

THE JACK DANIELS'
LOS ANGELES ABOTA
TRIAL SCHOOL

TRIAL DEMONSTRATION



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Presents

**THE JACK DANIELS'
LOS ANGELES CHAPTER
TRIAL SCHOOL
Trial Demonstration**

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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 a 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 steering 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 dequence, 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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Ninth Floor
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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.

I M E	MONTH	DAY	YEAR	WEEK	1	2	3	4	5	6	7	MILITARY TIME	1240	CASE NUMBER	11971449	15 17
	08	12	97		M	W	T	F	S	S	S					

B	PLACE WHERE ACCIDENT OCCURRED. COUNTY	Beaver	01	CITY OR TOWN	FOR AGENCY USE	16 L				
	Accident was outside city limits indicate distance from city limits or nearest town	20	NORTH	S			E	W	of	Beaver

L O C A T I O N	ROAD ON WHICH ACCIDENT OCCURRED:	SR-15	RAMP NO	STATE/LOCAL	20 X			
	GIVE NAME OF STREET OR HIGHWAY NUMBER	2	INTERSECTION TYPE			21 X		
	1. AT ITS INTERSECTION WITH	Northbound median						
2. IF NOT AT INTERSECTION	NORTH	S	E	W	FEET	of	NEAREST INTERSECTION, STREET, HOUSE NO LANDMARK	22 X
2	NORTH	S	E	W	OF MILE POST	131	BE SURE TO COMPLETE IF ROAD HAS MILE POST	

VEHICLE YEAR	1991	MAKE	Chev	MODEL	Suburban	BODY STYLE/TYPE CODE	Util.	07	VEHICLE COLOR	White	G.V.W.R.	DESC. OF CARGO CODE	COMMERCIAL VEHICLE (Reg 12,000 lbs. or more)	INTERSTATE	INTRASTATE	23 5
VEHICLE IDENTIFICATION NUMBER	1GBER16K6MF119446		DISPOSITION OF VEHICLE	CODE 1		Beaver Valley	Chevron	NO. OF AXLES (INCLUDING ALL TRAILERS)	2	DIR OF TRAVEL	North					
US DOT	LICENSE PLATE INFO	YEAR	MONTH	STATE	NUMBER	PARTS DAMAGED	3	U	COST OF REPAIR	15,000.00	24 X					
ICC MC	98	05	CA	3UIW727	T	2	T	15,000.00								

OWNER	FIRST	INITIAL	LAST	STREET, CITY, STATE, ZIP, PHONE NO.	PHONE ()	25 01
OPERATOR	Bigby Havis Assoc. Inc.			30491 Viz Ventana		
CARRIER				San Juan Capo, CA	92675	26 X
DRIVER	FIRST	INITIAL	LAST	STREET, CITY, STATE, ZIP, PHONE NO.	PHONE ()	27 X
	Nii	M.	Addy	8 Palomino		
				Coto De Caza, CA		

DRIVER'S LICENSE	STATE	NUMBER	DATE OF BIRTH	MONTH	DAY	YEAR	AGE	SEX	SAFE EQUIP	INJURY TYPE	CAUSE	AREA	EXTR CAUTION	EJECTION	THROUGH WHAT AREA EJECTED?	28 X
	CA	B6814979	07	02	79	19	M	2	1	-	-	0	1			
DRIVER'S EDUCATION	1. PUBLIC	3. NONE	4. UNKN	2. COM'L	4	YEARS DRIVE EXP.	Unk	LICENSE CLASS	Op	ENDORSEMENT	---	RESTRICTIONS	None			29 1

INSURANCE COMPANY	EFFECTIVE DATE	EXPIRATION DATE	POLICY NUMBER	30 X
USAA	08-12-97	02-12-98	000772067U 71015	
INSURANCE APPEARS VALID	AGENCY THAT SOLD POLICY	ADDRESS	PHONE ()	31 2
YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	USAA	(800) 531-8111		

VEHICLE YEAR	MAKE	MODEL	BODY STYLE/TYPE CODE	VEHICLE COLOR	G.V.W.R.	DESC. OF CARGO CODE	COMMERCIAL VEHICLE (Reg 12,000 lbs. or more)	INTERSTATE	INTRASTATE	32 2
VEHICLE IDENTIFICATION NUMBER	DISPOSITION OF VEHICLE		NO. OF AXLES (INCLUDING ALL TRAILERS)		DIR OF TRAVEL		33 X			
US DOT	LICENSE PLATE INFO	YEAR	MONTH	STATE	NUMBER	PARTS DAMAGED	3	U	COST OF REPAIR	34 X
ICC MC							2	T		

OWNER	FIRST	INITIAL	LAST	STREET, CITY, STATE, ZIP, PHONE NO.	PHONE ()	35 X
OPERATOR						
CARRIER						36 X
DRIVER	FIRST	INITIAL	LAST	STREET, CITY, STATE, ZIP, PHONE NO.	PHONE ()	37 X

DRIVER'S LICENSE	STATE	NUMBER	DATE OF BIRTH	MONTH	DAY	YEAR	AGE	SEX	SAFE EQUIP	INJURY TYPE	CAUSE	AREA	EXTR CAUTION	EJECTION	THROUGH WHAT AREA EJECTED?	38 X
DRIVER'S EDUCATION	1. PUBLIC	3. NONE	4. UNKN	2. COM'L		YEARS DRIVE EXP.		LICENSE CLASS		ENDORSEMENT		RESTRICTIONS				39 X
INSURANCE COMPANY	EFFECTIVE DATE	EXPIRATION DATE	POLICY NUMBER	INSURANCE APPEARS VALID				AGENCY THAT SOLD POLICY	ADDRESS	PHONE ()						
				YES <input type="checkbox"/> NO <input type="checkbox"/>												

1. PEDESTRIAN	2. BICYCLIST	DATE OF BIRTH	AGE	SEX	INJURY TYPE	CAUSE	AREA
NAME		ADDRESS					

1	13	Milton J. Halsted	San Juan Capistrano, CA	60	M	2	1	-	-	0	1	
1	21	Ravi Shah	Lombard, IL	18	M	3	4	8	7	0	3	
1	23	Vishal Shah	Lombard, IL	15	M	3	1	-	-	0	1	
1	31	Matt Finley	San Juan Capistrano, CA	19	M	3	4	4	3	0	1	

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X
34
X
35
X
36
X
37
X
38
X
39
X

DIAGRAM WHAT HAPPENED BELOW.

Reason For No Diagram

- 1 Officer not at scene
- 2 Vehicles moved
- 3 Other

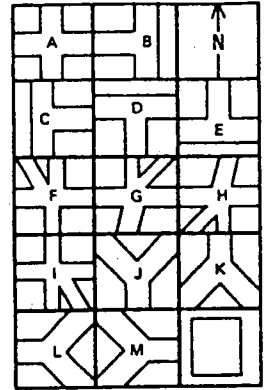
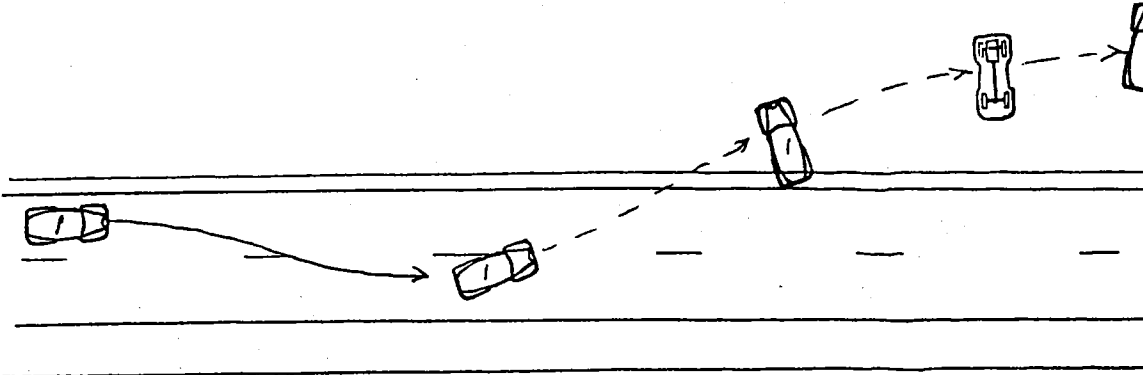
CASE NUMBER 11971449

INDICATE DIRECTION OF NORTH

VEHICLE NO. 1 NO.



ESTIMATED TRAVEL SPEED	88
ESTIMATED IMPACT SPEED	
POSTED SPEED	75
ADVISORY SPEED	



INDICATE INTERSECTION TYPE

DESCRIBE WHAT HAPPENED (Refer to Vehicle by Number)

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:

DAMAGE TO PROPERTY OTHER THAN VEHICLES

None

Name object and state nature and amount of damage

ESTIMATE

Name and address of owner of object struck

WITNESSES

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

FIRST AID ADMINISTERED BY

- 1 - Policeman
- 2 - Fireman
- 3 - Ambulance Personnel
- 4 - Paramedics
- 5 - Doctor
- 6 - Private Individual
- 7 - Hospital
- 8 - Helicopter Personnel
- 9 - None Administered
- 0 - Unknown

EMS REPORT NO. 198644

INJURED TAKEN BY

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

TIME: Amb. Called: Arrived:

EMS REPORT NO. 198645

INJURED TAKEN TO Beaver Valley Hospital

POLICE ACTIVITY

08 12 97 Date Notified of Accident

1249 Time Notified of Accident

1257 Arrived at Scene

Investigation of accident Completed at 1300 of the same day

Source of Information

Officer at scene X
 Driver No. Contacted station
 Other

PHOTO(S) TAKEN YES NO

VIDEO TAKEN YES NO

FIELD DIAGRAM YES NO

Name Pending Charge:
 Name Charge:

CVSA Inspection Yes No If Yes, Report Number

Other action taken

PRINT Trp. C. O. Collings 176 11/B UHP 08-17-97
 OFFICER'S RANK AND NAME ID NO PATROL DIVISION DEPARTMENT SUPERVISORS APPROVAL DATE OF REPORT

State Law requires that report be forwarded to Dept. of Public Safety within 10 days following completion of investigation. Mail ORIGINAL OF REPORT TO:
 Driver License Division Financial Responsibility Section 4501 South 2700 West • P.O. Box 3 • Salt Lake City, Utah 84130-0560

TIME	MONTH	DAY	YEAR	WEEK	1	2	3	4	5	6	7	MILITARY TIME	CASE NUMBER
	08	12	97		M	W	T	F	S	S	1240		

LOCATION	PLACE WHERE ACCIDENT OCCURRED: COUNTY	Beaver	01	CITY OR TOWN	FOR AGENCY USE				
	Accident was outside city limits indicate distance from city limits or nearest town	20	NORTH	S	E	W	of	Beaver	CITY OR TOWN

LOCATION	ROAD ON WHICH ACCIDENT OCCURRED: SR-15	RAMP NO.	
	GIVE NAME OF STREET OR HIGHWAY NUMBER	INTERSECTION TYPE	
1. AT ITS INTERSECTION WITH	Northbound median		
2. IF NOT AT INTERSECTION	NORTH S E W FEET		
2	NORTH S E W OF MILE POST	131	NEAREST INTERSECTION, STREET, HOUSE NO., LANDMARK
	TENTH OF A MILE		BE SURE TO COMPLETE IF ROAD HAS MILE POST

VEHICLE #	YEAR	MAKE	MODEL	BODY STYLE/TYPE CODE	VEHICLE COLOR	G.V.W.R.	DESC. OF CARGO CODE	COMMERCIAL VEHICLE (Reg 12,000 lbs. or more)	INTERSTATE	INTRASTATE	DIR OF TRAVEL
VEHICLE IDENTIFICATION NUMBER								DISPOSITION OF VEHICLE CODE			

US DOT	LICENSE PLATE INFO	YEAR	MONTH	STATE	NUMBER	PARTS DAMAGED	3	U	COST OF REPAIR
ICC MC							2	7	

OWNER	FIRST	INITIAL	LAST	STREET, CITY, STATE, ZIP, PHONE NO.	PHONE ()
OPERATOR					
CARRIER					

DRIVER	FIRST	INITIAL	LAST	STREET, CITY, STATE, ZIP, PHONE NO.	PHONE ()
--------	-------	---------	------	-------------------------------------	-----------

DRIVER'S LICENSE	STATE	NUMBER	DATE OF BIRTH	MONTH	DAY	YEAR	AGE	SEX	SAFE EQUIP	INJURY TYPE	CAUSE	AREA	EXTR CAUTION	EJECTION	THROUGH WHAT AREA EJECTED?
DRIVER'S EDUCATION	1. PUBLIC	3. NONE	2. COM'L	4. UNKN	YEARS DRIVE EXP.	LICENSE CLASS	ENDORSEMENT	RESTRICTIONS							

INSURANCE COMPANY	EFFECTIVE DATE	EXPIRATION DATE	POLICY NUMBER
-------------------	----------------	-----------------	---------------

INSURANCE APPEARS VALID	AGENCY THAT SOLD POLICY	ADDRESS	PHONE ()
YES	NO		

VEHICLE #	YEAR	MAKE	MODEL	BODY STYLE/TYPE CODE	VEHICLE COLOR	G.V.W.R.	DESC. OF CARGO CODE	COMMERCIAL VEHICLE (Reg 12,000 lbs. or more)	INTERSTATE	INTRASTATE	DIR OF TRAVEL
VEHICLE IDENTIFICATION NUMBER								DISPOSITION OF VEHICLE CODE			

US DOT	LICENSE PLATE INFO	YEAR	MONTH	STATE	NUMBER	PARTS DAMAGED	3	U	COST OF REPAIR
ICC MC							2	7	

OWNER	FIRST	INITIAL	LAST	STREET, CITY, STATE, ZIP, PHONE NO.	PHONE ()
OPERATOR					
CARRIER					

DRIVER	FIRST	INITIAL	LAST	STREET, CITY, STATE, ZIP, PHONE NO.	PHONE ()
--------	-------	---------	------	-------------------------------------	-----------

DRIVER'S LICENSE	STATE	NUMBER	DATE OF BIRTH	MONTH	DAY	YEAR	AGE	SEX	SAFE EQUIP	INJURY TYPE	CAUSE	AREA	EXTR CAUTION	EJECTION	THROUGH WHAT AREA EJECTED?
DRIVER'S EDUCATION	1. PUBLIC	3. NONE	2. COM'L	4. UNKN	YEARS DRIVE EXP.	LICENSE CLASS	ENDORSEMENT	RESTRICTIONS							

INSURANCE COMPANY	EFFECTIVE DATE	EXPIRATION DATE	POLICY NUMBER
-------------------	----------------	-----------------	---------------

INSURANCE APPEARS VALID	AGENCY THAT SOLD POLICY	ADDRESS	PHONE ()
YES	NO		

1. PEDESTRIAN	2. BICYCLIST	DATE OF BIRTH	AGE	SEX	INJURY TYPE	CAUSE	AREA

UPPER	1	33	Linsey Ann Halsted	San Juan Capistrano, CA	16	F	3	5	8	1	0	3	Right side window
-------	---	----	--------------------	-------------------------	----	---	---	---	---	---	---	---	-------------------

DIAGRAM WHAT HAPPENED BELOW.

Reason For No Diagram

- 1 Officer not at scene
2 Vehicles moved
3 Other

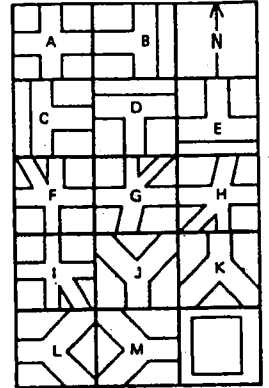
CASE NUMBER

INDICATIVE DIRECTION OF NORTH

VEHICLE NO. NO.



Table with 2 columns and 4 rows for speed information: ESTIMATED TRAVEL SPEED, ESTIMATED IMPACT SPEED, POSTED SPEED, ADVISORY SPEED.



INDICATE INTERSECTION TYPE

DESCRIBE WHAT HAPPENED (Refer to Vehicle by Number)

Large text area for describing the accident incident.

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

DAMAGE TO PROPERTY OTHER THAN VEHICLES

Name object and state nature and amount of damage

ESTIMATE

Name and address of owner of object struck

WITNESSES

Form for recording witness names and addresses.

FIRST AID ADMINISTERED BY

- 1 - Policeman, 2 - Fireman, 3 - Ambulance Personnel, 4 - Paramedics, 5 - Doctor, 6 - Private Individual, 7 - Hospital, 8 - Helicopter Personnel, 9 - None Administered, 0 - Unknown

EMS REPORT NO.

INJURED TAKEN BY

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

TIME: Amb. Called: Arrived:

EMS REPORT NO.

INJURED TAKEN TO

POLICE ACTIVITY

Date Notified of Accident (Month, Day, Year)

Time Notified of Accident

(USE MILITARY TIME)

Arrived at Scene

Investigation of accident Completed at ... of ... the same day ... the ... day following

Source of Information

Officer at scene, Driver No., Other

PHOTO(S) TAKEN YES NO, VIDEO TAKEN YES NO, FIELD DIAGRAM YES NO

Name and Charge fields for reporting officer.

CVSA Inspection Yes No If Yes, Report Number

Other action taken

PRINT Trp. C. O. Collings 176 11/B UHP SUPERVISORS APPROVAL DATE OF REPORT 08-17-97

ACCIDENT FIELD SKETCH FORM

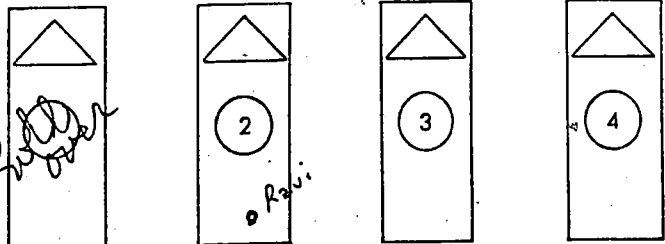
Accident date 8-17-97 Time 1240 week Tues
 Location SR-15 MP131 NB
 Vehicle type Bit-m. Condition Dry
 Driver skids _____ Drag factor _____
 Investigator A.O. Collings 176
 Insured by same
 Date 8-12-97 Time _____
 Road Drain Gait E 17²W
Culvert opening 216 LN



#1 MAKE Chev LIC 3U1W727 COLOR white
 #2 MAKE _____ LIC _____ COLOR _____
 #3 MAKE _____ LIC _____ COLOR _____
 #4 MAKE _____ LIC _____ COLOR _____

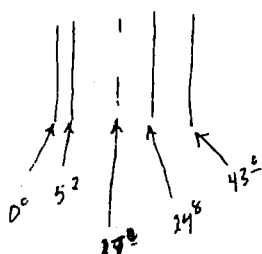
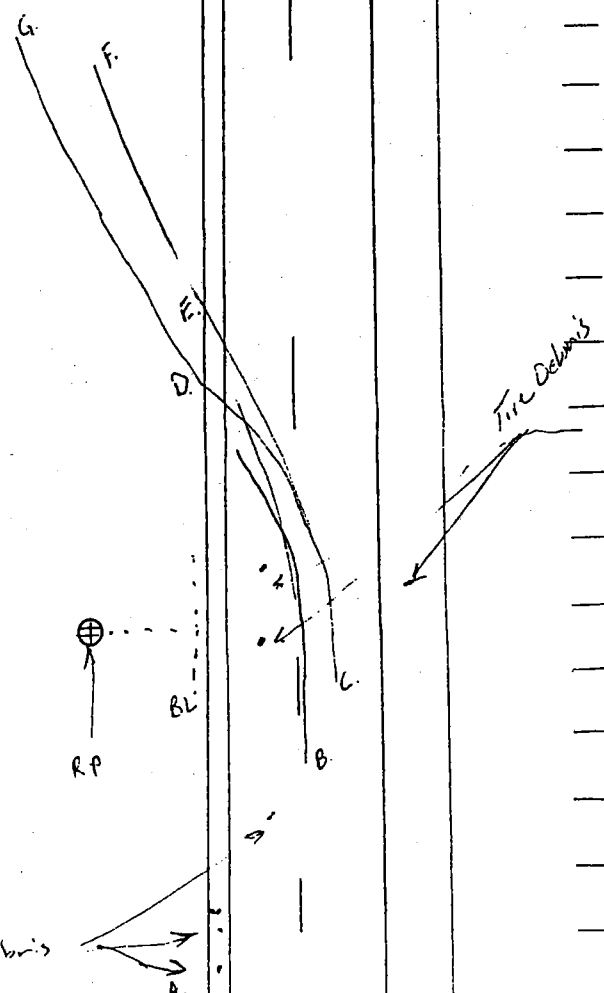
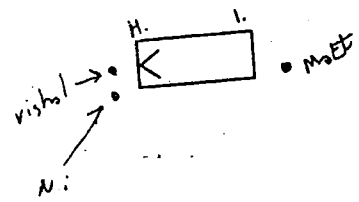
LOCATION & DIRECTION OF DAMAGE

Give measurements (shade in)



WT. _____ WT. _____ WT. _____ WT. _____

LETTER LOCATION	RP	EDGE	
Left Tire Debris	A	0°	42° E
Left F Tire Skuff Start	B	153°	23° E
Rt Side Skuff Start	C	191°	18° E
2 nd front off Rd	D	382°	0°
RR off Rd	E	406°	0°
RR furrow End	F	447°	29° W
RR furrow End	G	451°	15° W
RF final Rest	H	535°	38° W
R final Rest	I	507°	27° W
Grail final Rest	J	533°	23° W
	K		
	L		
	M		
	N		
	O		
	P		
	Q		
	R		



