

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

\_\_\_\_\_,  
Plaintiff,  
vs.  
\_\_\_\_\_, et al.,  
Defendants.

CASE NO. \_\_\_\_\_

OFFICIAL TRANSCRIPT OF PROCEEDINGS

(Trial on the Merits)

Baltimore, Maryland

Friday, August 7, 2009

BEFORE:

HONORABLE SYLVESTER COX,  
ASSOCIATE JUDGE

(AND A JURY)

APPEARANCES:

For the Plaintiff:

JOHN B. BRATT, ESQUIRE  
LAURA G. ZOIS, ESQUIRE

For the Defendants:

DEBORAH K. BESCHE, ESQUIRE

RECORDED BY: \_\_\_\_\_

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# C O N T E N T S

<u>DEFENDANTS' WITNESSES</u>	<u>EXAMINATION BY</u>	<u>PAGE</u>
██████████	DIRECT - MS. BESCHE	3
	CROSS - MS. ZOIS	28
	REDIRECT - MS. BESCHE	77
	RECROSS - MS. ZOIS	85

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<u>PLAINTIFF'S EXHIBITS</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
No. 16 - Accident report	72	76
No. 17 - Eastern Petroleum Corporation policy on spills	64	--
No. 18 - Distracted driving quiz	70	71
No. 19 - "The Point of No Return" quiz	71	72
No. 42 - Certified copy of driver's license	29	77
No. 43 - Hazmat certification	29	77

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P R O C E E D I N G S

(EXCERPT - 3:40 p.m.)

THE CLERK: Raise your right hand, please.

Whereupon,

[REDACTED],

the Defendant, having been first duly sworn, was  
examined and testified, as follows:

THE CLERK: You may have a seat, please.

Thank you. Please state your full name and address for  
the record.

THE WITNESS: [REDACTED], [REDACTED]

[REDACTED], [REDACTED], Maryland [REDACTED].

THE COURT: Good afternoon, sir.

THE WITNESS: Good afternoon.

THE COURT: Listen to your counsel.

DIRECT EXAMINATION

BY MS. BESCHE:

Q. Mr. [REDACTED], what is your current age?

A. Forty-four.

Q. I need you to get a little closer to the  
mike. Are you employed?

A. Yes.

Q. With whom?

A. Eastern Petroleum.

Q. How long have you been with them?

1           A.       Three years, three and a half years now.

2           Q.       And what do you do for them?

3           A.       I drive a tractor trailer. I haul fuel to

4           gas stations.

5           Q.       Keep your voice up. I'm having a little

6           trouble. Before Eastern Petroleum, who did you work

7           for?

8           A.       Hahn.

9           Q.       What is Hahn?

10          A.       Another trucking for petroleum.

11          Q.       You did the same thing for them?

12          A.       I was a driver for them, also.

13          Q.       How long with them?

14          A.       Two years.

15          Q.       And before them, who did you work?

16          A.       Before them, I worked for Domino's. I

17          drove a tractor trailer for them.

18          Q.       The pizza company?

19          A.       Yes, I drove from the commissary and

20          loaded up.

21          Q.       How long did you work for them?

22          A.       Two years.

23          Q.       Do you hold a CDL license?

24          A.       Yes, CDL, Class A.

25          Q.       What is that?

1           A.       That's a license to be able to drive  
2 tractor trailers.

3           Q.       And how long have you had it?

4           A.       With all these, six and a half years.

5           Q.       Okay. Do you recall an accident which  
6 occurred on July 13<sup>th</sup>, 2006, at Pennington Avenue and  
7 Church Street?

8           A.       Yes.

9           Q.       And were you involved in that accident?

10          A.       Yes.

11          Q.       Were you driving one of the vehicles?

12          A.       Yes.

13          Q.       What were you driving?

14          A.       A tractor trailer, a tanker.

15          Q.       A tractor tanker?

16          A.       Yes.

17          Q.       What were you hauling?

18          A.       Fuel. Gasoline.

19          Q.       What time did the accident occur?

20          A.       6:30.

21          Q.       What time had you started to work that  
22 day?

23          A.       5:00.

24          Q.       I'm sorry?

25          A.       5:00.

1 Q. And where did you start to work?

2 A. Millersville transit truck stop.

3 Q. What do you do at Millersville transit

4 truck stop?

5 A. I inspect the truck, fuel up the truck,

6 just, you know, fuel up the tractor, not the trailer,

7 and inspect, and then go to get my first load for the

8 day.

9 Q. You inspect the truck at Millersville?

10 A. Yes.

11 Q. Where do you go to get the trailer loaded?

12 A. It would be one of many terminals, most of

13 them in Curtis Bay.

14 Q. On the day of this incident, which

15 terminal or which area did you go to?

16 A. Curtis Bay. I went to Citgo.

17 Q. Where were you to take the fuel after you

18 were loaded at Curtis Bay?

19 A. I was going to EP3.

20 Q. What is "EP3"?

21 A. That's a Citgo down in Pasadena.

22 Q. Did you have a time -- a specific time

23 that you had to arrive at Pasadena?

24 A. No.

25 Q. Did you have a certain number of

1 deliveries you had to make within a specific time?

2 A. No.

3 Q. Did you have any need to rush?

4 A. No, not whatsoever, no.

5 Q. How long did it take you to get from

6 Curtis Bay to Pennington Avenue?

7 A. Within 15 minutes.

8 Q. What road were you on when this accident

9 happened?

10 A. I was on Pennington.

11 Q. And what was the road that intersected

12 Pennington where the accident happened?

13 A. Church Street.

14 Q. Can you describe Pennington Avenue for the

15 jury in terms of the lanes?

16 A. Two lanes going in one direction, parking

17 on the sides.

18 Q. Each side?

19 A. Yes.

20 Q. Where did you get onto Pennington Avenue?

21 A. From Patapsco.

22 Q. Patapsco Avenue?

23 A. Yes.

24 Q. How many traffic lights exist on

25 Pennington from the time you got on it and prior to

1 Church Street?

2 A. One.

3 Q. Do you now know where that light is  
4 located?

5 A. Yes, Olmstead.

6 Q. Have you gone back since your deposition  
7 in this case to check on the names of the streets?

8 A. Yes, I frequently travel this road, many  
9 times. Sometimes two, three times a day.

10 Q. Prior to looking specifically at the names  
11 of the streets, did you know the name of all the  
12 intersecting streets?

13 A. No.

14 Q. Where is Olmstead in relation to Church  
15 Street?

16 A. It's about five blocks prior.

17 Q. Five blocks prior?

18 A. Prior, yes.

19 Q. Did you hit any red lights before the  
20 intersection where the incident occurred on Pennington?

21 A. There at Olmstead.

22 Q. So you hit a red light about five blocks  
23 prior to Church?

24 A. Yes.

25 Q. And you had stopped at that light?



1           A.       Yes.

2           Q.       What lane were you in on -- what lane were  
3           you on Pennington -- okay. What lane were you in on  
4           Pennington when you first got to Pennington?

5           A.       I was in the left lane.

6           Q.       Did you move?

7           A.       Yes, I moved to the right lane.

8           Q.       Approximately when did you make that move  
9           to the right lane?

10          A.       Before the red light at Olmstead.

11          Q.       Did you stay in that lane?

12          A.       Yes.

13          Q.       And what is the speed limit on Pennington  
14          at the time?

15          A.       Thirty miles per hour.

16          Q.       What speed were you traveling?

17          A.       Twenty to thirty, but probably closer to  
18          30. It was a clear day and not much activity I can  
19          recall, you know, on the street that day.

20          Q.       Are you at all cognizant or aware of your  
21          speed when you are traveling in an area such as  
22          Pennington Avenue?

23          A.       Am I cognizant of my speed?

24          Q.       Yeah, are you aware of it?

25          A.       Yeah. Oh, yeah. Yeah.

1 Q. Why?

2 A. Well, there's a lot of activity on the  
3 street, kids walking back and forth, not using  
4 crosswalks, and a playground, and cars pulling out,  
5 and, you know, the whole bit.

6 Q. Was anyone in your vehicle with you?

7 A. No.

8 Q. And the weather this day was what?

9 A. It was clear, sunny.

10 Q. Did there come a point in time while you  
11 were on Pennington when you first saw the light at  
12 Church Street?

13 A. When I first saw the light at Church  
14 Street?

15 Q. Yes.

16 A. Yeah, it was, you know, within that block,  
17 you know, when I clear the block before, the street  
18 before that, you know, during that block, yeah.

