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\* IN THE  
Plaintiff \* CIRCUIT COURT  
vs. \* FOR  
\* BALTIMORE COUNTY  
Defendant \* Case No.  
\*\*\*\*\*  
Deposition of was taken on  
Monday, April 9, 2012, commencing at 1:07 p.m., at the  
Law Office of , , & ,  
, Baltimore, Maryland, before  
, Notary Public.

\*\*\*\*\*

REPORTED BY:  
A. WEINAPPLE

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APPEARANCES:

LAURA G. ZOIS, ESQUIRE

MILLER & ZOIS, LLC

7310 Ritchie Highway, Suite 1001

Glen Burnie, Maryland 21061

On behalf of the Plaintiff

410-553-6000

410-760-8922 FAX

, ESQUIRE

On behalf of the Defendant

FAX

STIPULATION

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It is stipulated and agreed by and between counsel for the respective parties that the reading and signing of this deposition by the witness is hereby waived.

the Deponent, called for examination by the Defendant, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION BY MR. :

Q. Good afternoon, Officer. My name is , I'm representing the Defendant in a litigation that's stemming from an auto accident which I believe you investigated. And as you've indicated that you've been deposed before, I'll suspend with the usual instructions, we can just go ahead and get right to it, and just ask you to please state your full name and rank for the record?

A. Officer , .

Q. And how long have you been with ?

1 A. 15 years and 5 months.

2 Q. And can you just briefly describe your  
3 experience with accident investigation?

4 A. I'm a Level II Accident Reconstructionist.  
5 I've been handling accidents since I came on the job in  
6 1996, pretty much thousands of accidents. For the past  
7 5 years my only job description, minus a diver for the  
8 police department, is handling accidents involving  
9 personal injury at the Precinct Level.

10 Q. And what precinct are you currently working  
11 out of?

12 A. Precinct.

13 Q. How long have you been there?

14 A. I believe since 2000.

15 Q. And you were working on , ?

16 A. Yes.

17 Q. And you had occasion to investigate an  
18 accident that occurred on Road that day?

19 A. Yes.

20 Q. And I think you have a copy of your report  
21 there; correct?

1 A. Correct.

2 MR. : Let's take a quick look to  
3 make sure they're the same.

4 MS. ZOIS: The same?

5 MR. : Yes, essentially the same.  
6 Hang on to your original. Go ahead and have this marked  
7 as Exhibit 1.

8 (Motor Vehicle Accident Report was marked  
9 Officer Deposition Exhibit No. 1 for  
10 identification).

11 Q. I show you a copy of what I have marked as  
12 Exhibit 1. Can you just confirm that that's the same as  
13 the report you have with you today? Or that's a copy of  
14 that report?

15 A. Yes, it is.

16 Q. And as you sit here today, can you recall any  
17 specifics or details regarding that accident?

18 A. Based on reviewing my report it was an  
19 accident involving a motorcycle and vehicle. The  
20 vehicle made a left turn in front of a motorcycle that  
21 was traveling, what I have here, southbound on

1 Road.

2 MR. : Let me have these all marked  
3 as Exhibit 2, 10 photographs.

4 (Ten photographs were marked Officer  
5 Deposition Exhibit No. 2 for identification).

6 Q. Officer, I'm going to show you a series of 10  
7 photographs. I ask you to take a look at these, if you  
8 could. And as you indicated prior to the start of your  
9 deposition you did not personally take any photographs  
10 of the scene that day; correct?

11 A. None that I know of.

12 Q. I can represent to you that these pictures  
13 were taken by Mr. , who was the driver of the car.

14 A. Okay.

15 Q. And after looking at these photographs, does  
16 this appear to be the accident that we're talking about  
17 that you have your report from , ?

18 A. Yes, it does.

19 Q. It appears that same?

20 A. Yes, sir.

21 Q. Can you just briefly describe what you did

1 from when you were called out to the scene and what you  
2 did once you got there?

3 A. I was dispatched to the call. I'm not sure  
4 if this was one where patrol originally came for a minor  
5 property damage accident and then upgraded to an  
6 accident or whether it was a personal injury accident  
7 from the get-go, but, obviously, at some point in time I  
8 was dispatched to it.

