9) A IT WAS UNEVEN. IT WASN'T LIKE IT WAS A BIG DEPRESSION OR A HILL. IT WAS RELATIVELY FLAT.

(10) Q HOW WIDE WAS THE MEDIAN AREA APPROXIMATELY?

(11) A THIRTY, FORTY FEET.

(12) Q WERE THERE ANY LOW FENCES OR RAILINGS OR WALLS OR K-WALLS ALONG THE SIDE OF EITHER THE NORTHBOUND LANE AT THE MEDIAN OR THE SOUTHBOUND LANE AT THE MEDIAN?
Q: BY MR. ZELL: CAN YOU ESTIMATE, BASED ON YOUR YEARS OF EXPERIENCE, THE SPEED OF THE VEHICLE WHEN YOU FIRST HEARD THE EXPLOSION TO THE REAR?

A: I WOULD GUESS BETWEEN 80 AND 85.

Q: HOW MANY YEARS HAVE YOU BEEN DRIVING APPROXIMATELY?

A: FORTY YEARS.

Q: WHAT WAS THE APPROXIMATE DISTANCE THAT THE CAR HAD TRAVELED BETWEEN THE TIME THAT YOU FIRST HEARD THE EXPLOSION AND THE TIME IT FIRST BEGAN TO ENTER THE MEDIAN?

A: I HAVE NO IDEA.

Q: CAN YOU SAY WHETHER IT WOULD BE A HUNDRED FEET? LESS? MORE?

A: I HAVE NO IDEA.

Q: DID YOUR VEHICLE MOVE INTO THE NUMBER 2 LANE AT ALL BEFORE IT BEGAN TO MOVE INTO THE MEDIAN?

A: I DON'T KNOW FOR SURE. IT WAS FISHTAILING ALL OVER.

Q: DID YOUR VEHICLE STRIKE ANY OTHER VEHICLE OR OBJECT ON THE ROAD SUCH AS A POLE OR A FENCE OR ANYTHING BEFORE IT BEGAN TO ENTER THE MEDIAN?

A: NO.

Q: DID YOUR VEHICLE STRIKE ANYTHING IN THE
Page 64

(1) MEDIAN LIKE A POLE OR A -
(2) A I DON'T THINK SO.
(3) Q DID YOU SEE ANY KIND OF A TRENCH OR A HOLE
(4) OR anything that your vehicle went into once it got
(5) INTO THE MEDIAN?
(6) A NO.
(7) Q DO YOU RECALL THE VEHICLE ROLLING?
(8) A NO.
(9) Q TELL ME WHAT HAPPENED TO THE VEHICLE AFTER
(10) IT ENTERED THE MEDIAN.
(11) A WE ENTERED THE MEDIAN. LIKE I SAID, I
(12) THOUGHT WE WERE GOING RIGHT ON THROUGH IT, BUT WE
(13) STOPPED. WE JUST SUDDENLY STOPPED. JUST A CLOUD OF
(14) DIRT AND DUST AND IT STOPPED.
(15) Q WHAT POSITION WAS THE VEHICLE IN WHEN YOU
(16) FIRST NOTICED THAT IT WAS STOPPED?
(17) A IT WAS STILL HEADED TOWARD THE - IT WAS
(18) STILL HEADED ACROSS THE MEDIAN UPRIGHT.
(19) Q ON ALL FOUR WHEELS?
(20) A YES.
(21) Q THE FRONT OF IT WAS POINTED IN WHICH
(22) COMPASS DIRECTION IF WE'RE ASSUMING YOUR ORIGINAL
(23) DIRECTION WAS GENERALLY NORTH?
(24) A TOWARDS THE NORTHWEST.
(25) Q DID THE VEHICLE MOVE AFTER THAT?

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(1) A NO.
(2) Q THAT'S WHEN PEOPLE GOT OUT OF THE VEHICLE,
(3) IF THEY WERE ABLE TO?
(4) A YES.
(5) Q DID YOU SEE MR. ADDY APPLY THE BRAKES AT
(6) ANY TIME IN THE ACCIDENT SEQUENCE?
(7) A NO.
(8) Q DO YOU HAVE ANY INFORMATION, BASED ON YOUR
(9) PRESENCE THERE AND WHAT YOU WERE SEEING AND HEARING
(10) AND FEELING, THAT HE APPLIED THE BRAKES?
(11) A NO.
(12) Q DID YOU TOUCH THE DRIVER'S WHEEL AT ANY
(13) TIME BETWEEN THE TIME YOU FIRST HEARD THE EXPLOSION
(14) AND THE TIME THE VEHICLE CAME TO A STOP IN THE
(15) MEDIAN?
(16) A I'M NOT SURE. I REMEMBER KIND OF REACHING
(17) OUT. I DON'T KNOW IF I TOUCHED THE WHEEL OR NOT.
(18) Q DID YOU EVER TALK TO MR. ADDY AFTER THE
(19) ACCIDENT ABOUT WHETHER OR NOT YOU TOUCHED THE WHEEL?
(20) A NO.
(21) Q DID HE EVER TELL YOU AFTER THE ACCIDENT
(22) THAT HE FELT YOU HAD TOUCHED THE DRIVER'S WHEEL?
(23) A NO.
(24) Q DID MR. ADDY EVER TELL YOU ANYTHING ABOUT
(25) WHAT HE WAS TRYING TO DO WITH THE VEHICLE AFTER THE

(11) Q BY MR. ZELL: WERE YOU INJURED IN THE
(12) ACCIDENT?
(13) A SUPERFICIALLY. SCRATCHES. BRUISES.
(14) Q DO YOU HAVE ANY PRESENT PROBLEMS
(15) HEALTH-WISE THAT YOU RELATE, IN YOUR PHYSICAL HEALTH,
(16) TO THE ACCIDENT AS FAR AS A PHYSICAL INJURY YOU
(17) RECEIVED IN THE ACCIDENT ITSELF?
(18) A I DON'T THINK SO.
(19) Q WERE YOU TREATED MEDICALLY FOR ANY INJURY
(20) IN THE ACCIDENT?
(21) A THEY CHECKED BLOOD PRESSURE AND THINGS LIKE
(22) THAT. I WASN'T INTERESTED IN HAVING THEM LOOK AT
(23) BRUISES AND SCRAPES AND CUTS.
Page 68
(1) Q YOU'RE TALKING ABOUT THE EMERGENCY ROOM?
(2) A YES.
(3) Q ON THE DAY OF THE ACCIDENT?
(4) A YES.
(5) Q WERE YOU ABLE TO WALK INTO THE EMERGENCY ROOM UNDER YOUR OWN POWER?
(6) A YES.
(7) Q HOW LONG AFTER THE ACCIDENT DID YOU GET BACK HOME TO SOUTHERN CALIFORNIA?
(8) A THAT EVENING OF THE ACCIDENT.
(9) Q DID YOU HAVE ANY MEDICAL CARE AFTER THAT FOR PHYSICAL INJURIES?
(10) A NO.
(11) Q HAVE YOU HAD ANY CARE BY PROFESSIONAL HEALTHCARE PROVIDERS FOR ANY PSYCHOLOGICAL OR EMOTIONAL PROBLEMS RELATED TO THE ACCIDENT AND THE LOSS OF YOUR DAUGHTER?
(12) A YES.
(13) Q CAN YOU DESCRIBE THAT COUNSELING OR TREATMENT?
(14) A I MET WITH CLAIRE NELSON IN NEWPORT BEACH FOR, I CAN'T REMEMBER, THREE OR FOUR TIMES.
(15) Q IS SHE A PSYCHOLOGIST?
(16) A YES.
(17) Q WHEN DID YOU SEE HER? WHAT TIME PERIOD

Page 69
(1) A GENERALLY, IN THE FIRST COUPLE WEEKS AFTER THE ACCIDENT.
(4) Q ANY OTHER TREATMENT OR CARE BY HEALTHCARE PROVIDERS, COUNSELORS, OR OTHERWISE FOR YOUR EMOTIONAL CONDITION UP TO THE PRESENT TIME?
(7) A SHE RECOMMENDED SEEING AN M.D. HE GAVE ME SOME, I DON'T KNOW, SLEEPING PILLS OR SOMETHING.
(9) Q DID YOU USE THOSE?
(10) A YES.
(11) Q FOR WHAT PERIOD OF TIME?
(12) A A MONTH.
(13) Q HAVE YOU USED THEM SINCE?
(14) A NO.
(15) Q HAVE YOU BEEN ON ANY OTHER DOCTOR-PRESCRIBED MEDICATION SINCE THE ACCIDENT?
(17) A NO.
(18) Q HAVE YOU SEEN ANY MEDICAL DOCTORS FOR EMOTIONAL OR PHYSICAL PROBLEMS SINCE THE ACCIDENT OTHER THAN WHAT YOU'VE TOLD ME ABOUT?
(21) A NO.
(22) Q HAVE YOU SEEN ANY OTHER PSYCHOLOGISTS OR PSYCHIATRISTS OTHER THAN MS. NELSON?
(24) A NO.
(25) Q HAS YOUR WIFE BEEN UNDER THE CARE OF ANY

Page 70
(1) PSYCHOLOGIST OR PSYCHIATRIST FOR EMOTIONAL PROBLEMS
(2) SINCE THE ACCIDENT?
(3) A NO.
(4) Q HAS SHE BEEN UNDER THE CARE OF ANY DOCTOR FOR ANY PHYSICAL OR EMOTIONAL REASON RELATED TO THE ACCIDENT OR THE LOSS OF YOUR DAUGHTER?
(7) A NO.
(8) Q YOUR DAUGHTER WAS 15 AT THE TIME OF THE ACCIDENT?
(10) A YES.
(11) Q WAS SHE A STUDENT AT SAINT MARGARET?
(12) A YES.
(13) Q WHAT YEAR?
(14) A SHE WAS BETWEEN HER SOPHOMORE AND JUNIOR YEAR.
(16) Q WHAT KIND OF GRADE POINT DID SHE HAVE AT SCHOOL?
(18) A HEADMASTER'S LIST.
(19) Q WHAT KIND OF SCHOOL ACTIVITIES WAS SHE INVOLVED IN LIKE SPORTS OR CLUBS OR THINGS LIKE THAT?
(21) A SHE WAS A THREE-SPORT ATHLETE.
(22) Q WHAT WERE THE SPORTS?
(23) A BASKETBALL, TRACK, AND CROSS-COUNTRY.
(24) MR. DANIELS: SIR, ANYTIME YOU WANT TO TAKE A BREAK, YOU LET US KNOW.

Page 71
(1) MR. ZELL: DO YOU WANT TO TAKE A BREAK?
(2) THE WITNESS: IT DEPENDS ON WHERE YOU'RE GOING WITH THIS, I GUESS.
(4) MR. ZELL: WELL, I'M GOING TO HAVE TO ASK SOME QUESTIONS. NOT THAT I WANT TO.
(4) MR. COHN: WERE PREPARED -- MR. HALSTED IS PREPARED AND HE UNDERSTANDS THE NATURE OF THE DEPOSITION AND WHAT'S GOING TO HAPPEN. IF IT BECOMES A TIME TO TAKE A BREAK, I'M SURE WE WILL ALL KNOW IMMEDIATELY.
(11) MR. ZELL: SURE, WE'LL PUSH AHEAD.
(12) Q BY MR. ZELL: SHE HAD JUST COMPLETED HER SOPHOMORE YEAR; IS THAT CORRECT?
(13) Q HAVE YOU SEEN ANY OTHER ATHLETIC TEAMS IN HER SOPHOMORE YEAR?
(14) A RIGHT.
(15) Q DID SHE BELONG TO ANY CLUBS BEYOND THE
(16) A ANY OTHER CLUBS?
(18) Q LIKE THE DRAMA CLUB; THINGS LIKE THAT.
(19) A THEY DIDN'T HAVE -- WELL, THE SCHOOL WASN'T ORGANIZED EXACTLY LIKE THAT. SHE WASN'T IN GIRL SCOUTS AND THINGS LIKE THAT. THEY HAD OTHER ACTIVITIES OTHER THAN SPORTS, BUT IT WASN'T ORGANIZED DRAMA AND THINGS LIKE THAT.
(24) Q WAS SHE A CLASS OFFICER, PRESIDENT, OR VICE PRESIDENT OF HER CLASS OR ANYTHING LIKE THAT --
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Q. -- IN EITHER THE FRESHMAN OR SOPHOMORE YEAR?
A. SHE RAN FOR -- I THINK SHE RAN FOR VICE PRESIDENT OF THE SOPHOMORE CLASS. I DON'T THINK SHE WAS ELECTED TO THAT. THAT PROMPTED ME TO THINK OF ANOTHER ACTIVITY, AND I LOST IT HERE.

Q. BY MR. ZELL: SURE. AT THE TIME OF THE ACCIDENT, SHE WAS RESIDING AT HOME; IS THAT CORRECT?
A. YES.

Q. SHE RESIDED WITH YOU AND YOUR WIFE THE ENTIRE 15 YEARS?
A. YES.

Q. WAS SHE WORKING THAT SUMMER? DID SHE HAVE A JOB?
A. NO.

Q. OKAY. I'M GOING TO HAVE TO ASK SOME QUESTIONS ABOUT THE SCENE OF THE ACCIDENT RIGHT AFTER THE ACCIDENT.

Q. WHERE DID YOU FIND YOUR DAUGHTER RIGHT AFTER THE CAR STOPPED?
A. SHE WAS ABOUT 15 FEET ON THE PASSENGER SIDE OF THE CAR, THE GROUND FACE UP.

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Q. YOU WENT UP TO HER?
A. UH-HUH.

Q. WAS SHE ALIVE THAT YOU COULD TELL?
A. I COULDN'T TELL. SHE WASN'T BREATHING.

Q. HER EYES WERE CLOSED?
A. NO.

Q. WERE THERE ANY WOUNDS THAT YOU COULD TELL OR ANY OTHER SIGN OF PHYSICAL INJURY?
A. NO.

Q. DID YOU ATTEMPT ANY RESUSCITATION?
A. YES.

Q. WHAT DID YOU DO, JUST BRIEFLY?
A. LET'S SEE. WHEN I GOT UP TO HER, THERE WAS ALREADY PEOPLE THAT HAD STOPPED.

Q. STOPPED RESUSCITATION?
A. THERE WERE SEVERAL CARS THAT STopped. VERY SHORTLY AFTER I GOT TO HER, ONE LADY CAME UP TO HER AND IDENTIFIED HERSELF AS A NURSE. THEN SHE STARTED C.P.R. ON HER.

Q. THEN A COUPLE OTHER PEOPLE CAME UP TO ASSIST HER. THEN THAT NURSE SAID, "WHY DON'T YOU GO TO THE TRUNK OF MY CAR. I'VE GOT SOME EQUIPMENT."

Q. SHE HAD A BREATHING TUBE.
A. MR. ZELL: LET'S TAKE A BREAK.

(Recess Taken)

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Q. BY MR. ZELL: IF YOU COULD JUST KIND OF SUMMARIZE QUICKLY WHAT HAPPENED AFTER THE RESUSCITATION?
A. OKAY. WELL, AS I SAID, WE CONTINUED WORKING ON HER FOR A LONG TIME. THE NURSE LADY HAD A TELEPHONE IN HER CAR. THEY CALLED THE COPS AND AMBULANCE OR WHOEVER THEY CALLED.

Q. THEY SAID THAT THEY WERE AT LEAST 30 MINUTES AWAY BECAUSE OF THE DISTANCE. WE JUST CONTINUED WORKING ON HER. THEY MOVED HER AROUND SO THE AIRWAY WOULD BE OPEN AND SO FORTH. THERE WAS A LOT OF HELP THERE.

Q. ULTIMATELY, THE PARAMEDICS OR SOMEBODY ARRIVED?
A. THE AMBULANCE CAME. THEY PUT HER ON A STRETCHER AND PUT HER INSIDE. I GOT IN, ALSO. WE HEADED FOR, I DON'T KNOW, CEDAR CITY OR WHEREVER WE ENDED UP AT THE HOSPITAL.