19 Q. When you first saw the light, or actually  
20 focused on the light on Pennington, what color was it?

21 A. Green.

22 Q. Did it ever change prior to your going  
23 into the intersection?

24 A. No.

25 Q. Did he ever change prior to your losing

1 sight of the light because you were into the  
2 intersection?

3 A. No, it never changed.

4 Q. Mr. [REDACTED], is there any doubt in your  
5 mind as to what color that light was after you entered  
6 that -- once you entered that intersection?

7 A. There is no doubt in my mind. It was  
8 green.

9 Q. It was green. Were there any cars ahead  
10 of you as you entered that intersection?

11 A. I don't recall that.

12 Q. How about behind you?

13 A. I just don't recall that either.

14 Q. How about cars? Were there any cars on  
15 your left-hand side?

16 A. Yeah, cars, they usually move into the  
17 left lane, you know, to get around tankers or trucks.  
18 So there were cars on the left side.

19 Q. And can you tell the jury, was there a  
20 specific -- I mean, I know you may not be able to  
21 describe the vehicle. Was there a vehicle that was, if  
22 you will, in line with your vehicle on Pennington?

23 A. Yeah, there was one with me.

24 Q. I'm sorry?

25 A. There was another vehicle along with me.

1 Q. And when did you first notice that vehicle  
2 alongside of you to your left?

3 A. Approximately, you know, when I was  
4 through the light and getting ready to come, you know,  
5 to a stop.

6 Q. I'm sorry?

7 A. During, you know, at the light, I noticed  
8 that he was there and I couldn't -- you know, that was  
9 why I couldn't get out right away.

10 Q. I'm a little confused. The car to your  
11 left -- let me put it to you this way -- was it there  
12 and were you aware of it when you approached the  
13 intersection at Church Street?

14 A. Oh, of course, yeah. He was along with me  
15 in the intersection.

16 Q. I'm sorry. I can't hear you.

17 A. He was alongside of me on my left in the  
18 intersection as we went through.

19 Q. At Pennington and --

20 A. Church.

21 Q. Okay.

22 A. Yeah.

23 Q. And did that car -- strike that. Do you  
24 know what happened to that car at the time of the  
25 collision? Do you know where it went?

1           A.       No.

2           Q.       Would you tell the ladies and gentlemen of  
3       the jury what happened after you entered the  
4       intersection on the green light at Church and  
5       Pennington?

6           A.       After I entered the intersection?

7           Q.       You entered the intersection. You said  
8       the light was green. You were on Pennington. What  
9       happened next?

10          A.       As I entered the intersection, I glanced  
11       over and saw another car coming at me and I thought,  
12       "Well, I think that car is going to hit me," and then  
13       the impact was, you know, within the moments as I was  
14       in the intersection.

15          Q.       Now, when you say "entered the  
16       intersection," an intersection is a kind of a big --  
17       it's not big, but it takes up a certain amount of  
18       space. Why don't you come down here and show the jury  
19       where you were in the intersection when you first saw a  
20       vehicle. Come on down.

21                   (Witness approached the jury.)

22           BY MS. BESCHE:

23          Q.       So I'm going to first have you point -- I  
24       realize there's something drawn (inaudible), but my  
25       question to you is, you were coming down Pennington.

1       You, at some point, got into that intersection. I  
2       would like to know where the front -- no, I can't  
3       really ask you that -- where your line of vision, which  
4       would be the passenger window --

5           A.       Yes.

6           Q.       -- approximately where was that --

7           THE COURT: Keep your voice up, sir.

8           BY MS. BESCHE:

9           Q.       -- approximately where was your line of  
10       vision within the intersection when you first saw a  
11       vehicle coming down Church Street?

12          A.       My line of vision was --

13          Q.       Well, I know where your line of vision  
14       was. I'm trying to figure out where your vehicle was.  
15       I'm trying to figure out the best way to ask you that.  
16       How about, where was the front of your vehicle when you  
17       first saw the car on Church Street?

18          A.       Right in here. Just in here is when I saw  
19       it.

20          Q.       Okay. So you are pointing --

21          A.       Right here.

22          Q.       Why don't you draw a mark there, but put  
23       it in the blank space so we can see it.

24          A.       Right here?

25          Q.       Yeah.

1           A.       On this side?

2           Q.       No, put it on that side just so we can see

3       it.

4           A.       Okay.

5           Q.       Make an "X."

6           A.       (Witness complied.)

7           Q.       Okay. And put a "P," or put an "S.B." for

8       "; [REDACTED] ."

9           A.       (Witness complied.)

10          Q.       Now, that vehicle, you said you saw it,

11       and then what happened? You saw it out of the corner

12       of your eye? Were you looking straight at it?

13          A.       No, I saw it out of the corner of my eye

14       as I was going through the intersection, and like I

15       said, it went through my mind, you know, "I believe

16       she's going to hit me, her vehicle is going to hit me,"

17       and then the accident happened.

18          Q.       Let me stop you there. The accident

19       happened. Do you know where your vehicle was struck?

20          A.       The right rear tractor tire.

21          Q.       And can you just point to that on here

22       approximately where that would be for the jury?

23          A.       Yeah, that's --

24          Q.       Right about here?

25          A.       Yeah.

1 Q. Right about where they're meeting?

2 A. Yes. Yes.

3 Q. Okay. Do you know if the plaintiff's, Ms.

4 [REDACTED]'s vehicle struck your vehicle in any other

5 locations?

6 A. Just the impact was right through here and

7 the pipes that gasoline (inaudible).

8 Q. Approximately where are those pipes?

9 A. They're in the middle of trailer.

10 Q. Okay.

11 A. Just right in the middle.

12 Q. Okay. And did you brake at any point?

13 A. Yes.

14 Q. When did you brake?

15 A. Either right at the time, or right after

16 the impact. You know, it happened so fast.

17 Q. Did you slam your brakes on?

18 A. No.

19 Q. Why not?

20 A. You can't just slam your brakes on on a

21 tractor -- on a tanker. You know, you don't want it to

22 jackknife.

23 THE COURT: Keep your voice up, sir.

24 THE WITNESS: Yes.

25 MS. BESCHE: Try to kind of talk to that



1       little black thing there, that little microphone.

2                   BY MS. BESCHE:

3               Q.       Did you stop -- did you eventually stop  
4       your vehicle?

5               A.       Yes.

6               Q.       Approximately how many feet did you  
7       travel?

8               A.       I stopped it towards the end of the block.

9               Q.       Well, when you first stopped it -- I know  
10      you ended up at the end of the block --

11                   MS. ZOIS:  Objection, Your Honor.

12      Leading.

13                   THE COURT:  Don't lead, counsel.

14                   BY MS. BESCHE:

15               Q.       When you applied your brakes, did that  
16      stop your vehicle?

17               A.       Yeah, it was about 60 --

18                   (Noise interruption.)

19                   AUDIENCE:  I'm sorry.

20                   THE COURT:  Is that a different one?

21      Please turn it off.  Thank you.

22                   BY MS. BESCHE:

23               Q.       Go ahead.

24               A.       It was about, you know, 60 feet or so and  
25      I came to a stop right within 50, 60 feet, and I --

1       there were parked cars all along there and I moved the  
2       tanker to where there were no parked cars.

3               Q.       Do you recall where you moved the tanker  
4       to?

5               A.       It was towards the end of the block, you  
6       know, a little easier to park, you know, right  
7       (inaudible). I didn't know where to put this tanker.

8               MS. BESCHE: And just for the record, we  
9       are referring to Defense Exhibit 4.

10              THE COURT: Thank you, counsel.

11              MS. BESCHE: Mr. [REDACTED], why don't you  
12       take your seat back.

13                      (Witness returned to the stand.)

14              BY MS. BESCHE:

15              Q.       Now, the office building, you've heard  
16       everybody talk about that medical office building?

17              A.       Yes.

18              Q.       Does that affect the ability to look up  
19       Church Street?

20              A.       Yes.

21              Q.       Did the driver of the car that hit you  
22       blow their horn?

23              A.       No.

24              Q.       I should have asked you this while you  
25       were up there, but at the time of the actual impact of

1 the two vehicles, where was the front of your vehicle?

2 A. It was probably -- it was to the far edge  
3 of that crosswalk. I was pretty much in through that  
4 intersection at the time.