9 Upon my investigation I spoke to Mr.  
10 and Mr. , and advised that Mr. was coming, I  
11 have marked as, northbound on Road and came  
12 to a stop to make a left-hand turn into the post office,  
13 and vehicle 2, Mr. , on a motorcycle and he was  
14 traveling southbound. I'm sorry, I have this mismarked  
15 if I'm looking at this correctly. Vehicle No. 2,  
16 actually, I have mismarked here. Vehicle No. 2 should  
17 be traveling northbound; vehicle No. 1 was southbound.  
18 And as vehicle No. 2 was traveling northbound, vehicle  
19 No. 1 made a left turn in front of him at which time he  
20 applied his brakes and slid into the front passenger  
21 side of vehicle No. 1.

1 Q. Were there any other officers on the scene  
2 when you arrived?

3 A. I am not sure if there was. More than  
4 likely, 9 times out of 10, there are at least one other  
5 officer on the scene.

6 Q. And was the emergency personnel on the scene  
7 when you arrived, the ambulance?

8 A. I believe they were. Or if not, they were  
9 there within minutes. I would say they were here prior  
10 to my arrival, because Medic 16 -- I mean Engine 16, I  
11 believe, is what I saw in the picture and they are  
12 literally one mile from this accident scene.

13 Q. Well, were you aware that there was a prior  
14 accident just up the road, or another accident just up  
15 the road from this one?

16 A. Now that you mention it, I'm not sure if  
17 there was another accident up the road, or if there  
18 was -- State Police was handling on the off ramp near  
19 that location. There was -- let me put it this way: To  
20 the best of my recollection, there was not another  
21 accident being handled by the County Police

1 Department.

2 Q. I draw your attention to the last two  
3 photographs in the stack that I had you look through,  
4 No. 9 and No. 10. And if you can just tell us what is  
5 the sort of the dark line that's going down through the  
6 approximate middle of these two pictures?

7 A. These are labeled as skid marks or  
8 deceleration marks.

9 Q. Do you know what that's caused by?

10 A. That appears to be caused by the rear tire of  
11 vehicle No. 2.

12 Q. The motorcycle?

13 A. The motorcycle when it's trying to quickly  
14 come to a stop.

15 Q. Do you recall as part of your investigation  
16 you would have measured the distance of the skid mark?

17 A. I would have more than likely measured that,  
18 and if once I measured and found that it was going to be  
19 above the distance in which would be close to the posted  
20 speed limit, and if I remember measuring that, that it  
21 did not -- the speed was not greater than the speed

1 limit that would have caused him to been an issue for  
2 speed.

3 Q. So if I understand you correctly, you would  
4 have measured the skid mark to see if you could make a  
5 determination as to how fast the motorcycle was going?

6 A. Yes, based on the pavement itself, the  
7 distance of the skid mark, measuring that and figuring  
8 out what the coefficient was, and then figure out  
9 exactly, and you can even make a rough estimate and  
10 figure out where the rough speed is going to be upon  
11 impact.

12 Q. Would you have made any notes of those  
13 numbers?

14 A. I probably would have made notes if I felt  
15 speed was a factor involved in this accident.

16 Q. So you don't recall how long the skid mark  
17 was as you sit here today?

18 A. No, I do not.

19 Q. If I represented to you it was approximately  
20 79 feet, would that sound accurate or --

21 MS. ZOIS: Objection as to facts not in

1 evidence.

2 Q. If you can remember?

3 A. I don't.

4 Q. You don't.

5 A. If you can give me a second I can tell you  
6 what the approximate speed should be.

7 Q. That's if you're doing the distance with 79  
8 feet?

9 A. Yes.

10 Q. That's what I was going to ask you, I guess.  
11 At what distance would it have been exceeding the speed  
12 limit, if you can do that?

13 A. Do you mind?

14 Q. No. I can give you a piece of paper.

15 A. Do you have a different calculator or  
16 scientific calculator? Let's see what we can do here.

17 MR. : I think if you turn it  
18 sideways it's supposedly becomes one. Off the record.

19 (DISCUSSION OFF THE RECORD)

20 A. Based on what you're saying, from the best of  
21 my recollection, I don't have my cheat sheet or anything

1 in front of me, but it comes out approximately 42 miles  
2 an hour.