Photos 342

Additional information on reverse side

(217 minutes) a

1	TRAFFIC CONTROL 1. Officer or watchman 2. Flagman 3. Traffic Signal 4. Traffic Signal (Flashing) 5. Stop Sign 6. Yield Sign 7. Railroad Gates or Signal 8. Other (Specify) 9. No Control Present A. Slow or Warning Sign B. Traffic Lanes Marked C. No Passing Lanes D. One-Way Road or Street E. Construction or Work Area	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	15
2	ALIGNMENT (ROADWAY CHARACTER) 1. Straight and Level 2. Grade Straight 3. Hillcrest Straight 4. Curve Level 5. Curve Grade 6. Curve Hillcrest 7. Dip Straight 8. Dip Curve		CONTRIBUTING CIRCUMSTANCES 00 Did Not Contribute 01 Speed Too Fast 02 Failed To Yield Right of Way 03 Drove Left of Center 04 Improper Overtaking 05 Passed Stop Sign 06 Disregard Traffic Signal 07 Followed Too Closely 08 Made Improper Turn 09 Had Been Drinking 10 Under The Influence Of Drugs 11 Eyesight Defective Uncorrected 12 Asleep 13 Fatigued 14 Ill 15 Improper Parking 16 Improper Lookout 17 Failed To Signal 18 Other Improper Driving 19 Brakes Defective 20 Headlight Insufficient or Out 21 Headlights Glaring 22 Other Lights or Reflectors Defective 23 Steering Mechanism Defective 24 Tires Defective 25 Windshield Not Clear 26 Other Defective Condition of Vehicle 27 Hit and Run 28 DUI 29 Non-Collision (Fire) 30 Collision (Fire) 40 Stolen 41 Non-Contact Vehicle Involved 42 Jackknife 43 Downhill Runaway 44 Cargo Loss or Shifted 45 Explosion or Fire 46 Separation of Units 47 Wrong Side of Road 48 Wrong Way on One Way Street 49 Improper Backing 50 Immersion 51 Towed Vehicle 52 Vehicle Rolling in Traffic Lane	16 17 18
3	WEATHER 1. Clear 2. Raining 3. Snowing 4. Fog 5. Dust 6. Mist 7. Sleet 8. Cloudy 9. Windstorm		PRIME CONTRIBUTOR VEHICLE #1,3,5 SECONDARY CONTRIBUTOR VEHICLE #1,3,5 VEHICLE #2,4,6 VEHICLE #2,4,6	19 20 21 22
4	SURFACE CONDITIONS 1. Dry 2. Wet 3. Muddy 4. Snowy 5. Icy 6. Oily		ALTERED VEHICLE 1. Suspension 2. Body 3. Tinted Windows 4. Other 5. None	23 24
5	ROADWAY CONDITIONS 1. Holes or Ruts In Shoulder 2. Holes, Ruts, Bumps in Roadway 3. Loose Material 4. Obstruction Not Lighted (Darkness) 5. Obstruction Not Marked (Daylight) 6. Road Under Construction 7. Roadway Repairs 8. Obstruction - Previous Accident 9. Other - Specify In Remarks		VEHICLE MANEUVER (DRIVER INTENT) 01. Go Straight Ahead 02. Overtake (Passing) 03. Make Right Turn 04. Make Left Turn 05. Make U Turn 06. Slow or Stop 07. Start In Traffic Lane 08. Start From Parked Position 09. Back 10. Remain Stopped In Traffic Lane 11. Remain Parked 12. Changing Lanes 13. Merge off or onto roadway	25 26
6	LIGHT 1. Daylight 2. Dawn 3. Darkness Street or Highway Not Lighted 4. Darkness Street or Highway Lighted 5. Dusk		COLLISION WITH OBJECT OBJECT STRUCK A. Guardrail B. Guardrail End Section C. Utility Pole D. Sign Post E. Delineator Post F. Bridge Culvert or Other Highway Structure G. Curb H. Curb or Safety Island I. Fence J. Rigid Barrier (Concrete) K. Crash Attenuator L. Dirt Embankment/Ditch/Berm (Mountainside) M. Wild Animal N. Domestic Animal O. Snow Embankment P. Manhole or Fire Hydrant Q. Traffic Channelization Device R. Tree Shrubbery S. Building Other Structure (Wall) T. Other	27 28
7	KIND OF LOCALITY 1. Manufacturing/Industrial 2. Shopping/Business 3. Residential 4. School 5. Farms and Fields 6. Open Country 7. Church 8. Playground 9. Railroad Tracks		DRIVER VISION OBSCURED 1. Not Obscured 2. Rain, Snow, Etc. on Windshield 3. Windshield Otherwise Obscured By Vehicle Load 4. Vision Obscured By Vehicle Load 5. Trees, Crops, Etc. 6. Building 7. Embankment 8. Signboard 9. Hillcrest 10. Parked Vehicles 11. Moving Vehicles 12. Sun or Headlight Glare 13. Other	29 30
8	ROADWAY FLOW 1. Divided Highway (Median Strip) 2. Divided Highway (Guardrail) 3. Divided Highway (Other Barrier, or Barrier Type Unknown) 4. Not Physically Divided 5. One Way Traffic 6. Unknown		PAVEMENT SURFACE TYPE 1. Concrete 2. Blacktop (Bituminous) 3. Brick or Block 4. Gravel; Stone 5. Dirt 6. Other	31
9	NUMBER OF LANES ON ROADWAY		Pedestrian/Bicyclist Action 01. Crossing At Intersection - With Signal 02. Crossing At Intersection - Against Signal 03. Crossing At Intersection - No Signal 04. Crossing At Intersection - Diagonally 05. Crossing Not At Intersection 06. Walking In Roadway - With Traffic 07. Walking In Roadway - Against Traffic 08. Standing on Median Island in Crosswalk 09. Other Standing In Roadway 10. Getting On or Off Bus 11. Getting On or Off Other Vehicle 12. Pushing or Working on Vehicle In Roadway 13. Other Working In Roadway 14. Playing In Roadway 15. Coming From Behind Parked Cars 16. Hitching on Vehicle 17. Lying In Roadway 18. Vending In Roadway 19. Other In Roadway 20. Not In Roadway	32 33 34
10	NUMBER OF VEHICLES INVOLVED		Alcohol/Drug Test 1. No Test 2. Blood 3. Breath 4. Other 5. Unknown 6. Refused 7. Post Mortem 8. Drug Scan	35 36 37
11	WHICH VEHICLE OCCUPIED 1. Vehicle No. 1 2. Vehicle No. 2 O. Other		Alcohol/Drug Test Results Alcohol enter: B.A.C. Drug enter: D.P. for Drug Scan Positive D.N. for Drug Scan Negative	38
12	POSITION IN ON VEHICLE Addition Positions In and Outside of Vehicle 50. Sleeper Section of Cab (Truck) 51. Other Passenger in Enclosed Passenger or Cargo Area 52. Other Passenger in Unenclosed Passenger or Cargo Area (Motorcycle) 53. Trailing Unit 54. Riding on Vehicle Exterior 55. Unattended Vehicle 56. Unknown		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 00 Not Stated	39

12	13	NAME	ADDRESS	14	AGE	SEX	SAFE EQUIP.	INJURY TYPE	CAUSE	AREA	EXTIR-CATION	EJECTION	THROUGH WHAT AREA EJECTED?
----	----	------	---------	----	-----	-----	-------------	-------------	-------	------	--------------	----------	----------------------------

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:

- | | | |
|--------------|--------------|---------------|
| 01 Beaver | 21 Iron | 41 Sevier |
| 03 Box Elder | 23 Juab | 43 Summit |
| 05 Cache | 25 Kane | 45 Tooele |
| 07 Carbon | 27 Millard | 47 Uintah |
| 09 Daggett | 29 Morgan | 49 Utah |
| 11 Davis | 31 Piute | 51 Wasatch |
| 13 Duchesne | 33 Rich | 53 Washington |
| 15 Emery | 35 Salt Lake | 55 Wayne |
| 17 Garfield | 37 San Juan | 57 Weber |
| 19 Grand | 39 Sanpete | |

Body Style/Type Code

Enter the body style or type of vehicle: for example, 2-door sedan, sta.wag., pickup, etc. Also put the two-digit code describing the vehicle type in the space provided by using the following codes:

- | | |
|--|--|
| 01 Passenger car - regular | 28 Other, Horse-drawn carriage (plans, etc.) |
| 02 Passenger car - compact | 30 ATV, 3 & 4 wheelers |
| 03 Passenger car & house trailer | 31 Truck & 2 short trailers (95' total length) |
| 04 Passenger car & boat | 32 Truck & long trailer (77' total length) |
| 05 Passenger car & other trailer | 33 Tractor - 2 short trailers (trailer up to 28' each) |
| 06 Passenger car - public owned | 34 Tractor - 2 trailers (95' total length) |
| 07 Pickup or panel | 35 Tractor - 2 long trailers (permitted to 105' freeway) |
| 08 Pickup or panel & house trailer | 36 Tractor-long trailer-short trailer (98' total length) |
| 09 Pickup or panel & boat | 37 Tractor - 3 short trailers (permitted to 105' feet freeway) |
| 10 Pickup or panel & other trailer | 38 Tractor & long trailer |
| 11 Pickup or panel & public owned | 40 Hill & Run Vehicle |
| 12 Pickup with camper | 41 Cargo Tank |
| 13 Single Unit enclosed box (Minimum 2 axles & 6 tires) | 42 Passenger car w/vehicle in tow |
| 14 Truck & trailer | 43 Pickup w/vehicle in tow |
| 15 Truck tractor-Bobtail (power unit only) | 44 Tractor w/tractor in tow |
| 16 Tractor & short trailer | 45 Motorhome |
| 17 Commercial Bus | 46 Motorhome w/boat or vehicle in tow |
| 18 School Bus | 47 Flatbed |
| 19 Motorcycle | 48 Dump Truck |
| 20 Motorcycle - public owned | 49 Concrete Mixer |
| 21 Motor driven bicycle (scooter or moped) | 50 Garbage/Refuse |
| 22 Ambulance - not emergency | 51 Auto Transporter |
| 23 Ambulance - emergency | |
| 24 Ambulance - public owned | |
| 25 Farm tractor and/or equipment | |
| 26 Special Mobile Equipment (Construction, Fire, UP&L, etc.) | |
| 27 Truck & Mobile Home | |

Safety Equipment

Indicate the types of safety equipment each driver or occupant(s) was using at the time of the accident. Use the following code list:

- | | |
|-------------------------------|----------------------------------|
| 1 Lap belt used | 7 Air bag inflated/without belts |
| 2 Lap & shoulder belt used | 8 Helmet worn |
| 3 Belts not used | 9 Eye protection used |
| 4 Belts not installed | 0 Helmet & eye protection used |
| 5 Child restraints used | A Shoulder belt only |
| 6 Air bag inflated with belts | B Other |
| | C Unknown |

Extrication - Fill in appropriate number

- 0 - Not extricated
- 1 - Extricated
- 9 - Unknown

Ejection

- 1 - Not ejected
- 2 - Partially ejected
- 3 - Fully ejected

Description of Cargo

- | | |
|--------------------|------------------------------------|
| A. General Freight | G. Solids in Bulk |
| B. Household Goods | H. Liquids in Bulk |
| C. Heavy Machinery | I. Explosives/Hazardous Materials* |
| D. Motor Vehicles | J. Refrigerated Foods |
| E. Gases in Bulk | K. Empty |
| F. Livestock | L. Other* |

*List in accident description

EXAMPLE:

Body Style/Type Code

13 Single Unit Truck



14 Truck and Short Trailer



15 Truck Tractor - Bobtail (Power Unit Only)



16 Tractor & short trailer



31 Truck and 2 Short Trailers



32 Truck and Long Trailer



33 Tractor - 2 Short Trailers



34 Tractor - 2 Trailers



35 Tractor - 2 Long Trailers



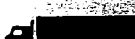
36 Tractor - Long Trailer Short Trailer



37 Tractor - 3 Short Trailers



38 Tractor & long trailer



Disposition Of Vehicle Code

- 1 Towed
- 2 Impounded
- 3 Retained by owner/driver
- 4 Hit and run

Source of Carrier Name

- 1 Side of truck
- 2 Paperwork
- 3 Driver

Injury Type-Cause Area

Type

Indicate the type of injury suffered in the accident, using these codes:

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

Cause

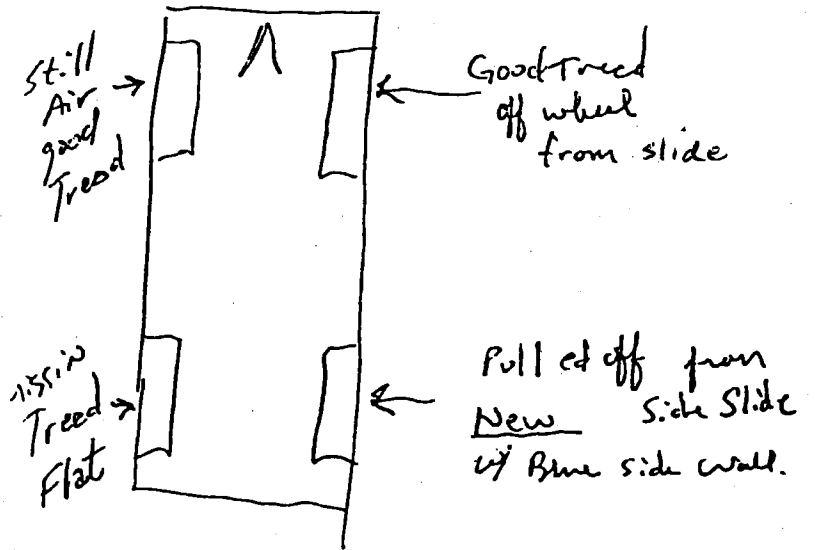
Indicate the object that caused the injury using these codes:

- | | |
|--------------------------|---------------------------|
| 1 - Steering Wheel | 5 - Motorcycle handbars |
| 2 - Dashboard/Windshield | 6 - Motorcycle gas tank |
| 3 - Roof | 7 - Exterior vehicle part |
| 4 - Other Interior | 8 - External object |

Area

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

- | | |
|-----------|-------------|
| 1 - Head | 6 - Leg(s) |
| 2 - Face | 7 - Arm(s) |
| 3 - Neck | 8 - Torso |
| 4 - Chest | 9 - Unknown |
| 5 - Back | |



Attn: CINDY
Agency: BEAVER COUNTY U.H.P. (LE20B)
Address: PO BOX 1231
Phone: 801-965-4683
Fax: 9965-4864

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

Name of Subject Tested:	Date of Evidence Submission:	Agency Number:	Laboratoy Number:
ADDY, NII M.	08/25/97	11971449	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 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

DATA ENTRY

CAD

AUTO

SKADE-II

00.Agency: 01.Inc #: 02.Rec By:
 03.Date Reported: 04.Time Reported: 05.Shift: .
 06.Activity: 07.Priority: .
 08.Loc 09.# 10.Cty 11.B/R
 12.Person 13.Tel: 14.How Rec: . 15.Typ:
 16.Add: 17.Cty: 18.St: ..
 19.Rem:
 20.Units: 30.Off:
 32.Time Disp: Arr: Comp: *Trans* Enrt: Arr: Comp: ...
 38.Other Agcy: . . 40.Ad: . 41.Dsp By: 42.Case#: 43.Dispo:
 44.Line-1:
 45.Line-2:
 46.Line-3:
 47.Line-4:
 48.Line-5:

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.



100092867

Halsted vs. Addy Depo: Milton Halsted 4/22/99

Page 1 to Page 165

CONDENSED TRANSCRIPT AND CONCORDANCE
PREPARED BY:

MAXENE WEINBERG AGENCY
27281 LAS RAMBLAS, SUITE 160

MISSION VIEJO, CA 92691
Phone: (800)-640-1949
FAX: (714)-582-8569

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.) CASE NO. 795327

(7))

(8) NII ADDY, BIGBY, HAVIS & ASSOCIATES,)
 (9) INC., DAVID FINLEY, JANET FINLEY,)
 (10) JANET HAVIS, MATTHEW FINLEY, THE)
 (11) B.F. GOODRICH COMPANY, MICHELIN)
 (12) NORTH AMERICA, INC., THE UNIROYAL)
 (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 DAUNCH, CSR
 (25) CERTIFICATE NUMBER 10728

(Continued)

Page 2

(23) LOS ANGELES, CALIFORNIA 90017
 (213) 362-7777

(24)

(25)

Page 2

(1) DEPOSITION OF MILTON HALSTED, TAKEN BEFORE
 (2) DENISE DAUNCH, 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 WYLIE A. AITKEN
 BY: RICHARD A. COHN
 (11) ATTORNEY AT LAW
 3 IMPERIAL PROMENADE
 (12) SUITE 800
 SANTA ANA, CALIFORNIA 92707-0555
 (13) (714) 434-1424

(14) FOR THE DEFENDANTS ALLEN OLDSMOBILE:
 (15) STEWART, DIMMICK, MARSHALL & ZELL
 BY: PETER B. ZELL
 (16) ATTORNEY AT LAW
 2030 MAIN STREET
 (17) SUITE 600
 IRVINE, CALIFORNIA 92614
 (18) (949) 222-2930

(19) FOR THE DEFENDANTS THE UNIROYAL GOODRICH TIRE
 COMPANY:
 (20)
 YUKEVICH & SONNETT
 (21) BY: ALEXANDER G. CALFO
 ATTORNEY AT LAW
 (22) 601 SOUTH FIGUEROA STREET
 THIRTY-EIGHTH FLOOR

Page 3

(1) APPEARANCES OF COUNSEL (CONTINUED):
 (2) FOR THE DEFENDANTS THE FINLEYS AND NII
 ADDY:
 (3)
 DANIELS, BARATTA & FINE
 (4) BY: JACK DANIELS
 ATTORNEY AT LAW
 (5) 1801 CENTURY PARK EAST
 NINTH FLOOR
 (6) LOS ANGELES, CALIFORNIA 90067
 (310) 556-7900

(7) ALSO PRESENT:
 (8) TOM WEST
 (9)
 (10)
 (11)
 (12)
 (13)
 (14)
 (15)
 (16)
 (17)
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 (21)
 (22)
 (23)
 (24)
 (25)

Page 4

- (1) INDEX
- (2) EXAMINATION BY: PAGE
- (3) MR. ZELL 5, 155
- (4) MR. CALFO 75, 156
- (5) MR. DANIELS 148
- (6)
- (7) EXHIBITS
- (8) DEFENDANT'S DESCRIPTION PAGE IDENTIFIED
- (9) A PHOTOCOPY OF FRONT OF VEHICLE 13
- (10) B PHOTOCOPY OF FRONT DRIVER'S SIDE 14
- (11) C PHOTOCOPY OF REAR DRIVER'S SIDE 14
- (12) D PHOTOCOPY OF BACKSEAT 25
- (13) E PHOTOCOPY OF FRONT PASSENGER'S SIDE 49
- (14)
- (15) QUESTIONS WITNESS WAS INSTRUCTED NOT TO ANSWER
- (16) PAGE LINE
- (17) 75 22
- 82 12
- (18) 85 19
- 86 19
- (19) 87 7
- 93 11
- (20) 142 6
- 142 25
- (21) 143 17
- 146 7
- (22) 146 13
- 156 17
- (23) 159 20
- (24)
- (25)

Page 6

- (1) ASKING YOU QUESTIONS?
- (2) A YES.
- (3) Q DESPITE THAT AND DESPITE THE FACT YOU'VE
- (4) PROBABLY SPOKEN TO YOUR ATTORNEY ABOUT TODAY'S
- (5) PROCEEDING, LET ME EXPLAIN TO YOU REAL QUICKLY WHAT
- (6) WE'RE DOING. THE TESTIMONY YOU'RE GIVING TODAY IS
- (7) TESTIMONY UNDER OATH. IT'S THE SAME OATH YOU WOULD
- (8) TAKE IN A COURTROOM.
- (9) DO YOU UNDERSTAND THAT?
- (10) A YES.
- (11) Q THE REPORTER IS GOING TO TAKE DOWN VERBATIM
- (12) ALL MY QUESTIONS AND YOUR ANSWERS. SHE'LL TRANSCRIBE
- (13) HER NOTES INTO A BOOKLET. THAT'S CALLED YOUR
- (14) DEPOSITION. IT'S SENT TO YOU.
- (15) YOU HAVE THE RIGHT TO MAKE ANY CHANGES IN
- (16) THE BOOKLET THAT YOU WISH AS FAR AS YOUR ANSWERS.
- (17) YOU CAN ADD WORDS, LINE THINGS OUT, OR WHATEVER YOU
- (18) WANT TO DO. THEN YOU SIGN IT UNDER PENALTY OF
- (19) PERJURY. IF THIS CASE GOES TO TRIAL, I SHOULD TELL
- (20) YOU A COUPLE OF THINGS.
- (21) FIRST, IF IT GOES TO TRIAL AND YOU TESTIFY
- (22) AND YOU HAVE MADE SOME CHANGES IN YOUR DEPOSITION
- (23) BOOKLET, I CAN COMMENT OR ANY LAWYER IN THE CASE CAN
- (24) COMMENT TO A JUDGE OR A JURY ON THE FACT THAT YOU SAW
- (25) FIT TO CHANGE TESTIMONY THAT YOU HAD ORIGINALLY GIVEN

Page 5

- (1) MILTON HALSTED,
- (2) CALLED AS A WITNESS BY AND ON THE BEHALF OF THE
- (3) DEFENDANTS, HAVING BEEN FIRST DULY 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, 1997?
- (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

Page 7

- (1) UNDER OATH. THAT COULD OR COULD NOT PROVE
- (2) EMBARRASSING TO YOU OR DAMAGING TO YOUR CASE.
- (3) DO YOU UNDERSTAND THAT?
- (4) A YES.
- (5) Q SECONDLY, IF WE WERE TO GO TO TRIAL AND YOU
- (6) WERE TO TESTIFY AT TRIAL DIFFERENTLY ON A PARTICULAR
- (7) POINT THAN YOU DID HERE TODAY ON THAT SAME POINT, ANY
- (8) OF THE LAWYERS IN THE CASE COULD COMMENT ON ANY
- (9) APPARENT INCONSISTENCY BETWEEN THE TWO TESTIMONIES
- (10) UNDER OATH. THAT, LIKEWISE, COULD PROVE OR COULD NOT
- (11) PROVE EMBARRASSING TO YOU OR DAMAGING TO YOUR CASE.
- (12) DO YOU UNDERSTAND THAT?
- (13) A YES.
- (14) Q I TELL YOU THESE THINGS SO THAT YOU'LL
- (15) LISTEN CAREFULLY TO MY QUESTIONS. I DON'T WANT YOU
- (16) TO ANSWER A QUESTION YOU DON'T FULLY UNDERSTAND. SO
- (17) IF YOU HAVE A PROBLEM WITH A QUESTION, BE SURE TO
- (18) TELL ME. I'LL REPHRASE IT OR REPEAT IT.
- (19) WILL YOU DO THAT?
- (20) A YES.
- (21) Q IF YOU WANT TO SAY, "YES" OR "NO" AS AN
- (22) ANSWER, SAY, "YES" OR "NO." DON'T NOD OR SHAKE YOUR
- (23) HEAD OR SAY, "UH-HUH" OR "HUH-UH" BECAUSE WE WON'T
- (24) GET A CLEAR RESPONSE ON THE RECORD.
- (25) OKAY?

Page 8

- (1) A OKAY.
- (2) Q LASTLY, TRY TO LET ME FINISH MY ENTIRE
- (3) QUESTION BEFORE YOU START YOUR ANSWER. SOMETIMES
- (4) I'LL PAUSE IN ORDER TO THINK OF A PROPER PHRASE OR
- (5) WHATEVER TO MAKE IT A COMPLETE SENTENCE.
- (6) YOU MAY HAVE ANTICIPATED WHAT I'M GOING TO
- (7) ASK YOU AND BE ALL SET TO ANSWER IT, BUT WE'LL GET A
- (8) SLOPPY LOOKING RECORD IF WE TALK OVER ONE ANOTHER.
- (9) SO TRY TO LET ME FINISH MY QUESTIONS, AND I'LL TRY TO
- (10) LET YOU FINISH YOUR ANSWERS.
- (11) OKAY?
- (12) A OKAY.
- (13) Q WHAT'S YOUR PRESENT RESIDENCE ADDRESS?
- (14) A 27204 PASEO LOMITA, SAN JUAN CAPISTRANO.
- (15) Q WHAT DO YOU DO FOR A LIVING?
- (16) A I WORK IN A MARKETING CAPACITY AT A PRODUCT
- (17) DEVELOPMENT COMPANY.
- (18) Q WHAT TYPE OF PRODUCT?
- (19) A THE COMPANY IS OWNED BY BMW. WE DESIGN
- (20) THEIR CARS AND OTHER PRODUCTS FOR OTHER COMPANIES.
- (21) Q HOW LONG HAVE YOU LIVED IN SAN JUAN
- (22) CAPISTRANO?
- (23) A SINCE 1975.
- (24) Q YOU'RE CURRENTLY MARRIED?
- (25) 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. IT'S PRESCHOOL 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-I-I?
- (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 LINDSEY'S?
- (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) YOU WERE THE ONLY PERSON OVER THE AGE OF 21
 (7) ON THE TRIP?
 (8) A YES.
 (9) Q WHAT WAS THE GENESIS OF THE TRIP? HOW DID
 (10) IT GET STARTED, THE IDEA OF GOING ON THIS TRIP? WHO
 (11) SUGGESTED IT AND STARTED TO MAKE THE ARRANGEMENTS, IF
 (12) YOU COULD GIVE ME A BRIEF ANSWER?
 (13) A THE TRIP PLANNING, IF YOU WILL, WAS STARTED
 (14) BY MATT AND LINDSEY AS A QUICK BREAK TO SOME OTHER
 (15) THINGS THEY WERE GOING TO DO IN THE SUMMER. THE
 (16) TIMESHARE BECAME AVAILABLE.
 (17) IT LOOKED LIKE SOMETHING THAT WOULD BE
 (18) DOABLE. THE ORIGINAL PLAN WAS FOR THEM TO GO
 (19) ALONE -- THE KIDS TO GO ALONE. WE VETOED THAT. THEN
 (20) I WAS ABLE TO ARRANGE MY WORK SCHEDULE, AND I AGREED
 (21) TO GO ALONG WITH THEM PRIMARILY BECAUSE OF LINDSEY'S
 (22) AGE.
 (23) Q HOW OLD WAS LINDSEY?
 (24) A FIFTEEN.
 (25) Q AND HER DATE OF BIRTH?

Page 13

- (1) A SEPTEMBER 15TH, '81.
 (2) Q WHOSE TIMESHARE WAS IT?
 (3) A THE FINLEYS'.
 (4) Q THE VEHICLE YOU WERE OPERATING -- STRIKE
 (5) THAT. THE VEHICLE YOU WERE IN AT THE TIME OF THE
 (6) ACCIDENT WAS A 1991 CHEVROLET SUBURBAN?
 (7) A YES. I'M NOT SURE OF THE MODEL YEAR. I
 (8) THINK THAT'S WHAT I REMEMBER SEEING IN A REPORT
 (9) SOMEWHERE.
 (10) Q DO YOU KNOW THE VEHICLE LICENSE NUMBER?
 (11) A NO.
 (12) Q DID YOU SEE THE VEHICLE AFTER THE ACCIDENT
 (13) IN ITS DAMAGED CONDITION?
 (14) A YES.
 (15) Q LET ME SHOW YOU TWO PHOTOS THAT I'LL MARK
 (16) AS -- I'LL JUST SHOW YOU ONE. I'LL MARK IT AS "A."
 (17) (WHEREUPON, THE DOCUMENT WAS MARKED
 (18) AS DEFENDANT'S EXHIBIT NUMBER A FOR
 (19) IDENTIFICATION, A COPY OF WHICH IS
 (20) ATTACHED HERETO.)
 (21) IS THAT THE VEHICLE THAT WAS INVOLVED IN
 (22) THE ACCIDENT?
 (23) A IT COULD BE.
 (24) Q THE FLASH, APPARENTLY, HAS OBLITERATED THE
 (25) DIGITS ON THE LICENSE.