5 Q. The hatched lines that -- the hatched  
6 lines that we see on the diagram?

7 A. Yes.

8 Q. Is that what you're talking about when you  
9 say the "crosswalk"?

10 A. Yes.

11 Q. Was your tractor trailer hit in the front  
12 at all?

13 A. No.

14 Q. You heard [REDACTED] say that the front  
15 of your tractor trailer and the car impacted. Did that  
16 happen?

17 A. No.

18 Q. Can you tell the jury the nature of the  
19 damage, first of all, to the tractor?

20 A. The right rear tire, drive tire of the  
21 tractor had -- the tire was punctured and the actual --  
22 actually hit, you know, the axle of it, and the pipes  
23 that go underneath the tanker itself were hit, and it's  
24 called a "belly box." Part of that was hit, also,  
25 which is on the further side of the -- towards the back

1 of the tanker.

2 MS. BESCHE: I'm going to have you come up  
3 again. Sorry.

4 (Witness approached the jury.)

5 MS. BESCHE: Actually, I have a blowup of  
6 these. Go ahead. I'll bring them.

7 Again, I'm just going to hold these. I'm  
8 on strike with the easel.

9 And for the record, these are Joint  
10 Exhibit 3.

11 BY MS. BESCHE:

12 Q. This first photograph shows the tires.  
13 Now, one of them was punctured?

14 A. Yes.

15 Q. Can you tell from this photograph which  
16 one it was?

17 A. No.

18 Q. Okay. Was that photograph meant to depict  
19 the tires that were involved?

20 MS. ZOIS: Objection, Your Honor.

21 THE COURT: Overruled.

22 THE WITNESS: Yes.

23 BY MS. BESCHE:

24 Q. Now, can you tell the jury, or draw for  
25 the jury, whatever works well for you, where the right

1 rear drive tire is?

2 A. Yes.

3 Q. Would you rather draw it?

4 A. Yeah, that's fine.

5 Q. Show the jury on the tractor where the

6 right rear -- I think you're a better artist than I am.

7 A. (Witness complied.)

8 Q. This is the front tire?

9 A. Yeah, this is the front tire, the middle

10 tire, and the rear drive tire.

11 Q. How many of the rear drive tires are there

12 on each side?

13 A. There's two -- two on each side of each

14 axle. There's four all together.

15 Q. And how many of those tires are there?

16 A. There's two on each side.

17 Q. How about the front?

18 A. One.

19 Q. So it's one, two, two on each side, right?

20 A. Yes.

21 Q. Let's go back to our pictures. What does

22 this photograph, the second one on the left side, show

23 -- what does this photograph, the second one on the

24 left side, depict?

25 A. This is the trailer.

1 Q. And what is the damage?

2 A. It's the bottom middle of the trailer  
3 where all the pipes come down (inaudible) to release  
4 the product.

5 Q. What is the damage?

6 A. Oh, yeah. Well, this is the bar  
7 (inaudible). That's damaged. And, you know, this is  
8 all bent down here and there was supposed to be a fill  
9 here, which was (inaudible). It's broken.

10 Q. How about the bottom photograph?

11 A. Yeah, this is where the fuel would come  
12 out and that's where it was broken.

13 Q. Now, we heard there was leaking gasoline.  
14 Where did it leak from?

15 A. Yeah, from down where the broken pipes go.

16 Q. And the top right photograph, what does  
17 that -- is that just a different angle of the same  
18 damage?

19 A. Yes. Yes.

20 Q. What is this right here?

21 A. That's where a handle for the pipe to  
22 release the product.

23 Q. And the second photograph on the right?

24 A. (Inaudible.) The first one is missing;  
25 then there's two, three, and four. There are four

1 different pods of the tanker.

2 Q. And where is the damage?

3 A. On pod one and then pod four, to the bars.

4 Q. And, then, is there damage depicted on  
5 this bottom photograph?

6 A. Yeah, that's (inaudible).

7 Q. And what is the damage?

8 A. Just the corner there.

9 MS. BESCHE: Okay. Thank you.

10 BY MS. BESCHE:

11 Q. Was the fire department called because of  
12 the gasoline?

13 A. Yes.

14 Q. How about MDE, Maryland Department of the  
15 Environment?

16 A. Yeah.

17 Q. Were you cited for anything by any of  
18 those entities?

19 MS. ZOIS: Objection, Your Honor.

20 THE COURT: Sustained.

21 BY MS. BESCHE:

22 Q. I've heard some testimony, and you may  
23 have said it. Was it sunny that day?

24 A. Yes.

25 Q. Was the sun an issue for you in any way?

1           A.     No. No. It was, like, blue sky.

2           Q.     Okay. Now, you said you went down toward  
3           the end of Cherry Street, right?

4           A.     Yes.

5           Q.     I'm sorry. You went down Pennington  
6           toward where it intersected with Cherry Street, right?

7           A.     Correct.

8           Q.     And why did you do that?

9           A.     I was on my way to EP3, the Citgo, to  
10          unload the product.

11          Q.     Why did you stop there instead of after  
12          the first 60 feet? After the accident, you said you  
13          went 60 feet, but then you drove down to the end. Why  
14          did you not stop at the 60-foot mark?

15          A.     There's cars and -- you know, parked cars  
16          and houses. You know, it was all right there. I tried  
17          to move the vehicle in a safe zone.

18          Q.     Now, once you were wherever it was toward  
19          the Pennington and Cherry intersection, did you attempt  
20          to get out of your vehicle?

21          A.     I'm sorry?

22          Q.     Did you attempt to get out of your  
23          vehicle?

24          A.     After the accident?

25          Q.     Yes.



1 A. Yes.

2 Q. Were you able to do so immediately?

3 A. No.

4 Q. Why not?

5 A. Well, there was still the flow of cars  
6 were coming along my left side.

7 Q. When you finally did get out, did any cars  
8 stop?

9 A. Yes.

10 Q. And you can't tell me what that person  
11 said, but what happened?

12 A. I asked him to -- he pulled over in front  
13 of the tractor trailer where there was a trickle of  
14 gasoline and I asked him to move further down the  
15 street because of the gasoline. His engine was on. I  
16 mean, he was right over it.

17 Q. Did he move?

18 A. Oh, yes, very quickly.

19 Q. Did he stick around?

20 A. No, I guess not. I have no idea. I  
21 didn't see him after that.

22 Q. Did you see the plaintiff's vehicle, Ms.  
23 [REDACTED]'s vehicle --

24 A. Yes.

25 Q. -- from where you were down towards Cherry

1 Street?

2 A. Yes.

3 Q. Could you see her vehicle?

4 A. Yes.

5 Q. Where did her vehicle end up?

6 A. In front of the antique shop right there

7 in the intersection.

8 Q. Did you call 9-1-1?

9 A. No.

10 Q. Why not?

11 A. Well, folks were already out and their

12 cell phones were open, and I grabbed my Nextel, which

13 is like a two-way communication, and called dispatch to

14 get them out -- or to alert them that I have a leak and

15 a spill, you know, the accident.

16 Q. Does Nextel let you call anyone other than

17 dispatch?

18 A. No, it's just a two-way radio style.

19 Q. Did you have your cell phone with you?

20 A. I just don't know. I don't remember.

21 Q. Did you walk up then and there and see

22 what happened with Ms. [REDACTED]?

23 A. No, no. You know, I was trying to contain

24 the spill, you know, freaking out, trying to get the --

25 we carry spill pads and a little barrier container so I

1 can contain the spill, keep it from traveling down the  
2 street, and that's what I was doing at the time.

3 Q. Why did you do that rather than go up and  
4 see what was going on with Ms. [REDACTED]?

5 A. There were already folks out and around.  
6 They were, you know, they were already out. Like I  
7 said, you know, I had to contain that spill.

8 Q. Were there any flammability issues with  
9 the gasoline from the tanker?

10 A. Oh, yeah. Yeah, the gasoline is the most  
11 flammable. It's the vapors. They -- as soon as  
12 they're out in the air. When a truck parked over in  
13 front of it, it truly freaked me out.

14 Q. Do you remember talking to someone who we  
15 now know as Mr. [REDACTED]?

16 A. Yes.

17 Q. Where did you and he hook up? Where were  
18 you? Where was he?

19 A. I was there at the tanker. I was there at  
20 the tanker and I talked to him, you know.

21 Q. And, again, you can't tell me what he said  
22 to you, but what did you say to him?

23 A. I didn't approach him to talk to him. He  
24 came and talked to me.

25 Q. Right. Did you respond to him when he

1       talked to you?