3 Q. Assuming it's 79 feet of skid?

4 A. Yes.

5 Q. Do you recall what the speed limit is for  
6 that section of ?

7 A. I would assume that's 30 to 35.

8 Q. I believe your report indicates 30. I don't  
9 know if that --

10 A. Yes. I know up further it's 30 because  
11 that's where we typically have -- but I don't have, like  
12 I said, all my notes in front of me in reference to  
13 determining, but --

14 Q. Well, now, would those notes have been  
15 maintained, or retained rather, or --

16 A. Yes, typically, but I have, like when I make  
17 a copy -- sometimes I'll make a copy of a report and  
18 I'll attach my, what's called a lookout. Look up up  
19 here, whether I'm jotting down notes or something  
20 pertaining to the accident, but I don't have the exact,  
21 like I said, measurements. But to the best of my

1 recollection, either I did not measure the speed to the  
2 skid mark or I measured the skid mark and found that it  
3 was not something of that great of a difference.

4 The average road that we travel on in  
5 County is in between 10 and 15 miles over the  
6 speed limit is the average vehicle speed in that  
7 particular street. Pretty much any residential street  
8 in County.

9 Q. How would you have measured the skid mark?

10 A. With a wheelie-walker.

11 Q. So now when you're saying that you would have  
12 made note of that, so, in essence, assuming the speed  
13 limit is 30, it wouldn't have been something you would  
14 have made a record of unless the speed was in excess of  
15 45?

16 MS. ZOIS: Objection to form.

17 A. The speed would had to been great enough  
18 where it would -- even if he made a turn in front of  
19 him, if that speed was so great that no matter what, he  
20 would have had time to make a turn if he was traveling,  
21 you know, approximately the speed limit, 30 to 35 miles

1 an hour as an absolute minimum and he would go on that  
2 road. If that was the particular case and he pulls out,  
3 he would have had time to pull out in front of him and  
4 make a turn based on that.

5 In that particular section you're going to  
6 have to draw back from the point of impact, and then you  
7 have to calculate how far back it would be if he was  
8 traveling would the distance be before he saw him making  
9 that turn and then proceeded.

10 Q. And no citations were issued to either  
11 driver; is that correct?

12 A. No.

13 Q. You indicated you had spoke to both Mr.  
14 and Mr. at the scene; is that correct?

15 A. Yes.

16 Q. Do recall any of the details of your  
17 conversations?

18 A. No, other than the fact that you mentioned  
19 there, about the other accident. If I remember  
20 correctly, Mr. had mentioned something about he  
21 was staring up at the other accident scene and was --

1 could see the lights and everything, and advised that he  
2 never saw Mr. , and in that particular case there  
3 it wasn't, I saw him, I thought I had time, so I darted  
4 in front of him. In that situation, in my opinion, I  
5 try not to write people citations for something where  
6 they're not being reckless and negligent. They just  
7 didn't see him.

8 MR. : I may have one or two  
9 others, but I'll go ahead and pass, or if you have any  
10 questions?

11 EXAMINATION BY MS. ZOIS:

12 Q. Picking up right where you left off.

13 A. Can you give me one second, I'll try and  
14 double check, if you want to go off the record a second.

15 RECESS

16 Q. Just dovetailing on what you were just  
17 talking about, it's your recollection that Mr. at  
18 the scene of the accident told you he never saw the  
19 motorcycle before the impact; is that correct?

20 A. To the best of recollection, I believe that's  
21 what he said, he didn't see the motorcycle from the

1 lights that were flashing from the accident scene.

2 Q. So is it fair to say that Mr. never  
3 told you that the motorcycle was traveling at an  
4 excessive speed; is that correct?

5 A. I do not recall that, and I don't have that  
6 listed in my report.

7 Q. If Mr. told you at the scene of the  
8 collision that he thought the motorcycle was traveling  
9 at an excessive rate of speed, would you have  
10 incorporated that into your report?

11 A. Yes, I definitely would have made sure that  
12 I -- that measurements were made if that was a  
13 determining factor. If he claimed that, then I would  
14 have tried to prove that or disprove it at the scene.

15 Q. And whether you disproved it or had proven  
16 it, I'm not sure that's grammatically correct, would  
17 part of that investigation have been incorporated in  
18 your report either way, or if you were able to disprove  
19 it?

20 A. If I was able to disprove it, then I wouldn't  
21 have included it in the report. If I was able to prove

1 that he was, then obviously, then, that's going to go  
2 against the typical boulevard rule that most people go  
3 by when the person that has the straightaway has the  
4 right of way, and someone who is making a left turn in  
5 front of them has to yield the right of way.