Q. WHERE WERE YOU WHEN YOU WERE FIRST ADVISED THAT SHE HAD DIED?
A. I WAS IN THE ADJACENT ROOM.

Q. IN THE HOSPITAL?
Page 76

(1) THE ANSWER IS "NO," BY THE WAY.
(2) NONETHELESS, WE'RE NOT GOING TO ANSWER QUESTIONS
(3) WITH REGARDS TO THE CONTENT OF HIS NOTES.
(4) MR. CALFO: OKAY.
(5) Q BY MR. CALFO: DID ANYONE ASK YOU TO
(6) PREPARE YOUR NOTES?
(7) A NO.
(8) Q YOU JUST DECIDED TO DO IT YOURSELF?
(9) A YES.
(10) Q WHEN DID YOU REVIEW YOUR NOTES LAST?
(11) A I WORKED ON THOSE YESTERDAY AFTERNOON FOR A
(12) COUPLE HOURS. I HAVEN'T LOOKED AT THEM SINCE.
(13) MR. CALFO: COULD WE MARK THEM AS AN EXHIBIT TO
(14) THE DEPOSITION?
(15) MR. COHN: THAT WOULD INCLUDE ME PROVIDING THEM
(16) TO YOU. I THINK I ALREADY MADE ONE STATEMENT TO THE
(17) EFFECT THAT I WASN'T GOING TO DO SO UNTIL I HAVE AN
(18) OPPORTUNITY TO INSPECT THEM AND REVIEW THEM AND
(19) DETERMINE WHETHER OR NOT THEY WILL OR WILL NOT BE
(20) PROVIDED. IF THEY'RE GOING TO BE PROVIDED, THEN YOU
(21) CAN HAVE THEM.
(22) MR. CALFO: OKAY.
(23) MR. DANIELS: CAN YOU LOOK AT THEM NOW, RICHARD?
(24) MR. COHN: I TRIED TO SCAN THEM BRIEFLY ALREADY.
(25) THE HANDWRITING IS SUCH THAT I'M NOT SURE I CAN READ

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(1) EVERY LAST WORD.
(2) THE WITNESS: I RESIST THAT.
(3) MR. COHN: IT'S MY IMPRESSION, ON A SIDE NOTE.
(4) THAT THEY WILL BE PRODUCED. I'M JUST NOT GOING TO
(5) GIVE UP THE OPPORTUNITY.
(6) FURTHERMORE, WE WERE NOT ASKED TO PRODUCE
(7) ANYTHING AT THE DEPOSITION HERE TODAY. SO WE DON'T
(8) HAVE TO. WE HAVEN'T RECEIVED A FORMAL REQUEST FOR
(9) PRODUCTION OF DOCUMENTS FOR THESE PARTICULAR NOTES.
(10) SO YOU WOULDN'T BE ENTITLED TO THEM NOW ANYWAY.
(11) MR. CALFO: I JUST --
(12) MR. DANIELS: WELL, WE'RE ALL HERE. RATHER THAN
(13) TAKE HIS DEPOSITION ANOTHER DATE, IF THEY'RE BRIEF,
(14) WHY DON'T YOU LOOK AT THEM AND MAKE THE DETERMINATION
(15) TO WE DON'T HAVE TO PUT THIS NICE GENTLEMAN THROUGH
(16) ANOTHER DEPO.
(17) MR. COHN: I DON'T THINK THAT YOU WOULD END UP
(18) TAKING HIS DEPOSITION AGAIN ANYWAY BASED ON WHAT I'VE
(19) SEEN. SO I'M NOT RUNNING THAT RISK, YOU CAN ASK HIM
(20) ALL ABOUT THE RELATIONSHIPS BETWEEN THE FAMILY
(21) MEMBERS AND EVERYTHING ELSE.
(22) Q BY MR. CALFO: AND IT'S YOUR TESTIMONY,
(23) MR. HALSTED, THAT THERE'S NOTHING WITH REGARD TO THE
(24) ACCIDENT IN THOSE NOTES?
(25) A THAT'S CORRECT.

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(1) Q IS THERE ANYTHING WITH REGARD TO THE TIRE?
(2) A NO.
(3) Q OR THE VEHICLE?
(4) A NO.
(5) MR. COHN: I WILL REPRESENT TO YOU, BASED ON
(6) WHAT I HAVE REVIEWED OF THE NOTES, THAT THEIR CONTENT
(7) PERTAINS SOLELY TO ALMOST LIKE A SOUL-SEARCHING-TYPE
(8) CONCEPT AS TO WHAT THE VALUE OF THE CHILD IN THIS
(9) CASE IS TO THIS FAMILY.
(10) MR. CALFO: SO IT RELATES TO DAMAGES?
(11) MR. COHN: EXACTLY.
(12) MR. CALFO: I'LL JUST ASK, RICHARD, IF YOU COULD
(13) PRESERVE THEM.
(14) MR. COHN: WE WILL CERTAINLY PRESERVE THEM.
(15) THAT'S NOT AN ISSUE.
(16) Q BY MR. CALFO: HOW MANY PAGES OF NOTES ARE
(17) THERE, MR. HALSTED?
(18) MR. COHN: I'LL COUNT THEM UP FOR YOU. THERE IS
(19) THREE PAGES OF NOTES. ONE OF THE PAGES DOES NOT HAVE
(20) WRITING BUT ON HALF OF IT. THE OTHER TWO ARE SORT OF
(21) FULL PAGES OF NOTES.
(22) Q BY MR. CALFO: WHAT'S YOUR DATE OF BIRTH.
(23) MR. HALSTED?
(25) MR. COHN: I THINK YOU ALREADY HAD THAT IN THE

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(1) FORM INTERROGATORIES. THIS IS NOT GOING TO BE A
(2) QUIZ.
(3) Q BY MR. CALFO: FOR MY BENEFIT, THOUGH, JUST
(4) TELL ME A LITTLE BIT ABOUT YOUR EDUCATIONAL
(5) BACKGROUND.
(6) A DESIGN AND ENGINEERING DEGREE FROM U.C.L.A.
(7) AND SOME MASTER'S WORK AT LONG BEACH STATE COLLEGE.
(8) Q DO YOU HAVE A PARTICULAR FIELD IN
(9) ENGINEERING THAT YOU SPECIALIZE IN?
(10) A THE SPECIALTY WAS INDUSTRIAL DESIGN.
(11) Q YOU INDICATED EARLIER THAT YOU ARE EMPLOYED
(12) BY A MARKETING COMPANY THAT WORKS FOR BMW; IS THAT
(13) CORRECT?
(14) A NO. I'M IN A MARKETING POSITION AT A
(15) PRODUCT DEVELOPMENT FIRM CALLED "DESIGN WORKS U.S.A."
(16) IT'S A BMW SUBSIDIARY.
(17) Q HOW LONG HAVE YOU BEEN WITH DESIGN WORKS?
(18) A TEN YEARS.
(19) Q WHERE WERE YOU PRIOR TO THAT?
(20) A I HAD MY OWN CONSULTING FIRM FOR 12 YEARS.
(21) Q WHAT WAS THE NATURE OF THAT CONSULTING
(22) BUSINESS?
(23) A PRODUCT DEVELOPMENT.
(24) Q DO YOU HAVE ANY TECHNICAL EXPERTISE IN
(25) AUTOMOTIVE ENGINEERING?
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INDEX

WITNESS:

NII ADDY

EXAMINATION

BY MR. COHN

BY MR. CAVANAUGH

BY MR. ZELL

EXHIBITS

DEPOSITION

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1. Laser copy of photograph
2. Laser copy of photograph

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1 Santa Ana, California, Friday, June 25, 1999
2 10:15 a.m. - 12:35 p.m.
3
4 NII ADDY,
5 having been first duly sworn, was examined and
6 testified as follows:
7
8 EXAMINATION
9 BY MR. COHN:
10 Q. Could you please state your name and
11 spell it for record.
12 A. Nii Addy, N-i-i, A-d-d-y.
13 Q. And, Mr. Addy, have you ever had your
14 deposition taken on any prior occasion?
15 A. No.
16 Q. Well, then, before we get started with
17 the substantive part of the deposition, I'm going to
18 go over a few of the ground rules with you.
19 MR. DANIELS: Off the record.
20 (Discussion off the record.)
21 MR. DANIELS: Back on the record.
22 BY MR. COHN:
23 Q. Okay. We're going to go through some of
24 the substantive -- some of the procedural rules first
25 and then we'll get into the substantive portion; and

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1 some of this will probably be repetitive of what
2 Mr. Daniels or Mr. Bailey may have already told you at
3 meetings before the deposition, but bear with me.
4 A. Okay.
5 Q. You're under oath as if in a court of
6 law, even though we're in the informal confines of the
7 conference room here today. Do you understand that?
8 A. Yes.
9 Q. Okay. We're going to be asking you
10 questions and answers under oath, and we're going to
11 try to make the best record possible today. There's
12 some ground rules that we should follow for purposes
13 of creating the best record possible.
14 Talking one at a time is very important.
15 Don't guess or speculate on anything. That's
16 important. If one of the questions asks you to guess
17 or speculate on something, we ask that you don't do
18 that. However, we're entitled to your best estimate
19 here today on matters such as times, distances, speeds
20 and the like that you might have a recollection of.
21 Okay?
22 A. Okay.
23 Q. Do you understand all that so far?
24 A. Yes.
25 Q. You have to answer verbally. You can't

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1 answer with nods of the head and uh-huhs and huh-uhhs
2 and the like because our court reporter has difficulty
3 taking those things down, or she might not be looking
4 at you while she's taking things down and she may not
5 see what your response was if you just shake or nod or
6 something like that. So we need you to actually speak
7 when you answer. Okay?
8 A. Okay.
9 Q. After the deposition is complete, the
10 court reporter will prepare a booklet with your
11 testimony in it, all the questions, all the answers,
12 and you'll be asked to read it, review it and then
13 sign it under penalty of perjury and make any
14 corrections to the transcript as you see fit.
15 However, you should be forewarned that if you make any
16 substantial changes to the deposition transcript, then
17 those can be commented on by any of the lawyers
18 involved in this litigation at the time of trial or at
19 some other point. So it's important that you try to
20 give your best testimony here today. Okay?
21 A. Okay.
22 Q. With all that said, do you have any
23 questions of me or of your attorneys prior to going
24 forward with the deposition here today?
25 A. No.

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1 Q. Okay. And one last point that we always
2 ask, is there any kind of medication or anything that
3 you might be on that may be affecting your ability to
4 testify properly or give your best memory here today?
5 A. No.
6 Q. Okay. Moving forward, then.
7 Could you please state your date of
8 birth.
10 Q. And could you please provide us with your
11 height?
12 A. Six-one.
13 Q. All right. And can you give us your
14 educational background to the present.
15 A. As far as --
16 Q. High school, and I guess you're in your
17 first year of college now.
18 A. I attended Santa Margarita Catholic High
19 School, St. Margaret's Episcopal High School and
20 Futures High School.
21 Q. What was that last one, I'm sorry?
22 A. Futures.
23 Q. Can you spell that for the reporter?
24 A. F-u-t-u-r-e-s.
25 Q. And can you give the breakdown of
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Santa Ana, California, Friday, June 25, 1999
10:15 a.m. - 12:35 p.m.

NII ADDY, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. COHN:

Q Could you please state your name and spell it for the record.

A Nii Addy, N-i-i, A-d-d-y.

Q And, Mr. Addy, have you ever had your deposition taken on any prior occasion?

A No.

Q Well, then, before we get started with the substantive part of the deposition, I'm going to go over a few of the ground rules with you.

MR. DANIELS: Off the record.

(Discussion off the record.)

MR. DANIELS: Back on the record.

BY MR. COHN:

Q Okay. We're going to go through some of the substantive -- some of the procedural rules first and then we'll get into the substantive portion; and some of this will probably be repetitive of what Mr. Daniels or Mr. Bailey may have already told you at meetings before the deposition, but bear with me.

A Okay.

Q You're under oath as if in a court of law, even though we're in the informal confines of the conference room here today. Do you understand that?

A Yes.

Q Okay. We're going to be asking you questions and answers under oath, and we're going to try to make the best record possible today. There's some ground rules that we should follow for purposes of creating the best record possible.

Talking one at a time is very important. Don't guess or speculate on anything. That's important. If one of the questions asks you to guess or speculate on something, we ask that you don't do that. However, we're entitled to your best estimate here today on matters such as times, distances, speeds and the like that you might have a recollection of.

Okay?

A Okay.

Q Do you understand all that so far?

A Yes.

Q You have to answer verbally. You can't answer with nods of the head and uh-huhs and huh-uhhs and the like because our court reporter has difficulty taking those things down, or she might not be looking at you while she's taking things down and she may not see what your response was if you just shake or nod or something like that. So we need you to actually speak when you answer. Okay?

A Okay.

Q After the deposition is complete, the court reporter will prepare a booklet with your testimony in it, all the questions, all the answers, and you'll be asked to read it, review it and then sign it under penalty of perjury and make any corrections to the transcript as you see fit. However, you should be forewarned that if you make any substantial changes to the deposition transcript, then those can be commented on by any of the lawyers involved in this litigation at the time of trial or at some other point. So it's important that you try to give your best testimony here today. Okay?

A Okay.

Q With all that said, do you have any questions of me or of your attorneys prior to going forward with the deposition here today?

A No.