2           A.       Yes.   Yes.

3           Q.       Do you recall what you said to him?

4           A.       No.   No, I don't.

5           MS. BESCHE:   Just a moment, Your Honor.

6           THE COURT:   Yes.

7           BY MS. BESCHE:

8           Q.       The person that pulled over and stopped in  
9       front of your vehicle, do you know if that was the same  
10      person who traveled through the intersection with you?

11          A.       I don't know.   It may have been.

12          MS. BESCHE:   Fair enough.   Nothing  
13      further, Your Honor.

14          THE COURT:   Cross-examination, counsel.

15                    CROSS-EXAMINATION

16          BY MS. ZOIS:

17          Q.       At the time of the accident, you had been  
18      working for Eastern Petroleum Corporation for about six  
19      months; is that right?

20          A.       Yes.

21          Q.       And before you were employed by Eastern  
22      Petroleum, you went through some training, correct?

23          A.       Yes.

24          Q.       And part of that training included  
25      training in accordance with DOT hazmat regulations; is

1       that correct?

2               A.       Yes.

3               MS. ZOIS: Your Honor, may I approach?

4               MS. BESCHE: May I see it?

5               THE COURT: Yes, once you show it to  
6       counsel.

7                               (Plaintiff's Exhibit No. 43  
8                               was marked for identification.)

9               BY MS. ZOIS:

10              Q.       I'm going to show you what has been marked  
11       as Plaintiff's Exhibit No. 43, and is this the  
12       certification indicating that you were trained in  
13       hazmat?

14              A.       Yes.

15              MS. ZOIS: Counsel, (inaudible).

16              MS. BESCHE: I can't see it from there.

17                               (Plaintiff's Exhibit No. 42  
18                               was marked for identification.)

19              BY MS. ZOIS:

20              Q.       I'm going to show you what has been marked  
21       as Plaintiff's Exhibit No. 42 and this is a certified  
22       copy of your driver's license record with the MVA; is  
23       that right?

24              MS. BESCHE: I'm going to object, Your  
25       Honor.

1 THE COURT: He can tell us whether that's  
2 a certified copy of his driver's license. Overruled.  
3 MS. BESCHE: Your know, actually, Your  
4 Honor, I'm going to withdraw. Sorry.  
5 THE COURT: Objection withdrawn. That's  
6 fine.  
7 THE WITNESS: Yeah, that's me. Yes,  
8 that's me.  
9 BY MS. ZOIS:  
10 Q. And you have a hazmat endorsement as of  
11 September 20<sup>th</sup>, 2005; is that right?  
12 A. Yes.  
13 Q. And at the time of the accident, you were  
14 hauling a gasoline tanker that was full of gas,  
15 correct?  
16 A. Yes.  
17 Q. And gasoline is a hazardous material; is  
18 that right?  
19 A. Yes.  
20 MS. BESCHE: Objection.  
21 THE COURT: To your knowledge, is gasoline  
22 a hazardous material, sir?  
23 THE WITNESS: Yes. It's flammable.  
24 THE COURT: Overruled.  
25 THE WITNESS: That's hazardous, yes.

1 BY MS. ZOIS:

2 Q. And are you aware of the regulations  
3 prohibiting vehicles carrying hazardous materials from  
4 going through residential areas?

5 A. I'm not familiar with the, you know,  
6 verbatim, you know, about going through residential  
7 areas, but, you know, we basically take a route that's  
8 used for truckers.

9 Q. So you're not aware that there is a  
10 regulation?

11 A. Yes, I am aware there's a regulation.

12 Q. Are you aware that the regulation  
13 indicates unless there is no --

14 MS. BESCHE: Can I see what counsel is  
15 reading from, Your Honor?

16 THE COURT: Come forward, counsel.

17 (Counsel approached the bench and the  
18 following ensued:)

19 THE COURT: So this is supposed to be a  
20 reg?

21 MS. ZOIS: It's a regulation regarding  
22 carrying hazmat materials.

23 THE COURT: Have you seen a copy of this?

24 MS. BESCHE: Never, even though I've asked  
25 for it.

1 THE COURT: Well, what are you trying to  
2 do?  
3 MS. ZOIS: Impeach him.  
4 THE COURT: As to?  
5 MS. ZOIS: His knowledge of where he's  
6 allowed to drive and where he isn't allowed to drive,  
7 and there's no right answer to the question, Your  
8 Honor.  
9 THE COURT: I don't think there is.  
10 MS. ZOIS: If he says he's aware of the  
11 regulation, well, then, he's in violation. If he says  
12 he isn't aware of the regulation, then it goes to his  
13 ability to properly and safely operate his vehicle.  
14 What other regulations is he violating?  
15 THE COURT: Is there any indication in the  
16 (unintelligible) investigation that you've made that  
17 that route, whatever that street says, says -- has one  
18 of those yellow signs up there that says "no hazmat  
19 vehicles"?  
20 MS. ZOIS: I don't think it needs to.  
21 THE COURT: I mean, what this says is that  
22 he is not to drive a hazardous material vehicle through  
23 populated areas --  
24 MS. ZOIS: Correct.  
25 THE COURT: -- narrow streets, or



1 (unintelligible).

2 MS. ZOIS: Correct. Correct.

3 THE COURT: Okay. And you're trying to --

4 MS. ZOIS: And it says operating

5 convenience is not a consideration. So what he should

6 have done was taken an alternate route, which is 695 --

7 he wanted to go to Pasadena. He should have gone 695

8 to 97 to 100, but, instead, he's cutting through all

9 the residential areas to get to his destination.

10 THE COURT: Is there any indication that

11 as a result of him receiving his CDL, or whatever

12 license he receives, that he is supposed to be aware of

13 what that regulation is?

14 MS. ZOIS: Yeah, that's why the first

15 exhibit --

16 THE COURT: Yeah, I didn't see it. So, I

17 don't know.

18 MS. ZOIS: Yes.

19 MR. BRATT: The Maryland CDL manual

20 references this material.

21 MS. ZOIS: Correct, Your Honor.

22 THE COURT: What is your objection?

23 MS. BESCHE: Well, I would like to see it.

24 It's hard to object when I haven't seen the document,

25 Your Honor. I would like to see the preceding page, if

1 I may, the page preceding it.

2 The problem I have with this, Your Honor,  
3 is there is literally a gas station --

4 THE COURT: Huh?

5 MS. BESCHE: -- there is literally a gas  
6 station at the end of Pennington. How does someone get  
7 there to drop product off?

8 THE COURT: That's City Planning. I ain't  
9 got nothing to do with any of that.

10 MS. BESCHE: No, my point that that  
11 regulation is not meant to deal with situations where  
12 they're delivering gasoline to a gas station, which is  
13 actually what he's attempting to do.

14 THE COURT: No, I know what he's  
15 attempting to do. I know his testimony is as to have  
16 used that route before. I'm going to allow her to  
17 question him as to his knowledge of any regulation that  
18 has to do with use of routes going to deliver whatever  
19 he has to deliver. Obviously, he's between a rock and  
20 a hard place because maybe the gas station is in a  
21 neighborhood that it shouldn't be in. That, I don't  
22 know, but as to whether he knows whether there could  
23 have been an alternative, another route or what have  
24 you, I will allow her to --

25 MS. BESCHE: May I be heard on one other

1 issue, Your Honor? How does this -- why is this  
2 relevant to a case where alleged violation of that  
3 statute is not in any way related to the cause of this  
4 accident?

5 THE COURT: Let's deal with that issue.

6 MS. ZOIS: Well, that's easy.

7 THE COURT: Okay.

8 MS. ZOIS: The fastest way between two  
9 points.

10 THE COURT: I can't hear you.

11 MS. ZOIS: The fastest way between two  
12 points. He was in a hurry. That's why he ran the red  
13 light.

14 THE COURT: Yeah, I mean, that's something  
15 that maybe they can infer. So, I'll allow it. The  
16 objection is overruled.

17 MS. BESCHE: Your Honor, can I request the  
18 Court to get me a copy of those two pages to take with  
19 me today? I have no way of copying them and I would  
20 like to take them home with me.

21 MS. ZOIS: It's Friday afternoon. Get it  
22 over the weekend, right?

23 THE COURT: After we finish today, I can  
24 copy it for you. I ain't got no copy machine either.  
25 You know what I mean? But I will get those couple of

1       pages --

2                   MS. ZOIS: I could do it, Your Honor.

3       It's the weekend.

4                   THE COURT: I can get a copy for you.

5                   MS. ZOIS: I can make it on Sunday.

6                   MS. BESCHE: No, I would like to have it

7       for the weekend.