6 Q. And just so I'm clear, if the issue of speed  
7 was brought up at the scene of the accident by Mr.  
8 and you were able to disprove speed as a contributing  
9 cause, it would not make its way into your report?

10 A. No, because the majority of the accidents  
11 where something -- the majority of the accidents that I  
12 handle people claim speed was involved, that car was  
13 speeding a hundred miles an hour. And if it's something  
14 that I can disprove right away, then I'm going to check  
15 it and try to confirm that.

16 Q. And just so I'm clear, there's an allegation  
17 of speed made at the occurrence, there's some piece of  
18 evidence at the scene that allows you to either prove it  
19 or disprove it, it's your habit to do that; is that  
20 right?

21 A. That's correct.

1 Q. And if there's an allegation of speed at the  
2 scene and you're able to disprove it, then it doesn't  
3 make its way into your report; is that correct?

4 A. Correct.

5 Q. Let me back up a little bit into your  
6 qualifications. My understanding is that you primarily  
7 respond to accidents in County where there's  
8 personal injury involved; is that right?

9 A. Correct.

10 Q. So you have had training as an accident  
11 reconstructionist?

12 A. Yes.

13 Q. Are you a Certified Accident  
14 Reconstructionist?

15 A. There's Level I and Level II. There are  
16 three levels. I'm a Level II.

17 Q. And is Level III the Crash Team of Maryland?

18 A. For the most part. There are people within  
19 the department that are Level III that still work. You  
20 have Precinct Level, Traffic and then you have Crash  
21 Team. Precinct Level, there are plenty of people that

1 have Level III and passed that. But the majority of the  
2 people who work Precinct Level accidents are Level I,  
3 Level II.

4 Q. And as a Level II Accident Reconstruction  
5 Investigator, you're qualified and have been trained to  
6 do time/speed/distance calculations?

7 A. Uh-huh.

8 Q. Yes?

9 A. Yes.

10 Q. And as part of your investigation when you're  
11 called out to car crashes that involve personal injury,  
12 do you have one of those wheelie-walkers in your  
13 vehicle?

14 A. Yes, ma'am.

15 Q. And is it your habit when there is some  
16 demonstrative piece of evidence left at the scene of the  
17 accident to do measurements of skid marks?

18 A. Yes, ma'am.

19 Q. And I understand that you typically would  
20 have a camera with you, but at the time of this crash  
21 you either had one that wasn't working or something, it

1 wasn't with you on that date?

2 A. Yes. Or on occasion with the budget  
3 constraints at the time, there are times we're allotted  
4 so many digital cards, and if we have used up the  
5 digital cards for that week, then I don't have anything  
6 to take photographs. But, typically, when there's an  
7 accident involving personal injury photographs are  
8 taken.

9 Q. So --

10 A. That's protocol.

11 Q. So we know that typically you would have  
12 taken photographs at the accident site, but for one of  
13 the many reasons you just didn't have access to a camera  
14 that was working on the date of this crash?

15 A. Correct.

16 Q. And is it your habit to take statements from  
17 both of the drivers at the scene of a crash like this  
18 one?

19 A. We can take statements pertaining to the  
20 accident. It's not necessarily that we do it all the  
21 time. On Mr. 's situation here, you know, he was

1 back-boarded and handled and taken out.

2 Q. So the information that was provided to you  
3 contained within your report about how the crash took  
4 place was provided to you by Mr. , then; is that  
5 right?

6 A. I spoke with Mr. , but I'm saying  
7 nobody gave written statements pertaining to the  
8 accident.

9 Q. Do you recall whether or not you took verbal  
10 statements from both the drivers or just Mr. ?

11 A. Both drivers.

12 Q. In your police report that I believe it's  
13 been marked as Exhibit No. 1, you did indicate in the  
14 Fault box that Mr. was at fault for the crash and  
15 Mr. was not at fault for the crash?

16 A. Correct.

17 Q. What's your habit in doing that? I know if  
18 you are a witness to the car crash, sometimes the police  
19 officers are hesitant to do that, where's your bar? At  
20 what point do you say okay, I am going to mark Mr.  
21 at fault and Mr. not at fault for the crash based

1 on what?