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<tr>
<td>approximate dates on which you attended those high</td>
<td>Q All right. And how about Mr. Halsted,</td>
</tr>
<tr>
<td>schools, or the school years or whatever, what portion</td>
<td>had you met him before the commencement of the trip?</td>
</tr>
<tr>
<td>of your freshman and sophomore --</td>
<td>A Yes.</td>
</tr>
<tr>
<td>A Okay. My freshman year I attended Santa</td>
<td>Q How many times?</td>
</tr>
<tr>
<td>Margarita, as well as my sophomore; my junior year I</td>
<td>A Maybe three, four.</td>
</tr>
<tr>
<td>attended Mission Viejo High School, which I left out</td>
<td>Q All right. Prior to this trip had you</td>
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<tr>
<td>earlier. I repeated my junior year at St. Margaret's</td>
<td>ever driven a vehicle of this nature, meaning a large</td>
</tr>
<tr>
<td>and half of my senior year I was at St. Margaret's and</td>
<td>SUV type vehicle?</td>
</tr>
<tr>
<td>the other half, for the second semester, it was at</td>
<td>A Yes.</td>
</tr>
<tr>
<td>Futures.</td>
<td>Q All right. On how many occasions?</td>
</tr>
<tr>
<td>Q And did you in fact obtain a high school</td>
<td>A A number of -- maybe ten.</td>
</tr>
<tr>
<td>diploma?</td>
<td>Q All right. Who's SUV had you previously</td>
</tr>
<tr>
<td>A Yes.</td>
<td>driven?</td>
</tr>
<tr>
<td>Q And have you attended any college?</td>
<td>A My mother -- we've had a minivan and a</td>
</tr>
<tr>
<td>A I currently am enrolled in Swarthmore</td>
<td>4Runner, and I've driven friends' vehicles.</td>
</tr>
<tr>
<td>College.</td>
<td>Q All right. Had you ever, prior to this</td>
</tr>
<tr>
<td>Q Okay. And I assume, then, at this point</td>
<td>subject incident, driven any vehicle where the vehicle</td>
</tr>
<tr>
<td>you're out on summer break?</td>
<td>had a tire blowout or a flat tire?</td>
</tr>
<tr>
<td>A Yes.</td>
<td>A A flat tire, yes.</td>
</tr>
<tr>
<td>Q And as you are aware, we're here to talk</td>
<td>Q But not a blowout --</td>
</tr>
<tr>
<td>about an automobile accident that occurred while you</td>
<td>A No.</td>
</tr>
<tr>
<td>and several other individuals were on a trip.</td>
<td>Q -- where you were at high speed on the</td>
</tr>
<tr>
<td>Do you recall -- have any recollection of</td>
<td>roadway or something like that?</td>
</tr>
<tr>
<td>the accident itself?</td>
<td>A No.</td>
</tr>
<tr>
<td>A Yes.</td>
<td>Q And had you ever had any other prior</td>
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<tbody>
<tr>
<td>Q All right. Can you tell us who was on</td>
<td>automobile accidents --</td>
</tr>
<tr>
<td>the trip? Let's start with that.</td>
<td>A No.</td>
</tr>
<tr>
<td>A Myself, Mr. Halsted, Lindsay Halsted,</td>
<td>Q -- before this one? All right.</td>
</tr>
<tr>
<td>Matt Finley, Matt's friend Rafi and his younger</td>
<td>And this one may be completely off the</td>
</tr>
<tr>
<td>brother.</td>
<td>wall to you, but we have to ask it, have you ever been</td>
</tr>
<tr>
<td>Q Do you remember the younger brother's</td>
<td>convicted of a felony?</td>
</tr>
<tr>
<td>name?</td>
<td>A No.</td>
</tr>
<tr>
<td>A No.</td>
<td>Q All right. And when did you get your</td>
</tr>
<tr>
<td>Q Had you ever met Rafi previously?</td>
<td>driver's license?</td>
</tr>
<tr>
<td>A No.</td>
<td>A I don't know the date, but when I was 17.</td>
</tr>
<tr>
<td>Q And how long had you known Matt?</td>
<td>Q All right. At the time of the subject</td>
</tr>
<tr>
<td>A I -- I had known him at that point for</td>
<td>automobile accident that we're going to talk about</td>
</tr>
<tr>
<td>the school year, but he went to the same elementary</td>
<td>here today, did you have any physical problems going</td>
</tr>
<tr>
<td>school I did when I lived in Dallas, so I had known</td>
<td>on, sickness, cold, anything at all?</td>
</tr>
<tr>
<td>who he was before then.</td>
<td>A No.</td>
</tr>
<tr>
<td>Q All right. So you had met him as a</td>
<td>Q All right. You weren't taking any</td>
</tr>
<tr>
<td>childhood friend in your younger childhood?</td>
<td>medication at the time?</td>
</tr>
<tr>
<td>A Right.</td>
<td>A I don't remember.</td>
</tr>
<tr>
<td>Q And then when you came out to California,</td>
<td>Q Okay. I'm going to trace the trip from</td>
</tr>
<tr>
<td>you ran into him again and you guys became friends</td>
<td>its beginning, middle, to its ultimate end point. Can</td>
</tr>
<tr>
<td>again?</td>
<td>you tell us where the trip started?</td>
</tr>
<tr>
<td>A Correct.</td>
<td>A From my house.</td>
</tr>
<tr>
<td>Q All right. How about Lindsay, how long</td>
<td>Q All right. As far as you're concerned,</td>
</tr>
<tr>
<td>had you known Lindsay?</td>
<td>anyway, right?</td>
</tr>
<tr>
<td>A For the year that I was at St. Margaret's.</td>
<td>A Correct.</td>
</tr>
</tbody>
</table>
Q. Did someone come and pick you up?
A. Yes. Everyone was already in the car
when they picked me up.
Q. You were the last person to be picked up?
A. Yes.
Q. All right.
MR. DANIELS: Keep your voice up a little bit
louder.
THE WITNESS: Okay.
MR. COHN: It's also for her benefit.
MR. DANIELS: Well, also Mr. Zell at the end of
the table.
MR. ZELL: Who's struggling to hear.
MR. COHN: All right. It's for both of their
benefits, then.
Q. And when they picked you up, was that
the day before the accident?
A. Yes.
Q. All right. And the very next day is when
the accident occurred, correct?
A. Yes.
Q. Did you drive the vehicle at all at any
time prior to your shift of driving when the accident
occurred?
A. No.

Q. All right. When were you picked up, who
was driving the vehicle at that point?
A. Mr. Haalsted.
Q. All right. And how long did he drive
for, either in time or miles or approximate, until
someone else took over?
A. I don't remember exactly for that day.
Q. All right. Did someone else drive on the
first day, that you remember?
A. I don't remember.
Q. All right. Where was the destination for
the first day?
A. Las Vegas.
Q. All right. That took a few hours to get
there?
A. Yes.
Q. And do you remember the approximate time
that the group pulled into Las Vegas that night?
A. No.
Q. You don't have any estimate?
A. Maybe around ten.
Q. Do you remember about what time you got
picked up?
A. No.
Q. All right.
Q: Okay. At least for certain you had not, correct?
A: Correct.
Q: All right. Who drove first in the morning, if you recall? And this is now the day of the accident.
A: I believe Mr. Halsted began driving.
Q: All right. Do you know for how long he drove?
A: No.
Q: At some point in time while Mr. Halsted was driving was there a tire blowout?
A: Yes.
Q: And where were you sitting in the vehicle at that time?
A: I don't remember.
Q: All right. Do you have any knowledge – were you in the front seat, by chance, versus somewhere in the back?
A: No, I was somewhere in the back.
Q: But you don't remember exactly where?
A: No.
Q: Were you wearing a seat belt at that time?
A: Yes.

Q: Okay. At the time when that tire blowout occurred, do you know how fast the vehicle was going?
A: No.
Q: Can you describe what happened in that tire blowout, as best you could?
A: There's a loud noise from the rear of the vehicle and we pulled over to see what it was.
Q: Did you observe Mr. Halsted at the time of that blowout in how he handled the vehicle and brought it to a stop?
A: Not more than just pulling over to stop.
Q: Did the vehicle swerve at all, to your recollection?
A: Not to my recollection.
Q: All right. And I think I've probably asked this question four questions ago, but I'm not a hundred percent sure, did you know how fast the vehicle was going?
A: No.
Q: You have no estimate?
A: No.
Q: All right. After the blowout occurred and the vehicle was pulled over, what happened next? Did people get out of the car to look at it?
first blowout.

THE WITNESS: I believe so.

BY MR. COHN:

Q All right. And who said what about that?
A I don't remember.
Q All right. Did the vehicle have a spare
tire, if you know?
A I don't think that it did.
Q All right. Do you actually know for sure
one way or the other?
A No.
Q All right. Was there any other
discussion about the blowout or the need to replace
the tire or the tire's condition on the vehicle
overall or anything else about the tire during that
time period just after the first blowout?
A Not that I remember.
Q All right. Was there any discussion
about replacing two or four tires instead of just the
one that had blown out?
A I don't believe so.
Q All right. And then let's move forward,
I guess, a little bit. It's my understanding the
vehicle drove slowly along the shoulder to the
point where it -- there was another service station or

some establishment where a tire could be purchased.
A Correct.
Q All right. And do you remember
approximately how far that slow-driving episode was in
terms of distance or time or anything?
A Maybe a mile or two.
Q Just a couple miles or a mile?
A Yes.
Q All right. It took approximately how
long in time, if you know?
A I don't recall.
Q All right. Upon arriving at this
establishment or service station or whatever, were you
a part of any -- a part meaning a listener or a
speaker, in any conversation regarding the purchase of
a new tire?
A I remember hearing talk about the
purchase of a new tire.
Q All right. What do you remember hearing
and who was saying what?
A That Mr. Halsted said he was going to
have to buy a tire.
Q All right. Did you hear Mr. Halsted
speaking with a person from the service station or
anything to that effect?

sides of the tire.
Q Okay. Did you look at the other rear
tire at that point as well?
A No.
Q Did it occur to you at that point in time
that if the one rear tire had blown out, that it was
possible that the second rear tire might at some point
blow out during your trip?
A No.
Q All right. Did anyone make such a
statement at any time to the effect that since the one
tire blew out, it was possible that the other one
might also blow out?
A Not that I remember.
Q All right. Did anyone discuss the age of
the tires or how --
A I don't recall.
Q -- how much wear they had on them?
A I don't recall.
Q All right. And, again, this is all
during the time period where you're at the service
station somewhere outside of Las Vegas on the way
towards Colorado, correct?
A Yes.
Q Do you know what ultimately occurred at
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<tr>
<td>1  that location in terms of the purchase of a new tire?</td>
<td>1  Q  All right. After Rafi stopped driving</td>
</tr>
<tr>
<td>2  A  The tire was purchased and put on the</td>
<td>2  was that then the time when you took over to drive?</td>
</tr>
<tr>
<td>3  vehicle.</td>
<td>3  A  Yes.</td>
</tr>
<tr>
<td>4  Q  All right. Do you know who put it on?</td>
<td>4  Q  Okay. And do you remember approximately</td>
</tr>
<tr>
<td>5  A  No.</td>
<td>5  what time of day that was?</td>
</tr>
<tr>
<td>6  Q  Do you know if Matt or Mr. Halsted put it</td>
<td>6  A  Late morning, early afternoon.</td>
</tr>
<tr>
<td>7  on versus the person who was working at the location?</td>
<td>7  Q  All right. And approximately how long</td>
</tr>
<tr>
<td>8  A  I know Matt did not, but I don't know who</td>
<td>8  were you driving when the subject incident occurred?</td>
</tr>
<tr>
<td>9  did.</td>
<td>9  A  One hour.</td>
</tr>
<tr>
<td>10 Q  All right. All right. After the tire</td>
<td>10 Q  All right. And during the course of the time</td>
</tr>
<tr>
<td>11 was placed back on the vehicle, the trip started up</td>
<td>11 while you were driving the vehicle, how did the</td>
</tr>
<tr>
<td>12 again, correct?</td>
<td>12 vehicle feel in terms of its steering and handling, if</td>
</tr>
<tr>
<td>13 A  Correct.</td>
<td>13 you can describe that?</td>
</tr>
<tr>
<td>14 Q  And who was driving at that point?</td>
<td>14 A  I noticed that the steering had more play</td>
</tr>
<tr>
<td>15 A  I don't recall, but I believe it was</td>
<td>15 than I'm used to, but it didn't seem to have any other</td>
</tr>
<tr>
<td>16 Mr. Halsted.</td>
<td>16 problems.</td>
</tr>
<tr>
<td>17 Q  All right. At some point in time did</td>
<td>17 Q  When you say that the steering had more</td>
</tr>
<tr>
<td>18 Mr. Halsted stop driving so that another person could</td>
<td>18 play than you're used to, I think I understand what</td>
</tr>
<tr>
<td>19 drive?</td>
<td>19 you're talking about, but can you describe that for me</td>
</tr>
<tr>
<td>20 A  Yes.</td>
<td>20 A  That it would move in either direction</td>
</tr>
<tr>
<td>21 Q  And who drove after Mr. Halsted?</td>
<td>21 before responding a small amount.</td>
</tr>
<tr>
<td>22 A  Rafi.</td>
<td>22 Q  So you could actually turn the wheel a</td>
</tr>
<tr>
<td>23 Q  All right. And how long did Rafi drive</td>
<td>23 little bit and you wouldn't notice that the vehicle</td>
</tr>
<tr>
<td>24 for?</td>
<td>24 would steer until you moved it a little further,</td>
</tr>
<tr>
<td>25 A  Approximately two hours, I believe.</td>
<td></td>
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<tbody>
<tr>
<td>1  Q  All right. And while Rafi was driving,</td>
<td>1  correct?</td>
</tr>
<tr>
<td>2  where did you sit?</td>
<td>2  A  Correct.</td>
</tr>
<tr>
<td>3  A  In the back part somewhere again, but I</td>
<td>3  Q  All right. Let's assume that you're</td>
</tr>
<tr>
<td>4  don't remember which seat.</td>
<td>4  driving straight and the center top of the steering</td>
</tr>
<tr>
<td>5  Q  All right. The vehicle had a front</td>
<td>5  wheel is 12:00.</td>
</tr>
<tr>
<td>6  driver's seat and a front passenger's seat and then</td>
<td>6  A  Correct.</td>
</tr>
<tr>
<td>7  behind that would have been a bench seat and behind</td>
<td>7  Q  Okay.  Can you tell us approximately how much play there was in</td>
</tr>
<tr>
<td>8  that another bench seat?</td>
<td>8  the steering wheel before you would actually get some type of</td>
</tr>
<tr>
<td>9  A  No, it had two captain's chairs and then</td>
<td>9  response from the steering, assuming that you moved the 12:00 in</td>
</tr>
<tr>
<td>10 a bench seat in the back.</td>
<td>10 one direction towards 1:00 or 2:00, or 3:00? I mean, I don't</td>
</tr>
<tr>
<td>11 Q  Oh, okay. So the -- the first -- the</td>
<td>11 expect it's going to get to 4:00 or 6:00 or something like that,</td>
</tr>
<tr>
<td>12 first row of seats is the front seat for the driver</td>
<td>12 but can you tell us approximately how much play there was in that</td>
</tr>
<tr>
<td>13 and the passenger, right?</td>
<td>13 steering wheel?</td>
</tr>
<tr>
<td>14 A  Correct.</td>
<td>14 A  I don't remember.</td>
</tr>
<tr>
<td>15 Q  And then the next row of seats is</td>
<td>15 Q  Was there any comment on that by any</td>
</tr>
<tr>
<td>16 captain's chairs?</td>
<td>16 person in the vehicle at any time during the entire course of</td>
</tr>
<tr>
<td>17 A  Yes.</td>
<td>17 that the vehicle had more play than someone was used to?</td>
</tr>
<tr>
<td>18 Q  All right. And then behind that is a</td>
<td>18 A  I don't remember.</td>
</tr>
<tr>
<td>19 bench?</td>
<td>19 Q  All right. And when I say &quot;any time during the entire trip,&quot; I</td>
</tr>
<tr>
<td>20 A  Yes.</td>
<td>20 mean talking about the day before as well.</td>
</tr>
<tr>
<td>21 Q  All right. And you just can't remember</td>
<td>21 Q  Again, I don't remember.</td>
</tr>
<tr>
<td>22 where you were during the time when Rafi was driving,</td>
<td>22 Q  All right. Did the steering having more</td>
</tr>
<tr>
<td>23 whether it be the -- one of the rear two captain's</td>
<td></td>
</tr>
<tr>
<td>24 seats or the bench?</td>
<td></td>
</tr>
<tr>
<td>25 A  Right.</td>
<td></td>
</tr>
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1 play than you were used to have any effect on your
2 feel or your ability to control the vehicle?
3 A No, I just concentrated more on my
4 driving.
5 Q All right. During the course of time
6 while you were driving the vehicle, do you recall what
7 the speed limit was on the roadway, say, for the -- I
8 mean, I'm just assuming that there's a long stretch of
9 highway out there with the same speed limit all the
10 way. I bet there's places where you might come into a
11 town and you have to slow down for a while and then go
12 back to the higher speed limit again. Would that be a
13 correct statement?
14 A I don't know. I assume so.
15 Q All right. Well, while you're out there
16 on the open roadway, what was the speed limit, as you
17 recall it?
18 A I believe it was 75 posted.
19 Q All right.
20 MR. ZELL: What was the last word?
21 THE REPORTER: "Posted."
22 BY MR. COHN:
23 Q And at the time of the subject accident
24 do you remember how fast you were going?
25 A No, not exactly.