8                   THE COURT: She wants it for her homework.

9                   MS. BESCHE: Your Honor, I may have to

10       call an expert on Monday for this.

11                   THE COURT: You'll have to do what you

12       have to do, but we'll make sure you get those couple of

13       pages.

14                   MS. ZOIS: It's on-line.

15                   MS. BESCHE: Thank you, Your Honor.

16                   MS. ZOIS: It's on-line.

17                   THE COURT: She might be like me. I don't

18       use much stuff on-line.

19                   MS. ZOIS: Oh, all right. It's on-line.

20                   MS. BESCHE: Well, actually, I have a

21       funeral parlor to visit tonight and a funeral this

22       weekend.

23                   THE COURT: All right. Okay.

24                   MS. BESCHE: So I have other things I need

25       to deal with.

1 THE COURT: Okay. Thank you.

2 (Counsel returned to the trial tables and  
3 the following ensued:)

4 THE COURT: For the record, the objection  
5 is overruled. You may proceed, counsel.

6 BY MS. ZOIS:

7 Q. Mr. [REDACTED], are you aware of any  
8 regulation that -- let me rephrase that. Are you aware  
9 of a regulation of the State of Maryland that says,  
10 "Unless there is no practical alternative, a motor  
11 vehicle containing hazardous material must not be  
12 operated over routes that go through or near heavily  
13 populated areas, (2) places where groups are assembled,  
14 (3) tunnels, (4) narrow streets, or (5) alleys, and  
15 operating convenience is not a consideration"? Are you  
16 aware of that regulation?

17 A. Yes, I'm aware of how you stated it there,  
18 but, before, it was a little more less, you know,  
19 direct. Basically, you know, you take your direct  
20 route. If you've got a highway, or a residential road,  
21 you don't take the residential road. You know, the  
22 take the highway that's right next to it. Basically,  
23 you just -- unless -- you don't go out of your way to  
24 -- way out of your way, which is not practical, to get  
25 to your location, say, you're going in the opposite

1 direction or something, you know.

2 Q. So let's talk about that for a minute, the  
3 regulation that you're now aware of that -- apparently  
4 you're aware of -- that states, "Unless there is no  
5 practical alternative, a motor vehicle containing  
6 hazardous material must not be operated in residential  
7 areas."

8 Let's talk about where you were. You were  
9 in Curtis Bay, correct?

10 A. Yes.

11 Q. And you were headed to Pasadena, right?

12 A. Yes.

13 Q. Okay. And I'm guessing -- and you tell me  
14 if I'm wrong -- but you came off of Veterans Highway  
15 that day, right?

16 A. From Millersville?

17 Q. Yes.

18 A. When I started work, yes.

19 Q. Right. So you took 97 north, right?

20 A. Yes.

21 Q. To 695 east?

22 A. No, I went down 895.

23 Q. So you went into a tunnel?

24 A. Excuse me?

25 Q. You went into a tunnel? You took --

1           A.       No, no, there's an exit right before the  
2       tunnel for Curtis Bay.

3           Q.       Okay. So you took 895?

4           A.       No, this is my normal -- my normal route,  
5       which I probably would have taken. I can't, you know,  
6       this day remember exactly how I got down in there, but  
7       that's how we normally would go right down in there,  
8       off of 895 down to the first exit right before the  
9       tunnel and then that's all Curtis Bay down in there.

10          Q.       Okay. Now, to get to Pasadena, you can  
11       get on 895, go back to 97, and take 100 east, correct?

12          A.       Yes, you can go in the opposite direction  
13       and come out and go around.

14          Q.       Okay. But you didn't do that. You went  
15       straight down from 895 to Pasadena, correct?

16          A.       No, I came from the terminal, the Citgo  
17       terminal, which is off of North Ridge, and then took  
18       Patapsco and onto Pennington.

19          Q.       And you were taking Pennington to where to  
20       get to Pasadena?

21          A.       That would be out there to -- that would  
22       have been Route 10.

23          Q.       So you cut through a residential area to  
24       get to Route 10, correct?

25          A.       Yes, I went through -- I went through a

1 residential area. From off of Patapsco, the roads make  
2 a left onto Pennington. You can't go right because  
3 that part restricts trucks, unless you're delivering.  
4 But to make a left onto Pennington is -- the signs are  
5 -- the signs are for -- says to Key Bridge, take  
6 Pennington. It's a truck sign, you know, for trucks,  
7 alternate route.

8 Q. You don't remember what time you reported  
9 to work that day?

10 A. It was around 5:00.

11 Q. Do you remember if you had sunglasses on  
12 that day?

13 A. No.

14 Q. Do you remember what you did the day of  
15 the day you went to work?

16 A. The day of? No.

17 Q. Do you remember what day of the week it  
18 was?

19 A. No, I don't.

20 Q. And you don't remember whether or not you  
21 were running late that day, do you?

22 A. No, I wasn't running late. If I was  
23 running late, it's very, very few -- I can't even think  
24 of -- it's only because I'm, like, waiting on a  
25 tractor. You have somebody use a tractor at night. In



1 the daytime, sometimes you have to wait for the tractor  
2 to come in so you can use it. Those are basically the  
3 only times I'm late.

4 Q. But you don't remember if this was one of  
5 those days?

6 A. No, that wasn't one of those days.

7 Q. And you don't remember what terminal you  
8 went to in Curtis Bay, right?

9 A. It was Citgo.

10 Q. Oh, you do remember what terminal you went  
11 to?

12 A. Yes.

13 Q. Okay. At the time of your deposition,  
14 though, you didn't remember what terminal you went to?

15 A. It was EP3, Citgo. You know, I was just,  
16 you know -- but it was Citgo.

17 Q. But you don't know which one you went to,  
18 correct?

19 A. Citgo, there's only one terminal down  
20 Curtis Bay that's Citgo.

21 Q. Okay. Now I'm confused because, at the  
22 time of your deposition, you didn't know which one you  
23 went to, correct?

24 MS. BESCHE: Objection.

25 THE COURT: Sustained.

1 BY MS. ZOIS:

2 Q. You gave your deposition testimony in this  
3 case; is that correct?

4 A. Did I read it? I'm sorry?

5 Q. No, you gave your deposition testimony in  
6 this case, correct?

7 A. Yes.

8 MS. BESCHE: Your Honor, could we hold up  
9 for a second? For some reason, I have misplaced that  
10 transcript.

11 I have it, Your Honor. It was in the  
12 wrong folder.

13 THE COURT: Thank you.

14 BY MS. ZOIS:

15 Q. Page 18, lines 18 through 21. Question --  
16 MS. BESCHE: Can I just get there,  
17 counsel?

18 MS. ZOIS: I'm sorry.

19 MS. BESCHE: Go ahead.

20 BY MS. ZOIS:

21 Q. "And you can't recall on this particular  
22 day which one you loaded from before you headed out?"

23 Answer: "No, I can't recall. I can't be  
24 positive."

25 Do you remember providing that deposition

1 testimony?

2 A. Yes.

3 MS. BESCHE: Your Honor, I'm going to ask  
4 to, for completeness, read his testimony prior to that.

5 THE COURT: You'll be able to redirect him  
6 any way you wish, counsel, in line with the question.

7 BY MS. ZOIS:

8 Q. And you didn't know the address?

9 A. Of Citgo?

10 Q. Yes.

11 A. No. They have so many small streets down  
12 there, that I didn't know the address; and the EP  
13 station, EP3, had changed brands. So they went to  
14 unbranded and that's -- you know, I just -- at the  
15 time, it was the Citgo, though, and that's what I was  
16 thinking at the moment when the questions were being  
17 thrown at me. I'm sure of it now.

18 Q. And you can't remember exactly where you  
19 were heading in Pasadena on the day of the accident,  
20 correct?

21 A. State that again?

22 Q. You don't recall exactly where you were  
23 headed in Pasadena, correct?

24 A. The EP3 station.

25 Q. You're sure it was EP3 station?

1           A.       In Pasadena?

2           Q.       Yes.

3           A.       Yeah. After all this time and looking at  
4 my load sheets and such for the day, it was EP3.

5           Q.       Okay. So you went back and looked after  
6 your deposition at where you were headed, correct?

7           A.       Yeah, just, you know, making sure that,  
8 you know, I get all the facts right.

9           Q.       Okay. So, at the time of your deposition,  
10 you weren't sure, but after your deposition, you went  
11 back and looked, and you know you were going to EP3 in  
12 Pasadena?

13          A.       Yeah, whatever that deposition says at the  
14 time, yeah.

15          Q.       Okay. And you don't remember what road  
16 you took to get to Pennington Avenue at the time of  
17 your deposition, correct?