2 A. Based on the fact that Maryland law indicates  
3 that if you're making a left turn in front of -- across  
4 a lane of traffic or in front of moving traffic that you  
5 have to yield the right of way to that particular  
6 vehicle. That vehicle has the right of way. And once  
7 he made the left-hand turn and the collision occurred he  
8 failed to yield the right of way to vehicle No. 2.

9 Q. So you indicated Mr. was at fault for  
10 his violation of the Maryland Transportation Article  
11 Code, essentially?

12 A. Yes.

13 Q. I think it's 21-402; does that sound right?

14 A. I'm not sure.

15 Q. Maybe that's my bailiwick, not yours; right?  
16 But you know that left-hand turning vehicles have to  
17 yield the right of way to the oncoming traffic; is that  
18 right?

19 A. Yes.

20 Q. Now, earlier when Mr. was asking  
21 you questions and I think you were reading from the

1 narrative portion of your report, you said, and I might  
2 have this wrong, I just want to clarify it, that  
3 Mr. Hardy came to a stop. There's nothing in the report  
4 that indicates he came to a stop?

5 A. No. If I said that I strike that.

6 Q. Okay. I just wanted to make sure.

7 A. I'm saying he slowed down whether he's coming  
8 to a stop or slowing down to make his left-hand turn.

9 Q. Okay. Understood. So if you said he came to  
10 a stop that would have to have been a misstatement;  
11 right?

12 A. Yes, ma'am.

13 Q. But just to clarify the northbound and the  
14 southbound, vehicle 1, Mr. , which direction?

15 A. He is southbound, and vehicle 2, by the box  
16 up here (indicating) for the north compass, vehicle No.  
17 2 would be traveling northbound; vehicle 1 obviously  
18 southbound. I had it reversed.

19 Q. And is that accurate?

20 A. Yes.

21 Q. So the drawing is accurate?

1           A. Just in the narrative there, the northbound  
2 and southbound would be switched for the vehicles.

3           Q. Okay. I just wanted to make sure. I was  
4 looking at a Google Earth image earlier, and I knew one  
5 was right.

6           A. The MAARS manual that we go by is -- I  
7 totally disagree with it because you have two roads that  
8 intersect that are going the same direction, which is  
9 impossible. You can only speculate the way they have it  
10 set up where the road originally starts from or ends is  
11 where they decide whether or not it's going to be east  
12 or west, or north or south. But I'm basing it off of my  
13 looking at where north is from where I'm standing is  
14 where I indicated, not what the book indicates, but  
15 where I am actually standing.

16          Q. During the course of your investigation, do  
17 you remember anybody approaching you telling you that  
18 they were a witness to the crash?

19          A. Not that I recall.

20          Q. And if a person did approach you and tell you  
21 that they were a witness to the crash and they had some

1 different version than maybe one of the parties, or if  
2 there's a dispute as to how the crash happened, would  
3 you incorporate that witness' statement?

4 A. Yes. It would have been in block 97/98 down  
5 there, and then I would have that person give a written  
6 statement as to exactly what, because usually that  
7 person is leaving and I can't go back and re-interview  
8 them once they've left the scene. I mean, I could track  
9 them down, but many times it's very difficult doing.

10 Q. So your habit would be if a witness was at  
11 the scene of the crash and had some version that was  
12 different than what the parties --

13 A. The version or the same. If they're a  
14 witness, then I try to get that person's information and  
15 they can give me a written statement at the scene before  
16 they leave. But there's times where I get there and an  
17 officer says, hey, this person was a witness, here's  
18 their phone number.

19 Q. If, hypothetically, you went to the scene and  
20 you did an analysis of the length of the skid mark and  
21 made the determination that speed was a contributing

1 factor to this crash, even though the other driver took  
2 the left-hand turn, how would that have been documented  
3 in your report?

4 A. There would have more than likely been a  
5 second page of this report which would have been in a  
6 narrative, much more lengthy narrative than what's on  
7 the MAARS report about the measurements, what was found  
8 at the scene, where the vehicles, obviously, you know,  
9 photographed in this situation, but that typically would  
10 have been done and the calculations of how everything.

11 Q. So it's when you approach the scene, there's  
12 an allegation of speed, or even maybe not an allegation  
13 and just the skid marks that were there, you would have  
14 had speed, then, a factor, you would have attached an  
15 addendum to your report outlining that information?