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1 Q Can you give us any estimate?
2 A I have a general practice of driving
3 within five minutes -- I mean miles over the speed
4 limit, so my estimate it would be around 80.
5 Q All right. Were you using the cruise
6 control on the vehicle at any time?
7 A No.
8 Q Did the vehicle have cruise control?
9 A I don't know.
10 Q Other than that the steering had a little
11 play to it as you -- strike that.
12 Other than that the steering had more
13 play than you were used to, was there any other
14 aspects of the handling of the vehicle that felt
15 unusual to you as you were driving the vehicle down
16 the roadway?
17 A No.
18 Q All right. Did you have any difficulty
19 with the breaks at any time?
20 A No.
21 Q Did the vehicle ever shake or shimmy or
22 jostle or jolt or anything to that effect?
23 A Not that I remember.
24 Q All right. At the time of the subject
25 incident do you remember who was sitting in the

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1 passenger's seat?
2 A Mr. Halsted.
3 Q All right. And do you remember where
4 anybody else was sitting in the vehicle?
5 A Rafi and his brother were in the
6 captain's chairs and Matt and Lindsay were in the back
7 and the dog was somewhere in the middle.
8 Q We've heard the dog was somewhere in the
9 middle. We've heard about the dog.
10 Do you know who if anyone was wearing
11 their seat belts as you were driving along at the time
12 of the subject incident?
13 A I know that I was, that's all that I
14 know.
15 Q At the time of the trip or at any time
16 during the trip did anyone ever say something to the
17 effect of: Okay, put your seat belts on everybody in
18 the car, or something to that effect?
19 A Not that I remember.
20 Q All right. Did anyone -- I mean, was
21 there any kind of practice that everyone would buckle
22 up when they got into the car?
23 A Can you please clarify that?
24 Q Yes.
25 Was there some type of -- I assume that

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1 during the course of the trip there were times when
2 everyone would get out, maybe go to the bathroom at a
3 bathroom stop or whatever. When they got back in was
4 there any kind of statement made, generally speaking,
5 by any person on a regular basis --
6 A No.
7 Q -- to the effect of: Everybody buckle
8 up?
9 A No.
10 Q All right. Can you describe what
11 happened in terms of the accident itself?
12 A There was a loud noise, similar to the
13 one that happened earlier, and after the noise, I
14 tried -- I began to slow down and pull it to the side
15 of the road, and in that process the vehicle began to
16 fish-tail. And when it began to fish-tail,
17 Mr. Halsted grabbed the wheel, and it continued to
18 fish-tail until it had turned horizontal in respect to
19 the highway and rolled into the median.
20 Q When you say it rolled into the median,
21 what do you mean by that?
22 A Because it was horizontal on the highway,
23 it turned over.
24 Q Okay. You're not saying it rolled on its
25 wheels into the median?
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1 A No, no.
2 Q It rolled over into the median?
3 A Yes.
4 Q All right. Let's go back and break some
5 of that down, if we could.
6 At approximately the point where you
7 heard the loud noise that was similar to the previous
8 loud noise, did you have in mind at that point what
9 had happened?
10 A I assumed the tire had blown or that the
11 tread had come off as before.
12 Q Okay. And do you recall approximately
13 what speed you were going right at the time when you
14 heard that noise, other than maybe what you've already
15 testified to?
16 A I believe it would be the same then.
17 Q All right. And what did you do in an
18 effort to commence to slow down the vehicle?
19 A Gently applied the brake and move towards
20 the side of the road.
21 Q And at what point during that process did
22 the vehicle begin to fish-tail?
23 A I believe it was about two seconds after
24 I had started slowing -- trying to slow the vehicle
25 down and move it to the side of the road.

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1 Q And can you describe the angle at which
2 you commenced to slow and pull the vehicle to the side
3 of the road?
4 A A very slight angle, as if you were
5 changing lanes or something.
6 Q Okay. Which lane were you in, by the
7 way?
8 A I don't recall.
9 Q All right. How many lanes were there out
10 there?
11 A Two.
12 Q All right. Was there a shoulder on the
13 road as well that you were going to pull over into?
14 A Yes.
15 Q All right. And was that shoulder to,
16 your knowledge, wide enough to put the whole vehicle
17 into it?
18 MR. ZELL: You're talking about a paved
19 shoulder?
21 Q Is it a paved shoulder or a dirt
22 shoulder?
23 A I don't remember exactly.
24 Q All right. Okay. Did you actually get
25 off onto the shoulder at any point before the vehicle

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1 started to fish-tail?
2 A No.
3 Q Can you describe what you mean when you
4 say that the vehicle started to fish-tail?
5 A It was at first unresponsive, it was not
6 moving in the direction that I was steering the wheel,
7 and then the -- it started to maneuver on the road
8 back -- like the front and back were going askew.
9 Q All right. When you say it was at first
10 unresponsive to your efforts to maneuver it on the
11 roadway, what do you mean by that?
12 A As I turned the wheel, the vehicle was
13 not moving in that direction.
14 Q You were turning the vehicle towards the
15 right side of the roadway?
16 A I believe so.
17 Q All right. And it wasn't moving over to
18 the right as --
19 A Correct.
20 Q -- as quickly as you would have at least
21 expected it to?
22 A Yes.
23 Q What did you do in response to that input
24 into your senses?
25 A I restraightened the wheel and began to

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1 try again, but that was when it began to fish-tail.
2 Q All right. Did you make any effort to
3 turn it a little further because it wasn't responding
4 at some point as well?
5 A Slightly.
6 Q Okay. Do you remember -- assuming you
7 were traveling straight at the time of the blowout, do
8 you remember how far you had to turn the wheel?
9 Assuming that the top of the wheel is 12:00, how far
10 along the clock you would have had to turn the top of
11 the wheel and still receive no response in terms of an
12 effort to steer the vehicle before you then turned it
13 back towards straight?
14 A At approximately 2:00.
15 Q Okay. And having turned the steering
16 wheel to approximately 2:00, you still felt you were
17 not getting any response in terms of steering,
18 correct?
19 A Yes.
20 Q In your effort to pull the vehicle to the
21 right side of the roadway, correct?
22 A Correct.
23 Q So I assume at that point in time, then,
24 you're still going straight, because you hadn't got
25 any --
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<td>19. You're driving straight, the blowout occurs, you attempt to slow down and pull the vehicle to the side and at that point you provide input to the steering to the right-hand side, moving from the approximate 12:00 on the steering wheel to approximately 2:00. You get initially a slight amount of movement or maneuvering of the vehicle to the right-hand side of the road, but it was not responding as you had expected or intended?</td>
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Q And Mr. Halsted's grabbing of the wheel, by your testimony, occurred after the fish-tailing had commenced, correct?
A Yes.
Q All right. So it was not Mr. Halsted's grabbing of the wheel that caused the fish-tailing to occur, because the fish-tailing occurred after he grabbed the wheel, is that a correct statement?
MR. DANIELS: That calls for expert testimony, but you can answer that.
MR. CAVANAUGH: Lack of foundation.
BY MR. COHN:
Q You can go ahead and answer.
A Can you repeat the question, please?
Q Yes.
I'm trying to establish that, because the fish-tailing occurred after -- or, excuse me, because the fish-tailing commenced to occur before Mr. Halsted grabbed the steering wheel, by your testimony, that the fish-tailing was not caused by his grabbing of the steering wheel.
A I assume so.
Q Okay. If you can please describe at what point in the fish-tailing process Mr. Halsted's hand first touched the steering wheel, by your testimony?

A Moments afterwards.
Q All right. Do you know if the vehicle had fish-tailed more than once before he had grabbed the wheel --
A I don't remember.
Q -- by your testimony?
You don't remember. All right.
Did you see him grab the steering wheel?
In other words, did you actually see his hand on the wheel or is it something that you felt?
A I saw it.
Q All right. Were you able to feel his hand on the steering wheel causing you any difficulty moving the steering wheel the way you would want to have moved it?
A If I were to have tried to move it opposing his moving, yes.
Q Did that happen? In other words, were you trying to move the steering wheel in some opposing manner than he was moving it?
A No.
Q All right. What input were you attempting to put into the steering wheel at the time when Mr. Halsted's hand was on the steering wheel?
A Minimal.

Q When you say "minimal," what do you mean?
A As in I was letting him guide the steering wheel. I was just trying to make sure that it didn't, you know, spin out or something.
Q Can you give us an estimate of kind of how much --
A Percentage?
Q -- time --
A Time?
Q -- passed while his hand was on the wheel before the vehicle -- before it actually went out of control, or -- strike that. Let me rephrase that.
Can you give me an estimate of how many seconds passed while Mr. Halsted's hand was on the steering wheel before the vehicle rolled over?
A I don't recall exactly.
Q Okay. I mean, was it a split second or was it a few seconds?
A More like a few seconds.
Q All right. Do you remember approximately how many fish-tails the vehicle did during that period of time?
A Four or more.
Q Okay. Do you recall what input was given to the steering wheel by the -- I guess would be both
Q. Apparently, it was a bad question.
A. Can you describe for me as best you can the steering wheel's turning while Mr. Halsted's hand was on it and your hand was on it?
Q. A. I don't recall the specifics.
Q. All right. Do you remember if the steering wheel -- let's again use the 12:00 wheel as a clock-type concept. Do you remember if you were holding the wheel straight, if the wheel was ever turned as a result of the combined input of Mr. Halsted and yourself to some point on the clock one direction or the other?
A. Yes.
Q. Okay. Can you tell us to what point on the clock you would feel that the wheel went one direction or the other?
A. That, I don't remember.
Q. All right. You know there was some turning input provided, though, but you don't remember what it would have been?
A. Correct.
Q. Okay. Or how much turning input was provided, correct?
A. Correct.
Q. Do you have any recollection of whether any of the turning input provided by the combined effort of yourself and Mr. Halsted, by your testimony, did in fact counteract any of the fish-tailing?
A. It did not seem to have any effect.
Q. And when you say that, what do you mean?
A. That the magnitude of the fish-tailing was increasing instead of decreasing.
Q. At any point in time prior to the commencement of the rollover did Mr. Halsted's hand come back off of the steering wheel?
A. Not until the car began to roll.
Q. All right. Was Mr. Halsted wearing a seat belt, if you know?
A. Yes.
Q. All right. Can you describe his body position with regards to your testimony on how he would have reached over to the steering wheel?
A. I don't remember, just that he was leaning towards me to grab the steering wheel.
Q. Was he grabbing it with two hands or one?
A. One.
Q. I assume his left, correct?
A. I don't know that.
Q. All right.
A. I don't remember.
Q. All right. Now let's go -- rewind the sequence back to the time of the tire blowout again and start talking about your feet.
MR. CAVANAUGH: Before we get going again, I just want to interpose an objection as to the use of the term "blowout." That assumes facts not in evidence. But if you'll give me a continuing objection on that, I won't keep interposing it.
MR. DANIELS: It's part of the MO, Richard.
MR. DANIELS: That's what they do, they never blow out, it's just failures. That's the word they like rather than blowout.
MR. COHN: Actually, the word "failure" suits me perfectly.
MR. ZELL: Manufacturing failure.
MR. COHN: I like the word "failure."
MR. DANIELS: They don't like "blowout."
MR. COHN: It's right out of the jury instruction, whereas the word "blowout" has nothing to do with the jury instruction, so I'm much more happy with the word "failure" if you'd like me to use it.
In fact, I'll commence to use the word "failure" from this point on and use it a great many times.
MR. DANIELS: Sometimes they like "not serviceable" is a word they like to use, the tire is no longer serviceable.
BY MR. COHN:
Q. All right. Anyhow, let's talk about this tire failure in terms of this accident sequence, in terms of your feet now rather than your hands and what was happening up at the steering wheel.
Where were -- where was your right foot at the time just the split second or second or two before the tire failure?
A. On the gas pedal.
Q. All right. And immediately after you heard the noise of the tire failure what did you do with your right foot?
A. Took it off of the gas pedal.
Q. And did you place it on the brakes?
A. Not immediately.
Q. Okay. Why not?
A. I was waiting to see what was happening with the car.
Q. All right. Did the vehicle slow down at all between the time that you -- well, at some point did you put your foot on the brake?
A. Yes.
Q. Did the vehicle slow down at all, to your knowledge, from the time you took your foot off of the
1 gas pedal and to the time when you actually put it on
2 the brake?
3 A In the interim?
4 Q Yes.
5 A I assume so.
6 Q All right. Did you feel it slowing down?
7 A I don’t remember.
8 Q All right. Where in the accident
9 sequence, in terms of before or after fish-tailing,
10 did you put your foot onto the brake at the first
11 point, if you recall?
12 A Before.
13 Q All right. So you commenced to put your
14 foot on the brake sometime prior to the commencement
15 of fish-tailing, correct?
16 A Yes.
17 Q All right. And let’s see how far we can
18 break this down. It’s not — I mean, if you can go
19 farther with the breakdown, then I’ll get it from you;
20 if not, just let me know that you can’t break it down
21 any further. But was the commencement of your putting
22 the foot on the brake before or after your first input
23 into the steering wheel as you previously described?
24 A Before.
25 Q Okay. So I guess in the accident

sequence you would have heard a loud noise, took your
foot off the accelerator, put your foot — let your
foot stay off the accelerator for some short period of
time, then put your foot onto the brake and then
commenced to try to pull off to the side?
6 A Correct.
7 Q In that order?
8 A Yes.
9 Q All right. How much — strike that.
10 Can you please describe your effort to
11 put braking input into the vehicle?
12 A Very light braking.
13 Q All right. Had you — this is going to
14 sound dumb to you but I’m going to ask this anyway,
15 had you provided braking input into the vehicle at any
16 time prior to the time of the subject accident?
17 A Yes.
18 Q All right. At any time prior to the
19 subject accident, when you put the brakes on, did you
20 feel the vehicle had anything other than a straight
21 and true drive while the brakes were on?
22 A No.
23 Q All right. In other words, did the
24 vehicle pull to the right or the left when you put
25 brakes on at any time?
In The Matter Of:

Milton Halsted  v.
Nii Addy

KENNETH S. OBENSKI
Vol. 1, September 22, 1999

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Min-U-Script® File ID: 1509313226

Word Index included with this Min-U-Script®
expert to testify on behalf of the Halsted family? [25]


[1] Q: You've given a deposition before?
[3] Q: How many times in personal injury or wrongful death actions, say, in the last five years?
[6] A: Well, last five years?
[8] A: The gross number is close to a thousand. Last five years is probably couple hundred. Probably not that many. Five years –
[11] Q: Is that deposition and trial or just deposition?
[13] A: I don't have an accurate count. I'm just trying to shoot from the hip here. A few hundred times in the last five years, I think.
[16] Q: In the last year how often have you testified in a personal injury lawsuit in trial?
[18] A: In trial, the last year, four or five times.
[20] Q: What's your rate, hourly rate, for expert testimony?
[23] Q: Is that also your rate at trial?
[25] Q: Do you understand you're testifying under oath today?
[1] under oath today?
[3] Q: And your testimony is being recorded in a booklet; do you understand that?
[7] Q: You'll have the opportunity to review your testimony; do you understand that?
[11] Q: If we go to trial and you testify differently at trial than you do here today on the same topic, your deposition testimony can be read into evidence if you're on the stand. It could be embarrassing; do you understand that?
[18] Q: So you'll tell me if you have a problem or don't understand one of my questions?
[7] Q: When were you first retained in the [8] Halsted case?


[13] Q: Did you charge a retainer?

[14] A: Excuse me?

[15] Q: Did you charge a retainer?


[17] Q: What's the amount of the retainer?

[18] A: It was a thousand dollars.

[19] Q: Did you have a discussion with any of [20] the lawyers for Mr. Halsted and the Halsted family [21] about what they wanted you to do?

[22] A: Yes.

[25] Q: Who did you have your first [24] discussion with?

[26] A: Mr. Cohn.


[10] Q: Is that true, that Mr. Orris Johnson [11] has analyzed the tire with regards to any defects [12] or the question of failure analysis as to the tire [13] as opposed to you?
[24] A: And then the uneven wear.
[25] Q: Well, that was the question. Do you have an opinion as to the cause or possible causes of the uneven wear on the inboard side?
[3] A: Well, the third possibility is that tread separation had begun quite a bit before the accident.
[6] Q: By tread separation beginning before the accident, you mean something internally in the tire was happening structurally that created tread wear?