18          A.       No, it was Patapsco. Yeah, I know now.

19          Q.       You don't know what the name of the street  
20 was that you took to get to Pennington, though,  
21 correct?

22               MS. BESCHE: Objection. He said Patapsco,  
23 didn't he?

24               THE COURT: Do you have an objection,  
25 counsel?

1 MS. BESCHE: Well, yes, because he  
2 testified to the name of the street.

3 THE COURT: Sustained.

4 BY MS. ZOIS:

5 Q. Do you remember providing deposition  
6 testimony, question -- page 20, counsel --

7 MS. BESCHE: Page, what?

8 MS. ZOIS: -- 20 --

9 BY MS. ZOIS:

10 Q. -- "From the intersection going back  
11 Pennington Avenue, when did you first get onto  
12 Pennington Avenue; do you recall?"

13 Answer: "I'm not sure of the street. I  
14 know there's Aviation or Shell Road back there, but  
15 it's just coming from the terminals at Curtis Bay onto  
16 Pennington."

17 Was that your testimony?

18 A. Yes.

19 Q. And just so we're clear, the area where  
20 the accident took place is a residential area, right?

21 A. Businesses, residential, gas stations, all  
22 of it, yeah.

23 Q. Okay. Well, there's a lot of row houses  
24 in that area?

25 A. And, actually, there's Hess terminal where

1       we load -- we load onto our tractor trailers right down  
2       Pennington, too.

3               Q.       That's not my question.

4               A.       Oh, I'm sorry.

5               Q.       That's okay. There's a lot of row houses  
6       in the area where the accident took place?

7               A.       Yes.

8               Q.       And there's a lot of single-family homes  
9       in the area where the accident took place?

10              A.       Single family? Not to my knowledge.

11              Q.       There are some single-standing houses in  
12       the area?

13              A.       Okay, then.

14              Q.       Is that correct?

15              A.       Yeah, I think they're like duplexes, or  
16       actually houses that are apartments, you know, made  
17       into that kind of thing.

18              Q.       And I think your testimony earlier was  
19       that there's playgrounds in the area and that's why you  
20       were --

21              A.       Yeah, there's a playground after that,  
22       Olmstead.

23              Q.       And children, you know, can run out into  
24       the street and that sort of thing in that area?

25              A.       There are kids, usually. You know,

1 children, usually. Of course, adults with them, but  
2 lots of teen-agers and that kind of thing.

3 Q. And I think you said they don't use the  
4 crosswalks?

5 A. No, they cross wherever they, you know,  
6 where it's convenient.

7 Q. And is it fair to say that you don't  
8 remember whether or not you had your cell phone with  
9 you on the day of the accident?

10 A. Yeah, I don't remember if I had it or not  
11 because I had my Nextel two-way.

12 Q. Okay. But you don't remember if you had  
13 your cell phone with you?

14 A. No.

15 Q. Can you dial 9-1-1 from that Nextel?

16 A. I don't know. I don't know. You probably  
17 could. I don't know.

18 Q. But you didn't do that, did you?

19 A. No.

20 Q. And you don't remember whether or not you  
21 had your radio on before the accident?

22 A. No, I don't remember.

23 Q. And I think your testimony earlier was you  
24 came to a stop at a red light about five blocks north  
25 of Pennington and Church; is that correct?

1           A.       I came to a stop light on Olmstead, which  
2       is before Church.

3           Q.       Okay. And I think your testimony was that  
4       was five blocks before Church; is that right?

5           A.       Yeah, it's -- yeah, I guess I drove five  
6       blocks. It's something like that, yeah.

7           Q.       Okay. So you didn't get stuck at any  
8       traffic signal at Cypress, correct, which is the block  
9       before Church?

10          A.       No. No.

11          Q.       No, you came through that one?

12          A.       Yes.

13          Q.       All right. And you don't remember whether  
14       or not there were any vehicles ahead of you as you  
15       headed towards the intersection?

16          A.       No.

17          Q.       And you don't remember whether or not  
18       there were any vehicles behind you as you head towards  
19       the intersection?

20          A.       No.

21          Q.       Are you sure of the speed limit on  
22       Pennington?

23          A.       Yes.

24          Q.       What is it?

25          A.       Thirty.



1 Q. You're sure?

2 A. Yes.

3 MS. BESCHE: May we approach?

4 THE COURT: You may.

5 (Counsel approached the bench and the

6 following ensued:)

7 THE COURT: What is this, the police

8 report?

9 MS. ZOIS: It is, Your Honor.

10 MS. BESCHE: Your Honor, counsel has

11 stipulated to the admission of the letter from the

12 City, which states that the speed limit is 30.

13 THE COURT: Yes.

14 MS. ZOIS: That's right.

15 THE COURT: Okay.

16 MS. BESCHE: That police report was

17 obviously incorrect and to impeach him with a document

18 like that is inappropriate.

19 THE COURT: Why am I going to allow a

20 hearsay police report to come in when there is -- is

21 that letter a joint exhibit?

22 MS. BESCHE: It's a joint exhibit.

23 MS. ZOIS: It's a joint exhibit. [REDACTED]

24 [REDACTED] is the author --

25 THE COURT: Who is that?

1 MS. ZOIS: He's the author of the letter  
2 that says it's 30 miles per hour. However, he is also  
3 the author of the original wrong time sequence report  
4 and of the fixed sequence report, and I'm not going to  
5 introduce the police report into evidence. I simply  
6 want to see if this refreshes his recollection as to  
7 what he thinks the speed limit is.

8 THE COURT: He ain't thinking. He says  
9 he's sure. Denied.

10 (Counsel returned to the trial tables and  
11 the following ensued:)

12 BY MS. ZOIS:

13 Q. And I think your testimony was that you  
14 were traveling somewhere between 20 and 30 as you  
15 headed towards the intersection, but probably closer to  
16 30?

17 A. I think it was 20 to 30 when I did the  
18 deposition, but, you know, like I stated today, it was  
19 probably closer to 30.

20 Q. Where was your tanker when you first saw  
21 the light?

22 A. The light at Church Street?

23 Q. Yes.

24 A. Yeah, right -- Cypress Street was the  
25 street before?

1 Q. Um-hum.

2 A. Yeah, right about there, um-hum, within  
3 that, you know, block.

4 Q. Okay. So you first saw the green traffic  
5 signal somewhere between Cypress Street and Church  
6 Street? Is that your testimony?

7 A. Yes.

8 Q. Do you know how far away, or where in that  
9 block you were when you noticed the green light?

10 A. No. No, not at all.

11 Q. No?

12 A. No.

13 Q. You don't know where you were in  
14 relationship to the medical building or --

15 A. I was within that block. The medical  
16 building takes up, I guess, a quarter of the block. I  
17 was definitely before the medical building. It was,  
18 you know, probably towards the earlier part of that  
19 block, you know.

20 Q. Okay. But you can't remember exactly  
21 where you were?

22 A. No. No.

23 Q. Do you know how many seconds went by after  
24 you first saw the green light and before the crash?

25 A. No. I'm just driving -- you know, there's

1 a green light -- just driving along.

2 Q. And I think your testimony earlier was  
3 that you did see [REDACTED]'s vehicle before the impact;  
4 is that right?

5 A. I did -- I'm sorry. You're saying?

6 Q. I believe your testimony earlier today was  
7 that you did see Ms. [REDACTED]'s vehicle before the impact;  
8 is that right?

9 A. Yes. Yes, a split second. You know, it  
10 happens fast.

11 Q. Okay. So you're driving down Pennington  
12 and you saw her vehicle before the impact, just so I'm  
13 clear, correct?

14 A. Yes.

15 Q. It was a split second before the impact,  
16 correct?

17 A. Yes.

18 Q. Were you looking behind you before the  
19 impact for any reason?

20 A. No.

21 Q. Were you looking to your right before the  
22 impact for any reason?

23 A. No. I was looking through the  
24 intersection and caught her in the corner of my eye  
25 kind of thing.

1 Q. And it was a split second after you saw  
2 her that the impact happened, right?

3 A. A split second -- I'm sorry. State it  
4 again?

5 Q. It was a split second after you saw her  
6 before the impact happened, correct?

7 A. A split second to see her after the  
8 impact? No.

9 Q. Let me ask the question this way. How  
10 much time passed from the time that you saw her out of  
11 the corner of your eye up until the crash happened?