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- (1) OTHERWISE, IT LOOKS GENERALLY LIKE THE
 (2) VEHICLE?
 (3) A YES. IT WAS A WHITE SUBURBAN ABOUT THAT
 (4) MODEL YEAR.
 (5) Q LET ME SHOW YOU TWO MORE THAT APPEAR TO BE
 (6) THE DRIVER'S SIDE OF THE VEHICLE. I WILL MARK THEM
 (7) AS "B" AND "C."
 (8) (WHEREUPON, THE DOCUMENTS WERE MARKED
 (9) AS DEFENDANT'S EXHIBIT NUMBERS B & C
 (10) FOR IDENTIFICATION, COPIES OF WHICH ARE
 (11) ATTACHED HERETO.)
 (12) THESE ALSO APPEAR TO BE THE VEHICLE?
 (13) MR. COHN: IF YOU KNOW.
 (14) THE WITNESS: IT PROBABLY IS. I DON'T KNOW FOR
 (15) SURE.
 (16) Q BY MR. ZELL: DO YOU RECOGNIZE THE COLORS?
 (17) A YEAH. THE WHITE COLOR AND THE GREEN OR
 (18) WHATEVER.
 (19) Q THE BLUISH COLOR?
 (20) A THE BLUISH COLOR, YEAH.
 (21) Q HOW MANY SEATS WERE IN THE VEHICLE?
 (22) A THERE WERE TWO IN THE FRONT, DRIVER AND
 (23) PASSENGER, AND THERE WAS -- I BELIEVE THERE WAS A
 (24) BENCH SEAT IN THE MIDDLE AND THE SMALLER BENCH SEAT
 (25) IN THE BACK.

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- (1) Q DO YOU KNOW THE SEATING CAPACITY?
 (2) A I DON'T KNOW WHAT SUBURBAN HAS SPECIFIED AS
 (3) A CAPACITY. YOU CAN COMFORTABLY SEAT SIX PEOPLE IN
 (4) IT IF YOU USE THE BACK BENCH SEAT.
 (5) Q YOU HAD SIX PEOPLE ON YOUR TRIP; IS THAT
 (6) RIGHT?
 (7) A YES. AND A DOG.
 (8) Q HAD YOU EVER DRIVEN IN OR OPERATED THAT
 (9) VEHICLE BEFORE THIS TRIP?
 (10) A NO.
 (11) Q WAS IT YOUR UNDERSTANDING THAT IT WAS A
 (12) VEHICLE THAT WAS OWNED BY THE FINLEYS?
 (13) A YES.
 (14) Q BEFORE THE TRIP, DID YOU INSPECT ANY PART
 (15) OF THE VEHICLE FOR SAFETY PURPOSES?
 (16) A NO.
 (17) Q DID YOU HAVE ANY CONVERSATION WITH MATT
 (18) FINLEY OR HIS PARENTS ABOUT THE VEHICLE WITH REGARD
 (19) TO ANY ISSUE OF SAFETY OR ANYTHING ABOUT THAT?
 (20) A YES.
 (21) Q BEFORE THE TRIP?
 (22) A JUST BEFORE THE TRIP.
 (23) Q WHO DID YOU HAVE THE CONVERSATION WITH?
 (24) A WITH JANET FINLEY.
 (25) Q TRY TO RECOUNT THE CONVERSATION OF WHAT YOU

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- (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.

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- (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 HADNT DRIVEN THAT PARTICULAR STRETCH.
- (7) WE HAD DECIDED TO DIVIDE THE TRIP INTO TWO SEGMENTS.
- (8) 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?

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- (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 DONT 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 DIDNT 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 DIDNT 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 19

- (1) A YES.
- (2) Q AM I CORRECT THAT BEFORE THE DAY YOU LEFT
- (3) ON THE TRIP, YOU NEVER INSPECTED THE TIRES ON THIS
- (4) VEHICLE?
- (5) A THAT'S CORRECT.
- (6) Q DID YOU OBSERVE ANYONE INSPECTING THE TIRES
- (7) ON THE VEHICLE BEFORE YOU LEFT ON THE TRIP?
- (8) A NO.
- (9) Q ON THE DAY YOU LEFT ON THE TRIP, DID YOU
- (10) INSPECT THE TIRES ON THE VEHICLE?
- (11) A NO.
- (12) Q DID YOU SEE ANYONE INSPECT THE TIRES ON THE
- (13) VEHICLE?
- (14) A NO.
- (15) Q WHO DROVE THE FIRST DAY?
- (16) A MATT FINLEY.
- (17) Q DID YOU EVER INSPECT THE INSIDE OF THE
- (18) VEHICLE TO DETERMINE WHETHER ALL THE SEAT BELTS WERE
- (19) OPERABLE OR IN GOOD CONDITION BEFORE THE ACCIDENT?
- (20) A NO.
- (21) Q DID YOU EVER CHECK TO SEE WHETHER THERE
- (22) WERE SEAT BELTS AVAILABLE FOR EVERYBODY THAT WAS IN
- (23) THE VEHICLE BEFORE THE ACCIDENT?
- (24) A NO.
- (25) Q BEFORE THE ACCIDENT, AND LET'S TAKE THE

Page 20

- (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 DONT
 (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

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- (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

Page 22

- (1) THAT ANY OF THE OCCUPANTS OF THE VEHICLE WERE NOT
 (2) SEAT BELTED AT THE TIME OF THE ACCIDENT?
 (3) A NO.
 (4) Q NO ONE HAS TOLD YOU THAT CERTAIN OF THE
 (5) OCCUPANTS WERE NOT SEAT BELTED?
 (6) A AFTER THE ACCIDENT?
 (7) Q RIGHT.
 (8) A YES.
 (9) Q HAS SOMEONE TOLD YOU THAT?
 (10) A YES. I DONT REMEMBER --

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

Page 25

- (1) A FRONT PASSENGER.
 (2) Q AND NII 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 DON'T 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."
 (15) (WHEREUPON, THE DOCUMENT WAS MARKED
 (16) AS DEFENDANT'S EXHIBIT NUMBER D FOR
 (17) IDENTIFICATION, A COPY OF WHICH IS
 (18) ATTACHED HERETO.)
 (19) IS THIS THAT LAST BENCH SEAT AT THE REAR OF
 (20) THE VEHICLE?
 (21) A IT LOOKS LIKE IT.
 (22) Q THANK YOU. THAT'S WHERE MATT AND LINDSEY
 (23) WOULD HAVE BEEN SEATED; CORRECT?
 (24) A YES.
 (25) Q ON THE SECOND DAY, DID YOU ACTUALLY SEE

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

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- (1) A YES.
 (2) Q WAS IT ON THE SAME DAY AS THE ACCIDENT OR
 (3) THE DAY BEFORE?
 (4) A THE DAY BEFORE.
 (5) Q WHERE WAS IT THAT YOU HAD THIS PROBLEM WITH
 (6) A TIRE THE DAY BEFORE THE ACCIDENT? CAN YOU SAY WHAT
 (7) TOWN YOU WERE NEAR?
 (8) A WE WERE OUT NORTH OF LAS VEGAS ABOUT AN
 (9) HOUR NORTH ON 15.
 (10) Q YOU TOOK INTERSTATE 15 FROM LAS VEGAS?
 (11) A YES.
 (12) Q DOES THAT RUN STRAIGHT TO ASPEN?
 (13) A WELL, IT RUNS STRAIGHT TO SALT LAKE.
 (14) BEFORE YOU GET TO SALT LAKE, THERE'S ANOTHER ROAD
 (15) YOU TAKE OFF. I THINK IT'S 70 OR SOMETHING.
 (16) Q TO GET TO ASPEN?
 (17) A YES.
 (18) Q THE ACCIDENT HAPPENED BEFORE THE 70; IS
 (19) THAT RIGHT?
 (20) A YES.
 (21) Q THE ACCIDENT HAPPENED ON THE NORTHBOUND
 (22) PORTION OF INTERSTATE 15; IS THAT RIGHT?
 (23) A YES.
 (24) Q NOW, ON THE FIRST DAY WHEN THE INCIDENT
 (25) WITH THE FIRST TIRE OCCURRED, WHERE WERE YOU SEATED?

Page 28

- (1) A I WAS DRIVING.
 (2) Q WHAT HAPPENED?
 (3) A I WAS DRIVING ON THE TRIP. WE HEARD THIS
 (4) EXPLOSION, THIS BIG NOISE. I ASSUMED IT WAS A
 (5) BLOWOUT. I JUST SLOWED THE CAR DOWN AND PULLED OVER
 (6) TO THE SHOULDER. IT WAS A PRETTY NARROW SHOULDER.
 (7) IT WASN'T REALLY WIDE ENOUGH TO GET TOTALLY OFF THE
 (8) ROAD.
 (9) I GOT OUT. I TOLD THE KIDS, "STAY INSIDE."
 (10) I WENT OUT. I DIDN'T KNOW IF IT WAS FRONT OR REAR.
 (11) IT SOUNDED LIKE THE REAR. I WENT AROUND TO THE
 (12) PASSENGER'S SIDE REAR TIRE, AND IT WAS SHREDDED. THE
 (13) TREAD WAS OFF, BUT IT HAD NOT COLLAPSED. IT DID NOT
 (14) BLOW OUT.
 (15) Q IT WAS STILL INFLATED?
 (16) A IT WAS STILL INFLATED.
 (17) Q WERE THERE ANY PIECES OF TREAD OR RUBBER OR
 (18) TIRE ANYWHERE EITHER THERE OR BEHIND THE VEHICLE?
 (19) A WE COULDN'T SEE ANY IN THE IMMEDIATE AREA
 (20) OF THE CAR. THERE WAS SOME LOOSE PIECES ON THE TIRE.
 (21) Q LOOSE PIECES OF RUBBER?
 (22) A YEAH.
 (23) Q COULD YOU SEE ANY BRASS WIRES STICKING OUT
 (24) OF THE ENDS OF ANY PIECES OF RUBBER?
 (25) 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
 (3) OR NOT. THE TREAD WAS MISSING IN CERTAIN SECTIONS OF
 (4) IT, AND THERE WAS STILL TREAD ON OTHER PARTS.
 (5) Q ON ANY PART OF THIS TRIP FROM ITS INCEPTION
 (6) FROM SOUTHERN CALIFORNIA UP TO THE TIME OF THIS
 (7) INCIDENT WITH THE TIRE, HAD YOU SUBJECTED THAT
 (8) PASSENGER REAR TIRE TO ANY KIND OF TRAUMA LIKE GOING
 (9) THROUGH A POTHOLE OR OVER A CURB OR HITTING SOME
 (10) OBJECT FORCEFULLY OR RUNNING OVER SOME JAGGED OBJECT?
 (11) A NO.
 (12) Q IN THE FEW MINUTES BEFORE THE INCIDENT WITH
 (13) THE TIRE, HAD YOU HIT A BUMP OR FELT ANY KIND OF
 (14) FEELING AS IF YOU HAD RUN OVER SOMETHING?
 (15) A NO. THE HIGHWAY WAS SMOOTH AND CLEAR.
 (16) Q WHAT WAS THE WEATHER LIKE ON THAT DAY AT
 (17) THE TIME OF THE FIRST INCIDENT WITH THE TIRE?
 (18) A IT WAS A CLEAR SUMMER MORNING AND FAIRLY
 (19) EARLY. THE SUN WAS STILL FAIRLY LOW ON THE HORIZON.
 (20) Q WAS IT BEFORE 8:00?
 (21) A IT WAS ABOUT 8:30 FROM WHAT I - NO. I'M
 (22) SORRY. IT WAS ABOUT 7:30 WHEN IT HAPPENED. I
 (23) REMEMBER BECAUSE OF THE TIME IT TOOK US TO GET TO THE
 (24) TIRE PLACE AND THEN WAIT AND SO FORTH. SO I
 (25) BACKTRACKED.

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- (1) Q LET ME BACK UP A MINUTE.
 (2) THE FIRST DAY OF THE TRIP, I GUESS, TOOK
 (3) YOU FROM SOUTHERN CALIFORNIA TO LAS VEGAS; IS THAT
 (4) RIGHT?
 (5) A YES.
 (6) Q ON THE SECOND DAY, YOU WENT FROM LAS VEGAS.
 (7) DID YOU INTEND TO GET TO ASPEN ON THAT
 (8) SECOND DAY?
 (9) A THAT WAS OUR PLAN.
 (10) Q SO THE INCIDENT WITH THE FIRST TIRE AND THE
 (11) ACCIDENT HAPPENED ON THE SAME DAY; IS THAT RIGHT?
 (12) A SAY THAT AGAIN.
 (13) Q DID THE INCIDENT WITH THE FIRST TIRE AND
 (14) THE ACCIDENT IN WHICH YOUR DAUGHTER WAS KILLED HAPPEN
 (15) ON THE SAME DAY?
 (16) A NO.
 (17) Q DID THIS INCIDENT WITH THE FIRST TIRE
 (18) INTERRUPT YOUR PLANS SO THAT YOU HAD TO STAY
 (19) OVERNIGHT ON THE ROAD AN EXTRA DAY AS OPPOSED TO
 (20) GETTING INTO ASPEN THAT DAY?
 (21) A I DON'T KNOW IF IT WOULD HAVE AFFECTED IT
 (22) OR NOT. WE WERE STILL ON THE WAY. I DIDN'T KNOW HOW
 (23) MUCH LONGER IT WAS GOING TO TAKE US TO GET TO ASPEN.
 (24) Q WERE YOU ABLE TO DRIVE - LET'S BACK UP.
 (25) LET'S RETURN TO THE FIRST INCIDENT WITH THE TIRE.

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- (1) WHEN YOU PULLED OVER TO THE SHOULDER, THE
 (2) TIRE WAS SHREDDED BUT STILL INFLATED; CORRECT?
 (3) A YES.
 (4) Q DID YOU CHANGE THE TIRE THERE ON THE
 (5) SHOULDER?
 (6) A NO.
 (7) Q DID YOU DRIVE THE VEHICLE WITH THE TIRE ON?
 (8) A YES.
 (9) Q HOW FAR DID YOU DRIVE IT?
 (10) A WE DROVE IT APPROXIMATELY 30 TO 40 MINUTES.
 (11) Q WHERE DID YOU GO?
 (12) A WE WERE LOOKING FOR A PLACE TO GET THE TIRE
 (13) EXCHANGED.
 (14) Q DID YOU FIND A PLACE?
 (15) A YES.
 (16) Q WHAT WAS THE NAME OF THAT PLACE?
 (17) A I DON'T KNOW WHAT THE SPECIFIC - THERE WAS
 (18) NO TOWN. IT WAS A GAS STATION AND A GROCERY STORE
 (19) TIRE PLACE.
 (20) Q IS THERE ANYTHING REMARKABLE LIKE ANY
 (21) MONUMENT OR A DISTINCTIVE SIGN OR ANYTHING THAT WAS
 (22) DISTINCTIVE ABOUT THAT BUILDING OR LOCATION THAT
 (23) WOULD ENABLE SOMEBODY TO PICK IT OUT IF THEY WERE
 (24) DRIVING THAT STRETCH?
 (25) A YOU PROBABLY WOULDN'T SEE THE TIRE PLACE.

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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
 (14) CALLED "MOAPA," M-O-A-P-A.
 (15) 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 WHATEVER.
 (20) 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) OBVIOUSLY, IT WAS DESTROYED.
- (4) Q HE GAVE YOU NO THOUGHT OR EXPRESSION ABOUT
- (5) WHAT HE THOUGHT MAY HAVE HAPPENED TO THE TIRE?
- (6) A HE DIDN'T VOLUNTEER ANYTHING.
- (7) Q DID YOU NOTICE ANYTHING IN ADDITION TO WHAT
- (8) YOU HAD NOTICED WHEN YOU LOOKED AT THE TIRE ON THE
- (9) SHOULDER OF THE ROAD?
- (10) A NO.
- (11) Q DID YOU SPEAK TO ANYONE ELSE BESIDES THE
- (12) YOUNG MAN THAT CHANGED THE TIRE AT THE TIRE FACILITY
- (13) ABOUT THE TIRE?
- (14) A NO.
- (15) Q WHAT ABOUT THE CHEVRON STATION? DID YOU
- (16) TALK TO ANYBODY THERE ABOUT WHAT WAS WRONG WITH THIS
- (17) TIRE AND WHAT HAD CAUSED IT TO BE DAMAGED?
- (18) A NO. WE PURCHASED GAS, AND THEY REFERRED US
- (19) ACROSS THE STREET. THAT WAS THE END OF IT.
- (20) Q WAS IT A NEW TIRE HE BOUGHT?
- (21) A YES.
- (22) Q IT WAS PLACED AT THE RIGHT REAR -- STRIKE
- (23) THAT. THE NEW TIRE WAS PLACED AT THE REAR PASSENGER?
- (24) A YES.
- (25) Q WHAT HAPPENED TO THE DAMAGED TIRE? DID YOU

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- (1) 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
- (6) THAT TIRE AFTER THE ACCIDENT?
- (7) A NO.
- (8) Q AM I CORRECT THAT ONLY ONE TIRE WAS BOUGHT
- (9) AT THAT STORE?
- (10) A YES.
- (11) Q DID ALL OF THE OTHER UNDAMAGED TIRES REMAIN
- (12) MOUNTED ON THE SAME WHEELS?
- (13) A YES.
- (14) Q WHEN YOU GOT OVER TO THE TIRE STORE OR AT
- (15) THE CHEVRON STATION, FOR THAT MATTER, DID YOU DO ANY
- (16) FURTHER INSPECTION OF THE REMAINING THREE UNDAMAGED
- (17) TIRES?
- (18) A NO.
- (19) Q DID YOU ASK ANYBODY AT THE CHEVRON STATION
- (20) OR THE TIRE STORE TO INSPECT THE REMAINING TIRES OR
- (21) THE UNDAMAGED TIRES?
- (22) A I CAN'T REMEMBER. I CAN'T REMEMBER.
- (23) Q DO YOU KNOW IF ANYBODY DID INSPECT THOSE
- (24) OTHER THREE TIRES?
- (25) A WELL, THAT'S WHAT I WAS WRESTLING WITH.

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- (1) THE KID WHO CHANGED THE TIRE DID COME -- DID LOOK AT
- (2) THE OTHER TIRES. I DIDN'T TELL HIM TO DO THAT. I
- (3) DON'T KNOW IF MATT HAD A CONVERSATION WITH HIM TO DO
- (4) THAT, BUT HE DID LOOK AT THE FRONT ONES.
- (5) THEY LOOKED RELATIVELY NEW. I LOOKED AT
- (6) THE REAR TIRE, THE OTHER REAR TIRE, THAT WAS NOT
- (7) DAMAGED. I GLANCED AT IT. I LOOKED UNDERNEATH THE
- (8) TOP OF IT. IT LOOKED FINE TO ME.
- (9) Q THAT WOULD BE THE DRIVER'S SIDE TIRE?
- (10) A THE DRIVER'S SIDE, YEAH.
- (11) Q IS THAT THE TIRE THAT ULTIMATELY FAILED IN
- (12) THE ACCIDENT?
- (13) A YES.
- (14) Q DID YOU SEE THE YOUNG MAN LOOKING AT THAT
- (15) TIRE AT THE TIRE STORE?
- (16) A HE DID GO AROUND AND LOOK AT THE OTHER
- (17) THREE TIRES.
- (18) Q YOU SAW HIM DO THAT?
- (19) A YES.
- (20) Q DID HE REPORT TO YOU ANY FINDINGS OR ANY
- (21) COMPLAINTS?
- (22) A NO.
- (23) Q DID YOU ASK HIM SPECIFICALLY, "WHAT DO YOU
- (24) THINK OF THESE TIRES?" OR ANYTHING LIKE THAT,
- (25) REFERRING TO THE UNDAMAGED TIRES, WHILE YOU WERE AT

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- (1) THE STORE?
- (2) A THERE WAS SOME GENERAL CONVERSATION BETWEEN
- (3) THE THREE OF US, THE KID WHO CHANGED THE TIRE, MATT,
- (4) AND MYSELF, OF WHETHER OR NOT ANY OTHER TIRE SHOULD
- (5) BE CHANGED. IT DIDN'T SEEM TO WARRANT THAT.
- (6) Q SO NEITHER YOU, THE YOUNG MAN THAT CHANGED
- (7) THE TIRE, NOR MATT FINLEY FELT THAT ANY OF THE THREE
- (8) REMAINING UNDAMAGED TIRES OUGHT TO BE REPLACED?
- (9) A THAT'S CORRECT.
- (10) Q YOU'VE DESCRIBED THIS FACILITY THAT SOLD
- (11) YOU THE TIRE AND PUT THE TIRE ON AS A GROCERY STORE
- (12) THAT SOLD TIRES?
- (13) A THERE WAS A GROCERY STORE, WHICH SEEMED TO
- (14) BE THE OFFICE. THEN THERE WAS AN ADJOINING BUILDING
- (15) WHERE THEY STORED THE TIRES, AND THEY HAD ALL THE
- (16) USED ONES OUT ON THE LOT. IT WAS A PRETTY DESERT
- (17) LOOKING PLACE.
- (18) Q SO IT DIDN'T LOOK LIKE A FRANCHISE?
- (19) A NO. IT WAS NOT A FRANCHISE.
- (20) Q AND YOU DON'T KNOW THE NAME OF IT?
- (21) A NO.
- (22) Q WAS IT OLD LOOKING? NEW LOOKING? RUNDOWN
- (23) LOOKING? WHAT?
- (24) A IT WAS OLD LOOKING.
- (25) Q DID YOU TALK TO THE OWNER OF IT OR ANYBODY

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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) WAS HE 15 OR 22 APPROXIMATELY?
- (13) A HE WAS PROBABLY MATT'S AGE.
- (14) Q LATE TEENS?
- (15) A LATE TEENS.
- (16) Q WAS ANYTHING DONE TO THE REMAINING THREE
- (17) TIRES AT THAT FACILITY OR AT CHEVRON LIKE, FOR
- (18) INSTANCE, ADDING AIR OR CHECKING AIR OR ANYTHING LIKE
- (19) THAT?
- (20) A I BELIEVE I RECALL THE BOY CHECKING THE AIR
- (21) IN THE OTHER THREE TIRES.
- (22) Q HE DIDNT REPORT ANY TIRES BEING LOW OR
- (23) OVERINFLATED?
- (24) A NO. I DIDNT HAVE A BIG CONCERN AT THAT
- (25) 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.
- (14) Q NOTHING UNUSUAL HAPPENS WITH THE TIRES THAT
- (15) DAY; CORRECT?
- (16) A CORRECT.
- (17) Q THE NEXT DAY, WHICH WOULD BE THE SECOND DAY
- (18) OF THE TRIP, THE FIRST TIRE FAILS AT ABOUT 7:30 IN
- (19) THE MORNING; CORRECT?
- (20) A CORRECT.
- (21) Q ABOUT FOUR HOURS LATER AT ABOUT 11:30 THAT
- (22) SAME DAY, THE SECOND DAY OF THE TRIP, THE ACCIDENT
- (23) HAPPENS?
- (24) A CORRECT.

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- (1) (
- (3)
- (4) Q BY MR. ZELL: BOTH TIRES FAILED THE SAME
- (5) DAY; IS THAT RIGHT?
- (6) A THREE HOURS APART.
- (7) Q SAME DAY?
- (8) A SAME DAY.
- (9) Q WHICH WAS THE SECOND DAY OF THE TRIP?
- (10) A CORRECT.
- (11) Q WHAT WAS THE TEMPERATURE AT ABOUT THE TIME
- (12) OF THE ACCIDENT?
- (13) A IT WASNT OVERLY HOT. IT WASNT IN THE
- (14) HUNDREDS. PROBABLY 85 TO 90. SOMETHING LIKE THAT.
- (15) I DONT KNOW. I WASNT AWARE OF ANY TEMPERATURE AT
- (16) THAT POINT.
- (17) Q NOW, ON THE FIRST DAY OF THE TRIP AT AROUND
- (18) NOON OR 1: 00 O'CLOCK OR SOMEWHERE IN THE MIDDAY, WHAT
- (19) WAS THE TEMPERATURE APPROXIMATELY?
- (20) A THE FIRST DAY?
- (21) Q YEAH.
- (22) A ON THE FIRST DAY AT NOON, WE WERE STILL IN
- (23) SAN JUAN CAPISTRANO. WE LEFT ABOUT 3:00 O'CLOCK OR
- (24) SOMEWHERE AROUND THERE.
- (25) Q WHAT WAS THE TEMPERATURE WHEN YOU GOT INTO

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- (1) LAS VEGAS?
- (2) A IT WAS NIGHTTIME. SO I DONT KNOW.
- (3) WHATEVER IT IS IN SUMMER IN LAS VEGAS. IT WAS A
- (4) PLEASANT EVENING. IT WASNT UNUSUAL OR HOT.
- E

- (16) Q BY MR. ZELL: IN THE APPROXIMATE FOUR HOURS
- (17) DURING WHICH YOU WERE DRIVING THE VEHICLE WITH THE
- (18) NEW TIRE AND BEFORE THE ACCIDENT, DID ANYTHING
- (19) UNUSUAL HAPPEN?
- (20) A I WASNT DRIVING AT THAT TIME.