[12] Q: Why don’t we back up a little bit. [13] You inspected the tire that allegedly failed in the accident; is that right?
[16] Q: And did you take notes as to the type of tire it was, a model number, etcetera?
[18] A: I took some notes on that.
[19] Q: How do you or how did you identify on your inspection of the tire, the tire that failed?
[22] Q: How did you identify — by what numbers or —
[24] A: I left most of that on the tires to Mr. Johnson, since he was there. I did notice that the serial number on that tire ended in 310, which I understand corresponds to the 1990 manufacturer. [3] It’s a Tiger Paw, which is the trade name for the [4] tire.
[8] Q: Did you examine the tire on the wheel?
[10] A: It was mounted on the wheel. It was not inflated.
[12] Q: Did you also examine six or seven pieces of rubber that were purportedly part of that tire?
[15] A: I don’t remember quite that many, but there were a number of fragments of rubber there.
[18] Q: Is it okay with you if I refer to it as the Uniroyal tire that you’ve identified as the tire that failed in the accident?
[21] A: Sure. Anyway you want to, as long as it’s reasonably consistent is fine with me.
[23] Q: Do you have opinion as an expert, based on your work in this case, that as a matter of probability, the tire that failed in the accident suffered uneven wear on the inboard side because of improper alignment on the vehicle on which it was mounted?

[4] A: As a matter of probability?

[11] BY MR. ZELL:
[12] Q: Is it your opinion as an expert witness in this case that it is more probable than not that the uneven wear on the inboard side of the tire that failed in the accident was caused by improper alignment of the vehicle?
Q: Is it your opinion as an expert in [19] this case that it is more probable than not that [20] the vehicle that – the tire which failed in this [21] accident suffered uneven wear on the inboard side [22] due to some type of ball joint problem with the [23] vehicle?

A: No.

MR. SONNETT: How about an easy one.

THE WITNESS: Yes.

BY MR. ZELL:

Q: What's your opinion?

A: Tread separation. Correction, tread [8] separation that had begun but hadn't completely [9] separated the tread from the tire.

Q: What about the tire or tire pieces [11] that you observed indicated to you that there was [12] uneven tread wear?

A: The tread depth on the segments is [14] different from one side of the tire to the other. [15] Mr. Johnson and I put the tread, the larger pieces [16] back on to the tire and matched up the edges. And [17] of course it's still mounted on the wheel, and it's [18] a whitewall tire, as I recall. There was less [19] depth of tread on the inboard side than the [20] outboard side.

Q: What was the measured depth of tread [22] on the inboard side at the spot you measured?

A: A lot of these tire things I left to [24] Mr. Johnson, so I don't have them in my notes.


BY MR. ZELL:

Q: Do you also not have notes of the [9] tread depth on the outboard side of the tire that [10] failed?

A: Correct.

Q: Was there an area of uneven wearing [13] in the center or crown portion of the tire?

A: I don’t think there was enough that [15] we put together of the center portion to talk – [16] when you say uneven wear in the crown portion.

Q: You’re talking about different places on the [18] circumference?

A: Yes.

Q: I didn’t note that.

Q: Was there uneven wear on the [22] different places of the circumference on the [23] inboard side or was it uniform wear on the inboard [24] circumference?

A: You’d have to ask Mr. Johnson.

Q: You’re talking about the rim?

A: Yes.

Q: Do you have an opinion as to whether [4] or not that damage was sustained after, during, or [5] before the accident?

A: I didn’t see anything there [7] significant to cause me to want to determine when [8] it may have occurred.
[13] A: First of all, we don't have the [14] entire tire.
[18] Q: Tell me what type of separation, in [19] your opinion as an expert in this case, was [20] occurring inside the tire that caused the uneven [21] wear on the inboard side?


[1] BY MR. ZELL:
[2] Q: You can't say what particular [3] structures within the tire were separating [4] initially; is that correct?
[6] Q: I take it, then, that you cannot say [7] exactly how the tire failed in the accident; is [8] that correct?
[10] Q: Do you have opinion as an expert in [11] this case whether or not the separation was due to [12] any type of manufacturing defect?
[13] MR. SONNETT

[18] Q: Do you have an opinion as an expert [19] in this case as to what the incipient cause of the [20] beginning separation was, wherever that began?

[23] THE WITNESS: Once again, it goes beyond my [24] expertise. All I know on that subject is what Mr. [25] Johnson has told me.

[1] BY MR. ZELL:
[2] Q: What did he tell you?
[3] A: That there was separation, that it [4] had been progressing over time. And lacking any [5] other explanation, the only logical conclusion is [6] it was a manufacturing defect. There's no evidence [7] of any kind of a road bruise or trauma to the tire [8] that could have precipitated the tread separation.
[9] Q: Is it your understanding that that [10] tire was mounted on the rear of the vehicle in [11] which Lindsey Halsted was occupying at the time of [12] the accident?
[14] Q: Is it your further understanding that [15] another rear tire failed a few hours before the [16] accident?
[18] Q: Do you have any opinions as an expert [19] in this case as to the cause of that failure?
[21] Q: Have you made any inquiry into the [22] cause of that failure?
[23] A: I don't even see any possibility [24] considering that the tire's been lost.
[25] Q: Have you discussed the cause of the

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[1] earlier tire failure with Mr. Johnson?
[6] Q: Have you formed opinions as to [7] whether or not the driver of the vehicle in which [8] Lindsey Halsted was riding was negligent in his [9] operation of the vehicle at the time of the [10] accident?
[12] Q: What is your opinion?
[13] A: Well, it seemed to be driving a [14] little too fast, especially considering that others [15] had reported being uncomfortable with that vehicle [16] even when it got over, oh, high 70s, 80 miles an hour. [17] And it appears that he was going substantially [18] faster than that.
[19] Q: Have you formed –
[20] A: Also, I don't know if it's negligence [21] or not, but he seemed to have been unable to [22] maintain control of the vehicle under an adverse [23] condition that some other drivers might have [24] been able to handle. But I don't know if that's just [25] attributable to his youth and inexperience.

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[2] failed due to its defect?


[8] Q: Would your answer be the same if we [9] used the expression fail instead of blew?


[12] Q: Do you have an opinion as to the [13] speed of the vehicle at the point when the tire [14] marks first began?

[15] A: When the tire marks reported in the [16] accident report first began, which may or may not [17] be all the tire marks that were there, I calculated [18] about 86 miles an hour. But just being a typical [19] conservative engineer, I'll say more than 80.

[20] Q: Would you go through your analysis as [21] to how you reached that figure, including your [22] computation of the physical evidence you relied on.


\[
\text{Lawyer's Notes}
\]


[20] If you try to do a centrifugal skid [21] analysis, the radius here is too large. I think [22] the first time I tried it I got 200 miles an hour. [23] I said, no, no, that can't be right. I concluded [24] that these skids are not what you'd classify as [25] centrifugal skids. You can't see striations in

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[16] A: He has a lot of measurements and some [17] of them don't match his indexing system. And [18] that's - I kind of tried to redraw things to see [19] if I could make it work out. In any case, using [20] his measurements, and the path of the vehicle, I [21] broke the path down into three segments instead of [22] the two that he did so I could refine the drag [23] factor or coefficient of friction a little better. [24] And because [25] the vehicle was in a slide which starts out

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Q: Well, do you have an opinion as to the distance between the point on the road where the tire first failed and the beginning of the tire marks?

A: Well, we had one witness who said the car fishtailed four times, which would put the failure back almost a quarter of a mile.

The witness said four times.
[1] Q: What depositions did you review in the case? Do you have them listed in your file somewhere?

[14] A: I don't have a list but I can go through the file and find them pretty easily. First of all, there's Janet Finley, David Finley, Milton Halsted, Nii Addy. I'm guessing at the pronunciation of the first name.


[24] BY MR. ZELL:
[25] Q: You read the entirety of all those depositions?


[3] Q: You made the page, line summaries of the depositions?


[9] Q: At some point did you understand one of the witnesses, maybe one of the Shah brothers, to have reported that Mr. Halsted took control of the driver's wheel after the tire failed?

[16] Q: At some point did you determine from the testimony of one of the deponents that Mr. Halsted grabbed the wheel, the driver's wheel, at some point between the time the tire failed and the time the vehicle came to rest?
[1] Q: Do you know?


[5] Q: What is fishtailing?


[19] if the driver is good and it’s not too bad, he [20] usually recovers within one cycle, two at the most. [21] If he hasn’t recovered after two cycles, it’s [22] probably the second cycle was bigger than the [23] first, then it just destabilizes and becomes [24] progressively worse.

[25] Q: In a fishtail, as you understand it, [26] is there traction of all four tires, generally, or [27] is there a lack of traction?


[29] Q: One of the witnesses reported that [30] when Mr. Halsted took hold of the driver’s wheel [31] he [32] moved it in an abrupt fashion; do you recall that [33] testimony?

[34] A: I don’t believe that’s – I don’t [35] recall that exact testimony.

[36] Q: I also understand that another – the [37] same witness stated that when Mr. Halsted took [38] control of the wheel he rotated the driver’s wheel [39] one full rotation; do you recall that testimony?

[40] A: I do recall that.

[41] Q: What effect would that have – would [42] that have had on this vehicle if it was in a [43] fishtail?

[44] A: It depends on where it was in the cycle.

[45] Q: Do you have an opinion in this case [46] as to what effect an abrupt full rotation of the [47] driver’s wheel would have had on this vehicle?

[48] A: Well, I said it depends on where it [49] was in the cycle. There are times within a cycle [50] when that would be the exact thing to do to [51] recover. And there are times when that would make [52] it worse.

[53] BY MR. ZELL:

[54] Q: Is it true that you have no opinion [55] as to the effect of Mr. Halsted taking hold of the [56] driver’s wheel and moving it?


[59] BY MR. ZELL:

[60] Q: You do have an opinion as to what [61] happened or didn’t happen to the vehicle as [62] a result of Mr. Halsted taking hold of the wheel and [63] moving it; is that correct?

[64] A: Yes.

[65] Q: And what happened to the vehicle; [66] what did it do physically?
[20] THE WITNESS: As I said before, I believe [21] that from the testimony, by the time he grabbed the [22] wheel it was basically too late for him to have any [23] effect on the vehicle.

[24] BY MR. ZELL:

[25] Q: So your opinion is based solely on [26] testimony?


[5] Q: Were you asked to make an analysis as [6] to whether or not Mr. Halsted was negligent in his [7] actions in the vehicle, specifically taking hold of [8] the driver's wheel?

[9] A: I believe I was.

[10] Q: What was your opinion?


[15] Q: It's your opinion that Mr. Addy was [16] driving the vehicle at a speed in excess of the [17] posted speed limit at the time of the accident?


[19] Q: The posted speed limit was 75 miles [20] an hour?


[22] Q: Was it your understanding that Mr. [23] Halsted was the only—strike that.

[24] Were you asked to inquire or make an [25] opinion as to whether or not Mr. Halsted was [26] negligent in allowing the vehicle to be driven at [27] speeds over the speed limit just before the [28] accident?


[14] BY MR. ZELL:

[22] Q: Determining whether a person or [23] company is negligent is a matter of the trier of [24] fact and not for an expert such as you, isn't that [25] what you just said?


[10] BY MR. ZELL:


[21] Q: Why. What were the reasons?

[22] A: That it calls for a legal conclusion [23] and invades the province of the jury or the trier [24] of fact.
MR. SONNETT: Let me see if I can clear this up.
[20] Do you have opinion as to whether Mr. [21] Halsted acted reasonable in doing what it is you
[22] understood he did during the course of this
[23] accident?
[25] MR. SONNETT: Do you want to follow up on

that, Peter?
[26] BY MR. ZELL:
[27] Q: What's your opinion?
[29] Q: Now, when you say he acted reasonably [7] under the circumstances, we're talking about the
[30] fact that the driver is driving at speeds in excess
[31] of 80 miles an hour, Mr. Halsted is not complaining [10] or instructing the driver to slow down, correct?
[32] A: I don't believe that's consistent [12] with the facts. There were events where he [13] instructed
the driver to slow down. He may not [14] have been looking at the speedometer a 100 percent
[15] of the time because he's sitting in the right front [16] seat where the speedometer is hard to see.
[17] Q: Is there any evidence in the [18] materials you reviewed that in the few minutes [19] before the accident Mr. Halsted instructed the [20] driver to slow down?

Q: Have you been asked to make any [3] opinion as to whether or not Miss Halsted, the [3] decedent, Lindsey Halsted, would have been ejected [4] from the vehicle had she been wearing the seat belts [5] that were in the vehicle and available to her?

BY MR. ZELL:
[12] Q: I want to know whether you were asked
[13] to inquire into the seat belt issue?
[15] Q: And you have not, then, made any type [16] of analysis or investigation as to the seat belt [17] issue in this case? In other words, what would or
[18] would not have happened had Miss Halsted been [19] wearing a seat belt; am I correct?

A: That would go beyond my designation [21] or assignment.
[22] Q: So you have no opinion?
[25] Q: I don't want you to say anything as a

matter of routine. I want to know what your [2] opinions are that you are prepared to testify at [3] trial about. And whether among those opinions is [4] anything having to do with whether or not Miss
[5] Halsted was seatbelted and what effect that may or [6] may not have had on her. Is that going to be one [7] of your opinions in the case or not?
[8] A: I think you were just told that I'm [9] not going – that's not part of my assignment and I [10] won't be asked about that.
[11] Q: Were you asked to make any inquiry as [12] to whether or not the action or omissions of Allen
[13] Oldsmobile were reasonable in this case?
[15] Q: What were you asked to do?
[16] A: Well, I was asked to look at the [17] history of the vehicle, and within that was the [18] question about what – whether those things, the [19] service records from Allen Oldsmobile, indicate [20] reasonable care on their behalf and whether they [21] did the things they said they did.
[22] Q: Did you arrive at any opinions?
[24] Q: What were your opinions?
[25] A: Well, looking at the history of the

vehicle, first of all, the tires have been rotated [2] every 6,000 miles. General Motors recommends every [3] 15,000. Rotating the tires that frequently tends [4] to cover up any problems because the tires will get [5] rotated before a wear pattern begins to develop. [6] In this respect, I'm sure it's profitable for the [7] dealership, but it's not necessarily in the [8] customer's best interest. According to the [9] testimony of Mr. Reddy, when the car was brought in [10] for lube, oil and filter change just days before [11] the accident, the part of that routine is to [12] check tire pressure and check the tires for [13] abnormal wear. And the wear pattern on that tire [14] certainly would have been apparent at that time. [15] In fact, the wear pattern on both rear tires would [16] have been apparent, assuming the wear patterns were [17] similar, since they wound up in similar conditions.
[22] Q: You're aware from looking at service [23] orders and work orders from Allen Oldsmobile that [24] they serviced the vehicle a few days before the [25] accident in August?

A: Yes.
when you inspected it existed basically on the tire [5] when Allen looked at it a few days before the [6] accident?


13. THE WITNESS: Not when the tire has been on [14] the rear for 6,000 miles.

15. BY MR. ZELL:

[16] Q: If it had been rotated from the [17] front, was that wear pattern consistent with wear [18] that it had received from an alignment problem on [19] the front of the vehicle?

[20] A: If the wear pattern was due to a [21] front misalignment problem, the placement of the [22] tire on the rear would have – it would have been [23] detectable that it was a front problem when it was [24] on the rear.

[25] Q: How so?


[9] Q: Well, I’m asking you if you just look [10] at the tire, not knowing where it was mounted, is [11] the wear pattern you observed on the tire on the [12] inboard side consistent with the wear pattern you [13] would see with a front-end alignment problem?


[16] Q: Is the type of wear on the inboard [17] side consistent with camber wear?


[19] Q: Well, in your opinion, did Allen [20] Oldsmobile fail to take any action that it should [21] have taken in the few days before the accident when [22] it serviced the vehicle in relation to the tires?


[24] Q: What was that?

[25] A: They should have pointed out the

abnormal wear on the rear tires to the customer.

[2] Q: And is it your opinion that they [3] should have recommended that the customer buy two [4] new tires, assuming that both rear tires had the [5] same type of wear?


[7] Q: Is it your opinion that that type of [8] wear should have indicated to Allen that there was [9] some type of internal separation occurring in the [10] tires?


[22] Q: Do you have –

[23] A: Which would be – rear axles, that’s [24] a live axle, there’s no alignment for it. It’s [25] aligned the day it’s made and it never changes. So

[1] if you got a funny wear pattern on the rear, it’s [2] got to be something wrong with the tire.