16 A. Yes.

17 Q. If you get to the scene of a crash and  
18 there's no allegation of speed necessarily, but you see  
19 a skid mark or a tire mark that you're concerned about,  
20 in that situation would you take it upon yourself to  
21 wheelie-walk the skid mark off?

1 A. Yes.

2 Q. So if the other driver says, I never even saw  
3 the guy, I don't have any idea how fast he was  
4 traveling, but if you eyeball the skid mark and say, you  
5 know, I think maybe that might be an indication of  
6 speed, during that sort of situation would you really  
7 walk off the skid mark?

8 A. I would still really walk it off just to see  
9 if I can get a rough estimate of what the impact speed  
10 would have been.

11 Q. And you've investigated thousands of these  
12 personal injury car crashes?

13 A. I would say so.

14 Q. And of the thousands of car crashes that  
15 you've investigated, if a skid mark were left in the  
16 roadway that looked like the skid marks here that have  
17 been presented to you, is that the type of skid mark  
18 that it would be your habit to really walk off?

19 A. Absolutely. And the majority of our  
20 accidents, probably 9 times out of 10, there aren't any  
21 skid marks because with antilock brakes vehicles

1 typically don't leave them, and a majority -- a lot of  
2 those accidents, you know, it may be there's no touching  
3 of the brakes. In this particular case, obviously, he  
4 did squeeze his brakes and come to a stop before, or  
5 almost to a stop before striking the vehicle.

6 Q. So I think what you're telling me is, it's  
7 unusual to have the benefit of the skid mark --

8 A. Yes. And when I see them I'm definitely  
9 going to measure it.

10 Q. So it would be very unusual for you to go to  
11 a scene of an accident that you investigated where there  
12 was a skid mark that was laid down or left by one of the  
13 vehicles where you didn't measure it; is that right?

14 A. Correct.

15 Q. Do you ever recall a situation where you went  
16 to an accident where a skid mark was laid down and you  
17 didn't measure it?

18 A. I don't recall any accidents like that where  
19 I done or haven't, put it that way.

20 Q. And the reason that we don't have your  
21 measurements of the skid mark is because when you

1 measure a skid mark and you're able to rule out speed as  
2 a factor, it's not important enough that you will to  
3 even make the addendum to your report?

4 A. Correct, because a lot of accidents that I  
5 handle, that is the person's first reason, the other car  
6 was speeding. I didn't see it. It came out of nowhere,  
7 must have been going a hundred miles an hour. I get  
8 that all the time and most of the cases the person is  
9 trying to push fault on somebody else when it's not  
10 theirs. Or when it's theirs.

11 Q. Do you remember anything else Mr. told  
12 you at the scene of the crash other than he was looking  
13 at some other lights from some other incident up the  
14 roadway?

15 A. To the best of my recollection, other than  
16 the fact that he was going to the post office.

17 Q. Nothing unusual about the weather this day?

18 A. No. It's a sunny day.

19 Q. The roads were dry?

20 A. Yes.

21 Q. And you're familiar with the layout of this

1 road and the area where the crash took place?

2 A. Yes, ma'am.

3 Q. Is there anything impairing Mr. line  
4 of sight in the direction he would have been facing?

5 A. No. I would say off the top of my head, just  
6 a rough estimate, from the time you come off of  
7 Highway till you get to Road is maybe a  
8 mile, mile and a quarter and it's pretty straight.

9 Q. Nothing obstructing his vision?

10 A. No.

11 Q. I see you indicated in your report the speed  
12 limit was 30 miles an hour?

13 A. To the best of my recollection, it was 30  
14 miles an hour.

15 Q. And all of the debris in the roadway was in  
16 Mr. 's lane of travel; is that right?

17 A. I'll have to look at the photographs here.  
18 It appears so.

19 Q. Have you been qualified to testify in civil  
20 trials as an Accident Reconstructionist in  
21 County before?

1 A. No, I haven't had to.

2 Q. So nobody has ever asked you to do that?

3 A. No, ma'am.

4 MS. ZOIS: I think that might be all I have.

5 If you want to ask more question, then I might have  
6 more.

7 MR. : Sure.

8 EXAMINATION BY MR. :

9 Q. I just want to clarify a couple of points, if  
10 we could, officer, before finish up. There was a lot of  
11 discussion about individuals claiming speed was a factor  
12 in accidents that you investigate, but I think that you  
13 indicated in this instance Mr. did not say, or you  
14 don't recall whether or not he said --

15 A. I do not recall him saying that.

16 Q. Now, you also indicated that when you see  
17 skid marks such as the ones left at the scene you would  
18 go ahead and wheelie-walk those anyway?