12 A. It was all in just one swooping, you know,  
13 moment. I can't say how many seconds or everything.  
14 It just happens, you know, glanced, corner of eye, saw  
15 it, and just had that moment of --

16 Q. And it's my understanding of your drawing  
17 -- it's pretty good, by the way -- that the impact to  
18 your vehicle was actually on the truck part; is that  
19 right?

20 A. Yes, on the tractor part.

21 Q. Right. The first impact was on the  
22 tractor part, correct?

23 A. Yes.

24 Q. Okay. Not the tanker part?

25 A. No.

1 Q. And it was to, I believe you said, one of  
2 the rear wheels on the side of the tractor, correct?

3 A. Yes, the rear right drive. It was right  
4 on the lip of that.

5 Q. How long is the tanker that's attached to  
6 the tractor?

7 A. The combination is 59 feet.

8 Q. Fifteen hundred?

9 A. Fifty-nine. Fifty-nine feet.

10 Q. Okay. I thought I had to hear you wrong.

11 A. Yeah, it's 59 feet.

12 Q. Fifty-nine feet. Do you know how long the  
13 tanker is?

14 A. I would be guessing if I, you know, tried  
15 to figure out how long the tanker is.

16 Q. Okay. The tanker is a lot longer than the  
17 tractor, though, right?

18 A. Yes. Yes.

19 Q. At least, what, four or five times longer  
20 than the tractor?

21 MS. BESCHE: Objection.

22 THE COURT: Sustained.

23 BY MS. ZOIS:

24 Q. Can you give me an estimate as to how much  
25 longer the tanker is than the truck?

1 MS. BESCHE: Objection.

2 THE COURT: If he can give an estimate.

3 THE WITNESS: The tanker is sitting on the  
4 back of tractor. So it would just be hard for me to  
5 gage without looking to see how much of the tractor  
6 itself is right there over top of the wheels. So it's,  
7 you know, 59 feet in combination.

8 BY MS. ZOIS:

9 Q. Okay. This is a truck you drive every  
10 day, right?

11 A. Um-hum.

12 Q. And you've been driving trucks this size  
13 for a while, right?

14 A. Yeah, two and a half years.

15 Q. But you can't give me an estimate on the  
16 length of the tractor?

17 A. I can't be sure. You would probably hold  
18 me to it and I would look stupid or something, you  
19 know.

20 Q. Okay. Is it fair to say that you didn't  
21 really have much time to react before the accident?

22 A. Not much time for what?

23 Q. Is it fair to say that you didn't have  
24 much time to react before the impact took place?

25 A. No, no time.

1           Q.       Now, the impact to the side of the  
2 tractor, did you feel that?

3           A.       The impact to the -- the impact of the  
4 accident, I felt that.

5           Q.       Did you feel the impact of the rear of the  
6 tanker, the wheels going over top of Ms. [REDACTED]'s car?

7           A.       The impact was all one constant impact.

8           Q.       Now, your testimony is that you're coming  
9 down the right-hand lane of Pennington, right?

10          A.       I was in the right lane.

11          Q.       Were you pushed into any vehicles coming  
12 down the left-hand lane?

13          A.       Was I -- say that again?

14          Q.       Was the tanker, or the tractor pushed into  
15 any vehicles on the left-hand lane?

16          A.       No. You mean from the impact?

17          Q.       Yes.

18          A.       No. No.

19          Q.       Counsel was asking whether or not you  
20 recalled any traffic coming through the light with you  
21 and I wrote this down, but I believe your first  
22 testimony was that you realized there was traffic  
23 coming through the light with you because, after you  
24 stopped, traffic was still flowing; is that correct?

25          A.       Yes.



1 Q. Are you assuming that there was traffic  
2 coming with you through the light because, after you  
3 stopped, traffic was passing you on the left?  
4 A. No. No, there was traffic on the left  
5 lane with me.  
6 Q. Okay. You're sure about that?  
7 A. Yes.  
8 Q. Do you know what kind of car it was?  
9 A. No.  
10 Q. Do you know if it was a car, or a truck?  
11 A. No, I wouldn't remember that.  
12 Q. Do you know if they were parallel with you  
13 coming through the intersection?  
14 A. Yes, they were along with me.  
15 Q. Okay. But you don't know if it was a car,  
16 or a truck, or what color it was?  
17 A. No.  
18 Q. And they weren't involved in this accident  
19 at all, whoever they were?  
20 A. No, if they -- no, of course not, because  
21 my tractor was not pushed at all. So they weren't  
22 affected.  
23 Q. And they didn't stop after the accident?  
24 A. I don't know if that was the gentleman who  
25 stopped, you know, who was right along with me. I

1 don't know.

2 Q. And would you agree with me that a gas  
3 tanker full of gas takes longer to stop than a car  
4 would?

5 A. Yes.

6 Q. And your testimony at your deposition was  
7 that you were able to stop your gas tanker within 60  
8 feet of the incident; is that right?

9 A. Yeah.

10 Q. And your estimate is that you're going  
11 about the posted speed limit, right?

12 A. Yeah, 20 to 30, closer to 30.

13 Q. Did you slam on your brakes after the  
14 accident happened?

15 A. No. No. I just came to a gradual, you  
16 know, stop.

17 Q. In 60 feet?

18 A. Yeah. I'm only going 20 to 30. It's, you  
19 know, just a gradual stop.

20 Q. Okay. Now, you brought your car -- or  
21 your tanker -- to a stop the first time and I believe  
22 your testimony was, after you stopped it the first  
23 time, then you drove it down to Cherry Street, right?

24 A. Yeah, I needed to find a safe zone.

25 Q. Did you get out at the first stop, or at

1 the second stop?

2 A. No, I kept going, I mean, stop and, you  
3 know, just crept until I can find, you know, where  
4 there's no cars along the side there.

5 Q. Okay. Just so I'm clear, you stopped the  
6 tanker in 60 feet, did not get out, and then continued  
7 down the road a bit at a slow, gradual pace looking for  
8 a place to pull over, right?

9 A. Yeah, it was just a little gait to, you  
10 know, pull over and stop.

11 Q. Okay. So you were taking your time  
12 getting out?

13 A. There's no taken like that. It's looking  
14 around, find a safe zone. I didn't know if there was  
15 any flames or anything. So I'm, you know, just trying  
16 to make sure that I'm not next to a house, or if  
17 anything bad is happening with the tanker, you know,  
18 just kind of pulling off to a safe zone, like I said.

19 Q. Well, there's houses at the intersection  
20 of Cherry and Pennington, too, right?

21 A. Yeah, there's some on both corners.  
22 There's a big open space because there's an  
23 intersection right in there, and that's the closest  
24 safe zone. I mean, there's nothing.

25 Q. Did you see where [REDACTED]'s car

1 ended up?

2 A. Yes.

3 Q. After you got out of the tanker, what was  
4 the first thing you physically did?

5 A. After I got out?

6 Q. Yes.

7 A. Yeah, I came around the side and just, you  
8 know, checked again to see what was going on, whether  
9 there was smoke or anything from the tanker and I saw  
10 the gasoline coming out.

11 Q. And how would you describe the leak?

12 A. It was coming out, you know, not a  
13 trickle, but like a pee stream kind of.

14 Q. Was it more than a gallon?

15 A. Oh, yeah. Yes, it was -- yeah, I had two  
16 compartments that were leaking. So, yeah.

17 Q. What was Ms. [REDACTED] and her son doing at  
18 this time?

19 A. Oh, I don't know.

20 Q. Did you ever go over to speak to Ms.  
21 [REDACTED]?

22 A. No.

23 Q. Did you ever go over to see who was in the  
24 car you just ran over?

25 A. No. No. I had an emergency situation and

1 folks were out on the street. You know, they were  
2 heading in that direction.

3 Q. So, at the scene of the accident, did you  
4 know there was an infant in the car?

5 A. No.

6 Q. But just so we're clear, you never even  
7 went back to see whether or not anyone was even  
8 injured?

9 A. No.

10 Q. And I think you said that the first call  
11 that you made was on your Nextel and that was to  
12 dispatch?

13 A. Yes, dispatch, or [REDACTED]. He's the  
14 safety guy.

15 Q. Is it dispatch "or" [REDACTED]?

16 A. Whatever I put in that statement, that  
17 person.

18 Q. Well, that's what I'm asking you, because  
19 it's not really clear. What do you remember?

20 A. It was one of the two. You know, those  
21 are the two calls to get to if you have an accident, or  
22 you have a leak and, you know --

23 Q. So you don't remember if it was one or  
24 two; is that fair?

25 A. Whether it was [REDACTED], or dispatch?

1 Q. Yes.

2 A. I can't remember which one was first. I  
3 know I probably did both of them.

4 Q. Okay. So you're not sure?

5 A. No.

6 Q. And you didn't call the fire department?

7 A. No.

8 Q. And you didn't call Maryland Department of  
9 the Environment?

10 A. No. No, dispatch will take care of all of  
11 that.

12 Q. And you didn't call 9-1-1?

13 A. Dispatch, again, you know, they take care  
14 of all of that.

15 Q. Is it dispatch's responsibility to call  
16 9-1-1, or is it yours?

17 A. I don't know responsibility. I knew, you  
18 know, folks had their phones out trying to call and  
19 they were on the phone. I could tell. They were going  
20 up the street with it.