[5] Q: Do you have an opinion as to whether [4] there was any abnormal wear to any degree on those [5] rear tires before they were rotated to the rear? [6] In other words, more than 6,000 miles earlier when [7] they were on the front?

[8] A: Well, I didn’t see any record of it.

[9] Q: You don’t know whether or not there [10] was any different kind of pattern of wear occurring [11] when they were in the front position, correct?

[12] A: Well, somebody suggested the car [13] might have a ball joint problem and the ball joints [14] were released. And thousands of miles later this [15] tire problem shows up. Maybe the ball joint [16] diagnosis was a misdiagnosis of a tire problem. [17] But all we know at this point is these tires were [18] on the back for 6,000 miles when this problem [19] became apparent. Considering it was on the rear, [20] it should have been a red flag situation.

[21] Q: Could a ball joint problem on the [22] front end have caused the irregular wear that you [23] observed on the tires if those tires had been [24] located on the front end?

[25] A: If they were on the front end with

[1] that kind of wear, then a ball joint problem [2] would be a definite possibility.

[3] Q: So the type of wear is consistent [4] with the ball joint problem, correct?


In The Matter Of:

MILTON HALSTED v.
NII ADDY

ALAN F. ASAY
Vol. 1, October 18, 1999

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Word Index included with this Min-U-Script®
[1] ALAN F. ASAY,
[2] having been first duly sworn, testified as [3]
follows:

[5] EXAMINATION
[6] BY MR. YUKEVICH:
[9] Q: And, Mr. Asay, what is your [10] business
address?
Utah 84604.
[13] Q: And can you tell me a little bit [14] about
your educational background?
[15] A: Yes. I have a four-year Bachelor [16] of
Science degree that I obtained in 1990.
[17] I also have a Master's of Science [18] degree that
I obtained in 1992, both of which I [19] earned at
Brigham Young University.
[20] And then I also completed the [21] requir-
[28] Q: Can you tell me, generally speaking, what your area of specialization is?

[29] A: I specialize—I'm a mechanical engineer by trade, and I specialize in the field of accident reconstruction, which can include and encompass automobile, pedestrian, motorcycle. We've had trailers, all kinds of other automobile or motor vehicle reconstructions.

[6] Q: And you were formerly with Collision Safety Engineering.

[8] Correct?


[10] Q: Chuck Warner's group?


[12] Q: How long were you there?

[13] A: I was there almost five years, in fact just a little over.

[15] Q: And what was the reason that you left that group?

[17] A: I left that group to finish my mechanical engineering master's degree. While I was there I also worked under Dr. Woolley, who I then received employment with after finishing my master's degree.

[22] Q: And in terms of accident reconstruction, how many accidents do you think, generally speaking, you've reconstructed, motor vehicle?

[1] A: Hundreds. I don't know to put a number on it.

[3] Q: Best estimate?


[6] Q: And in this particular case what was your assignment in terms of what you've been asked to do?

[8] A: Over lunch Mr. Daniels and I discussed that a little bit as far as my task originally was to obtain and collect all the information pertaining to this accident and to preserve it.

[14] The task then changed and actually became a little bit more in depth as to determining the speed and probable causation or relating to the probability, if any, of the cause of the accident involving the 1991 Suburban.
road, their general approximate location.
[6] We have the witness testimony, but [7] I'm of the opinion that it's very probable that [8] the vehicle was doing on the order of 80 to 85 [9] miles per hour when it experienced a delamination [10] or separation of the tire tread on the left [11] rear.


[18] And the lack of being able to [19] control the vehicle is what produced the eventual [20] outcome of the vehicle leaving the road surface [21] and continuing on its sequence to final rest.

[22] Q: Any other opinions?
[23] A: Lots of other ones that [24] substantiate those, lots of findings and facts [25] and so forth. However, those are the basic

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[1] opinions that I've drawn and that I was asked to

[6] BY MR. YUKEVICH:
[7] Q: Well, I have to rely on the fact [8] that you're telling me all the opinions that you [9] have.
[15] Q: When you say there are opinions [16] that substantiate those, are we talking about [17] factual evidence that supports the opinions of [18] other sub-opinions? If there were other [19] sub-opinions that are not factual but are your [20] own opinions, I'd like to know what those are.
[21] A: I think those are my major [22] opinions. The other ones are factual that [23] substantiate and basically point to give [24] validation to these opinions that I've given you.

[25] Q: In order to formulate these

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[1] opinions, what did you do?
[9] I also inspected the vehicle [10] itself, and I looked at the tire that had the [11] tire delamination or the tread separation on it.
[12] Then after that I performed an [13] in-house -by "in-house" I refer to my office, [14] performed a reconstruction that would consist of [15] processing the data, reducing it so that I could [16] put it in a form where it could be analyzed, and [17] then basically analyzed it using accepted [18] accident reconstruction techniques to arrive at

Lawyer's Notes

[19] the opinions of the speeds and so forth that I've [20] previously given you.
[21] Q: Did you do computerized analyses? [22] Did you do a conservation of - is it energy or [23] momentum analysis? What was the accepted [24] accident reconstruction technique that you used [25] to reach the conclusions that you've given us?

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[1] variety of?
[2] A: A computer is a tool, and I use the [3] computer as a tool to help me calculate radiueses,
[4] to draw up the scene data and present it in a [5] fashion that was easy to manipulate and easy to [6] visualize.
[7] Q: I did not use a specific program to [8] analyze trajectory or anything of that nature, [9] but I used basic equations that would describe as [10] well as relying on technical literature that [11] would provide us with - provide me with the [12] ability to estimate decelerations and speeds.

[13] The basic equations were basically [14] the - the basic equations that were used were [15] basic deceleration equations for accident [16] reconstruction and also having to do with the [17] coring and side slip for that certain area of the [18] trajectory of the Suburban.

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[22,]
[23] BY MR. YUKEVICH:
[24] Q: Was there a computer program that [25] was used to aid you in the reconstruction?

[7] Q: But you didn't use it?
[10] Q: So the underlying basis of the [11] opinion is not predicated on this SVS program?

[13] Q: And you did individual calculations [14] to come up with each one of the opinions that you [15] have involving speed and roll distance including [16] going to the scene and all those kinds of things?

[17] A: Yes, where calculations were [18] necessary.
[19] Q: And do you have the calculations [20] and the sheets that you did the calculations on [21] or simply the results of the calculations?

[22] A: I have all of the work that I've [23] basically performed in this binder including [24] measurements I obtained at the scene, the [25] photographic, summaries of the depositions I've

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[1] been provided with, the police report and other [2] such material, yes.
Q: And when you were at Collision [4] Safety you worked with Greg Smith.

A: Yes, I know Greg Smith.

Q: Do you have any opinions with [8] regard to Mr. Smith in terms of his skill or [9] ability to reconstruct an accident?


Q: In the realm of accident [17] reconstruction, have you done any accident [18] reconstructions that involve matters other than [19] motor vehicles? For instance –

A: Meaning automobiles or meaning [21] which?


A: Yes. I've done bicycles that are [25] not motorized. I've done tricycles. I've


Q: And of the cases that we have [12] listed here in Exhibit No. 2, how many of these [13] would you say involve reconstruction of [14] automotive and motorcycle and motorized vehicle [15] accidents?

A: Probably almost all of them have [17] involved a motorcycle or automobile or truck or [18] something to that degree, yes.

Q: In terms of the testimony that you [20] give, do you tend to do more work retained by [21] plaintiffs, more work retained by defendants, or [22] even split? Or how does it come out for you?

A: About half of our work is what [24] we would call for – working for major car [25] manufacturers or automotive manufacturers. Then

Q: Do you know what vehicle is [12] involved

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1. in this accident?


Q: And have you ever driven a 1991 [16] Chevy Suburban?

A: I've driven a lot of Suburban's, [18] most of them from my experience handle very [19] similarly, but I don't know specifically if I've [20] driven a 1991 Suburban, no.

Q: And in your opinion the handling [22] and stability of the 1991 Chevy Suburban is [23] defective?

A: No.

Q: In your opinion the detamination or

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1. detreading of the tire in a 1991 Chevy Suburban [2] will cause loss of control?

A: No.

Q: In your opinion is it likely that [5] from time to time automobiles will experience [6] tires that fail in some method, in some way?

A: Tires fail, yes.

Q: Do you believe that all tires that [9] fail in use are defective?


Q: Do you believe that all tires that [13] fail in use are defective?

A: I guess I don't know your [15] definition of defective. And that would have to [16] be defined. Tires fail, but I don't know if [17] necessarily that means that they are defective.

Q: You know that from time to time [19] tires need to be replaced.

A: Correct?

A: Yes, due to normal wear or [22] circumstances that require them to be replaced.

A: And did you –

A: But that doesn't necessarily mean [25] that they're defective.

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Q: I don't think we're disagreeing on [2] this.

Have you ever –

MR. DANIELS: He's not a tire expert if [5] that's what you're going to spend some time on.

MR. YUKEVICH: I'm not.

MR. DANIELS: We have those.

MR. YUKEVICH: I understand.

Q: Did you – have you, for your own [10] car that you have –

A: Drive a 1998 Ford F150.

A: And what kind of car does your wife [14] drive?


Q: And from time to time do you look [17] at the tires on those cars?

A: Yes. Are you – yeah, I look at [19] them. Are you asking me if I inspect them?

Q: No, I'm just asking you if you look [21] at
them.


[24] Q: At the time you check the air [25] pressure in the tires?

[1] A: Yes, I have them rotated.


[16] Correct?


[19] Q: Did you ever take a long trip where [20] you were going to take your family somewhere and [21] you took a look at the tires to see whether or [22] not there was anything unusual about them before [23] you left for the trip?


[5] But the defects that can exist [6] within tires, someone that was trained as a tire [7] expert or knows the manufacturing process or how [8] that works, they would have the special [9] techniques or abilities to try to identify that.


[13] Correct?


[16]...

[17]...

[18] BY MR. YUKOVICH:


[22] A: From a reconstruction point of view [23] and the experience that I have, I know that bald [24] tires have application, but for general highway [25] use and general driving around like up in Utah


[5] Q: Do you know how many miles were on [6] this tire, the one that delaminated?


[9] Q: And you don't plan to give any [10] opinions whether or not the tire in this case was [11] defective or not?


[13] Q: Before you gave your deposition did [14] you speak with Mr. Stephens about his deposition [15] that took place last week?


[17] Q: Did Mr. Daniels speak to you about [18] the nature and content of Mr. Stephens' [19] deposition?

[20] A: He— we spoke briefly this morning [21] about basically some of the—just some of the [22] things that Mr. Stephens had mentioned, namely [23] the fact that I was curious to know and to [24] specifically ask the fact that Mr. Stephens [25] was going to handle the mechanical and anything

basically having to do with the vehicle. And I [3] was specifically handling the reconstruction [9] area. So that's kind of what we discussed this [4] morning.

[5] Q: And if I were to tell you that [6] Mr. Stephens testified that this particular [7] vehicle, this 1991 Suburban was a stable vehicle [8] that was able to be controlled in the event of a [9] tire delamination or tread going down that [10] reason that this accident occurred is that [11] someone placed steering input into the steering [12] wheel of the vehicle that caused it to go off the [13] road, would you agree with that?


[16] But you can go ahead and answer it [17] if you can.

[18] THE WITNESS: First of all you need to [19] understand Mr. Stephens and I haven't discussed [20] this case for quite some time. With that in [21] mind, what I have found in my analysis of [22] reconstruction is the fact that this vehicle is [23] very stable and is very driveable, very [24] controllable.

[25] However, just like any other

Vehicle it is an open-loop system in the sense [2] that the driver has input to the vehicle. In his [3] control it will do exactly what it is told to [4] do.

[18] cause a loss of control by the inputs that he [19] provided after that event.

[20] BY MR. YUKEVICH:

[21] Q: Do you believe that Mr. Addy did [22] place inputs into the vehicle following the –
[23] A: I guess I should also quantify that [24] in the sense that there's testimony also that [25] Mr. Halsted had a hold of the wheel as well.


[7] Q: Do you have an opinion as to what [8] Mr. Halsted's input was and when it occurred?


[22] But those are the - I mean, we [23] have testimony from within the vehicle. [24] Mr. Halsted himself does not remember or recall [25] doing that, but we have the conflicting - so


[5] Q: So with regard to physical [6] evidence, is there physical evidence of steering [7] input shown by any of the road markings that you [8] were able to look at?


[10] Q: That there was steering input.

[11] A: Oh, there was steering input, yes.

[12] Q: And in your opinion where was the [13] steering input and what was it? At what point in [14] the accident sequence was there steering input, [15] and what type of steering input was there?

[16] A: Well, the vehicle has - the [17] vehicle has left - the vehicle itself has left [18] tire marks that suggest it was in a high-speed [19] turn. That had to have been initiated via the [20] steering.

[21] There's no other source that can be [22] attributed to that. There's no other rock, [23] there's no other debris wedging it or changing [24] it. There's no collision. There's nothing else [25] that would change the heading of the vehicle.

[1] Therefore, i.e., you have to assume [3] that the steering mechanism, the steering wheel [3] via the


[15] So it has to be deduced that [16] basically it was the steer input that provided [17] that along with the handling characteristics of [18] the vehicle itself.


[22] Q: Is that true with every vehicle?

[23] A: Yes, I think you can modify every [24] vehicle with its handling characteristics [25] depending upon what you do with the tires and the

[1] suspension and so forth.


[13] Do you agree with that?


[15] Q: And do you think that the handling [16] characteristics of this vehicle - first of all [17] do you understand that there was an incident [18] involving the right rear tire earlier on in the [19] trip?


[21] Q: And what's your understanding as to [22] whether or not the vehicle became uncontrollable [23] at that time?

[24] A: My understanding was - is that [25] Mr. Halsted was able to bring the vehicle -


[7] My understanding was they just [8] drove on until they found a service station that [9] would sell tires and get a new tire for it.

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[15] Q: And do you believe that there's [16] anything unusual about this particular vehicle [17] that's going to cause it to have a greater [18] propensity or greater chance for a loss of [19] control in a tread separation on the right rear [20] or the left rear than any other vehicle?


[22] Q: Is there something unusual about [23] this 1991 Suburban which makes it more prone to a [24] loss of control in the event of a tread [25] separation on the right rear or left rear tire?

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[8] With the right rear tire being [9] delaminated, it changes the handling [10] characteristics to the point that, if you were to [11] make a left-hand turn at that point, the right [12] rear tire would have a significant affect on his [13] handling or the steering ability of the vehicle.

[14] However, because he was making a [15] right-hand turn, turning and slowing to the [16] emergency lane, he probably didn't see that [17] effect come into play.

[18] And then after that my [19] understanding was that he drove slower, may not [20] have been at a higher speed were that had an [21] effect as well.

[22] However, when Nii Addy was driving [23] later in the day and the left rear tire [24] delaminates, it is proven in the literature [25] that - first of all, there's an event that occurs

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[1] with a tire that delaminates, and that is that [2] the vehicle will slightly turn or yaw toward that [3] tire.


[8] In the case of Nii Addy with the [9] left rear tire delaminating, the vehicle would go [10] through a slight yaw to the left, which was [11] towards the center median, and yet Nii Addy [12] according to his testimony - and most drivers' [13] reactions would be to want to go to the right, [14] not towards the opposite median or the opposite [15] lanes of travel.

[16] So immediately he's faced with the [17] fact that there's a situation that is causing him [18] to turn to the left instead of the natural [19] reaction which would be to turn to the right.

[20] At that point, because he continues [21] to turn to the right, the vehicle then utilizes [22] that left rear tire for cornering, and its [23] characteristics are much different than the front [24] tires.

[25] And I believe that the vehicle -

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don't necessarily have to have tire marks to have or to say that you did not have fishtailing because you can actually create that feeling from inside a vehicle just by moving the steering wheel back and forth.