19 A. Yes. That's a gimme for the most part  
20 because it's something that you see that you don't often  
21 see on an accident scene. Very few vehicles leave skid

1 marks anymore, motorcycles being one of the few.

2 Q. Now, assuming the speed limit is 30 in this  
3 section of and you wheelie-walk off the skid  
4 marks like you would have in this case, what is it that  
5 you would consider excessive speed? We touched on it a  
6 little bit earlier. That's what I'm trying to figure  
7 out. What do you mean when you say, if you're going to  
8 say something is excessive and I need to make a note of  
9 this, what are we talking about? Are we talking about  
10 31?

11 A. No. In this situation here being 10 or 12  
12 miles over the speed limit, the majority of the cars  
13 traveling on that road, if you did surveys, which I've  
14 done hundreds and hundreds of surveys pertaining to  
15 speeds complaints on roads, the majority of the traffic  
16 is going to be going somewhere between 10 to 15 miles  
17 over the posted speed limit on average.

18 Q. So, again, what would you consider to be  
19 excessive speed?

20 A. If it was between that 45 to 50 miles an  
21 hour, I probably would have started -- would have

1 investigated that a bit more to determine whether or  
2 not -- I would have had to start backtracking back to  
3 figure out exactly at what point in time going at this  
4 speed would he had time, ample time to slow down and  
5 turning here.

6 Q. So, then, it is entirely possible that you  
7 would have walked this off and your calculations would  
8 have given you a number somewhere around 40, 42, and you  
9 would have determined that that's not excessive speed  
10 for this road?

11 A. Correct. And like I said, if I measured this  
12 off, I'm not sure exactly who measured it, if we get the  
13 same distance, I mean if that changes by 10 feet, then  
14 I'm going to get a different speed. The drag factor of  
15 this particular road, I just made it 80 for an estimate.  
16 If it was less than that, then that means it's going to  
17 be a smoother road, less drag to it, then I'm going to  
18 get a different speed.

19 Q. I'll ask you about that in a moment, but I  
20 just wanted to make sure we're talking about the same  
21 thing. Now, if you have an instance where speed is

1 claimed by one of the drivers, the other car was going a  
2 hundred miles an hour, to use your example, in that  
3 situation is your determination of what's excessive  
4 different?

5 A. No.

6 Q. Let me rephrase that for you. If you get to  
7 a scene of an accident and you have a skid mark such as  
8 you have here and one of the drivers says that car was  
9 speeding, and you do your measurements and you do your  
10 calculations, would you still determine that up to 10  
11 and 15 miles an hour over the speed limit is not  
12 excessive or would you investigate it further?

13 A. In my opinion, no, I wouldn't consider that  
14 excessive because that's the majority of the traffic  
15 traveling on the highway today is doing at least that.

16 Q. That's what I'm trying to clarify. If speed  
17 had been alleged and you get to a number --

18 A. If it came up to like 49 or 50 miles an hour,  
19 then I would have probably been like, all right, well,  
20 something's up a little bit here, let's obviously check  
21 into this a little more, investigate a little more.

1 Q. And as you started to a second ago, could you  
2 just walk, briefly walk through how you would perform  
3 the calculation, just verbally as you were doing on  
4 your --

5 A. Square root of  $30df$ , 30 being the  
6 mathematical constant,  $d$  being the distance and  $f$  being  
7 the drag factor, which our crash team which handles  
8 serious accidents and fatal accidents a lot more than I  
9 do. I have to. Most of my accidents are minor personal  
10 injury accidents, where people go to the hospital within  
11 an hour or two they're released from the scene, and then  
12 they -- and a rough estimate at the scene they average  
13 like an 80.80 as their drag factor.

14 Q. Drag factor. Now, is this designed to give  
15 you the impact speed or the speed of travel?

16 A. Point of impact.

17 Q. The speed the vehicle is going at the time of  
18 impact?

19 A. Point of impact, yes.

20 Q. So, again, if we're assuming 79 feet of skid  
21 and the number, I think, you calculated was 42 miles an

1 hour?