- (24) THE TERM "DID ANYTHING UNUSUAL HAPPEN," I THINK IT'S
- (25) A VAGUE TERM AND IT'S AMBIGUOUS BECAUSE IT COULD --

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- (1) MR. ZELL: WELL, ALL YOU HAVE TO DO IS SAY,
- (2) "VAGUE AND AMBIGUOUS." I'LL WITHDRAW IT.
- (3) MR. COHN: ALL RIGHT. VAGUE AND AMBIGUOUS.
- (4) Q BY MR. ZELL: IN THE FOUR HOURS THAT
- (5) INTERVENED BETWEEN THE TIME YOU STARTED OFF WITH THE
- (6) NEW TIRE AND THE TIME OF THE ACCIDENT, DID YOU NOTICE
- (7) ANYTHING UNUSUAL IN THE OPERATION OF THE VEHICLE
- (8) INsofar AS THE TIRES?
- (9) A NO.
- (10) Q WHAT WAS THE FIRST THING THAT HAPPENED IN
- (11) THE ACCIDENT SEQUENCE THAT INDICATED TO YOU THAT
- (12) SOMETHING WAS GOING WRONG?
- (13) A THE BIG EXPLOSION OF THE TIRE. AGAIN, I
- (14) ASSUMED IT WAS A BLOWOUT.
- (15) Q NOW, AFTER THE ACCIDENT, WHEN WAS THE FIRST
- (16) TIME YOU INSPECTED THAT SECOND DAMAGED TIRE?
- (18) THE WITNESS: I WENT BACK TO THE VEHICLE THAT
- (19) WAS, BY THEN, TOWED TO A GAS STATION. I THINK IT WAS
- (20) A GAS STATION. I WENT THERE TO RETRIEVE MY BAG WITH
- (21) SOME CLEAN CLOTHES AND LINDSEY'S BACKPACK AND A
- (22) COUPLE OF THINGS. I DIDNT STAY AROUND INSPECTING
- (23) THE CAR. IT WAS A TOTAL MESS. ALL THE TIRES, I
- (24) THINK, WERE BLOWN.

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- (9)
- (10)
- (9) Q BY MR. ZELL: DID SOMETHING HAPPEN TO YOUR
- (10) TIRE IN THE ACCIDENT?
- (11) A WELL, THERE WAS A BIG EXPLOSION. IT
- (12) SOUNDED LIKE THE SAME THING THAT HAPPENED EARLIER
- (13) THAT MORNING. I'VE HAD BLOWOUTS BEFORE. IT SOUNDED
- (14) LIKE A BLOWOUT TO ME.
- (15) Q COULD YOU TELL FROM WHAT PART OF THE
- (16) VEHICLE?
- (17) A IT WAS FROM THE BACK. WE DIDNT KNOW IF IT
- (18) WAS EITHER SIDE. IT COULD HAVE BEEN EITHER SIDE.
- (19) Q WHEN YOU RETURNED TO THE VEHICLE FOR YOUR
- (20) BAG, DID YOU LOOK AT THE DRIVER'S REAR TIRE?
- (21) A I THINK SO.
- (22) Q WHAT CONDITION WAS IT IN?
- (23) A IT WAS FLAT. IT WAS SHREDDED. I THINK ALL
- (24) THE TIRES WERE SHREDDED.
- (25) Q ALL?

- (1) A WELL, THEY WERE ALL DEFLATED. I DONT 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.

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

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- (1)
- (2) A WELL, TO ME, THAT TIRE FAILED.
- (3) Q DO YOU BASE THAT ON THE FACT THAT YOU WERE
- (4) DRIVING ALONG IN THE CAR, YOU HEARD AN EXPLOSION AT
- (5) THE REAR, THE VEHICLE WENT OUT OF CONTROL, AND THE
- (6) ACCIDENT HAPPENED?
- (7) A YES.
- (8) Q OTHER THAN CONVERSATIONS WITH YOUR
- (9) ATTORNEYS, SINCE THE ACCIDENT, HAVE YOU EVER SPOKEN
- (10) TO ANYONE WHO HAS TOLD YOU THAT THERE WAS ANY PROBLEM
- (11) WITH ANY OF THE TIRES AND THAT THAT WAS THE CAUSE OF
- (12) THE ACCIDENT?
- (13) A NO.
- (14) Q AFTER THE ACCIDENT, DID YOU EVER SPEAK WITH
- (15) MRS. FINLEY ABOUT HER SERVICING OF THE VEHICLE AT
- (16) ALLEN OLDSMOBILE OR ANY OTHER SERVICE AGENCY OR
- (17) DEALERSHIP SHORTLY BEFORE THE ACCIDENT?
- (18) A AFTER THE ACCIDENT, OVER THE TELEPHONE, I
- (19) ASKED HER IF SHE KNEW THE NAME OF THE TIRE PLACE
- (20) WHERE WE BOUGHT THE TIRE.
- (21) Q OTHER THAN THAT CONVERSATION, DID YOU HAVE
- (22) ANY OTHER CONVERSATION WITH MRS. FINLEY ABOUT THE
- (23) SERVICING OR REPAIR OF THE VEHICLE AT ANY DEALERSHIP
- (24) OR AGENCY INCLUDING ALLEN OLDSMOBILE?
- (25) A NO.

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- (1) Q DID YOU EVER SPEAK TO ANYONE AT ALLEN
- (2) OLDSMOBILE ABOUT THE SERVICING OF THE VEHICLE BEFORE
- (3) THE ACCIDENT?
- (4) A NO.
- (5) Q WHEN YOU STAYED AT MATT FINLEY'S
- (6) GRANDPARENTS' THE NIGHT BEFORE THE ACCIDENT, WERE THE
- (7) GRANDPARENTS AT THE HOUSE?
- (8) A YES.
- (9) Q DID YOU EAT AT THE HOUSE OR GO OUT?
- (10) A WE WENT OUT.
- (11) Q DID MR. ADDY HAVE ANYTHING OF AN ALCOHOLIC
- (12) NATURE TO CONSUME AT THE GRANDPARENTS' HOUSE THAT
- (13) EVENING?
- (14) A NO.
- (15) Q AT THE RESTAURANT THAT EVENING OR WHEREVER
- (16) YOU WENT OUT TO EAT?
- (17) A I DONT THINK SO. WE ATE AT ONE OF THE
- (18) CASINOS. WE WERE SPREAD APART. I DONT KNOW WHAT HE
- (19) ORDERED FOR DINNER.
- (20) Q DID YOU EAT WITH MR. ADDY?
- (21) A I SAT AT THE TABLE WITH THE GRANDPARENTS,
- (22) AND THE KIDS WERE SCATTERED NEARBY.
- (23) Q WHEN THEY WERE EATING?
- (24) A YEAH.
- (25) 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
- (4) CONVERSATIONS WITH YOUR ATTORNEYS, THAT ANY OF THE
- (5) OCCUPANTS OF THE VEHICLE HAD CONSUMED ANYTHING OF AN
- (6) ALCOHOLIC NATURE THE EVENING BEFORE THE ACCIDENT?
- (7) A NO.
- (8) Q DO YOU HAVE ANY INFORMATION, OTHER THAN
- (9) CONVERSATIONS WITH YOUR ATTORNEYS, THAT ANY OF THE
- (10) OCCUPANTS OF THE VEHICLE CONSUMED ANY DRUG OR
- (11) MARIJUANA OR ANYTHING LIKE THAT THE EVENING BEFORE
- (12) THE ACCIDENT?
- (13)
- (14)
- (15)
- (16) THE WITNESS: WE GOT A PHONE CALL FROM THE
- (17) INVESTIGATING OFFICER A FEW DAYS LATER. I DONT
- (18) REMEMBER THE TIME FRAME. IT WAS SOMETIME AFTER THE
- (19) ACCIDENT. HE CALLED ME AND TOLD ME THAT THEY HAD
- (20) FOUND MARIJUANA IN MATT FINLEY'S BACKPACK IN HIS - I
- (21) THINK IT WAS THE BACKPACK.
- (22) Q BY MR. ZELL: DID THEY SAY ANYTHING ELSE?
- (23) A I THINK HE ASKED ME IF I WAS AWARE OF IT OR
- (24) DID I KNOW ABOUT IT OR DID I - I DONT THINK HE
- (25) PURSUED THAT TOO FAR OTHER THAN MAYBE A STATEMENT

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- (1) LIKE THAT. I TOLD HIM, "NO. THAT'S A SURPRISE TO
- (2) ME."
- (3) Q AGAIN, EXCLUDING CONVERSATIONS WITH YOUR
- (4) ATTORNEYS, DO YOU HAVE ANY INFORMATION THAT MR. ADDY
- (5) WAS TESTED FOR THE PRESENCE OF MARIJUANA AFTER THE
- (6) ACCIDENT?
- (7)
- (8)
- (9)
- (10)
- (11)
- (12)
- (13) A NO. I DONT REMEMBER HEARING IT FROM THE
- (14) POLICE THAT CALLED ME.
- (15) Q DID YOU TALK TO MR. ADDY AFTER THE
- (16) ACCIDENT?
- (17) A NO.
- (18) Q DID YOU TALK TO MR. MATT FINLEY AFTER THE
- (19) ACCIDENT ABOUT WHETHER ANY OF THE OCCUPANTS HAD BEEN
- (20) USING MARIJUANA BEFORE THE ACCIDENT?
- (21) A NO.
- (22) Q LET ME MAKE SURE. I WANT TO GO BACK TO
- (23) CHEVRON WHERE YOU CHANGED THE FIRST TIRE.
- (24) WERE ANY OF THE OTHER TIRES CHANGED FROM
- (25) POSITION TO POSITION?

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- (6) Q BY MR. ZELL: YOU UNDERSTAND THAT I WAS
- (7) TALKING ABOUT THE TIRE STORE ACROSS THE STREET FROM
- (8) CHEVRON?
- (9) A YES.
- (10)
- (11) Q BY MR. ZELL: GOING BACK TO THE ACCIDENT,
- (12) AFTER YOU HEARD THE EXPLOSION TO THE REAR OF THE
- (13) VEHICLE, WHAT HAPPENED?
- (14) A THE CAR WAS GOING INTO A FISHTAILING KIND
- (15) OF MOTION.
- (16) Q WHAT LANE WERE YOU IN WHEN YOU FIRST HEARD
- (17) THE EXPLOSION?
- (18) A WE WERE IN THE NUMBER 1 LANE, THE FAST
- (19) LANE.
- (20) Q CLOSEST TO THE CENTER LINE?
- (21) A YES.
- (22) Q IT WAS THE REAR THAT WAS FISHTAILING GOING
- (23) BACK AND FORTH?
- (24) A UH-HUH.
- (25) Q IS THAT RIGHT?

- (1) A NO.
- (2) Q WHEN YOU SAY YOU JUST CAME TO A STOP, DID
- (3) YOU HIT SOMETHING?
- (4) A THE CAR JUST STOPPED.
- (5) Q WAS IT ON THE SURFACE OF THE NORTHBOUND
- (6) PORTION OF I-15 WHEN IT STOPPED?
- (7) A NO. IT WAS INTO THE MEDIAN KIND OF ANGLED
- (8) TOWARD -- YOU KNOW, SORT OF AT A DIAGONAL POSITION, I
- (9) THINK, IF I REMEMBER RIGHT.
- (10) Q WHEN YOU FIRST STARTED TO ENTER THE MEDIAN
- (11) AREA, WAS THE FRONT OF YOUR VEHICLE ANGLED NORTH TO
- (12) NORTHWEST OR AT A DIFFERENT ANGLE?
- (13) A YEAH. IF YOU'RE THINKING NORTH IS THE
- (14) DIRECTION OF THE HIGHWAY, IT WOULD HAVE BEEN THE
- (15) NORTHWEST DIRECTION, YEAH.
- (16) Q WAS THE HIGHWAY -- STRIKE THAT. WERE YOU
- (17) TRAVELING GENERALLY NORTHBOUND JUST BEFORE THE
- (18) ACCIDENT?
- (19) A YES.
- (20) Q HAD YOUR VEHICLE SPUN AT ALL BEFORE IT
- (21) STARTED TO ENTER THE MEDIAN?
- (22)
- (23)
- (24)
- (25)

Page 57

- (1) A YES.
- (2) Q CAN YOU DESCRIBE WHAT HAPPENED THEN AS FAR
- (3) AS THE MOVEMENT OF THE VEHICLE?
- (4) A WELL, WE WERE JUST GOING THROUGH THIS
- (5) MOTION. I'M LOOKING OUT THE WINDOW. THE NEXT THING
- (6) I REMEMBER IS WE'RE APPROACHING THE GRASS AREA.
- (7) Q THE MEDIAN?
- (8) A THE MEDIAN.
- (9) Q THERE WAS A GRASSY MEDIAN BETWEEN THE NORTH
- (10) AND SOUTH LANES?
- (11) A YEAH. THERE'S A CONSIDERABLE WIDTH OF
- (12) SPACE THERE. THE THOUGHT THAT WAS RUNNING THROUGH MY
- (13) HEAD WAS: WE'RE GOING TO GO RIGHT ON THROUGH THE
- (14) MEDIAN AND CRASH INTO THE ONCOMING TRAFFIC ON THE
- (15) OTHER SIDE. THEN WE JUST STOPPED.
- (16) Q WAS THE MEDIAN LEVEL, OR WAS THAT DEPRESSED
- (17) OR ELEVATED OR WHAT?
- (18) A IT WAS UNEVEN. IT WASN'T LIKE IT WAS A BIG
- (19) DEPRESSION OR A HILL. IT WAS RELATIVELY FLAT.
- (20) Q HOW WIDE WAS THE MEDIAN AREA APPROXIMATELY?
- (21) A THIRTY, FORTY FEET.
- (22) Q WERE THERE ANY LOW FENCES OR RAILINGS OR
- (23) WALLS OR K-WALLS ALONG THE SIDE OF EITHER THE
- (24) NORTHBOUND LANE AT THE MEDIAN OR THE SOUTHBOUND LANE
- (25) AT THE MEDIAN?

Page 59

- (1)
- (2)
- (3) THE WITNESS: I WASN'T AWARE OF ANY SPINNING OR
- (4) ROLLING OR ANYTHING.
- (5) Q BY MR. ZELL: COULD YOU TELL WHETHER OR NOT
- (6) MR. ADDY HAD APPLIED THE BRAKES BEFORE YOU BEGAN TO
- (7) ENTER THE MEDIAN?
- (8) A NO, I COULDN'T TELL.
- (9) Q YOU COULDN'T SAY WHETHER YOU WERE IN A
- (10) LOCKED WHEEL SKID OR ANYTHING LIKE THAT?
- (11) A NO.
- (12) Q COULD YOU TELL WHETHER THE VEHICLE HAD
- (13) SUBSTANTIALLY SLOWED ITS SPEED JUST BEFORE IT WENT
- (14) INTO THE MEDIAN AREA?
- (15) A WE WERE GOING FAST ENOUGH TO WHERE I
- (16) THOUGHT WE WERE GOING TO GO RIGHT ON THROUGH IT.

Page 62

- (1) MAYBE AN OCCASIONAL SLIGHT CURVE
- (2) Q IN THE AREA WHERE YOU HEARD THE EXPLOSION,
- (3) WAS THE ROAD STRAIGHT OR CURVED?
- (4) A I RECALL IT BEING RELATIVELY STRAIGHT. WE
- (5) WERENT ON A CURVE
- (6) Q WHEN YOU FIRST HEARD THE EXPLOSION, WERE
- (7) YOU ON AN INCLINE OR A DECLINE OF A ROLLING PORTION
- (8) OF THE ROAD; OR WERE YOU ON A FLAT LEVEL AREA?
- (9) A I RECALL A FLAT AREA.
- (10) Q WHEN YOU STARTED TO GO INTO THE MEDIAN, WAS
- (11) YOUR VEHICLE IN A SIDEWAYS SKID; OR WAS THE FRONT
- (12) MOVING STRAIGHT AHEAD?
- (13) A I COULD SEE THE MEDIAN AND THE ROAD ON THE
- (14) OTHER SIDE. SO WE MUST HAVE BEEN GOING RELATIVELY
- (15) STRAIGHT.

- (16) Q DO YOU RECALL BEING IN A SIDEWAYS SKID AT
- (17) ALL BEFORE YOU BEGAN TO ENTER THE MEDIAN AREA?
- (18) A NO.
- (19)
- (20)
- (21)
- (22) IN --
- (23)
- (24)
- (25)

- (16) Q BY MR. ZELL: CAN YOU ESTIMATE, BASED ON
- (17) YOUR YEARS OF EXPERIENCE, THE SPEED OF THE VEHICLE
- (18) WHEN YOU FIRST HEARD THE EXPLOSION TO THE REAR?
- (19) A I WOULD GUESS BETWEEN 80 AND 85.
- (20) Q HOW MANY YEARS HAVE YOU BEEN DRIVING
- (21) APPROXIMATELY?
- (22) A FORTY YEARS.
- (23)
- (24)

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- (1)
- (2)
- (3)
- (4)
- (5)
- (6)
- (7)
- (8)
- (9)
- (10)
- (11) Q BY MR. ZELL: DID YOU SEE ANY POSTED SPEED
- (12) LIMITS ALONG NORTHBOUND I-15, SAY, WITHIN FIVE MILES
- (13) OF THE ACCIDENT?
- (14) A YES.
- (15) Q WHAT WAS THE LAST POSTED SPEED LIMIT YOU
- (16) HAD SEEN?
- (17) A SEVENTY-FIVE
- (18) Q WHAT DISTANCE BEFORE THE AREA OF THE
- (19) ACCIDENT DID YOU SEE THAT POSTED SPEED SIGN
- (20) APPROXIMATELY?
- (21) A FIVE MILES.
- (22) Q IN THE APPROXIMATE MILE BEFORE THE AREA OF
- (23) THE ACCIDENT, WAS IT STRAIGHT? CURVED? HOW WAS THE
- (24) ROAD?
- (25) A IT WAS ROLLING AND REASONABLY STRAIGHT WITH

Page 63

- (1)
- (2)
- (3)
- (4)
- (5)
- (6)
- (7)
- (8)
- (9) Q WHAT WAS THE APPROXIMATE DISTANCE THAT THE
- (10) CAR HAD TRAVELED BETWEEN THE TIME THAT YOU FIRST
- (11) HEARD THE EXPLOSION AND THE TIME IT FIRST BEGAN TO
- (12) ENTER THE MEDIAN?
- (13) A I HAVE NO IDEA.
- (14) Q CAN YOU SAY WHETHER IT WOULD BE A HUNDRED
- (15) FEET? LESS? MORE?
- (16) A I HAVE NO IDEA.
- (17) Q DID YOUR VEHICLE MOVE INTO THE NUMBER 2
- (18) LANE AT ALL BEFORE IT BEGAN TO MOVE INTO THE MEDIAN?
- (19) A I DONT KNOW FOR SURE. IT WAS FISHTAILING
- (20) ALL OVER.
- (21) Q DID YOUR VEHICLE STRIKE ANY OTHER VEHICLE
- (22) OR OBJECT ON THE ROAD SUCH AS A POLE OR A FENCE OR
- (23) ANYTHING BEFORE IT BEGAN TO ENTER THE MEDIAN?
- (24) A NO.
- (25) Q DID YOUR VEHICLE STRIKE ANYTHING IN THE

Page 64

- (1) MEDIAN LIKE A POLE OR A --
 (2) A I DONT 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 WERE 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 DONT 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

Page 66

- (1) EXPLOSION IN CONTROLLING THE VEHICLE?
 (2) A NO.
 (3) Q DURING THE TIME BETWEEN THE EXPLOSION AND
 (4) THE TIME THE VEHICLE CAME TO A STOP, DID YOU FEEL THE
 (5) VEHICLE WAS OUT OF CONTROL?
 (6) A YES.

- (13) Q BY MR. ZELL: WERE YOU INJURED IN THE
 (14) ACCIDENT?
 (15) A SUPERFICIALLY. SCRATCHES. BRUISES.
 (16) Q DO YOU HAVE ANY PRESENT PROBLEMS
 (17) HEALTH-WISE THAT YOU RELATE, IN YOUR PHYSICAL HEALTH,
 (18) TO THE ACCIDENT AS FAR AS A PHYSICAL INJURY YOU
 (19) RECEIVED IN THE ACCIDENT ITSELF?
 (20) A I DONT THINK SO.
 (21) Q WERE YOU TREATED MEDICALLY FOR ANY INJURY
 (22) IN THE ACCIDENT?
 (23) A THEY CHECKED BLOOD PRESSURE AND THINGS LIKE
 (24) THAT. I WASN'T INTERESTED IN HAVING THEM LOOK AT
 (25) BRUISES AND SCRAPES AND CUTS.

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- (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
- (6) ROOM UNDER YOUR OWN POWER?
- (7) A YES.
- (8) Q HOW LONG AFTER THE ACCIDENT DID YOU GET
- (9) BACK HOME TO SOUTHERN CALIFORNIA?
- (10) A THAT EVENING OF THE ACCIDENT.
- (11) Q DID YOU HAVE ANY MEDICAL CARE AFTER THAT
- (12) FOR PHYSICAL INJURIES?
- (13) A NO.
- (14) Q HAVE YOU HAD ANY CARE BY PROFESSIONAL
- (15) HEALTHCARE PROVIDERS FOR ANY PSYCHOLOGICAL OR
- (16) EMOTIONAL PROBLEMS RELATED TO THE ACCIDENT AND THE
- (17) LOSS OF YOUR DAUGHTER?
- (18) A YES.
- (19) Q CAN YOU DESCRIBE THAT COUNSELING OR
- (20) TREATMENT?
- (21) A I MET WITH CLAIRE NELSON IN NEWPORT BEACH
- (22) FOR, I CAN'T REMEMBER, THREE OR FOUR TIMES.
- (23) Q IS SHE A PSYCHOLOGIST?
- (24) A YES.
- (25) Q WHEN DID YOU SEE HER? WHAT TIME PERIOD

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- (1) GENERALLY?
- (2) A GENERALLY, IN THE FIRST COUPLE WEEKS AFTER
- (3) THE ACCIDENT.
- (4) Q ANY OTHER TREATMENT OR CARE BY HEALTHCARE
- (5) PROVIDERS, COUNSELORS, OR OTHERWISE FOR YOUR
- (6) EMOTIONAL CONDITION UP TO THE PRESENT TIME?
- (7) A SHE RECOMMENDED SEEING AN M.D. HE GAVE ME
- (8) 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
- (16) DOCTOR-PRESCRIBED MEDICATION SINCE THE ACCIDENT?
- (17) A NO.
- (18) Q HAVE YOU SEEN ANY MEDICAL DOCTORS FOR
- (19) EMOTIONAL OR PHYSICAL PROBLEMS SINCE THE ACCIDENT
- (20) OTHER THAN WHAT YOU'VE TOLD ME ABOUT?
- (21) A NO.
- (22) Q HAVE YOU SEEN ANY OTHER PSYCHOLOGISTS OR
- (23) PSYCHIATRISTS OTHER THAN MS. NELSON?
- (24) A NO.
- (25) Q HAS YOUR WIFE BEEN UNDER THE CARE OF ANY

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- (1) PSYCHOLOGIST OR PSYCHIATRIST FOR EMOTIONAL PROBLEMS
- (2) SINCE THE ACCIDENT?
- (3) A NO.
- (4) Q HAS SHE BEEN UNDER THE CARE OF ANY MEDICAL
- (5) DOCTOR FOR ANY PHYSICAL OR EMOTIONAL REASON RELATED
- (6) TO THE ACCIDENT OR THE LOSS OF YOUR DAUGHTER?
- (7) A NO.
- (8) Q YOUR DAUGHTER WAS 15 AT THE TIME OF THE
- (9) 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
- (15) YEAR.
- (16) Q WHAT KIND OF GRADE POINT DID SHE HAVE AT
- (17) SCHOOL?
- (18) A HEADMASTER'S LIST.
- (19) Q WHAT KIND OF SCHOOL ACTIVITIES WAS SHE
- (20) 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
- (25) BREAK, YOU LET US KNOW.