[2] I mean, my kids in my truck love me to do that periodically, and I don't leave tire marks. But you can really get the vehicle rocking back and forth which gives you the feeling of - especially depending on where you're sitting.


[8] THE WITNESS: All I'm suggesting is that because there are no tire marks doesn't mean I have to discount the fact that they did not feel that sensation or that motion. And that's my point. But that's all I'm trying to say.

[12] BY MR. YUKEVICH:

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evidence that I could identify.

[4] Q: From the tire mark north up until [5] the point where the vehicle leaves the roadway, any physical evidence on the roadway surface that [7] in any way would indicate to you as an accident reconstructionist that this vehicle was fishtailing?

[10] A: The tire mark itself is an unusual tire mark. It's mainly a left-hand tire mark. However, the very initiation of that tire mark would suggest that the vehicle was coming from the other lane, originating from lane No. 1 and then proceeding towards lane No. 2 and then coming back very hard once again into lane No. 2, crossing it, and then yawning.

[18] Q: So from the time of the first tire mark up until the very end of the accident sequence when the vehicle goes off of the highway, any evidence of tire marks that would indicate to you just looking at that that there was any fishtailing?

[24] A: Well, once again it depends on what you call fishtailing because I see evidence that

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[1] the vehicle has gone from one lane to another back, which says that it was going back and forth back and back. Now, to me that's side to side and back, hard loss-of-control yaw.


[6] A: Well, that's - see, to me fishtailing is where the rear end starts to actually pull around where the vehicle yaws.

[9] However, someone else that [10] testifies in the deposition, unless the attorney asks them how did they define fishtailing, you have to assume that they're feeling that kind of sensation just like a fish tail would as it kicks from one side to the other. Everyone probably has a different definition.

[16] However, as a reconstructionist I'm trying to assess exactly all the input. I don't have any physical evidence on the road. However, I do have testimony within the vehicle that the vehicle felt funny and definitely unusual.

[21] They used the term "fishtailing." So under that definition I know it cannot be coming around leaving big black marks that you would normally see, but it has to be doing something unusual. Otherwise, I wouldn't have

Page 38

[1] Is it correct to say that there are no markings on the roadway that in and of themselves would indicate to you that this vehicle fishtailed at any time during the accident sequence, just road markings nothing else?

[19] A: I think earlier in the deposition we might have addressed that, but basically prior to this the tire mark that is seen in the photographs and that I surveyed prior to that, in other words south along the freeway, there was no physical evidence that I could find along the roadway except for pieces of the tire itself.

[1] In other words, I saw no tire marks, no gouges, no scrapes, nothing, no other physical
asking.


[16] BY MR. YUKEVICH:

[17] Q: And so you haven't yourself [18] evaluated whether you believe the testimony of [19] the witnesses or you don't believe the [20] testimony. You're taking the testimony of the [21] witnesses from reading a transcript and basing as [22] best you can your accident reconstruction on what [23] is objectively presented to you.

[24] Correct?


[8] Then there's the intangible [9] evidence that we also rely on. And yes, there's [10] a question of judgment there, whose testimony do [11] we rely on or not. But it's intangible, and you [12] have to be able to as a reconstructionist stand [13] back and assess the picture at large; in other [14] words, see the big picture and try to determine [15] how that would play into or doesn't play into and [16] does it have an application at all.

[17] In this particular case I believe [18] that those occupants did feel something that the [19] vehicle was going through. It was not just [20] normally going straight forward or straight down [21] the road, that there was something that caused [22] and you have the tire delamination, and then you [23] have the steering input by the driver or whoever [24] has a hold of the wheel. Those inputs at that [25] high a speed, the other occupants felt


[2] BY MR. YUKEVICH:

[3] Q: In your opinion is an ordinary [4] person of average driving skills able to control [5] this vehicle with a tread loss on either the left [6] rear or right rear of the vehicle?


[17] BY MR. YUKEVICH:

[18] Q: And what's the deciding factor for [19] you in determining why it is that people don't [20] control them?

[21] A: For me it seems like, based on an [22] engineering reconstruction point of view, it [23] would appear that it changes the handling [24] characteristics of the vehicle. And if you are [25] to put in the wrong input at the wrong time, you


[13] BY MR. YUKEVICH:


[24] Q: And you would not recommend from [25] the point of view of a driver let alone --


[12] BY MR. YUKEVICH:

[13] Q: And as of now have you done any [14] actual vehicle tests, have you actually gotten in [15] a '91 Suburban and done any test driving with [16] respect to the ability of this vehicle to be [17] controlled given a tire separation?


[20] Q: Haven't been asked to do that?


[22] Q: And don't plan to do that between [23] now and the time of trial.

[24] Correct?


[7] A: No. I was there. I see no reason why I [8] should have to do photogrammetry.

[9] Q: You have all the information that [10] you
need to reconstruct the accident based upon your scene visit and the other materials that are present in your file. Correct?

A: I think I have enough information that I was able to substantiate the calculations and the numbers that I've arrived at.
SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

MILTON HALSTED and
STEPHANIE
HALSTED,

Plaintiffs,

vs.

NII ADDY, BIGBY, HAVIS &
ASSOCIATES, INC., DAVID
FINLEY, JANET FINLEY, JANET
HAVIS, MATTHEW FINLEY,
ALLEN OLDSMOBILE-
CADILLAC, INC., THE B. F.
GOODRICH COMPANY,
MICHELIN NORTH AMERICA,
INC., THE UNIROYAL GOODRICH
TIRE COMPANY, and DOES 1
through 100, inclusive,

Defendants.

AND RELATED CROSS-ACTIONS.

We, the jury in the above entitled action, find the following
special verdict on the questions submitted to us:

SPECIAL VERDICT
Question No. 1: Was defendant Nii Addy negligent?

Answer "yes" or "no" after the name of each defendant.

Answer:

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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</table>

If you answer Question No. 1 "no" as to the defendant, sign, date and return this verdict.

If you answer Question No. 1 "yes" as to the defendant, then answer Question No. 2.

Question No. 2: Was the negligence of Nii Addy a cause of damage to the plaintiff?

Answer "yes" or "no" after the name of each defendant.

Answer:

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
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</table>

If you answer Question No. 2 "no" as to the defendant, sign, date and return this verdict.

If you answer Question No. 2 "yes" as to the defendant, then answer Question No. 3.

Question No. 3: Without taking any consideration the reduction of damages due to the negligence of the plaintiff, if any, what do you find to be the total amount of damages, including economic and non-economic damages, if any, suffered by the plaintiff caused by the accident involved herein?

Answer:

(a) Economic Damages $__________

(b) Non-Economic Damages $__________

TOTAL $__________
If you answer Question No. 3 "no damage", sign, date and return this verdict. If you answer Question No. 3 with an amount of money, answer Question No. 4.

Question No. 4: Was plaintiff Milton Halsted negligent?

Answer "yes" or "no".

Answer: Yes No

If you answer Question No. 4 "no", do not answer Question No. 5. Instead, proceed directly to Question No. 6. If you answer Question No. 4 "yes", then answer the next question.

Question No. 5: Was the negligence of plaintiff Milton Halsted a cause of damage to plaintiff?

Answer "yes" or "no".

Answer: Yes No

Question No. 6: Was the negligence of the plaintiff a cause of the injury?

Answer "yes" or "no".

Answer: ___________

If you answer Question No. 6: Assuming that 100% represents the total negligence and fault which was the cause of the plaintiff's damage, what percentage of this 100% is due to the contributory negligence of the plaintiff and what percentage of this 100% is due to the negligence of the defendant and all other persons?

Answer: To plaintiff Milton Halsted ________________ %

To defendant Nii Addy ________________ %
| Other person Allen Oldsmobile | ________________% |
| Other person Uniroyal Goodrich Tire Company | ________________% |
| **TOTAL:** | **100%** |

Dated:

_____________
Foreperson
TRIAL SCHOOL
DOCUMENT SAMPLES

- Fact Pattern
- Application
- Letter/email for Faculty
- Daily Faculty List
- Faculty Thank you letter/email
- Student assignment letter/email
- Daily Time Schedule
- MCLE forms student/faculty

Jack Daniels
Judicate West
310.556.7900 x201
Daniels@dfis-law.com
June 13, 2012

MEMBERS OF THE LOS ANGELES CHAPTER OF ABOTA

Re: Jack Daniels/ABOTA Trial School

Enclosed please find this year’s student application for the Annual Jack Daniels/L.A. ABOTA Trial School. Please have each applicant you are sponsoring completely fill out the application and return it, with a check, by July 20, 2012. Feel free to make extra copies of the application, if you have more than one applicant you are sponsoring.

This year’s trial school will take place August 6th, 7th and 8th at Loyola Law School, 919 Albany Street, Los Angeles in the Girardi Building. If you have any questions, please contact Anna Knafo (310) 556.7900 or Jamie Baratta at (310) 789.4260 or Shirley Schwartz at (818) 343-2356.

Thanks for your continued support all these years.

JACK DANIELS
Course Director
APPLICATIONS MUST BE RECEIVED BY JULY 20, 2012
JACK DANIELS ANNUAL PROGRAM FOR TRIAL ADVOCACY 2012
Presented by the Los Angeles Chapter of the American Board of Trial Advocates

APPLICATION FOR ENROLLMENT
Please complete, include check for $500 per applicant, which includes lunch, made out to ABOTA and return to this address:
ABOTA
5567 Reseda Boulevard, Suite 108
Tarzana, CA 91356

1. Mr./Ms. ____________________________________________

First Middle Last

2. Firm & Address:

____________________________________________________

Number/Street City State/Zip Code

3. E-Mail________________ Business Phone: ___________ Cell Phone: ___________

4. Undergraduate College or University:

____________________________________________________

Graduation Date: _______ Major: _____________________ Degree: _______

5. Law School:

____________________________________________________

Graduation Date: _______ Major: _____________________ Degree: _______

6. Post Legal Education:

____________________________________________________

7. Where Admitted to Practice:

____________________________________________________

8. Present Employment: ________________________________

From: _______________________________________________

____________________________________________________

Title: _______________________________________________ Specific Assignment:
9. Prior Employment: Please describe in detail all legal employment from the time of graduation from law school until the present. Attach additional sheets if necessary.

10. Prior History of Experience in Advocacy: Please describe in detail the nature and extent of your prior trial practice, including experiences with discovery procedures, types, and numbers of cases actually tried, both civil and criminal, location and types of courts. If you have taken any courses in trial practice in law school or in your post legal education, please describe them. You may attach additional sheets if necessary. (We are specifically interested in admitting students committed to trial practice).

11. In what way do you believe attendance at ABOTA's seminar for Trial Advocacy would be of benefit to you in your professional career?

Summarize any professional memberships, professional honors, and legal publications.

12. I have tried the following number of jury cases: ________ Non-jury cases: ________

Anticipated number of jury cases to be tried this year: ________

Date: ____________________________ Signed: __________________________

$500.00 Tuition Deposit, which includes daily lunches, required within one week of the start of the program.

Mail check/application, made out to ABOTA, to Shirley Schwartz at:
American Board of Trial Advocates (ABOTA)
Los Angeles Chapter
5567 Reseda Boulevard, Suite 108
Tarzana, California 91356
(818) 343-2356 / FAX: (818) 343-7640
E-mail: abota@aol.com
COURSE DESCRIPTION

The Annual Jack Daniels/Los Angeles ABOTA Trial Advocacy Skills Training Course is being presented by the Los Angeles Chapter of the American Board of Trial Advocates (ABOTA).

The purpose of this course is to enhance the participant's skills as a trial attorney. It is an intense and demanding course, that has the participant on his/her feet arguing, questioning, and developing his/her skills. The emphasis of the course is on developing trial techniques and skills rather than knowledge of substantive law.

The subject matter covered in this three-day intensive course will include voir dire, direct, cross and redirect examination, opening statements and closing arguments. The length of the program is designed to enable interested attorneys to participate who might otherwise not be able to break away from their practice for a longer, more expensive program.

The technique of teaching trial advocacy is to immerse the student in the actual performance of all phases of the trial. Each performance will be immediately critiqued and also will be videotaped for later review and critique. Participants will learn under the guidance of experienced trial lawyers and judges in a simulated courtroom environment.

TEACHING METHOD

These sessions involve a team teaching method, which emphasizes student performance dealing with hypothetical problems in trial technique under the supervision and critique of the faculty. The students perform as trial counsel in some phase of trial or preparation for trial. Students are also expected to contribute to the team teaching by participating in critiquing performances by other members of the class.

Student performers are videotaped for review. The videotapes are viewed in private with only the student performers and one member of the teaching team present. It is through this method that the teaching team can point out the student's strengths and weaknesses in a one-on-one situation.

Because the class exercise entails live performances, each exercise is to some extent a distinctive experience. One of the advantages of this method is that students have an opportunity to see a variety of models, to observe differences among equally competent lawyers and to realize that each trial lawyer must develop techniques suitable to his or her own personality and talents.

ENROLLMENT AND METHOD OF SELECTION

Because enrollment is limited, responsibility for making selection if applications exceed the number of allotted places will rest with course director, Jack Daniels. Certain guidelines have been set up with regard to selections. Factors which will be considered include: length of
time practicing law (from one to five years given preference), practical experience the applicant has and a demonstrated involvement in trial practice. It is suggested that an applicant have at least one year of experience in law.

APPLICATIONS WILL BE ACCEPTED UNTIL JULY 20, 2012. The applications will be screened as received which may result in a priority in favor of early application.

The tuition for the course is $500.00, which includes lunch each day, will hold a place in the course, an accepted applicant must deposit the entire tuition within one week of the start of the program. The application and check payable to ABOTA must be mailed to American Board of Trial Advocates, 5567 Reseda Boulevard, Suite 108, Tarzana, California 91356. The tuition will be refunded only upon a showing of good cause for withdrawal, except for $50.00 to defray administrative expenses.

FACULTY

One of the most valuable parts of this course is the participation of distinguished jurists and practitioners. The faculty is made up of all ABOTA members. They will give students a sophisticated and experienced view of trial practice, making this program a meaningful learning experience.

COURSE INFORMATION

ENROLLMENT - Enrollment will be limited to the first 30 qualified applicants.

APPLICATION DEADLINE - July 20, 2012

DATES - Monday, August 6, 2012; 8:30 a.m. - 5:30 p.m.
      Tuesday, August 7, 2012; 8:30 a.m. - 5:30 p.m.
      Wednesday, August 8, 2012; 8:30 a.m. - 5:30 p.m.

LOCATION - LOYOLA LAW SCHOOL, GIRARDI BUILDING
      919 Albany Street., Los Angeles, California

REGISTRATION FEE - $500.00

MATERIALS - Course materials and assignment of plaintiff or defendant will be distributed ahead of time, via email.

TAX DEDUCTION OF EXPENSES - An income tax deduction may be allowed for expenses of education undertaken to maintain and improve professional skills (see Treas. Reg. 1.162-5).

MCLE CREDIT - The American Board of Trial Advocates has been approved as a continuing legal education provider of Minimum Continuing Legal Education credit by the State of California.
This program will qualify for Minimum Continuing Legal Education credit by the State Bar of California in the amount of 20 hours.

FOR FURTHER INFORMATION CALL – Anna Lisa Knafo or Jamie Baratta at (310) 556-7900 or Shirley Schwartz at (818) 343-2356 / abota@aol.com

To ensure enrollment, please fax the application first, and send the application and check in the mail to the ABOTA office above. Fax: (818) 343-7640
June 25, 2012

Good Day LA Chapter ABOTA Members,

This year's Jack Daniels'/L.A. ABOTA Trial School will take place from August 6, through August 8th at Loyola Law School, 919 Albany St., Los Angeles in the Girardi Building. As you may know, the trial school allows younger attorneys to proceed through every segment of a trial and receive feedback and review from veteran trial attorneys, like yourself.
You are invited to participate as a faculty member for one or more days of this year's trial school as well as, and most importantly, send your associates to the school. As always, MCLE credit is available. A faculty form is attached.