2 A. Yes.

3 Q. You would say at the time of impact the  
4 motorcycle was going 42 miles an hour?

5 A. Yes, you could say that.

6 Q. So then --

7 A. Could the speed be greater than that because  
8 of that? The other issue I looked at is the damage to  
9 the vehicle, to the Mercedes was -- there was a lot of  
10 superficial damage and dents, but no major damage to  
11 that vehicle that led me to believe that the speed, if  
12 indeed that we go through this formula, use that speed,  
13 that speed was not a whole lot greater than what that  
14 was based on the damage to the vehicle.

15 Q. I guess I may not be understanding. That's  
16 what's kind of confusing me. If we're saying at the  
17 time of impact in this instance, again using the 79 feet  
18 as the number that I provided, the motorcycle was  
19 traveling approximately 42 miles an hour at the time of  
20 the impact, then wouldn't that imply that, obviously, at  
21 the beginning of the skid the vehicle would have been

1 going in excess of 42 miles an hour?

2 A. Yes, sir, you could say that.

3 Q. So then going back to your determination of  
4 what's excessive, I'm not following how, if the vehicle  
5 was traveling 60 miles an hour, but in the 79 feet  
6 slowed to 42, wouldn't 60 have been considered  
7 excessive?

8 A. Yes, you could consider that.

9 Q. So how do you determine, or can you determine  
10 the speed the vehicle was traveling prior to applying  
11 its brakes?

12 A. Yes, you can determine speed.

13 Q. How would you do that?

14 A. I don't have my cheat sheet in front of me in  
15 reference to measuring that and going backwards.

16 Q. So is there a formula that you can follow?

17 A. Formula, absolutely, yes.

18 Q. Because that's where I'm having a bit of  
19 disconnect. I just want to make sure we're talking  
20 about the same thing.

21 A. Yes.

1 Q. So when you're saying that 10 to 15 miles an  
2 hour over the speed limit is average, so you don't  
3 necessarily consider that to be excessive, are we still  
4 talking about impact speed or are we talking about  
5 travel speed?

6 A. Travel speed is going to be what I'm looking  
7 at, and then, like I said, in this particular case here,  
8 I'm pretty sure I would have made measurements on that,  
9 and based on impact speed, yes, that's not much over,  
10 but his speed is going to be that much greater, can be  
11 that much greater based on what you're telling me what  
12 the distance was and what we measured. Yes, he would  
13 probably have been over 50 miles an hour and would have  
14 raised an eyebrow to me, absolutely.

15 Q. So is it your sense, then, I know you don't  
16 have your notes, again, is there any way we can find  
17 those notes?

18 A. I can check, but after two years I don't know  
19 if I'm going to have them. And like I said, based on  
20 that, what you're telling me what the measurement was,  
21 if I measured something that was remotely close to that,

1 I would have thought that I would have investigated it a  
2 little more than what is done at a minor personal injury  
3 accident.

4 Q. Now, that makes more sense to me. So you're  
5 saying if, in fact, you had measured 79 feet, you're  
6 saying there would have been an additional  
7 investigation?

8 A. Yes. I would have probably started moving  
9 that process backwards from the point of impact, impact  
10 speed backwards to get what speed it was at the  
11 beginning when he applied his brakes.

12 Q. I think there was a disconnect there between  
13 you and I which was giving me some trouble. So is there  
14 anything in your calculation to take into account the  
15 loss of speed from the actual impact itself, or do you  
16 calculate up to the speed at the time of impact and  
17 that's the number you're using?

18 A. Yes. I don't use crush formula or anything  
19 like that. I'm not certified to do so.

20 Q. Have you had any training on that at all,  
21 crush?

1 A. No, sir.

2 Q. Would that be at a Level III?

3 A. I think it's actually past Level III. It's  
4 an additional, which based on my knowledge and based on  
5 what this is, I would not have been able to use it, none  
6 whatsoever.

7 MR. : That's all I have. I  
8 appreciate it.

9 MS. ZOIS: I don't have anything based on  
10 that.

11 MR. : As you know, you can read  
12 and sign or you can waive. It's up to you.

13 THE WITNESS: You said you have --

14 MR. : No. You're allowed to read  
15 your deposition if you'd like and make any corrections,  
16 typographical errors, things like that, if you feel the  
17 need to, otherwise --

18 THE WITNESS: No.

19 (EXAMINATION CONCLUDED)

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21 1:51 p.m.