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- (1) MR. ZELL: DO YOU WANT TO TAKE A BREAK?
- (2) THE WITNESS: IT DEPENDS ON WHERE YOU'RE GOING
- (3) WITH THIS, I GUESS.
- (4) MR. ZELL: WELL, I'M GOING TO HAVE TO ASK SOME
- (5) QUESTIONS. NOT THAT I WANT TO.
- (6) MR. COHN: WE'RE PREPARED -- MR. HALSTED IS
- (7) PREPARED AND HE UNDERSTANDS THE NATURE OF THE
- (8) DEPOSITION AND WHAT'S GOING TO HAPPEN. IF IT BECOMES
- (9) A TIME TO TAKE A BREAK, I'M SURE WE'LL ALL KNOW
- (10) IMMEDIATELY.
- (11) MR. ZELL: SURE. WE'LL PUSH AHEAD.
- (12) Q BY MR. ZELL: SHE HAD JUST COMPLETED HER
- (13) SOPHOMORE YEAR; IS THAT CORRECT?
- (14) A RIGHT.
- (15) Q DID SHE BELONG TO ANY CLUBS BESIDES THE
- (16) ATHLETIC TEAMS IN HER SOPHOMORE YEAR?
- (17) A ANY OTHER CLUBS?
- (18) Q LIKE THE DRAMA CLUB. THINGS LIKE THAT.
- (19) A THEY DIDN'T HAVE -- WELL, THE SCHOOL WASN'T
- (20) ORGANIZED EXACTLY LIKE THAT. SHE WASN'T IN GIRL
- (21) SCOUTS AND THINGS LIKE THAT. THEY HAD OTHER
- (22) ACTIVITIES OTHER THAN SPORTS, BUT IT WASN'T ORGANIZED
- (23) DRAMA AND THINGS LIKE THAT.
- (24) Q WAS SHE A CLASS OFFICER, PRESIDENT, OR VICE
- (25) PRESIDENT OF HER CLASS OR ANYTHING LIKE THAT --

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- (1) A LET ME THINK.
- (2) Q -- IN EITHER THE FRESHMAN OR SOPHOMORE
- (3) YEAR?
- (4) A SHE RAN FOR -- I THINK SHE RAN FOR VICE
- (5) PRESIDENT OF THE SOPHOMORE CLASS. I DONT THINK SHE
- (6) WAS ELECTED TO THAT. THAT PROMPTED ME TO THINK OF
- (7) ANOTHER ACTIVITY, AND I LOST IT HERE.
- (8) MR. COHN: THAT'S OKAY.
- (9) THE WITNESS: I'LL HAVE TO COME BACK TO THAT.
- (10) Q BY MR. ZELL: SURE. AT THE TIME OF THE
- (11) ACCIDENT, SHE WAS RESIDING AT HOME; IS THAT CORRECT?
- (12) A YES.
- (13) Q SHE RESIDED WITH YOU AND YOUR WIFE THE
- (14) ENTIRE 15 YEARS?
- (15) A YES.
- (16) Q WAS SHE WORKING THAT SUMMER? DID SHE HAVE
- (17) A JOB?
- (18) A NO.
- (19) Q OKAY. I'M GOING TO HAVE TO ASK SOME
- (20) QUESTIONS ABOUT THE SCENE OF THE ACCIDENT RIGHT AFTER
- (21) THE ACCIDENT.
- (22) WHERE DID YOU FIND YOUR DAUGHTER RIGHT
- (23) AFTER THE CAR STOPPED?
- (24) A SHE WAS ABOUT 15 FEET ON THE PASSENGER SIDE
- (25) ON THE GROUND FACE UP.

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- (1) Q YOU WENT UP TO HER?
- (2) A UH-HUH.
- (3) Q WAS SHE ALIVE THAT YOU COULD TELL?
- (4) A I COULDN'T TELL. SHE WASN'T BREATHING.
- (5) Q HER EYES WERE CLOSED?
- (6) A NO.
- (7) Q WERE THERE ANY WOUNDS THAT YOU COULD TELL
- (8) OR ANY OTHER SIGN OF PHYSICAL INJURY?
- (9) A NO.
- (10) Q DID YOU ATTEMPT ANY RESUSCITATION?
- (11) A YES.
- (12) Q WHAT DID YOU DO, JUST BRIEFLY?
- (13) A LET'S SEE. WHEN I GOT UP TO HER, THERE WAS
- (14) ALREADY PEOPLE THAT HAD STOPPED.
- (15) Q STOPPED RESUSCITATION?
- (16) A THERE WERE SEVERAL CARS THAT STOPPED. VERY
- (17) SHORTLY AFTER I GOT TO HER, ONE LADY CAME UP TO HER
- (18) AND IDENTIFIED HERSELF AS A NURSE. THEN SHE STARTED
- (19) C.P.R. ON HER.
- (20) THEN A COUPLE OTHER PEOPLE CAME UP TO
- (21) ASSIST HER. THEN THAT NURSE SAID, "WHY DONT YOU GO
- (22) TO THE TRUNK OF MY CAR. I'VE GOT SOME EQUIPMENT."
- (23) SHE HAD A BREATHING TUBE.
- (24) MR. ZELL: LET'S TAKE A BREAK.
- (25) (RECESS TAKEN.)

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- (1) Q BY MR. ZELL: IF YOU COULD JUST KIND OF
- (2) SUMMARIZE QUICKLY WHAT HAPPENED AFTER THE
- (3) RESUSCITATION.
- (4) A OKAY. WELL, AS I SAID, WE CONTINUED
- (5) WORKING ON HER FOR A LONG TIME. THE NURSE LADY HAD A
- (6) TELEPHONE IN HER CAR. THEY CALLED THE COPS AND
- (7) AMBULANCE OR WHOEVER THEY CALLED.
- (8) THEY SAID THAT THEY WERE AT LEAST 30
- (9) MINUTES AWAY BECAUSE OF THE DISTANCE. WE JUST
- (10) CONTINUED WORKING ON HER. THEY MOVED HER AROUND SO
- (11) THE AIRWAY WOULD BE OPEN AND SO FORTH. THERE WAS A
- (12) LOT OF HELP THERE.
- (13) Q ULTIMATELY, THE PARAMEDICS OR SOMEBODY
- (14) ARRIVED?
- (15) A THE AMBULANCE CAME. THEY PUT HER ON A
- (16) STRETCHER AND PUT HER INSIDE. I GOT IN, ALSO. WE
- (17) HEADED FOR, I DONT KNOW, CEDAR CITY OR WHEREVER WE
- (18) ENDED UP AT THE HOSPITAL.
- (19) Q WHERE WERE YOU WHEN YOU WERE FIRST ADVISED
- (20) THAT SHE HAD DIED?
- (21) A I WAS IN THE ADJACENT ROOM.
- (22) 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 HAVENT 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

Page 77

- (1) EVERY LAST WORD.
- (2) THE WITNESS: I RESENT 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 DONT
- (8) HAVE TO. WE HAVENT RECEIVED A FORMAL REQUEST FOR
- (9) PRODUCTION OF DOCUMENTS FOR THESE PARTICULAR NOTES.
- (10) SO YOU WOULDNT 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 DONT YOU LOOK AT THEM AND MAKE THE DETERMINATION
- (15) SO WE DONT HAVE TO PUT THIS NICE GENTLEMAN THROUGH
- (16) ANOTHER DEPO.
- (17) MR. COHN: I DONT 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.

Page 78

- (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?
- (24) A AUGUST 13TH, 1937.
- (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?



1000085291

Nii Addy

06/25/1999

<p style="text-align: center;">Page 1</p> <p>1 SUPERIOR COURT FOR THE STATE OF CALIFORNIA 2 FOR THE COUNTY OF ORANGE 3 4 MILTON HALSTED, et al.,) 5) 6 Plaintiffs,) 7 vs.) No. 795327 8) 9 NII ADDY, et al.,) 10) 11 Defendants.) 12) 13) 14) 15 DEPOSITION OF NII ADDY 16 Santa Ana, California 17 Friday, June 25, 1999 18 19 20 21 22 23 24 25 26 Reported by: 27 DELIEZE WADE 28 CSR No. 2670 29 JOB No. 543515A</p>	<p style="text-align: center;">Page 3</p> <p>1 APPEARANCES: 2 For Plaintiffs: 3 WYLIE A. AITKEN, A LAW CORPORATION 4 BY: RICHARD A. COHN 5 Attorney at Law 6 3 Imperial Promenade, Suite 800 7 Santa Ana, CA 92707-0555 8 (714) 434-3600 9 10 For Defendant Nii Addy: 11 12 DANIELS, BARATTA & FINE 13 BY: JACK DANIELS 14 Attorney at Law 15 1801 Century Park East, 9th Floor 16 Los Angeles, CA 90067 17 (310) 556-7900 18 and 19 BAILEY & BROTT 20 BY: JULIAN W. BAILEY 21 Attorney at Law 22 333 City Boulevard West, Suite 1610 23 Orange, CA 92868 24 (714) 634-1333 25 26 For the Defendant The Uniroyal Goodrich Tire Company: 27 28 YUKEVICH & SONNETT 29 BY: TODD A. CAVANAUGH 30 Attorney at Law 31 601 South Figueroa Street, 38th Floor 32 Los Angeles, CA 90017 33 (213) 362-7777 34 For the Defendant/Cross-Complainant Allen 35 Oldsmobile-Cadillac: 36 37 STEWART, DIMMICK, MARSHALL & ZELL 38 BY: PETER B. ZELL 39 Attorney at Law 40 2030 Main Street, Suite 600 41 Irvine, CA 92614 42 (714) 222-2930 43 44 45</p>
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Page 5

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

Page 6

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

Page 7

1 answer with nods of the head and uh-huhs and huh-uhs
 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.

Page 8

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.
 9 A July 2nd, 1979.
 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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Page 9

1 approximate dates on which you attended those high
 2 schools, or the school years or whatever, what portion
 3 of your freshman and sophomore --
 4 A Okay. My freshman year I attended Santa
 5 Margarita, as well as my sophomore; my junior year I
 6 attended Mission Viejo High School, which I left out
 7 earlier. I repeated my junior year at St. Margaret's
 8 and half of my senior year I was at St. Margaret's and
 9 the other half, for the second semester, it was at
 10 Futures.
 11 Q And did you in fact obtain a high school
 12 diploma?
 13 A Yes.
 14 Q And have you attended any college?
 15 A I currently am enrolled in Swarthmore
 16 College.
 17 Q Okay. And I assume, then, at this point
 18 you're out on summer break?
 19 A Yes.
 20 Q And as you are aware, we're here to talk
 21 about an automobile accident that occurred while you
 22 and several other individuals were on a trip.
 23 Do you recall -- have any recollection of
 24 the accident itself?
 25 A Yes.

Page 10

1 Q All right. Can you tell us who was on
 2 the trip? Let's start with that.
 3 A Myself, Mr. Halsted, Lindsay Halsted,
 4 Matt Finley, Matt's friend Rafi and his younger
 5 brother.
 6 Q Do you remember the younger brother's
 7 name?
 8 A No.
 9 Q Had you ever met Rafi previously?
 10 A No.
 11 Q And how long had you known Matt?
 12 A I -- I had known him at that point for
 13 the school year, but he went to the same elementary
 14 school I did when I lived in Dallas, so I had known
 15 who he was before then.
 16 Q All right. So you had met him as a
 17 childhood friend in your younger childhood?
 18 A Right.
 19 Q And then when you came out to California,
 20 you ran into him again and you guys became friends
 21 again?
 22 A Correct.
 23 Q All right. How about Lindsay, how long
 24 had you known Lindsay?
 25 A For the year that I was at St. Margaret's.

Page 11

1 Q All right. And how about Mr. Halsted,
 2 had you met him before the commencement of the trip?
 3 A Yes.
 4 Q How many times?
 5 A Maybe three, four.
 6 Q All right. Prior to this trip had you
 7 ever driven a vehicle of this nature, meaning a large
 8 SUV type vehicle?
 9 A Yes.
 10 Q All right. On how many occasions?
 11 A A number of -- maybe ten.
 12 Q All right. Who's SUV had you previously
 13 driven?
 14 A My mother -- we've had a minivan and a
 15 4Runner, and I've driven friends' vehicles.
 16 Q All right. Had you ever, prior to this
 17 subject incident, driven any vehicle where the vehicle
 18 had a tire blowout or a flat tire?
 19 A A flat tire, yes.
 20 Q But not a blowout --
 21 A No.
 22 Q -- where you were at high speed on the
 23 roadway or something like that?
 24 A No.
 25 Q And had you ever had any other prior

Page 12

1 automobile accidents --
 2 A No.
 3 Q -- before this one? All right.
 4 And this one may be completely off the
 5 wall to you, but we have to ask it, have you ever been
 6 convicted of a felony?
 7 A No.
 8 Q All right. And when did you get your
 9 driver's license?
 10 A I don't know the date, but when I was 17.
 11 Q All right. At the time of the subject
 12 automobile accident that we're going to talk about
 13 here today, did you have any physical problems going
 14 on, sickness, cold, anything at all?
 15 A No.
 16 Q All right. You weren't taking any
 17 medication at the time?
 18 A I don't remember.
 19 Q Okay. I'm going to trace the trip from
 20 its beginning, middle, to its ultimate end point. Can
 21 you tell us where the trip started?
 22 A From my house.
 23 Q All right. As far as you're concerned,
 24 anyway, right?
 25 A Correct.

Page 13

1 Q Did someone come and pick you up?
 2 A Yes. Everyone was already in the car
 3 when they picked me up.
 4 Q You were the last person to be picked up?
 5 A Yes.
 6 Q All right.
 7 MR. DANIELS: Keep your voice up a little bit
 8 louder.
 9 THE WITNESS: Okay.
 10 MR. COHN: It's also for her benefit.
 11 MR. DANIELS: Well, also Mr. Zell at the end of
 12 the table.
 13 MR. ZELL: Who's struggling to hear.
 14 MR. COHN: All right. It's for both of their
 15 benefits, then.
 16 Q And when they picked you up, was that
 17 the day before the accident?
 18 A Yes.
 19 Q All right. And the very next day is when
 20 the accident occurred, correct?
 21 A Yes.
 22 Q Did you drive the vehicle at all at any
 23 time prior to your shift of driving when the accident
 24 occurred?
 25 A No.

Page 14

1 Q All right. When you were picked up, who
 2 was driving the vehicle at that point?
 3 A Mr. Halsted.
 4 Q All right. And how long did he drive
 5 for, either in time or miles or approximate, until
 6 someone else took over?
 7 A I don't remember exactly for that day.
 8 Q All right. Did someone else drive on the
 9 first day, that you remember?
 10 A I don't remember.
 11 Q All right. Where was the destination for
 12 the first day?
 13 A Las Vegas.
 14 Q All right. That took a few hours to get
 15 there?
 16 A Yes.
 17 Q And do you remember the approximate time
 18 that the group pulled into Las Vegas that night?
 19 A No.
 20 Q You don't have any estimate?
 21 A Maybe around ten.
 22 Q Do you remember about what time you got
 23 picked up?
 24 A No.
 25 Q All right.

Page 15

1 A It was in the afternoon, that's all I
 2 remember.
 3 Q It was still light out?
 4 A Right.
 5 Q Okay. Where did you all stay that
 6 evening?
 7 A At Matt's grandparents' house.
 8 Q All right. And did you go out to dinner
 9 first?
 10 A We -- yes.
 11 Q All right. Did anyone consume any
 12 alcohol that evening that you observed?
 13 A Not that I remember.
 14 Q All right. And we have at least received
 15 certain reports that perhaps someone had consumed
 16 marijuana the evening before.
 17 Had anyone, to your knowledge, consumed
 18 marijuana the evening before the next day?
 19 A Yes.
 20 Q And who had?
 21 A Matt, Lindsay, myself. And that's all I
 22 remember for sure.
 23 Q All right. And when was marijuana
 24 consumed?
 25 A In the late evening after we had got back

Page 16

1 to the grandparents' house.
 2 Q All right. Was it actually done at the
 3 grandparents' house or was it outside the
 4 grandparents' --
 5 A Outside, in the street.
 6 Q All right. Do you remember about what
 7 time that was?
 8 A No.
 9 Q Was it after midnight, if you know?
 10 A I don't believe so.
 11 Q All right. Do you know how much you
 12 personally consumed?
 13 A Three hits, if you will.
 14 Q All right. And that was off of a pipe?
 15 A Yes.
 16 Q All right. Do you know about how much
 17 Matt consumed?
 18 A Approximately the same.
 19 Q All right. Approximately what time did
 20 you guys get started the next morning?
 21 A I believe around 8:00.
 22 Q Between the time that you all went to bed
 23 and the next day when the accident occurred, had
 24 anyone smoked any more marijuana?
 25 A Not that I know of.

Page 17

1 Q Okay. At least for certain you had not,
 2 correct?
 3 A Correct.
 4 Q All right. Who drove first in the
 5 morning, if you recall? And this is now the day of
 6 the accident.
 7 A I believe Mr. Halsted began driving.
 8 Q All right. Do you know for how long he
 9 drove?
 10 A No.
 11 Q At some point in time while Mr. Halsted
 12 was driving was there a tire blowout?
 13 A Yes.
 14 Q And where were you sitting in the vehicle
 15 at that time?
 16 A I don't remember.
 17 Q All right. Do you have any knowledge --
 18 were you in the front seat, by chance, versus
 19 somewhere in the back?
 20 A No, I was somewhere in the back.
 21 Q But you don't remember exactly where?
 22 A No.
 23 Q Were you wearing a seat belt at that
 24 time?
 25 A Yes.

Page 18

1 Q Okay. At the time when that tire blowout
 2 occurred, do you know how fast the vehicle was going?
 3 A No.
 4 Q Can you describe what happened in that
 5 tire blowout, as best you could?
 6 A There's a loud noise from the rear of the
 7 vehicle and we pulled over to see what it was.
 8 Q Did you observe Mr. Halsted at the time
 9 of that blowout in how he handled the vehicle and
 10 brought it to a stop?
 11 A Not more than just pulling over to stop.
 12 Q Did the vehicle swerve at all, to your
 13 recollection?
 14 A Not to my recollection.
 15 Q All right. And I think I've probably
 16 asked this question four questions ago, but I'm not a
 17 hundred percent sure, did you know how fast the
 18 vehicle was going?
 19 A No.
 20 Q You have no estimate?
 21 A No.
 22 Q All right. All right. After the blowout
 23 occurred and the vehicle was pulled over, what
 24 happened next? Did people get out of the car to look
 25 at it?

Page 19

1 A Mr. Halsted got out to look at it. I
 2 don't recall if anyone else did.
 3 Q Do you recall if you did?
 4 A No.
 5 Q All right. And you don't know if any
 6 other person did, correct?
 7 A Correct.
 8 Q All right. What is the next thing you
 9 remember with regards to any conversation about the
 10 tire? Did he get back in the car, for example, and
 11 say, well, we've got a tire blowout? I mean, what
 12 happened next?
 13 A There was conversation that the tread had
 14 come off the tire and that we were going to go replace
 15 it.
 16 Q Was there any conversation after that
 17 about the tire or tires on the vehicle?
 18 A I don't remember.
 19 Q All right. Let me see if I can probe
 20 further. There may not have been any conversation,
 21 there may have been a lot of conversation, there may
 22 have been conversation that you do or do not remember,
 23 I don't know; but I'm going to try to probe it just a
 24 little bit to see if I can draw anything else out of
 25 you. There may be nothing to draw out.

Page 20

1 A All right.
 2 Q So don't feel like because I'm asking
 3 these questions that there is necessarily an answer.
 4 However, with all that said, did anyone discuss
 5 anything to the effect of, well, we checked out the
 6 tires before the trip?
 7 A Yes.
 8 Q Okay. What was said about that?
 9 A That the car had just undergone a routine
 10 checkup before the trip.
 11 Q Okay. Who said that?
 12 A Matt, I believe.
 13 Q What is everything you remember about his
 14 statement to that effect?
 15 A I just remember the general nature of his
 16 statement.
 17 Q All right. Was there any other
 18 discussion about the car having been checked before
 19 the trip?
 20 A I don't remember.
 21 Q All right. Was there any other
 22 discussion about the tire, such as, we're going to
 23 need to get a new tire?
 24 MR. ZELL: After the blowout?
 25 MR. COHN: Yes, after the blowout, after the

Page 21

1 first blowout.
 2 THE WITNESS: I believe so.
 3 BY MR. COHN:
 4 Q All right. And who said what about that?
 5 A I don't remember.
 6 Q All right. Did the vehicle have a spare
 7 tire, if you know?
 8 A I don't think that it did.
 9 Q All right. Do you actually know for sure
 10 one way or the other?
 11 A No.
 12 Q All right. Was there any other
 13 discussion about the blowout or the need to replace
 14 the tire or the tire's condition on the vehicle
 15 overall or anything else about the tire during that
 16 time period just after the first blowout?
 17 A Not that I remember.
 18 Q All right. Was there any discussion
 19 about replacing two or four tires instead of just the
 20 one that had blown out?
 21 A I don't believe so.
 22 Q All right. And then let's move forward,
 23 I guess, a little bit. It's my understanding the
 24 vehicle then drove slowly along the shoulder to the
 25 point where it -- there was another service station or

Page 22

1 some establishment where a tire could be purchased.
 2 A Correct.
 3 Q All right. And do you remember
 4 approximately how far that slow-driving episode was in
 5 terms of distance or time or anything?
 6 A Maybe a mile or two.
 7 Q Just a couple miles or a mile?
 8 A Yes.
 9 Q All right. It took approximately how
 10 long in time, if you know?
 11 A I don't recall.
 12 Q All right. Upon arriving at this
 13 establishment or service station or whatever, were you
 14 a part of any -- a part meaning a listener or a
 15 speaker, in any conversation regarding the purchase of
 16 a new tire?
 17 A I remember hearing talk about the
 18 purchase of a new tire.
 19 Q All right. What do you remember hearing
 20 and who was saying what?
 21 A That Mr. Halsted said he was going to
 22 have to buy a tire.
 23 Q All right. Did you hear Mr. Halsted
 24 speaking with a person from the service station or
 25 anything to that effect?

Page 23

1 A No.
 2 Q All right. Did you ever get out of the
 3 vehicle?
 4 A Yes.
 5 Q At that point?
 6 A Yes.
 7 Q All right. And did you hear any
 8 conversation between Mr. Halsted and any person, or
 9 Matt Finley and any person who worked for the service
 10 station establishment?
 11 A No.
 12 Q All right. Did you look at the tire when
 13 you got out of the vehicle, the one that had blown
 14 out?
 15 A Briefly.
 16 Q And what did you see?
 17 A Where the tread had come out.
 18 Q Okay. Can you describe what you mean by
 19 that for me a little better?
 20 A The top layer of rubber, whatever, had
 21 been stripped off the tire.
 22 Q All right. So what could you see that
 23 was still remaining on the tire, if you could describe
 24 that?
 25 A Whatever underlayer there was and the

Page 24

1 sides of the tire.
 2 Q Okay. Did you look at the other rear
 3 tire at that point as well?
 4 A No.
 5 Q Did it occur to you at that point in time
 6 that if the one rear tire had blown out, that it was
 7 possible that the second rear tire might at some point
 8 blow out during your trip?
 9 A No.
 10 Q All right. Did anyone make such a
 11 statement at any time to the effect that since the one
 12 tire blew out, it was possible that the other one
 13 might also blow out?
 14 A Not that I remember.
 15 Q All right. Did anyone discuss the age of
 16 the tires or how --
 17 A I don't recall.
 18 Q -- how much wear they had on them?
 19 A I don't recall.
 20 Q All right. And, again, this is all
 21 during the time period where you're at the service
 22 station somewhere outside of Las Vegas on the way
 23 towards Colorado, correct?
 24 A Yes.
 25 Q Do you know what ultimately occurred at

Page 25

1 that location in terms of the purchase of a new tire?
 2 A The tire was purchased and put on the
 3 vehicle.
 4 Q All right. Do you know who put it on?
 5 A No.
 6 Q Do you know if Matt or Mr. Halsted put it
 7 on versus the person who was working at the location?
 8 A I know Matt did not, but I don't know who
 9 did.
 10 Q All right. All right. After the tire
 11 was placed back on the vehicle, the trip started up
 12 again, correct?
 13 A Correct.
 14 Q And who was driving at that point?
 15 A I don't recall, but I believe it was
 16 Mr. Halsted.
 17 Q All right. At some point in time did
 18 Mr. Halsted stop driving so that another person could
 19 drive?
 20 A Yes.
 21 Q And who drove after Mr. Halsted?
 22 A Rafi.
 23 Q All right. And how long did Rafi drive
 24 for?
 25 A Approximately two hours, I believe.

Page 26

1 Q All right. And while Rafi was driving,
 2 where did you sit?
 3 A In the back part somewhere again, but I
 4 don't remember which seat.
 5 Q All right. The vehicle had a front
 6 driver's seat and a front passenger's seat and then
 7 behind that would have been a bench seat and behind
 8 that another bench seat?
 9 A No, it had two captain's chairs and then
 10 a bench seat in the back.
 11 Q Oh, okay. So the -- the first -- the
 12 first row of seats is the front seat for the driver
 13 and the passenger, right?
 14 A Correct.
 15 Q And then the next row of seats is
 16 captain's chairs?
 17 A Yes.
 18 Q All right. And then behind that is a
 19 bench?
 20 A Yes.
 21 Q All right. And you just can't remember
 22 where you were during the time when Rafi was driving,
 23 whether it be the -- one of the rear two captain's
 24 seats or the bench?
 25 A Right.