Also, you can request an application for students for the Trial School via email from any of the below names. Please have each applicant you are sponsoring completely fill out an application and return it, with a check, by July 20, 2012.

If you have any questions, please contact Annie Knafo or Jamie Baratta jbaratta@dfis-law.com at (310)556-7900 or Shirley Schwartz Abota@aol.com or 818.343.2356.

Thanks as always for your continued support.

-------------------------------------------------------------------------------------------------------------------------------------

Yes! I would like to be a faculty member and participate in the Annual Jack Daniels ABOTA Trial School at Loyola Law School on: (Please check one or more below)

NAME _____________________________________________

EMAIL ______________________________ PHONE ________________

(Please Print or type)

☐ Day 1 Monday, August 6, 2012
☐ Day 2 Tuesday, August 7, 2012
☐ Day 3 Wednesday, August 8, 2012
   Time: 8:30-5:30 p.m. Daily

RETURN THIS FACULTY FORM TO THE ATTENTION OF:
ANNA KNAFO Knafo@dfis-law.com or JAMIE BARATTA jbaratta@dfis-law.com
FAX: 310.556.2807 Phone: 310.556.7900
## THE TWENTY-SIXTH ANNUAL
### JACK DANIELS/LOS ANGELES ABOTA TRIAL SCHOOL

## FACULTY – DAY 1
### August 6, 2012

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<tr>
<td>1.</td>
<td>Sal Desimone</td>
<td>Salvatore Desimon, Inc.</td>
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<td>2.</td>
<td>Robert Baker</td>
<td>Baker, Keener &amp; Nahra, LLP</td>
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<td>3.</td>
<td>Denise Taylor</td>
<td>Taylor Blessey LLP</td>
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<td>John Foss</td>
<td>Kasdan, Simonds, Riley, &amp; Vauhan</td>
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<td>Barry Johnson</td>
<td>Law Offices of Barry E. Johnson</td>
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<td>Manning &amp; Marder Kass, Ellrod, Ramirez</td>
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<td>Sean O’Doherty</td>
<td>Gates, O’Doherty, Gonter, &amp; Guy LLP</td>
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<td>Diane Goldman</td>
<td>Law Offices of Golman &amp; Gerard</td>
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<td>Jake Courtney</td>
<td>Girardi &amp; Keese</td>
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<td>16.</td>
<td>Chris Datomi</td>
<td>Ryan, Datomi, &amp; Mosley LLP</td>
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<td>Kyle Kveton</td>
<td>Robie &amp; Matthai</td>
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<td>Bill Buus</td>
<td>Schiffer &amp; Buus APC</td>
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<td>Mike Brown</td>
<td>Schuler &amp; Brown</td>
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<td>21.</td>
<td>Harry Kane</td>
<td>Law Offices of Harry N. Kane, P.C.</td>
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<td>22.</td>
<td>Michael Schonbuch</td>
<td>Daniels, Fine, Israel, Schonbuch &amp; Lebovits, LLP</td>
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<td>23.</td>
<td>John Taylor</td>
<td>Taylor &amp; Ring, LLP</td>
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<td>24.</td>
<td>Steve Glickman</td>
<td>Glickman &amp; Glickman</td>
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<td>25.</td>
<td>Molly Murphy</td>
<td>Jury Consultant</td>
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<td>26.</td>
<td>Duke Stroud</td>
<td>Pasadena City College</td>
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### THE TWENTY-SIXTH ANNUAL
### JACK DANIELS/LOS ANGELES ABOTA TRIAL SCHOOL

### FACULTY – DAY 2
### August 7, 2012

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<tr>
<td>1</td>
<td>John Blumberg</td>
<td>Blumberg Law Corp.</td>
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<td>Sal Desimone</td>
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<td>Panish Shea &amp; Boyle</td>
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<td>Law Office of Michael Justice</td>
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<td>Sean O'Doherty</td>
<td>O'Dohert, Gonter, &amp; Guy LLP</td>
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<td>Girardi &amp; Keese</td>
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<td>Randy Even</td>
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<td>Michael Schonbuch</td>
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<td>Phil Baker</td>
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<td>22</td>
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# THE TWENTY-SIXTH ANNUAL
THE JACK DANIELS/LOS ANGELES ABOTA TRIAL SCHOOL

## FACULTY – DAY 3
August 8, 2012

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<tr>
<td>1</td>
<td>Hon. Daniel Buckley</td>
<td>Los Angeles Superior Court</td>
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<tr>
<td>2</td>
<td>Molly Murphy</td>
<td>Trial Consultant/Mediator</td>
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<td>Lewis, Brisbois, Bisgaard &amp; Smith</td>
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<td>Duke Stroud</td>
<td>Pasadena City College</td>
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<td>6</td>
<td>Hon. Victoria Chaney</td>
<td>Second Court of Appeals</td>
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<td>Hon. Jacqueline Connor</td>
<td>Los Angeles Superior Court</td>
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<td>Salvator Desimone, Inc.</td>
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<td>Law Office of Michael Justice</td>
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<td>Donald Forgery</td>
<td>Lewis, Brisbois, Bisgaard, &amp; Smith LLP</td>
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<td>Norm Watkins</td>
<td>Lynberg &amp; Watkins</td>
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<td>Thomas Johnston</td>
<td>Johnston &amp; Hutchinson LLP</td>
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<td>21</td>
<td>Jake Courtney</td>
<td>Girardi &amp; Keese</td>
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<td>22</td>
<td>Kyle Kveton</td>
<td>Robie &amp; Matthai</td>
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<td>23</td>
<td>Bill Buus</td>
<td>Schiffer &amp; Buus APC</td>
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<td>24</td>
<td>Ruth Segal</td>
<td>Lynberg &amp; Watkins</td>
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<td>25</td>
<td>Harry Kane</td>
<td>Law Offices of Harry N. Kane, P.C.</td>
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Thank you for your generous agreement to participate as a faculty member for the Jack Daniels' Trial School, on **Monday and Wednesday, August 6 & 8, 2012, from 8:30 a.m. to 5:00 p.m.** at Loyola Law School, Girardi Building, 919 So. Albany St., LA. Attached please find this year's fact pattern, faculty list, and the daily schedule for the 3 days.

The MCLE credits for faculty members of this year's trial school are seven (7) hours per day, plus preparation time. The forms will be distributed at the end of your participation.

Thanks again for your support, the chapter and I are very appreciative, and know the students will benefit from your experience. If there is anything you need, or especially if your schedule changes, feel free to call my associate and this year's Coordinator, Anna Knafo at 310.556.7900.

Jack

Jack Daniels
Course Director

JPD/mar
Enclosures
July 19, 2012

Re: ABOTA Trial Advocacy Course

Dear Mr. Keith:

Congratulations on being accepted to the annual Jack Daniels' Los Angeles ABOTA Trial Advocacy Course. Attached please find a series of documents we ask you to download: the daily schedule, driving directions and a map of the campus, student and faculty lists.

You will also be receiving a name tag on site and we ask that you return it at the end of each day. You will be required to sign-in for CLE purposes every day and the filing forms will be distributed on the last day by Ms. Knafo. Any CLE questions should be directed to Shirley Schwartz, Executive Director, at 818.343.2356 or abota@aol.com.

You have been assigned as counsel for the DEFENSE and everything you do at the Trial School will be from this perspective. We understand this may not be your first choice but one of the most important parts of a trial is to know it from all perspectives. Please come dressed to appear in court.

The Trial School will take place at Loyola Law School located at 919 Albany Street, Los Angeles, in the Girardi Building on August 6,7,8. Please report to the Mark Robinson Court Room at 8:30 a.m., on Monday, August 6th. If you have any questions feel free to contact Anna Knafo or Jamie Baratta at 310.556.7900 or Shirley Schwartz at 818.343.2356. Please text Anna Knafo knafo@dfis-law.com if you will be late or not able to attend any of the days. Parking is included in your registration, and your name will be provided to the parking structure attendant, lunch is also provided each day.

We hope you will find the ABOTA Trial School a rewarding learning experience that will benefit your legal career.

Best Personal Regards,

JACK DANIELS
Course Director
THE TWENTY-SIXTH ANNUAL
JACK DANIELS/LOS ANGELES ABOTA TRIAL SCHOOL
AUGUST 6, 7, & 8, 2012 AT LOYOLA LAW SCHOOL

The Los Angeles Chapter
of the American Board of Trial Advocates

Loyola Law School
919 Albany Street
Los Angeles, California

DAY 1- AUGUST 6, 2012

8:45 - 9:00  OPENING MEETING ALL FACULTY/STUDENTS
Greeting and Introduction by Dean Gold

9:00 – 9:30  SPEAKER: REFLECTIONS OF A TRIAL LAWYER
By Robert Baker

9:30 – 11:00  DEMONSTRATION AND PANEL: VOIR DIRE
By John Taylor (Plaintiff), Mike Schonbuch (Defense) and Molly Murphy (Jury Consultant)

11:00 - 12:00  DEMONSTRATION: OPENING STATEMENTS
By Steven Glickman (Plaintiff) and Denise Taylor (Defense)

12:00 – 12:45  LUNCH
Girardi Patio

12:45 - 5:00  WORKSHOP I: VOIR DIRE

Each student should prepare 15 minutes of voir dire
THE TWENTY-SIXTH ANNUAL
JACK DANIELS/LOS ANGELES ABOTA TRIAL SCHOOL

AUGUST 6, 7 & 8, 2012 AT LOYOLA LAW SCHOOL

DAY 2- AUGUST 7, 2012

8:30 – 8:45  
MEETING ALL FACULTY/STUDENTS
Robinson Courtroom (Girardi Advocacy Building, 1st Floor)

8:45 – 9:00  
SPEAKER: THE WHAT, WHY, & HOW OF PERSUASION
By John Blumberg

9:00 – 9:15  
SPEAKER: “PERFORMANCE” FOR THE COURTROOM
By Duke Stroud

9:15 - 12:00  
WORKSHOP II: OPENING STATEMENTS

Each student should prepare a 15 minute opening statement

12:00 – 12:45  
LUNCH
Girardi Patio

12:45 - 2:15  
DEMONSTRATION: CLOSING ARGUMENTS
By Phil Baker (Plaintiff) and Linda Starr (Defense)

2:15 - 5:00  
WORKSHOP III: DIRECT/CROSS OF PLAINTIFF DEBRA
PATTERSON

Each student should prepare a 15 minute examination of the witness and be prepared to play the part of the witness
THE TWENTY-SIXTH ANNUAL
JACK DANIELS/LOS ANGELES ABOTA TRIAL SCHOOL
AUGUST 6, 7 & 8, 2012 AT LOYOLA LAW SCHOOL

DAILY SCHEDULE

DAY 3 - AUGUST 8, 2012

8:30 - 8:45  MEETING ALL FACULTY/STUDENTS
Robinson Courtroom (Girardi Advocacy Building, 1st Floor)

8:45 – 9:05  SPEAKER: “MAKING A RECORD ON APPEAL”
Hon. Justice Victoria Chaney, California Court of Appeals

9:05 – 9:25  SPEAKER: “HOW TO ARGUE TO A JUDGE”
Hon. Daniel Buckley, Los Angeles Superior Court

9:25 – 10:00  PANEL: COURTROOM ETIQUETTE
Daniel Buckley and Molly Murphy

10:00 - 12:00  WORKSHOP IV: DIRECT/CROSS OF DEFENDANT
Each student should prepare a 10 minute examination of the
witness and be prepared to play the part of the witness

12:00 – 12:45  LUNCH
Girardi Patio

12:45 - 5:00  WORKSHOP V: CLOSING ARGUMENTS
Each Student should prepare a 20 minute closing argument
OFFICIAL RECORD OF ATTENDANCE FOR MCLE

Provider: American Board of Trial Advocates
Provider Number: 1261
Title: Jack Daniels Trial Advocacy Course
Date(s): MONDAY, August 6, 2012
Time: 8:30 a.m. to 5:00 p.m.
Location: Loyola Law School, Los Angeles, CA

TOTAL ELIGIBLE CALIFORNIA MCLE CREDIT HOURS: ____

Legal Ethics: __________________________
Elimination of Bias: _____________________
Substance Abuse: _______________________

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<tr>
<th>Name of Attendee</th>
<th>California State Bar No.</th>
<th>Attendee Signature</th>
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CERTIFICATE OF ATTENDANCE FOR CALIFORNIA MCLE

Provider: American Board of Trial Advocates

Provider Number: 1261

Title: Jack Daniels Trial Advocacy Course

Date(s): August 6, 7 & 8, 2012

Time: 8:30 a.m. to 5:00 p.m. Daily

Location: Loyola Law School, Los Angeles, CA

TOTAL ELIGIBLE CALIFORNIA MCLE CREDIT HOURS: _____ Faculty

Law Practice Management: _____ Legal Ethics: _____

Elimination of Bias: _____ Substance Abuse: _____

--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

To Be Completed by the Attorney after Participation in the Above-Named Activity:

By signing below, I certify that I participated in the activity described above and am entitled to claim the following California MCLE credit hours:

Total Hours: _____

(You may not claim credit for the following subfields unless the provider is granting credit in these areas above.)

Law Practice Management: _____ Legal Ethics: _____

Elimination of Bias: _____ Substance Abuse: _____

Print Your Name (clearly): ____________________________

Your State Bar Number: ______________________________

Signature: _______________________________________

Faculty credit is calculated by multiplying your preparation time times 4.
CERTIFICATE OF ATTENDANCE FOR CALIFORNIA MCLE

STUDENT

Provider: American Board of Trial Advocates
Provider Number: 1261
Title: Jack Daniels Trial Advocacy Course
Date(s): August 6, 7 & 8, 2012
Time: 8:30 a.m. to 5:00 p.m. Daily
Location: Loyola Law School, Los Angeles, CA

TOTAL ELIGIBLE CALIFORNIA MCLE CREDIT HOURS: 21

Law Practice Management: _____ Legal Ethics: _____
Elimination of Bias: _____ Substance Abuse: _____

To Be Completed by the Attorney after Participation in the Above-Named Activity:

By signing below, I certify that I participated in the activity described above and am entitled to claim the following California MCLE credit hours:

Total Hours: _____

(You may not claim credit for the following subfields unless the provider is granting credit in these areas above.)

Law Practice Management: _____ Legal Ethics: _____
Elimination of Bias: _____ Substance Abuse: _____

Print Your Name (clearly): __________________________________________

Your State Bar Number: ____________________________________________

Signature: ________________________________________________________
Activity Evaluation Form for California MCLE

Please complete and return to Provider (Please Print).

Provider: American Board of Trial Advocates Provider # 1261
Provider Phone Number: 818.343.2356
Provider Address: 5567 Reseda Blvd., Tarzana, CA 91357-7033
Title of Activity: Jack Daniels Trial Advocacy Course
Date(s) of Activity: August 1,2 & 3, 2011 Time: 8:30 a.m. to 5:00 p.m.
Location: Loyola Law School, Los Angeles, CA

Directions: Please mark the appropriate box to indicate your evaluation of this course.

1. Did this program meet your educational objectives? 
   Comments: ________________________________ [ ] [ ] [ ]

2. Did the environment have a positive influence on your learning experience? 
   Comments: ________________________________

3. Were you provided with substantive written materials? 
   Comments: ________________________________ [ ] [ ] [ ]

4. Did the course update or keep you informed of your legal responsibilities? 
   Comments: ________________________________ [ ] [ ] [ ]

5. Did the activity contain significant current professional content? 
   Comments: ________________________________ [ ] [ ] [ ]

Please rate the faculty on a scale of 1 to 5 (1 being the lowest; 5 being the highest).

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<tr>
<th>Instructor's Name:</th>
<th>Overall Teaching Effectiveness</th>
<th>Effectiveness of Teaching Methods</th>
<th>Significant Current Knowledge of Subject</th>
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Subject/Topic: ______________________________
Comments: ________________________________

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Subject/Topic: ______________________________
Comments: ________________________________

Name of Participant: ____________________________
(First) ____________________________ (Last) ____________________________
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