Page 27

1 Q All right. After Rafi stopped driving
 2 was that then the time when you took over to drive?
 3 A Yes.
 4 Q Okay. And do you remember approximately
 5 what time of day that was?
 6 A Late morning, early afternoon.
 7 Q All right. And approximately how long
 8 were you driving when the subject incident occurred?
 9 A One hour.
 10 Q All right. And during the course of the
 11 time while you were driving the vehicle, how did the
 12 vehicle feel in terms of its steering and handling, if
 13 you can describe that?
 14 A I noticed that the steering had more play
 15 than I'm used to, but it didn't seem to have any other
 16 problems.
 17 Q When you say that the steering had more
 18 play than you're used to, I think I understand what
 19 you're talking about, but can you describe that for me
 20 anyway?
 21 A That it would move in either direction
 22 before responding a small amount.
 23 Q So you could actually turn the wheel a
 24 little bit and you wouldn't notice that the vehicle
 25 would steer until you moved it a little further,

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1 correct?
 2 A Correct.
 3 Q All right. Let's assume that you're
 4 driving straight and the center top of the steering
 5 wheel is 12:00.
 6 A Correct.
 7 Q Okay. Can you tell us approximately how
 8 much play there was in the steering wheel before you
 9 would actually get some type of response from the
 10 steering, assuming that you moved the 12:00 in one
 11 direction towards 1:00 or 2:00, or 3:00? I mean, I
 12 don't expect it's going to get to 4:00 or 6:00 or
 13 something like that, but can you tell us approximately
 14 how much play there was in that steering wheel?
 15 A I don't remember.
 16 Q Was there any comment on that by any
 17 person in the vehicle at any time during the entire
 18 course of the trip, that the vehicle had more play
 19 than someone was used to?
 20 A I don't remember.
 21 Q All right. And when I say "any time
 22 during the entire trip," I'm even talking about the
 23 day before as well.
 24 A Again, I don't remember.
 25 Q All right. Did the steering having more

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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?
 20 MR. COHN: I guess. That's what I assume.
 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

Page 35

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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1 A Correct.
 2 Q -- maneuver to the right yet, correct?
 3 A Yes.
 4 Q So then you turned it back to straight
 5 again, the wheel?
 6 A Yes.
 7 Q All right. And then as you're driving
 8 along, still with no change in the vehicle's
 9 direction, you tried again to turn the wheel back
 10 towards the right?
 11 A I began to, yes.
 12 Q And how far, again using the clock and
 13 12:00, et cetera, like we talked about the last time,
 14 how far did you get the wheel over this time before
 15 you were able to obtain any kind of responsive
 16 steering on the vehicle?
 17 A Approximately 1:00.
 18 Q All right. And at approximately 1:00
 19 what did you feel you were getting in terms of
 20 response from the vehicle?
 21 A There was still no response, but at that
 22 point the vehicle began to fish-tail.
 23 Q Okay. And in terms of fish-tailing, can
 24 you describe specifically what the rear of the vehicle
 25 did while you were holding on to the steering wheel?

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1 A The vehicle was more or less still moving
 2 in a forward direction straight as the back moved from
 3 right to left.
 4 Q All right. Do you remember if the
 5 tail-end went to the right first or the left first?
 6 A No.
 7 Q All right. You don't have a recollection
 8 of that?
 9 MR. DANIELS: Just wait until he's finishes the
 10 question. It will help the court reporter.
 11 BY MR. COHN:
 12 Q You don't have a specific recollection of
 13 that, correct?
 14 A Correct.
 15 Q Now, you indicated previously that you
 16 began to slow down and pull the vehicle to the side of
 17 the road. Based on my understanding of your
 18 testimony, it sounds to me like even though you
 19 attempted to pull the vehicle over to the side of the
 20 road, you never actually obtained a response from the
 21 vehicle that got you even started over to the side of
 22 the road. Is that a correct statement?
 23 A Not entirely.
 24 Q All right. So was there some response to
 25 your effort to provide steering input into the vehicle

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1 to get the vehicle to go over to the right-hand side
 2 of the road?
 3 A Initially, yes.
 4 Q All right. And when you say "initially,"
 5 was that after your first effort --
 6 A No.
 7 Q After your second effort to turn the
 8 vehicle?
 9 A No.
 10 Q After -- when was that initially?
 11 A At the very beginning of my first effort.
 12 Q All right. Let me see if I can sum this
 13 up, then.
 14 You're driving straight, the blowout
 15 occurs, you attempt to slow down and pull the vehicle
 16 to the side and at that point you provide input to the
 17 steering to the right-hand side, moving from the
 18 approximate 12:00 on the steering wheel to
 19 approximately 2:00. You get initially a slight amount
 20 of movement or maneuvering of the vehicle to the
 21 right-hand side of the road, but it was not responding
 22 as you had expected or intended?
 23 A I believe so, yes.
 24 Q So you then straightened back out the
 25 steering wheel back to the 12:00 position, correct?

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1 A Correct.
 2 Q And then you then go -- steer back again
 3 and you get to approximately 1:00 with the steering
 4 wheel, and this time at approximately 1:00 you
 5 commence to feel some fish-tailing of the vehicle?
 6 A Correct.
 7 Q All right. Did I just sum up all of the
 8 input to the steering wheel and the response that you
 9 felt you got from the steering wheel that you can
 10 remember to this point
 11 A To this point?
 12 Q Yes.
 13 A Yes.
 14 Q All right. And when I say "to this
 15 point," to this point in the accident sequence, right?
 16 A Right.
 17 Q All right. Did you provide any further
 18 input into the steering wheel that you haven't
 19 mentioned prior to the commencement of fish-tailing?
 20 A Not that I remember.
 21 Q All right. And you indicated that after
 22 the vehicle commenced to start fish-tailing you state
 23 that you felt that Mr. Halsted at some point grabbed
 24 the wheel. Is that a correct statement?
 25 A Yes.

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1 Q And Mr. Halsted's grabbing of the wheel,
 2 by your testimony, occurred after the fish-tailing had
 3 commenced, correct?
 4 A Yes.
 5 Q All right. So it was not Mr. Halsted's
 6 grabbing of the wheel that caused the fish-tailing to
 7 occur, because the fish-tailing occurred after he
 8 grabbed the wheel; is that a correct statement?
 9 MR. DANIELS: That calls for expert testimony,
 10 but you can answer that.
 11 MR. CAVANAUGH: Lack of foundation.
 12 BY MR. COHN:
 13 Q You can go ahead and answer.
 14 A Can you repeat the question, please?
 15 Q Yes.
 16 I'm trying to establish that, because the
 17 fish-tailing occurred after -- or, excuse me, because
 18 the fish-tailing commenced to occur before Mr. Halsted
 19 grabbed the steering wheel, by your testimony, that
 20 the fish-tailing was not caused by his grabbing of the
 21 steering wheel.
 22 A I assume so.
 23 Q Okay. If you can please describe at what
 24 point in the fish-tailing process Mr. Halsted's hand
 25 first touched the steering wheel, by your testimony?

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1 A Moments afterwards.
 2 Q All right. Do you know if the vehicle
 3 had fish-tailed more than once before he had grabbed
 4 the wheel --
 5 A I don't remember.
 6 Q -- by your testimony?
 7 You don't remember. All right.
 8 Did you see him grab the steering wheel?
 9 In other words, did you actually see his hand on the
 10 wheel or is it something that you felt?
 11 A I saw it.
 12 Q All right. Were you able to feel his
 13 hand on the steering wheel causing you any difficulty
 14 moving the steering wheel the way you would want to
 15 have moved it?
 16 A If I were to have tried to move it
 17 opposing his moving, yes.
 18 Q Did that happen? In other words, were
 19 you trying to move the steering wheel in some opposing
 20 manner than he was moving it?
 21 A No.
 22 Q All right. What input were you
 23 attempting to put into the steering wheel at the time
 24 when Mr. Halsted's hand was on the steering wheel?
 25 A Minimal.

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1 Q When you say "minimal," what do you mean?
 2 A As in I was letting him guide the
 3 steering wheel. I was just trying to make sure that
 4 it didn't, you know, spin out or something.
 5 Q Can you give us an estimate of kind of
 6 how much --
 7 A Percentage?
 8 Q -- time --
 9 A Time?
 10 Q -- passed while his hand was on the wheel
 11 before the vehicle -- before it actually went out of
 12 control, or -- strike that. Let me rephrase that.
 13 Can you give me an estimate of how many
 14 seconds passed while Mr. Halsted's hand was on the
 15 steering wheel before the vehicle rolled over?
 16 A I don't recall exactly.
 17 Q Okay. I mean, was it a split second or
 18 was it a few seconds?
 19 A More like a few seconds.
 20 Q All right. Do you remember approximately
 21 how many fish-tails the vehicle did during that period
 22 of time?
 23 A Four or more.
 24 Q Okay. Do you recall what input was given
 25 to the steering wheel by the -- I guess would be both

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1 Mr. Halsted and yourself, per your testimony, during
 2 that period of time?
 3 A Do you mean direction-wise?
 4 Q Right. In other words, was it turned or
 5 was it held straight or --
 6 A I believe he was trying to counteract the
 7 fish-tailing.
 8 Q And you indicated that you were
 9 providing minimal steering input and letting him guide
 10 the wheel to the largest extent; is that your
 11 testimony?
 12 A Yes.
 13 Q And why was that?
 14 A Because he was the adult in the vehicle.
 15 Q Okay. Can you describe all of the input
 16 or as much as you can remember that was given to the
 17 steering wheel while, by your testimony, Mr. Halsted's
 18 hand was on the wheel?
 19
 20
 21 (Record read.)
 22
 23
 24 THE WITNESS: I don't understand how you mean.
 25 BY MR. COHN:

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1 Q Apparently, it was a bad question.
 2 Can you describe for me as best you can
 3 the steering wheel's turning while Mr. Halsted's hand
 4 was on it and your hand was on it?
 5 A I don't recall the specifics.
 6 Q All right. Do you remember if the
 7 steering wheel -- let's again use the 12:00 wheel as a
 8 clock-type concept. Do you remember if you were
 9 holding the wheel straight, if the wheel was ever
 10 turned as a result of the combined input of
 11 Mr. Halsted and yourself to some point on the clock
 12 one direction or the other?
 13 A Yes.
 14 Q Okay. Can you tell us to what point on
 15 the clock you would feel that the wheel went one
 16 direction or the other?
 17 A That, I don't remember.
 18 Q All right. You know there was some
 19 turning input provided, though, but you don't remember
 20 what it would have been?
 21 A Correct.
 22 Q Okay. Or how much turning input was
 23 provided, correct?
 24 A Correct.
 25 Q Do you have any recollection of whether

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1 any of the turning input provided by the combined
 2 effort of yourself and Mr. Halsted, by your testimony,
 3 did in fact counteract any of the fish-tailing?
 4 A It did not seem to have any effect.
 5 Q And when you say that, what do you mean?
 6 A That the magnitude of the fish-tailing
 7 was increasing instead of decreasing.
 8 Q At any point in time prior to the
 9 commencement of the rollover did Mr. Halsted's hand
 10 come back off of the steering wheel?
 11 A Not until the car began to roll.
 12 Q All right. Was Mr. Halsted wearing a
 13 seat belt, if you know?
 14 A Yes.
 15 Q All right. Can you describe his body
 16 position with regards to your testimony on how he
 17 would have reached over to the steering wheel?
 18 A I don't remember, just that he was
 19 leaning towards me to grab the steering wheel.
 20 Q Was he grabbing it with two hands or one?
 21 A One.
 22 Q I assume his left, correct?
 23 A I don't know that.
 24 Q All right.
 25 A I don't remember.

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1 Q All right. Now let's go -- rewind the
 2 sequence back to the time of the tire blowout again
 3 and start talking about your feet.
 4 MR. CAVANAUGH: Before we get going again, I
 5 just want to interpose an objection as to the use of
 6 the term "blowout." That assumes facts not in
 7 evidence. But if you'll give me a continuing
 8 objection on that, I won't keep interposing it.
 9 MR. DANIELS: It's part of the MO, Richard.
 10 That's what they do, they never blow out, it's just
 11 failures. That's the word they like rather than
 12 blowout.
 13 MR. COHN: Actually, the word "failure" suits
 14 me perfectly.
 15 MR. ZELL: Manufacturing failure.
 16 MR. COHN: I like the word "failure."
 17 MR. DANIELS: They don't like "blowout."
 18 MR. COHN: It's right out of the jury
 19 instruction, whereas the word "blowout" has nothing to
 20 do with the jury instruction, so I'm much more happy
 21 with the word "failure" if you'd like me to use it.
 22 In fact, I'll commence to use the word "failure" from
 23 this point on and use it a great many times.
 24 MR. DANIELS: Sometimes they like "not
 25 serviceable" is a word they like to use, the tire is

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1 no longer serviceable.
 2 BY MR. COHN:
 3 Q All right. Anyhow, let's talk about
 4 this tire failure in terms of this accident sequence,
 5 in terms of your feet now rather than your hands and
 6 what was happening up at the steering wheel.
 7 Where were -- where was your right foot
 8 at the time just the split second or second or two
 9 before the tire failure?
 10 A On the gas pedal.
 11 Q All right. And immediately after you
 12 heard the noise of the tire failure what did you do
 13 with your right foot?
 14 A Took it off of the gas pedal.
 15 Q And did you place it on the brakes?
 16 A Not immediately.
 17 Q Okay. Why not?
 18 A I was waiting to see what was happening
 19 with the car.
 20 Q All right. Did the vehicle slow down at
 21 all between the time that you -- well, at some point
 22 did you put your foot on the brake?
 23 A Yes.
 24 Q Did the vehicle slow down at all, to your
 25 knowledge, from the time you took your foot off of the

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- 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

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- 1 sequence you would have heard a loud noise, took your
 2 foot off the accelerator, put your foot -- let your
 3 foot stay off the accelerator for some short period of
 4 time, then put your foot onto the brake and then
 5 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?

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- 1 A No.
 2 Q All right. Do you have any idea or
 3 estimate of how fast you were going at any time
 4 between the point when the blowout occurred to the
 5 time when the vehicle rolled over?
 6 MR. DANIELS: Other than what he already told
 7 you?
 8 BY MR. COHN:
 9 Q Other than the speed prior to the whole
 10 accident sequence.
 11 A Only that I was going slower than that
 12 speed.



1000085475

In The Matter Of:

Milton Halsted v.

Nii Addy

KENNETH S. OBENSKI

Vol. 1, September 22, 1999

INTERIM COURT REPORTING

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*Original File obe09229.asc, 168 Pages
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Lawyer's Notes

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE
MILTON HALSTED and STEPHANIE)
HALSTED,)
Plaintiffs,)
vs.) No. 795327
NII ADDY, BIGBY, HAVIS &) VOLUME I
ASSOCIATES, INC., DAVID FINLEY,)
JANET FINLEY, et al., and DOES 1)
through 100, inclusive,)
Defendants.)
AND RELATED CROSS-ACTIONS:)
Deposition of KENNETH S. OBENSKI, P.E.,
at 3 Imperial Promenade, Santa Ana,
California, commencing at 12:47 P.M.,
Wednesday, September 22, 1999, before
Cathryn L. Baker, CSR No. 7695.
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Page 2

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Page 4

[1] KENNETH S. OBENSKI, P.E., [2] having been first
duly sworn, was examined and [3] testified as
follows:
[5] EXAMINATION
[6] BY MR. ZELL:
[7] Q: Mr. Obenski, would you state your [8] full
name, please.
[9] A: Kenneth Stuart Obenski.
[10] Q: What's your residence address?
[11] A: My residence?
[12] Q: Yeah.
[13] A: 4412 Pescadero, San Diego.
[14] Q: Do you work with Orris Johnson at [15]
John Fiske Brown Associates at 637 Valley
Avenue, [16] Solana Beach?
[17] A: Correct.
[18] Q: My name is Peter Zell. I represent [19]
defendant Allen Oldsmobile-Cadillac in an Or-
ange [20] County Superior Court wrongful death
action filed [21] by the Halsted family.
[22] I understand you've been retained as [23] an

expert to testify on behalf of the Halsted [24]
family?
[25] A: Yes.

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[1] Q: You've given a deposition before?
[2] A: Yes.
[3] Q: How many times in personal injury or [4]
wrongful death actions, say, in the last five [5]
years?
[6] A: Well, last five years?
[7] Q: Depositions. Just deposition.
[8] A: The gross number is close to a [9] thousand.
Last five years is probably couple [10] hundred.
Probably not that many. Five years -
[11] Q: Is that deposition and trial or just [12]
deposition?
[13] A: I don't have an accurate count. I'm [14] just
trying to shoot from the hip here. A few [15]
hundred times in the last five years, I think.
[16] Q: In the last year how often have you [17]
testified in a personal injury lawsuit in trial?
[18] A: In trial, the last year, four or five [19] times.
[20] Q: What's your rate, hourly rate, for [21] expert
testimony?
[22] A: \$215.
[23] Q: Is that also your rate at trial?
[24] A: Yes.
[25] Q: Do you understand you're testifying

Page 6

[1] under oath today?
[2] A: Yes.
[3] Q: And your testimony is being [4] transcribed
word for word in a booklet; do you [5] understand
that?
[6] A: Yes.
[7] Q: You'll have the opportunity to review [8] it,
change it if you want, and sign it under [9] penalty
of perjury; do you understand that?
[10] A: Yes.
[11] Q: If we go to trial and you testify [12]
differently at trial than you do here today on the
[13] same topic, your deposition testimony can be
read [14] into evidence if you're on the stand. It
could or [15] could not prove embarrassing; do you
understand [16] that?
[17] A: Yes.
[18] Q: So you'll tell me if you have a [19] problem or
don't understand one of my questions?
[20] A: Yes.

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[6] BY MR. ZELL:

Lawyer's Notes

[14] A: That's correct.

[15] Q: Have you ever examined the tire or [16] any of the tires that were on the vehicle involved [17] in this accident?

[18] A: Yes.

[19] Q: Were you with Mr. Johnson at that [20] time, or did you examine them separately?

[21] A: For the most part, I was with Mr. [22] Johnson. We were both at the same location. There [23] were times when we were looking at the tire [24] together, other times he was looking at the tire [25] and I was looking at other parts of the vehicle.

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[1] Q: Do you have any education or [2] experience in the design or manufacture of tires [3] for light trucks or automobiles?

[4] A: I probably know more than the average [5] layman, but I wouldn't call myself a tire expert. [6] I've read a few books and articles and been in a [7] tire plant, but that's about it.

[8] Q: Is it true, then, that today you have [9] no expert opinion as to the cause of the failure of [10] any of the tires on the vehicle in which Lindsey [11] Halsted was in at the time of the accident?

[12] A: I wouldn't go that far. Depends on [13] the specific question. I'm not going to go into it [14] deeply, but there are some things that I think are [15] obvious to me that have probably been talked about [16] by others.

[17] Q: Why don't we start with those things [18] what are the things that are obvious to you about [19] the tires or the tire failure that you feel you are [20] qualified to give today.

[21] A: Well, the tread separated from the [22] tire, which is certainly not a normal thing that [23] happens to a tire. The tire wear was uneven. And [24] peculiarly, the greater wear was on the inboard [25] side of the tire, which suggested that there was a

Page 11

[1] problem.

[2] Q: What's the basis of your opinion [3] that there was a separation of the tread on the [4] tire?

[5] A: Well, the tire was over here and the [6] treads were all over there.

[7] Q: Did you make any inquiry or analysis [8] to what caused the separation of tread?

[9] A: No. Mr. Johnson is doing that.

[10] Q: Did you make any opinion or analysis [11] as to the reason for the uneven tire wear on the [12] inboard side?

[13] A: Well, there are several possibilities [14] that come to mind, one of which would be an [15] alignment problem. More often than not, alignment, [16] though, results in wear on the outboard edge of the [17] tire rather than inboard, especially on the front [18] end of larger vehicles. There was mention in the [19] history of the vehicle of some ball joint problems, [20] which could be evidence of a ball joint problem, or [21] it could be that the tire wear caused someone to [22] conclude that there was a ball joint problem.

[23] Q: Any other possibilities?

[7] Q: When were you first retained in the [8] Halsted case?

[9] A: June 17 of this year. I see my [10] agreement was faxed back to me on June - never [11] mind. Let's call it June 17. That's when I [12] believe I got the agreement.

[13] Q: Did you charge a retainer?

[14] A: Excuse me?

[15] Q: Did you charge a retainer?

[16] A: Yes.

[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.

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

[25] A: Mr. Cohn.

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[1] Q: What did he tell you he wanted you to [2] do?

[3] A: He didn't give me a specific [4] assignment at that time. He did tell me that this [5] was both a - it was a tire failure case [6] involving a rollover. So I looked at it as those [7] two things, an accident reconstruction involving a [8] rollover and tire failure. And Mr. Johnson would [9] be the one, primarily, to look at the tire failure.

[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

Page 12

[1] have an opinion as to the cause or possible causes [2] of the uneven wear on the inboard side?

[3] A: Well, the third possibility is that [4] tread separation had begun quite a bit before the [5] accident.

[6] Q: By tread separation beginning before [7] the accident, you mean something internally in the [8] tire was happening structurally that created tread [9] wear?

[10] A: Correct.

Lawyer's Notes

[12] Q: Why don't we back up a little bit. [13] You inspected the tire that allegedly [14] failed in the accident; is that right?

[15] A: Yes.

[16] Q: And did you take notes as to the type [17] of tire it was, a model number, et cetera?

[18] A: I took some notes on that.

[19] Q: How do you or how did you identify on [20] your inspection of the tire, the tire that failed?

[21] A: I'm sorry, could you repeat that.

[22] Q: How did you identify - by what [23] numbers or -

[24] A: I left most of that on the tires to [25] Mr. Johnson, since he was there. I did notice that

Page 15

[1] the serial number on that tire ended in 310, which [2] I understand corresponds to the 1990 manufacturer. [3] It's a Tiger Paw, which is the trade name for the [4] tire.

[5] Q: Uniroyal tire?

[6] A: That's what I remember. P23575R15NS, [7] I believe was the size.

[8] Q: Did you examine the tire on the [9] wheel?

[10] A: It was mounted on the wheel. It was [11] not inflated.

[12] Q: Did you also examine six or seven [13] pieces of rubber that were purportedly part of that [14] tire?

[15] A: I don't remember quite that many. [16] But there were a number of fragments of rubber [17] there.

[18] Q: Is it okay with you if I refer to it [19] as the Uniroyal tire that you've identified as the [20] tire that failed in the accident?

[21] A: Sure. Anyway you want to, as long as [22] it's reasonably consistent is fine with me.

[23] Q: Do you have opinion as an expert, [24] based on your work in this case, that as a matter [25] of probability, the tire that failed in the

Page 16

[1] accident suffered uneven wear on the inboard side [2] because of improper alignment on the vehicle on [3] which it was mounted?

[4] A: As a matter of probability?

[5] Q: Sure.

[6] A: I'm not sure that makes any sense.

[11] BY MR. ZELL:

[12] Q: Is it your opinion as an expert [13] witness in this case that it is more probable than [14] not that the uneven wear on the inboard side of the [15] tire that failed in the accident was caused by [16] improper alignment of the vehicle?

[17] A: No.

[18] 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?

[24] A: No.

[25] MR. SONNETT: How about an easy one.

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[1] Do you have any opinion on a [2] more-probable-than-not basis as to what caused the [3] uneven wear on the inboard side of the tire?

[4] THE WITNESS: Yes.

[5] BY MR. ZELL:

[6] Q: What's your opinion?

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

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

[13] 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.

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

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

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[5] THE WITNESS: I did not make notes of that [6] information.

[7] BY MR. ZELL:

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

[11] A: Correct.

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

[14] 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, [17] you're talking about different places on the [18] circumference?

[19] Q: Yes.

[20] A: I didn't note that.

[21] 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?

[25] A: You'd have to ask Mr. Johnson.

Lawyer's Notes

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[1] Q: You don't know?

[2] A: At the time I was looking at the tire [3] we did not go into that detail.

[4] Q: And you cannot report today whether [5] or not there was uniform tread depth on the [6] circumference on the outboard side where you report [7] uneven wear; is that correct?

[8] A: When I talk about uneven wear, I was [9] talking about inboard to outboard, not [10] circumferentially.

[11] Q: Anything else about the wear, the [12] nature of the wear that you noticed that you felt [13] in your expert opinion was abnormal, besides what [14] you've testified?

[15] A: No.

[20] BY MR. ZELL:

[21] Q: Did you notice any other abnormality [22] of the tire besides the tread wear when you [23] examined it, such as cuts, splits, bulges, bubbles, [24] penetrations?

[25] A: As I recall, there was what appeared

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[1] to be a cut, although it could be a split, that [2] went completely into the tire so that it would not [3] hold air. Of course it was mounted but debaded [4] when we saw it.

[5] Q: Do you have an opinion as an expert [6] in this case that it was - whether or not that cut [7] was sustained by the tire after the accident, [8] during the accident, or before the accident?

[9] A: I don't have an opinion on that [10] subject, not from examination of the tire.

[11] Q: Besides the uneven wear and the cut, [12] did you notice any other abnormality about the tire [13] that failed in this accident, such as splits, [14] abrasions, cords showing, bulges, bubbles, cracks, [15] penetration?

[16] A: No.

[17] Q: In your inspection did you examine [18] the wheel?

[19] A: Briefly.

[20] Q: Did you see any abnormality or damage [21] to the wheel rim or the center of the wheel?

[22] A: The center of the wheel, I don't [23] remember. I think there may have been some [24] superficial gauges on the periphery of the wheel, [25] but I don't remember anything in particular.

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[1] Q: You're talking about the rim?

[2] A: Yes.

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

[6] A: I didn't see anything there [7] significant to cause me to want to determine when [8] it may have occurred.

Lawyer's Notes

[9] Q: Was there some degree of tread depth [10] remaining on all portions of the tire that failed [11] in the accident even though you don't know the [12] exact measurement?

[13] A: First of all, we don't have the [14] entire tire.

[15] Q: On the portion of the tire you looked [16] at.

[17] A: I don't remember.

[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?

[24] THE WITNESS: Way beyond my expertise. You [25] don't need to clarify it.

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[1] BY MR. ZELL:

[2] Q: You can't say what particular [3] structures within the tire were separating [4] initially; is that correct?

[5] A: That's correct.

[6] Q: I take it, then, that you cannot say [7] exactly how the tire failed in the accident; is [8] that correct?

[9] A: Yes.

[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

[17] A: Goes beyond my expertise.

[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.

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[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?

[13] A: Correct.

[14] Q: Is it your further understanding that [15] another rear tire failed a few hours before the [16] accident?

[17] A: Yes.

[18] Q: Do you have any opinions as an expert [19]

in this case as to the cause of that failure?

[20] A: No.

[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

Page 24

[1] earlier tire failure with Mr. Johnson?

[2] A: I don't believe so. The only thing [3] we can say about that tire, apparently, [4] coincidentally, it was probably out of the same [5] batch as the subject tire.

[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?

[11] A: Yes.

[12] Q: What is your opinion?

[13] A: Well, he seemed to be driving a [14] little too fast, especially considering that others [15] had reported being uncomfortable with that vehicle [16] 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 been [24] able to handle. But I don't know if that's just [25] attributable to his youth and inexperience.

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[1] Q: Did you perform an analysis to [2] determine the speed of the vehicle at the moment [3] the tire blew?

[4] A: Well, I attempted to find it the [5] moment the tire blew. Unfortunately, we only have [6] evidence of the last final maneuver before the car [7] turned over. And the testimony would suggest that [8] between the time the tire blew and the swerve that [9] we have evidence of, there was considerable other [10] motion of the vehicle. I tried a lot of different [11] ways, the only thing that comes close to working is [12] something similar to what was done by the Highway [13] Patrol. So I can estimate the speed at the [14] beginning of the tire marks, and I know from [15] experience and from testimony it must have been [16] higher than that. But as to how much, there's no [17] way to know.

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[1] MR. COHN: Would you rather we use the term

[2] failed due to its defect?
[3]

[5] THE WITNESS: I would happily substitute [6] fail for blew because I agree with part of what he [7] said. BY MR. ZELL:

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

[10] A: Yes, because I think tread separation [11] counts as a failure.

[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.

[23] A: The officer made numerous [24] measurements of points that he reported - well, [25] they're in his notes rather than on the actual

[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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[1] diagonal to the road and ends up perpendicular, I [2] adjusted the drag factor for the orientation of the [3] vehicle in that area. Used another drag factor [4] where it was sliding on the grass, and a third one [5] for the rollover. And put that into a - into [6] basically the same formula that the officer [7] described but couldn't remember, which is commonly [8] used in accident reconstruction. And a result of [9] that calculation was a speed equals a square root [10] of - there's a whole

Lawyer's Notes

bunch inside of that radical. [11] Calculates 86.8 miles an hour.

I'm not being real - not [14] being totally thrilled with that method of [15] calculation in this accident. I looked at some [16] other possibilities, but every other way I tried to [17] do it, I came out with numbers that nobody would [18] believe anyway. I said that's just not [19] appropriate.

[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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[1] them, which you expect to see in centrifugal skids. [2] And therefore concluded that this vehicle is [3] basically sliding sideways totally out of control [4] at B.

Lawyer's Notes

[16] Q: Well, do you have an opinion as to [17] the distance between the point on the road where [18] the tire first failed and the beginning of the tire [19] marks?

[20] A: Well, we had one witness who said the [21] car fishtailed four times, which would put the [22] failure back almost a quarter of a mile.

:The witness said four

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[1] times, I don't know what he means. He says it [2] fishtailed. One of them says it fishtailed four [3] times. One of the Shah boys. I can't remember [4] which one it was.

Lawyer's Notes

[21] A: It's not something that I determined. [22] Somebody so testified. The trier of fact can [23] determine whether they believe that's what really [24] happened.

[25] MR. SONNETT: You've been testifying as an

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[1] expert too long.

[2] BY MR. ZELL:

[3] Q: Do you have that in your bank of [4] information, that someone reported that Mr. Halsted [5] put his hands on the driver's wheel after the tire [6] failure, correct?

[7] A: Yes.

[8] Q: Did you make any attempt to determine [9] what effect, if any, that had on the movement of [10] the vehicle after the tire failure?

[11] A: The impression I get from the [12] testimony was that by the time he did that it was [13] at the point where he was unable to have any [14] significant effect on the vehicle.

[15] Q: Whose testimony gives you that [16] impression?

[17] A: I'd have to go back and look at [18] several of them. Nii Addy and the two Shah [19] brothers, both of them.

[25] Q: Independent of what any of the

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[1] witnesses say, do you have an opinion as an expert, [2] based on your scientific analysis of the physical [3] evidence in this case, what effect, if any, Mr. [4] Halsted's grabbing of the steering wheel had on the [5] the movement of the vehicle?

[11] THE WITNESS: I doubt if it had any [12] significant effect.

[13] BY MR. ZELL:

[14] Q: Do you have an understanding or an [15] opinion as to what posture the vehicle was in when [16] Mr. Halsted first took ahold of the driver's wheel?

[17] A: No.

[20] BY MR. ZELL:

[21] Q: Whether it was fishtailing or it was [22] in its slide?

[23] A: No.

[25] BY MR. ZELL:

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[11] Q: What depositions did you review in [12] the case? Do you have them listed in your file [13] somewhere?

[14] A: I don't have a list but I can go [15] through the file and find them pretty easily. [16] First of all, there's Janet Finley, David Finley, [17] Milton Halsted, Nii Addy. I'm guessing at the [18] pronunciation of the first name.

[19] MR. DANIELS: Just like your knee.

[20] THE WITNESS: Matthew Finley, Charles [21] Collings, Fred Swain, Vishal Shah, Ravi Shah, Cliff [22] McKinney, Mike Burroughs, Lawrence Ehlow, Pat [23] Reddy, Milton Halsted.

[24] BY MR. ZELL:

[25] Q: You read the entirety of all those

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[1] depositions?

[2] A: Yes.

[3] Q: You made the page, line summaries of [4] the depositions?

[5] A: Yes.

[9] Q: At some point did you understand one [10] of the witnesses, maybe one of the Shah brothers, [11] to have reported that Mr. Halsted took control of [12] the driver's wheel after the tire failed?

[16] Q: At some point did you determine from [17] the testimony of one of the deponents that Mr. [18] Halsted grabbed the wheel, the driver's wheel, at [19] some point between the time the tire failed and the [20] time the vehicle came to rest?

Lawyer's Notes

[1] Q: Do you know?

[2] A: I think fishtailing would be [3] appropriate, but as to what orientation or [4] attitude, I don't think we have enough information.

[5] Q: What is fishtailing?

[6] A: Seems me to be a self-descriptive [7] term. But in any case, my understanding, which I [8] believe would be a typical understanding, would be [9] that the rear of the vehicle is meandering from one [10] side to the other more so than a driver input could [11] cause.

[12] Q: Do you consider fishtailing as a [13] condition of a vehicle being completely out of [14] control or partially, or what?

[20] THE WITNESS: That's true. Some fishtailing [21] might be deliberately induced by the driver who [22] would presumably be capable of recovering from it. [23] But I think what typically happens, both my [24] personal experience and observing other drivers, is [25] that when a vehicle gets into that sort of a mode,

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[1] if the driver is good and it's not too bad, he [2] usually recovers within one cycle, two at the most. [3] If he hasn't recovered after two cycles, it's [4] probably the second cycle was bigger than the [5] first, then it just destabilizes and becomes [6] progressively worse.

[7] Q: In a fishtail, as you understand it, [8] is there traction of all four tires, generally, or [9] is there a lack of traction?

[10] A: There's insufficient traction.

[11] Q: One of the witnesses reported that [12] when Mr. Halsted took hold of the driver's wheel he [13] moved it in an abrupt fashion; do you recall that [14] testimony?

[15] A: I don't believe that's - I don't [16] recall that exact testimony.

[17] Q: I also understand that another - the [18] same witness stated that when Mr. Halsted took [19] control of the wheel he rotated the driver's wheel [20] one full rotation; do you recall that testimony?

[21] A: I do recall that.

[22] Q: What effect would that have - would [23] that have had on this vehicle if it was in a [24] fishtail?

[25] A: It depends on where it was in the

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[1] cycle.

[2] Q: Do you have an opinion in this case [3] as to what effect an abrupt full rotation of the [4] driver's wheel would have had on this vehicle?

[5] A: Well, I said it depends on where it [6] was in the cycle. There are times within a cycle [7] when that would be the exact thing to do to [8] recover. And there are times when that would make [9] it worse.

[10] Q: How would it make it worse?

[11] A: Let's say it was already rotating to [12] the right clockwise from above, turning the wheel [13] to the right would make it that much worse. On the [14] other hand, if it was rotating counter-clockwise [15] from above, a full rotation to the right would be a [16] step towards recovery.

[17] Q: Now, when you say make it worse, do [18] you mean that it just simply prolongs the [19] fishtailing or it causes the movement of the front [20] tires that then causes a different type of movement [21] or attitude of the vehicle?

[3] BY MR. ZELL:

[4] Q: Is it true that you have no opinion [5] as to the effect of Mr. Halsted taking hold of the [6] driver's wheel and moving it?

[7] A: Well, that would contradict what I [8] said earlier.

[11] BY MR. ZELL:

[12] Q: You do have an opinion as to what [13] happened or didn't happen to the vehicle as a [14] result of Mr. Halsted taking hold of the wheel and [15] moving it; is that correct?

[16] A: Yes.

[17] Q: And what happened to the vehicle; [18] 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

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[1] testimony?

[2] **A:** Well, it's based on testimony and my [3] experience. All the reconstruction I've done and [4] experience as a driver and things I've read.

[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?

[11] **A:** I think he reacted in a perfectly [12] foreseeable manner in a situation of imminent [13] peril, attempting to rescue himself and others from [14] perceived danger.

[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?

[18] **A:** Yes.

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

[21] **A:** Yes.

[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

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[1] negligent in allowing the vehicle to be driven at [2] speeds over the speed limit just before the [3] accident?

[11] **THE WITNESS:** I don't think it's amenable to [12] an expert opinion. Basically, it calls for either [13] a legal conclusion or something reserved for the [14] trier of fact.

[15] **BY MR. ZELL:**

[21] **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?

Lawyer's Notes

[9] **THE WITNESS:** I've had judges instruct me [10] not to answer the question using the word [11] negligent.

[10] **BY MR. ZELL:**

[11] **Q:** Are you going to follow your [12] counsel's instruction not to answer the last [13] question as phrased?

[14] **A:** First of all, he's not my counsel. [15] Second, I'm not following his instruction. I'm [16] following my understanding of the law since I am [17] without counsel, essentially pro per, I guess. But [18] my experience tells me that that last question is [19] one that I cannot reasonably answer for reasons [20] that I gave.

[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.

Lawyer's Notes

[18] MR. SONNETT: Let me see if I can clear [19] 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?

[24] THE WITNESS: Yes.

[25] MR. SONNETT: Do you want to follow up on

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[1] that, Peter?

[2] BY MR. ZELL:

[3] Q: What's your opinion?

[4] A: I think he acted reasonably under the [5] circumstances.

[6] Q: Now, when you say he acted reasonably [7] under the circumstances, we're talking about the [8] fact that the driver is driving at speeds in excess [9] of 80 miles an hour, Mr. Halsted is not complaining [10] or instructing the driver to slow down, correct?

[11] 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?

[21] A: In the few minutes? I remember [22] testimony that he instructed him to slow down. [23] It's not time specific. But as far as I know, he [24] doesn't have any obligation to discipline Mr. Addy [25] anyway.

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[1] Q: Have you been asked to make any [2] 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 seatbelts [5] that were in the vehicle and available to her?

[11] BY MR. ZELL:

[12] Q: I want to know whether you were asked [13] to inquire into the seatbelt issue?

[14] A: I don't remember being asked.

[15] Q: And you have not, then, made any type [16] of analysis or investigation as to the seatbelt [17] issue in this case? In other words, what would or [18] would not have happened had Miss Halsted been [19] wearing a seatbelt; am I correct?

[20] A: That would go beyond my designation [21] or assignment.

[22] Q: So you have no opinion?

[23] A: There are certain things I can say [24] as a matter of routine.

[25] Q: I don't want you to say anything as a

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[1] 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?

[14] A: Yes.

[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?

[23] A: Yes.

[24] Q: What were your opinions?

[25] A: Well, looking at the history of the

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[1] 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.

[19] Q: The wear pattern that you believe [20] was on the tire at the time Allen Oldsmobile - [21] strike that.

[22] 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?

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[1] A: Yes.

[2] Q: Do you believe that in your opinion [3] that the wear pattern that you observed on the tire [4]

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

[7] A: Yes.

[8] Q: Was that wear pattern, in your [9] opinion, consistent with a misalignment problem [10] with the vehicle?

[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?

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[1] A: Because a good tire that just has a [2] wear problem, you put it on the rear, the most worn [3] part won't even touch the ground. And it will be [4] apparent that that part of the tire is not [5] receiving additional wear on the tire. That's the [6] reason for rotating, is to basically wear down the [7] high spots instead of continuing to wear the low [8] spots.

[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?

[14] A: Well, there are front-end alignment [15] problems that could cause some wear of that type.

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

[18] A: Could be.

[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?

[23] A: Yes.

[24] Q: What was that?

[25] A: They should have pointed out the

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[1] 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?

[6] A: Yes.

[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?

Lawyer's Notes

[11] A: Considering the history of the [12] vehicle, right.

[13] Q: What about the history of the vehicle [14] points towards an internal separation?

[15] A: They rotated those tires 6,000 miles [16] before. There's no indication on that earlier tire [17] work of an abnormal wear problem on the tire. So [18] that - assuming they're doing everything [19] religiously, it would indicate that abnormal wear [20] occurred during the 6,000 miles the tire was on the [21] rear axle.

[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

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

[3] 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

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

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

[5] A: It's within a range of what you'd [6] see on a ball joint problem.

[7] MR. ZELL: I have no further questions. [8] Thank you.

In The Matter Of:

*MILTON HALSTED v.
NII ADDY*

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

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*Original File asa10189.asc, 143 Pages
Min-U-Script® File ID: 3943351840*

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE
MILTON HALSTED and STEPHANIE HALSTED,)
Plaintiffs,)
vs.) No. 795327
NII ADDY, BIGBY, HAVIS & ASSOCIATES,) VOLUME I
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.)
Deposition of ALAN F. ASAY, taken at
1801 Century Park East, 9th Floor,
Los Angeles, California, commencing
at 1:15 P.M., Monday, October 18, 1999,
before Ruth C. Moore, CSR No. 8444.
PAGES 1 - 143

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Page 3

[1] **ALAN F. ASAY,**
[2] having been first duly sworn, testified as [3]
follows:
[5] **EXAMINATION**
[6] **BY MR. YUKEVICH:**
[7] **Q:** State your name, please.
[8] **A:** Alan Foster Asay.
[9] **Q:** And, Mr. Asay, what is your [10] business
address?
[11] **A:** 5314 North 250 West, Suite 330, [12] Provo,
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-

Lawyer's Notes

ements and passed the test to qualify for a [22]
professional engineering license. I believe that
[23] was 1994.
[24] **Q:** That was in the State of Utah?
[25] **A:** Yes.

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[1] **Q:** What's required in Utah to qualify [2] and
receive a professional engineer's license?
[3] **A:** Oh, there's a lot of things. [4] There's several
quote-unquote "hoops" you have to [5] jump
through. However, the major portion is [6] there's
an eight-hour exam you have to pass, as [7] well as
you have to provide appropriate [8] qualifying
experience.
[9] Those are the two major [10] qualifications in
order to be certified.
[11] **Q:** And you've done both of those?
[12] **A:** Yes.
[13] **Q:** And when did you - and 1994 was [14] the
year you received the PE?
[15] **A:** Yes.
[16] **Q:** And between 1990 and 1994, other [17]
than the education that you had at Brigham
Young [18] University, any other educational
background [19] during that period of time?

Lawyer's Notes

[23] Q: Can you tell me, generally [24] speaking, what your area of specialization is?

[25] A: I specialize - I'm a mechanical

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[1] engineer by trade, and I specialize in the field [2] of accident reconstruction, which can include and [3] encompass automobile, pedestrian, motorcycle. [4] We've had trailers, all kinds of other automobile [5] or motor vehicle reconstructions.

[6] Q: And you were formerly with [7] Collision Safety Engineering.

[8] Correct?

[9] A: Yes.

[10] Q: Chuck Warner's group?

[11] A: Yes.

[12] Q: How long were you there?

[13] A: I was there almost five years, in [14] fact just a little over.

[15] Q: And what was the reason that you [16] left that group?

[17] A: I left that group to finish my [18] mechanical engineering master's degree. While I [19] was there I also worked under Dr. Woolley, who I [20] then received employment with after finishing my [21] master's degree.

[22] Q: And in terms of accident [23] reconstruction, how many accidents do you think, [24] generally speaking, you've reconstructed, motor [25] vehicle?

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[1] A: Hundreds. I don't know to put a [2] number on it.

[3] Q: Best estimate?

[4] A: Several hundred, probably two to [5] 300 at least.

[6] Q: And in this particular case what [7] was your assignment in terms of what you've been [8] asked to do?

[9] A: Over lunch Mr. Daniels and I [10] discussed that a little bit as far as - my task [11] originally was to obtain and collect all the [12] information pertaining to this accident and to [13] preserve it.

[14] The task then changed and actually [15] became a little bit more in depth as to [16] determining the speed and probable causation or [17] relating to the probability, if any, of the cause [18] of the accident involving the 1991 Suburban.

[19] Q: And have you reached all the [20] opinions that you intend to give in this case as [21] of this point in time?

[22] A: I've reached the opinions that - [23] yes, I've reached those opinions, but there are [24] some other material that I'd still like to review [25] and go over. Whether it affects my opinions I

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[1] don't know at this time.

[2] Q: Well, why don't you just tell me [3] what your opinions are, then. Do you have [4] opinions that you formulated in this particular [5] case?

[6] A: Yes.

[7] Q: And what are they?

[8] A: I'm of the opinion that the Finley [9] vehicle - if you don't mind, a reconstructionist [10] kind of re-creates things in reverse order. So [11] I'm going to go in reverse order with respect to [12] the accident sequence.

[13] Q: That's fine.

[14] A: The vehicle itself ends up at rest [15] on its feet, and prior to that it performs [16] approximately two rolls in order to get to that [17] location.

[18] The speed estimate that I've [19] obtained comes to - basically the time that it [20] leaves the ground or ends its tripping sequence [21] is approximately 28 to 32 miles per hour. The [22] distance -

[23] Q: I don't mean to interrupt you, but [24] 28 to 32 miles per hour is the trip speed, the [25] time that the wheels leave the ground?

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[1] A: Yes. At the end of the trip [2] sequence where it begins to roll.

[3] Q: Okay.

[4] A: The distance traversed during the [5] roll sequence is approximately 56 feet.

[6] Then the next sequence that the [7] vehicle went through prior to rolling was what I [8] would call a trip initiation sequence, and I will [9] lump that together. That's basically where the [10] vehicle is plowing into the earth, proceeding up [11] the hill in a sideways fashion.

[12] I will lump that together with the [13] pre-trip, which is primarily the marks that are [14] left on the road as it proceeds off of the lane [15] of travel onto the shoulder and then initiates [16] into the dirt.

[17] That - those two combined, the [18] distance traversed is approximately 251 feet, and [19] the speed at the initiation of the tire mark that [20] I've obtained through calculations is basically [21] approximately on the order of 72 to 77 miles per [22] hour.

[23] Now, the next sequence that is once [24] again in reverse order, the sequence that is just [25] prior to that which initiates the loss of control

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[1] is one that I don't have any per se physical [2] evidence on. There is no marks on the road.

[3] We do have the physical evidence of [4] the tire itself, the shredded pieces on the side [5] of the

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.

[12] That separation of the tire tread [13] then initialized a series of events, namely [14] changing the characteristics of the handling of [15] the vehicle such that the control of the vehicle [16] could not be maintained by the driver and the [17] vehicle became unstable.

[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 [2] resolve.

[3] Is there any others that -

[4] MR. DANIELS: He's asking the questions.

[5] THE WITNESS: I'm sorry.

[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.

[10] A: I believe right now that's all I [11] can - like I said, there are opinions that [12] substantiate those, but those are the major [13] opinions I've arrived at. Those are the bottom [14] lines.

[15] Q: When you say there are opinions [16] that substantiate those, are we talking about [17] factual evidence that supports the opinions or [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?

[2] A: The first thing I did was I was [3] retained to go down and investigate this accident [4] scene and actually obtain what information was [5] still there. So I actually performed an [6] inspection at the accident site, obtained [7] measurements, photographs from which I could [8] provide a basis for doing a reconstruction.

[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 the

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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 radiuses, [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] 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.

[22]

[23] BY MR. YUKEVICH:

[24] Q: Was there a computer program that [25] was used to aid you in the reconstruction?

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[1] A: I started to set up a program [2] called SVS, which is a handling simulation [3] program, but I abandoned it due to lack of time. [4] But it's possible that you could use something [5] similar to that to verify these results that I [6] arrived at.

[7] Q: But you didn't use it?

[8] A: No, I didn't fully bring it to [9] completion.

[10] Q: So the underlying basis of the [11] opinion is not predicated on this SVS program?

[12] A: No.

[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] photographs, summaries of the depositions I've

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[1] been provided with, the police report and other [2] such material, yes.

[3] Q: And when you were at Collision [4] Safety you worked with Greg Smith.

[5] Is that correct?

[6] A: Yes, I know Greg Smith.

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

[10] A: I know Greg Smith. I've worked [11] with Greg Smith. I didn't work with him as [12] closely as some of the other engineers, but I [13] have respect for the work that he does. He's [14] very thorough. And like I said, I've worked with [15] him in the past. That's about all I can say.

[16] 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 -

[20] A: Meaning automobiles or meaning [21] which?

[22] Q: Well, automobiles, motorcycles, [23] motorized vehicles.

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

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[1] done - did a forklift case. I've done [2] motorcycles, of course. I've done some involving [3] trailers and tractors. I've done some - I did a [4] lawn mower case one time.

[5] I've done some cases involving some [6] trip and fall over some debris. I've done just [7] different regime, different areas that involve [8] accident reconstruction and the techniques that [9] are namely utilized for automobile accident [10] reconstruction.

[11] 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?

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

[19] 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?

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

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[1] the rest, the other half of our work is probably [2] evenly split between plaintiff's work and defense [3] work outside of product liability.

[4] Q: What car manufacturers have you [5] been retained by?

[6] A: I've done work for Ford and GM, but [7] I've also done work - our company has done work [8] for all kinds of manufacturers that I've been a [9] party to. Nissan including Ford and GM. Toyota, [10] Hyundai, Volkswagen, Suzuki, Mitsubishi, Isuzu.

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

Lawyer's Notes

in this accident?

[13] A: I believe it was a 1991 Chevrolet [14] Suburban.

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

[17] 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.

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

[24] A: No.

[25] Q: In your opinion the delamination or

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

[3] A: No.

[4] 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?

[7] A: Tires fail, yes.

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

[10] A: That all what? Repeat your [11] question.

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

[14] 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.

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

[20] Correct?

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

[23] Q: And did you -

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

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

[3] Have you ever -

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

[6] MR. YUKEVICH: I'm not.

[7] MR. DANIELS: We have those.

[8] MR. YUKEVICH: I understand.

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

[11] What kind of car do you drive?

[12] A: I drive a 1998 Ford F150.

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

[15] A: 1997 Ford Expedition.

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

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

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

them.

[22] A: I look at them just like I look at [23] the rest of my car.

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

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

[2] Q: When you have them rotated, do the [3] people who rotate them look at the tires and tell [4] you if you need new ones?

[5] A: I would hope they would.

[6] Q: You're an engineer. [7] Correct?

[8] A: Yes.

[9] Q: You have a master's in engineering. [10] Correct?

[11] A: Yes.

[12] Q: And from time to time you've looked [13] at tires on your own car and said "Don't look too [14] good. Maybe I should check and see if they [15] should be replaced."

[16] Correct?

[17] A: Yes, I've bought a few sets of [18] tires in the time that I've driven.

[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?

[24] A: Yes. But it's very hard for [25] someone - I'm not trained in the area of exactly

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[1] looking for a tire and knowing the flaws. If you [2] see wires sticking out or if you see the obvious, [3] yes. Yeah, you always inspect that and look for [4] it.

[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.

[10] Q: And that's not something that, you [11] know, people can do when they look at the surface [12] of the tire generally.

[13] Correct?

[14] A: Well, once again, it depends. I [15] will defer that.

[16]

[17]

[18] BY MR. YUKEVICH:

[19] Q: Have you ever seen a tire where you [20] said "That's a bald tire, I'm going to get rid of [21] that"?

[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

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[1] where I'm from, bald tires do not do well in snow [2] and so forth. But, yeah, periodically you may [3] see a tire and recommend to someone that they get [4] it replaced.

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

[7] A: I've been told it's something on [8] the order of 55,000.

[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?

[12] A: No.

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

[16] A: No, I did not.

[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 address the fact that Mr. Stephens [25] was going to handle the mechanical and anything

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[1] basically having to do with the vehicle. And I [2] was specifically handling the reconstruction [3] 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 detreading and that the [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?

[14] MR. DANIELS: Well, that's an incomplete [15] hypothetical.

[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

Page 25

[1] 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.

[5] I believe that the tire [6] delamination started a series of events that led [7] to the ultimate loss of control. The [8] delamination - I believe it's possible that the [9] delamination changed the characteristics of the [10] vehicle such that under the way it's - it was [11] loaded and the way in which the driver reacted to [12] it, it became less of an understeer vehicle and [13] more of an oversteer vehicle, in which case [14] someone like Nii Addy that may not have very much [15] experience in controlling the vehicle could very [16] easily be misled by the handling characteristics [17] of that change and therefore lose control or

[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 ahold of the wheel as well.

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[1] So whoever - the driver's position [2] is basically designed so that that's where the [3] input is placed. It's - based on deposition [4] testimony that I've read, I believe Mr. Halsted [5] also grabbed the steering wheel and also had some [6] input to that - that loop besides just Mr. Addy.

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

[9] **A:** Just what I've read in the [10] testimonies. The one testimony, I believe it was [11] Mr. Addy, said that he reached over and grabbed [12] ahold of the wheel and held it.

[13] One of the other witnesses in the [14] middle seat testified - I believe it was either [15] Ravi or Vishal. One of them basically said that [16] Mr. Halsted turned the wheel to the right several [17] revolutions.

[18] So there's - and then I believe [19] Matt Finley in the back said that he remembers [20] Mr. Halsted reaching over and turning the wheel. [21] How far I don't recall.

[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

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[1] there's no way for me to know physically who had [2] ahold of the steering wheel. There's no facts [3] that I can trace or look at that would basically [4] show that.

[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?

[9] **A:** That what?

[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.

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[1] Therefore, i.e., you have to assume [2] that the steering mechanism, the steering wheel [3] via the

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driver or whoever's hands were on the [4] steering wheel, were the ones that put the input [5] into the - into the vehicle in order to cause [6] those sequence of events that are documented by [7] the tire marks and the photos and so forth.

[8] **Q:** And where do you see evidence of [9] steering input in terms of the marks on the [10] roadway surface?

[11] **A:** The steering input is a result of [12] the vehicle motion. That's the only explanation [13] since there was no other outside parameters [14] acting on the vehicle.

[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.

[19] And the tire delaminating does [20] change the handling characteristics of the [21] vehicle or would change it.

[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

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[1] suspension and so forth.

[2] **Q:** I guess I'm asking you isn't it [3] true that to some extent the tread being lost [4] from the tire will change somewhat of the [5] handling characteristics of any vehicle.

[6] **A:** Yes.

[7] **Q:** Mr. Stephens gave the example the [8] other day of the difference in handling being the [9] difference between a full-size tire and one of [10] these little donut spares, that that in and of [11] itself can change somewhat the handling [12] characteristics of any vehicle.

[13] Do you agree with that?

[14] **A:** Yes.

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

[20] **A:** Yes.

[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 - to

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[1] slow the vehicle and bring it to a stop on the [2] right-hand shoulder of the road and inspect the [3] tire at that point to determine whether they [4] could - whether it was flat or what to do about [5] it, whether they should change the tire and put a [6] spare on or so forth.

[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.

[10] **Q:** Do you know how long they drove on [11] the tire that had had a problem on the right rear [12] side?

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[13] A: I think the estimate was something [14] like maybe 20 miles. I'm not sure.

[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?

[21] A: Repeat your question.

[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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[1] A: Let me answer your question this [2] way. My analysis through the research that I've [3] done and my understanding of this accident, [4] exactly what happened, Mr. Halsted was driving [5] when the first tire failed, the right rear tire, [6] and his description was such that he slowed the [7] vehicle and pulled it off to the right.

[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 where 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.

[4] So in the case of Mr. Halsted the [5] vehicle would slightly turn to the right, which [6] he wanted to turn to the right anyway. That's [7] okay.

[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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[1] the entire vehicle's handling characteristics [2]

have basically gone from an understeer vehicle to [3] an oversteer vehicle, in which case the result of [4] that is opposite steer input is required in order [5] to maintain the control of the vehicle.

[6] And without that being - without [7] that knowledge to him as an inexperienced [8] driver - even an experienced driver may have a [9] difficult time controlling it - that created a [10] series of events that he then, through steer [11] input, lost control of the vehicle.

[12] Does that answer your question?

[13]

[14] BY MR. YUKEVICH:

[15] Q: Is this car controllable for an [16] ordinary driver in the event of a tread [17] separation to one of the rear tires?

[18] MR. ZELL: Objection. Vague and [19] ambiguous.

[20] BY MR. YUKEVICH:

[21] Q: An ordinary driver of -

[22] A: Is it uncontrollable?

[23] Q: An ordinary driver of average [24] skill.

[25] A: No, there's documented evidence

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[1] where there's some testing that's been performed [2] where I've seen people that have purposely caused [3] the delamination of the tire and maintained [4] control of the vehicle. It's very possible to [5] maintain control of the vehicle.

[6] However, it is - it does create an [7] unusual condition that allows - with the wrong [8] input allows the vehicle to be - to lose [9] control.

[10] Q: So you're not saying that - [11] Mr. Stephens said that if Mr. Addy would have [12] just done nothing with the steering wheel and [13] taken his foot off the gas, the vehicle would [14] have coasted down in the lanes of travel and [15] there would have been no accident.

[16] Do you agree with that?

[17] A: I agree with that. [18] I would probably also do one more [19] thing because Nii Addy did take his foot off the [20] gas, at least that's what he testified to. I [21] would probably also apply the brakes slightly and [22] maintain control; in other words, maintain the [23] straight ahead heading because it does turn your [24] vehicle to the left with the left rear being [25] delaminated.

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[1] But if you react by putting too [2] much steer in the opposite direction, very [3] quickly you're going to create an oscillation [4] that will grow in magnitude based on the handling [5] characteristics that have changed.

[6] Q: We're all over the place, but do [7] you see any evidence of what we would refer to as [8] fishtailing on the road marks on the roadway?

[9] A: No.

[10] Q: And you've read that testimony [11] within the depositions where the - at least one [12] of the occupants describes this vehicle as [13] fishtailing before the accident sequence and [14] rolls?

[15] A: Yes, I have, but I must also point [16] out you

don't necessarily have to have tire marks [17] to have or to say that you did not have [18] fishtailing because you can actually create that [19] feeling from inside a vehicle just by moving the [20] steering wheel back and forth.

[21] I mean, my kids in my truck love me [22] to do that periodically, and I don't leave tire [23] marks. But you can really get the vehicle [24] rocking back and forth which gives you the [25] feeling of - especially depending on where

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[1] you're sitting, of fishtailing.

[2] Q: Do you believe that happened in [3] this case, that the wheel was being moved back [4] and forth in a similar way that you or I might do [5] to have a little fun with our kids driving down [6] the roadway?

[7] MR. DANIELS: It's an incomplete [8] hypothetical, assumes facts not in evidence.

[9] But you can go ahead and answer it.

[10] THE WITNESS: All I'm suggesting is that [11] because there are no tire marks doesn't mean I [12] have to discount the fact that they did not feel [13] that sensation or that motion. And that's my [14] point. But that's all I'm trying to say.

[15] 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, [6] any physical evidence on the roadway surface that [7] in any way would indicate to you as an accident [8] reconstructionist that this vehicle was [9] fishtailing?

[10] A: The tire mark itself is an unusual [11] tire mark. It's mainly a left-hand tire mark. [12] However, the very initiation of that tire mark [13] would suggest that the vehicle was coming from [14] the other lane, originating from lane No. 1 and [15] then proceeding towards lane No. 2 and then [16] coming back very hard once again into lane No. 2, [17] crossing it, and then yawing.

[18] Q: So from the time of the first tire [19] mark up until the very end of the accident [20] sequence when the vehicle goes off of the [21] highway, any evidence of tire marks that would [22] indicate to you just looking at that that there [23] was any fishtailing?

[24] A: Well, once again it depends on what [25] you call fishtailing because I see evidence that

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[1] the vehicle has gone from one lane to another and [2] back, which says that it was going back and forth [3] and back. Now, to me that's side to side and [4] then back hard loss-of-control yaw.

[5] Q: How do you define fishtailing?

[6] A: Well, that's - see, to me [7] fishtailing is where the rear end starts to [8] actually pull around where the vehicle yaws.

[9] However, to someone else that [10] testifies in the depositions, unless the attorney [11] asks them how did they define fishtailing, you [12] have to assume that they're feeling that kind of [13] a sensation just like a fish tail would as it [14] kicks from one side to the other. Everyone [15] probably has a different definition.

[16] However, as a reconstructionist I'm [17] trying to assess exactly all the input. I don't [18] have any physical evidence on the road. However, [19] I do have testimony within the vehicle that the [20] vehicle felt funny and definitely unusual.

[21] They used the term "fishtailing." [22] So under that definition I know it cannot be [23] coming around leaving big black marks that you [24] would normally see, but it has to be doing [25] something unusual. Otherwise, I wouldn't have so

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[1] many witnesses trying to testify and quantify [2] what they felt.

[3] Q: Have you met any of these [4] witnesses?

[5] A: I have not.

[6] Q: And so -

[7] MR. DANIELS: What's the - you met the [8] one officer. You met the officer.

[9] THE WITNESS: Oh, yes. I'm sorry. I met [10] Officer Collings.

[11] BY MR. YUKEVICH:

[12] Q: The witnesses in the car.

[13] A: No. And I assumed that's what you [14] were

[1] Is it correct to say that there are [14] no markings on the roadway that in and of [15] themselves would indicate to you that this [16] vehicle fishtailed at any time during the [17] accident sequence, just road markings nothing [18] else?

[19] A: I think earlier in the deposition [20] we might have addressed that, but basically prior [21] to this - the tire mark that is seen in the [22] photographs and that I surveyed prior to that, in [23] other words south along the freeway, there was no [24] physical evidence that I could find along the [25] roadway except for pieces of the tire itself.

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[1] In other words, I saw no tire [2] marks, no gouges, no scrapes, nothing, no other [3] physical

asking.

[15] MR. DANIELS: So we're clear.

[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?

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[3] THE WITNESS: Once again, as a [4] reconstructionist we rely on physical evidence, [5] physical evidence that we know can be proven by [6] testing or through documentation of photographs, [7] through other sources.

[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

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[1] something.

[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?

[11] THE WITNESS: Once again it would vary. I [12] mean, it depends. You assume - I don't want to [13] give you any other hypotheticals, but to answer [14] your question there are delaminations where [15] people control the vehicle. However, there are [16] delaminations where people don't.

[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] put in the wrong input at the wrong time, you

[1] can create a very unstable condition very [2] quickly. And it sounds to me like that's what's [3] happened here.

[4] Q: At 85 miles per hour, if you put in [5] the wrong input at the wrong time, you can create [6] instability quickly even without a tire [7] delamination, can't you?

[8] MR. DANIELS: That's an incomplete [9] hypothetical, doesn't contain all the facts to be [10] a meaningful relevant hypothetical in this case.

[11] But you can go ahead and answer it.

[12] THE WITNESS: Yes, it's possible.

[13] BY MR. YUKEVICH:

[14] Q: And you wouldn't advise cranking of [15] 360 degrees worth of steering input into a 1991 [16] Suburban going 85 miles an hour down the highway, [17] would you?

[18] A: I wouldn't suggest it. I'd like to [19] meet the man that would live and survive and be [20] able to do that. I mean, there's - human nature [21] doesn't want to inflict that kind of pain on [22] ourselves because that's - you don't want to do [23] that, no.

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

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[1] driver let alone a person that reconstructs [2] accidents that the appropriate thing for a person [3] to do in the accident sequence that's a passenger [4] is to reach over and try to grab onto the [5] steering wheel, would you?

[11] THE WITNESS: I wouldn't suggest it, no.

[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?

[18] A: No, I haven't. Sounds fun, but I [19] haven't.

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

[21] A: No.

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

[24] Correct?

[25] A: No plans now, no.

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[1] Q: Did you do any photogrammetry in [2] connection with the reconstruction of this [3] accident?

[4] A: No.

[5] Q: Any reason you'd think you might [6] want to?

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

[9] Q: You have all the information that [10] you

need to reconstruct the accident based upon [11] your scene visit and the other materials that are [12] present in your file.

[13] Correct?

[14] A: I think I have enough information [15] that I was able to substantiate the calculations [16] and the numbers that I've arrived at.

Lawyer's Notes

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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.

CASE NO. 795327

SPECIAL VERDICT

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

DEWILLO, LIME, ISRAEL & SUTUNBUCH, LLP
 1801 Century Park East, Ninth Floor
 Los Angeles, California 90067
 (310) 556-7900
 FAX (310) 556-2807

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Question No. 1: Was defendant Nii Addy negligent?

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

	Yes	No
Answer:	-----	-----

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.

	Yes	No
Answer:	-----	-----

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	\$	-----

WATKINS, IRL, ISRAEL & SCHINDLER, LLP
101 C / Par, Nin or
Los Angeles, California 90067
(310) 556-7900
FAX (310) 556-2807

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

4
5 Question No. 4: Was plaintiff Milton Halsted negligent?

6 Answer "yes" or "no".

7
8 Answer: Yes No

9
10 If you answer Question No. 4 "no", do not answer Question No. 5. Instead,
11 proceed directly to Question No. 6. If you answer Question No. 4 "yes",
12 then answer the next question.

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

15 Answer "yes" or "no".

16
17 Answer: Yes No

18
19 Question No. 6: Was the negligence of the plaintiff a cause of the injury?

20 Answer "yes" or "no".

21
22 Answer: -----

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

28 Answer: To plaintiff Milton Halsted ----- %
To defendant Nii Addy ----- %

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Other person Allen Oldsmobile _____ %

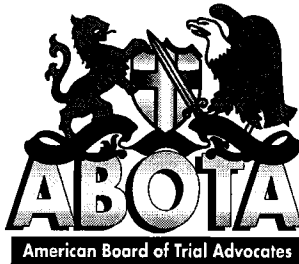
Other person Uniroyal Goodrich _____ %
Tire Company

TOTAL: 100%

Dated:

Foreperson

DANIELS, JINE, ISRAEL & SCHUNBUCH, LLP
1801 Century Park East, Ninth Floor
Los Angeles, California 90067
(310) 556-7900
FAX (310) 556-2807



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



LOS ANGELES CHAPTER
AMERICAN BOARD OF TRIAL ADVOCATES

5567 RESEDA BOULEVARD, SUITE 108

TARZANA, CALIFORNIA 91356

TELEPHONE: (818) 343-2356 • FAX: (818) 343-7640

E-MAIL: abota@aol.com • WEBSITE: <http://www.abota.org>

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SHIRLEY SCHWARTZ

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June 13, 2012

MEMBERS OF THE LOS ANGELES CHAPTER OF ABOTA

Re: Jack Daniels/ABOTA Trial School

PAST PRESIDENTS

* 1959 Mark P. Robinson
* 1960 Joseph L. Spray
1961 George R. Hillsinger
* 1962 John T. LaFollette
* 1963 Robert C. Carlson
* 1964 Fred B. Belanger
* 1965 Hon. Steven Stothers
1966 Daniel J. Culliton
* 1967 William A. Kurlander
* 1968 Hon. Desmond Bourke
* 1969 Hon. William J. Rea
* 1970 Joseph H. Cummins
* 1971 Kermit J. Morgan
* 1972 Michael P. Armenis
* 1973 Marshall T. Hunt
* 1974 Lee B. Wenzel
* 1975 John A. Daly
* 1976 John B. Bonelli
1977 William E. Still
1978 Ingall W. Bull, Jr.
1979 Hon. Victor E. Chavez
1980 H. Gilbert Jones
1981 James N. Kenealy, Jr.
* 1982 David M. Harney
1983 Robert G. Clinnin
* 1984 Charles A. Lynberg
* 1985 Richard C. Dupar
1986 Hon. Richard Aldrich
1987 David J. O'Keefe
1988 Robert N. Stone
1989 John J. Collins
1990 Harold J. Hunter, Jr.
1991 David R. Glickman
1992 Robert C. Baker
1993 Dennis J. Sinclittico
1994 Jack Daniels
1995 John P. McNicholas
1996 Francis Breidenbach
1997 Jerry A. Ramsey
1998 Thomas V. Girardi
* 1999 George E. Moore
2000 Darrell A. Forgey
2001 Louis "Duke" DeHaas
2002 Hon. Steven Van Sicklen
2003 Thomas G. Stolpman
2004 Donna D. Melby
2005 David B. Casselman
2006 Richard D. Carroll
2007 Steven C. Glickman
2008 Edith R. Matthai
2009 Moses Lebovits
2010 Phillip A. Baker
2011 Brian J. Panish
2012 N. Denise Taylor

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

* Deceased

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**



1.	Sal Desimone	Salvatore Desimon, Inc.
2.	Robert Baker	Baker, Keener & Nahra, LLP
3.	Denise Taylor	Taylor Blessey LLP
4.	John Foss	Kasdan, Simonds, Riley, & Vauhan
5.	Barry Johnson	Law Offices of Barry E. Johnson
6.	Martin Roy Robles	
7.	Bill Ginsburg	Peterson & Bradford, LLP
8.	Tom Bradford	Peterson & Bradford, LLP
9.	John Collins	Collins, Collins Muir & Stewart, LLP
10.	Deborah Chang	Panish Shea & Boyle
11.	Eugene Ramirez	Manning & Marder Kass, Ellrod, Ramirez
12.	Michael Justice	Law Office of Michael Justice
13.	Sean O'Doherty	Gates, O'Doherty, Gonter, & Guy LLP
14.	Diane Goldman	Law Offices of Golman & Gerard
15.	Jake Courtney	Girardi & Keese
16.	Chris Datomi	Ryan, Datomi, & Mosley LLP
17.	Kyle Kveton	Robie & Matthai
18.	Bill Buus	Schiffer & Buus APC
19.	David L. Marguiles	Law Offices of David L. Marguilles
20.	Mike Brown	Schuler & Brown
21.	Harry Kane	Law Offices of Harry N. Kane, P.C.
22.	Michael Schonbuch	Daniels, Fine, Israel, Schonbuch & Lebovits, LLP
23.	John Taylor	Taylor & Ring, LLP
24.	Steve Glickman	Glickman & Glickman
25.	Molly Murphy	Jury Consultant
26.	Duke Stroud	Pasadena City College

**THE TWENTY-SIXTH ANNUAL
JACK DANIELS/LOS ANGELES ABOTA TRIAL SCHOOL**

**FACULTY – DAY 2
August 7, 2012**



1.	John Blumberg	Blumberg Law Corp.
2.	Sal Desimone	Salvator Desimone, Inc.
3.	Leslie Criswell	Tucker, Ellis, & West
4.	John Foss	Kasdan, Simonds, Riley, & Vauhan
5.	Bill Ginsburg	Peterson & Bradford LLP
6.	Tom Bradford	Peterson & Bradford LLP
7.	Martin Roy Robles	
8.	John Collins	Collins, Collins Muir & Stewart, LLP
9.	Deborah Chang	Panish Shea & Boyle
10.	Michael Justice	Law Office of Michael Justice
11.	Sean O'Doherty	O'Doherty, Gonter, & Guy LLP
12.	Diane Goldman	Law Offices of Goldman & Gerard
13.	Jake Courtney	Girardi & Keese
14.	James Carr	Law Offices of James P. Carr
15.	Randy Even	Randolph M. Even and Associates, a PLC
16.	Bill Buus	Schiffer & Buus APC
17.	David L. Margulies	Law Offices of David L. Margulies
18.	Peter J. Zomber	Murphy, Pearson, Bradley, and Feeney
19.	Harry Kane	Law Offices of Harry N. Kane, P.C
20.	Michael Schonbuch	Daniels, Fine, Israel, Schonbuch & Lebovits, LLP
21.	Phil Baker	Baker Keener and Nahra LLP
22.	Linda Star	Lewis, Brisbois, Bisgaard & Smith
23.	Duke Stroud	Pasadena City College
24.	Molly Murphy	Jury Consultant

**THE TWENTY-SIXTH ANNUAL
JACK DANIELS/LOS ANGELES ABOTA TRIAL SCHOOL**

**FACULTY – DAY 3
August 8, 2012**



1.	Hon. Daniel Buckley	Los Angeles Superior Court
2.	Molly Murphy	Trial Consultant/Mediator
3.	Mike Schonbuch	Daniels, Fine, Israel, Schonbuch & Lebovits
4.	Linda Star	Lewis, Brisbois, Bisgaard & Smith
5.	Duke Stroud	Pasadena City College
6.	Hon. Victoria Chaney	Second Court of Appeals
7.	Hon. Jacqueline Connor	Los Angeles Superior Court
8.	Sal Desminone	Salvator Desimone, Inc.
9.	John Foss	Kasdan, Simonds, Riley, & Vauhan
10.	Martin Roy Robles	
11.	Bill Ginsburg	Peterson & Bradford, LLP
12.	Herbert Hiestand	Law Offices of Herbert H. Hiestand
13.	Tom Bradford	Peterson & Bradford, LLP
14.	Chris Rolin	Law Offices of Christopher Rolin
15.	John Collins	Collins, Muir, & Stewart LLP
16.	Deborah Chang	Panish Shea & Boyle
17.	Michael Justice	Law Office of Michael Justice
18.	Donald Forgery	Lewis, Brisbois, Bisgaard, & Smith LLP
19.	Norm Watkins	Lynberg & Watkins
20.	Thomas Johnston	Johnston & Hutchinson LLP
21.	Jake Courtney	Girardi & Keese
22.	Kyle Kveton	Robie & Matthai
23.	Bill Buus	Schiffer & Buus APC
24.	Ruth Segal	Lynberg & Watkins
25.	Harry Kane	Law Offices of Harry N. Kane, P.C.

[Type text]

Email body for faculty confirmation 2012

Re: Trial School Information

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

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**
**Hon. Justice Victoria Chaney, Hon. Jacqueline Connor, Hon.
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

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.

- | | Yes | No |
|--|-----|-----|
| 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).

	Overall Teaching Effectiveness	Effectiveness of Teaching Methods	Significant Current Knowledge of Subject
Instructor's Name: _____ Subject/Topic: _____ Comments: _____	5 4 3 2 1	5 4 3 2 1	5 4 3 2 1
Instructor's Name: _____ Subject/Topic: _____ Comments: _____	5 4 3 2 1	5 4 3 2 1	5 4 3 2 1
Instructor's Name: _____ Subject/Topic: _____ Comments: _____	5 4 3 2 1	5 4 3 2 1	5 4 3 2 1

Name of Participant: _____
 (optional) First Last

Overall Teaching
Effectiveness

Effectiveness of
Teaching Methods

Significant Current
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Subject

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