21 Q. Before the emergency personnel got there,  
22 though, you didn't even know if anybody had called  
23 9-1-1, did you?

24 A. No, but moments into it, you know, the  
25 sirens were coming along.

1 Q. Does Eastern Petroleum have a company  
2 policy about what you're supposed to do when you have a  
3 crash?  
4 A. You need to contact dispatch.  
5 Q. Are you also aware that it's your company  
6 policy to call 9-1-1?  
7 A. Okay. The first thing for me was thinking  
8 to call dispatch to get this spill contained.  
9 Q. Are you aware that it's your company  
10 policy to call 9-1-1?  
11 A. Yes.  
12 Q. You are aware of that?  
13 A. No, yeah, it's just the thought never  
14 crossed my mind at the time. I had a spill. So I  
15 needed to get something out there to take of it.  
16 Q. But just so I'm clear, you are aware that  
17 Eastern Petroleum Corporation had a policy that you are  
18 to call 9-1-1 immediately, correct?  
19 MS. BESCHE: Objection.  
20 THE COURT: Sustained.  
21 MS. BESCHE: Asked and answered.  
22 THE COURT: Sustained.  
23 MS. ZOIS: Your Honor, may I approach the  
24 witness --  
25 THE COURT: You may approach the witness.

1 MS. ZOIS: -- with --

2 THE COURT: With the company policy?

3 MS. ZOIS: Yes, Your Honor.

4 THE COURT: He's already answered that two  
5 or three times, but you can still approach the witness.

6 MS. ZOIS: Thank you, Your Honor.

7 (Plaintiff's Exhibit No. 17  
8 was marked for identification.)

9 BY MS. ZOIS:

10 Q. I'm going to show you what has been marked  
11 as Plaintiff's Exhibit No. 17 and ask you what the  
12 procedure is to be followed immediately --

13 MS. BESCHE: Objection.

14 BY MS. ZOIS:

15 Q. -- if this helps refresh your  
16 recollection.

17 MS. BESCHE: Objection.

18 THE COURT: Come forward.

19 (Counsel approached the bench and the  
20 following ensued:)

21 MS. ZOIS: Am I doing something wrong?

22 THE COURT: I don't know. He's already  
23 said what the company policy is. I thought he said it  
24 two or three times.

25 MS. BESCHE: I don't think his



1 recollection needs refreshing.

2 THE COURT: Correct.

3 MS. ZOIS: There's an order that things  
4 are supposed to be done. He didn't follow the order.

5 THE COURT: He didn't follow his company  
6 policy --

7 MS. ZOIS: Correct.

8 THE COURT: -- post-accident.

9 MS. ZOIS: Correct.

10 MS. BESCHE: And how is that relevant to  
11 this case?

12 THE COURT: Yeah.

13 MS. BESCHE: The accident is over.

14 THE COURT: I mean, what he has testified  
15 to is that he didn't approach the plaintiff; he didn't  
16 even go up to the car, because his testimony is, is  
17 that he's trying to contain those two pee spills coming  
18 out of his right rear tanker and what have you. So I  
19 think you've made your point. He didn't follow company  
20 policy, did he?

21 MS. ZOIS: But the procedure. Yeah, I  
22 mean, he's supposed to -- I mean, I can ask the  
23 question a different way.

24 THE COURT: Okay. All right. We'll see  
25 what the different question is.

1 MS. BESCHE: What is the difference  
2 between a "policy" and a "procedure"?  
3 (Counsel returned to the trial tables and  
4 the following ensued:)  
5 THE COURT: Oh, they want a break.  
6 THE CLERK: Yes.  
7 THE COURT: All right. Counsel, we're  
8 going to have to take about a five-minute break.  
9 MS. ZOIS: Certainly, Your Honor.  
10 THE COURT: Whoever wrote the request  
11 through your foreperson, it's being granted. We'll  
12 take about a five-, ten-minute break. Don't discuss  
13 the case with anyone, please.  
14 (Trial recessed at 4:48 p.m.)  
15 (Trial reconvened at 4:55 p.m.)  
16 (The jury returned to the courtroom.)  
17 THE COURT: All right. Ms. Zois, you may  
18 resume your examination.  
19 MS. ZOIS: Thank you, Your Honor.  
20 BY MS. ZOIS:  
21 Q. Is it fair to say that there's a corporate  
22 policy that you're supposed to follow in the event of  
23 an emergency?  
24 A. Yeah, they have rules for -- they have  
25 rules for everything, I mean, just general -- I'm

1       sorry.  Yes.

2               Q.       Okay.  There's a corporate policy,  
3       right?

4               A.       Yes.

5               Q.       And there's a procedure you're supposed to  
6       follow after a serious accident, correct?

7               A.       Yes.

8               Q.       Is it fair to say that one of the first  
9       things you're supposed to do is dial and call 9-1-1?

10              MS. BESCHE:  Objection.  Asked and  
11       answered.

12              THE COURT:  Well, the objection is noted.  
13       Not direct reference to the corporate policy.  It's  
14       overruled.

15              Per corporate policy, is that one of the  
16       things you're supposed to do, sir?

17              THE WITNESS:  Yeah, it's, yeah, one of  
18       those immediates that you want to try to do at the  
19       time.

20              BY MS. ZOIS:

21              Q.       And you're supposed to call 9-1-1 before  
22       you call dispatch, correct?

23              A.       I don't know what the order is on those.  
24       I do know that, in general, you know, dispatch, contain  
25       the spill, that kind of thing.

1 MS. ZOIS: Now may I approach, Your Honor?

2 THE COURT: You may.

3 BY MS. ZOIS:

4 Q. I'm going to show you what has been marked  
5 as Plaintiff's Exhibit No. 17 and I would ask for you  
6 to review the Eastern Petroleum corporate policy and  
7 procedure that's supposed to be followed after a spill.  
8 Does that help refresh your recollection as to whether  
9 or not you're supposed to call 9-1-1 before calling  
10 dispatch?

11 A. "Stop the flow immediately. If spill is  
12 serious in nature and unable to stop, call 9-1-1.  
13 Contain the spill. Notify dispatch."

14 Q. Does that help refresh your recollection  
15 that you're, in fact, supposed to call 9-1-1 before  
16 calling dispatch?

17 A. Yeah, if you can't stop the flow. I was  
18 bumpering the flow at the time to contain it.

19 Q. Okay. Have you ever taken a distracted  
20 driving quiz through the course of your employment?

21 A. Distracted driver?

22 Q. Yes. Have you ever taken a quiz while  
23 you've been working at Eastern Petroleum --

24 A. Yeah, we've had many quizzes. I can't  
25 recall each one, but we've had some, yes.

1 Q. While driving, have you ever reached to  
2 pick up an object from the floor?  
3 A. No.  
4 Q. Have you ever eaten snacks, sandwiches, or  
5 meals --  
6 A. No.  
7 Q. -- while driving?  
8 A. A tractor trailer?  
9 Q. While driving.  
10 A. Personal vehicle?  
11 Q. While driving.  
12 A. While driving. Yes.  
13 Q. Now, the same question. Have you ever  
14 reached to pick up an object from the floor while  
15 driving?  
16 A. No.  
17 Q. Have you ever read a map, newspaper, or  
18 other publication while driving?  
19 A. No.  
20 Q. Have you ever talked on a cell phone while  
21 driving?  
22 A. Yes.  
23 Q. Have you ever drank a beverage while  
24 driving?  
25 A. Yes.

1 Q. Have you ever reached for objects in a  
2 briefcase or purse while driving?  
3 A. Definitely not a purse.  
4 (Plaintiff's Exhibit No. 18  
5 was marked for identification.)  
6 BY MS. ZOIS:  
7 Q. I'm going to show you what has been marked  
8 as Plaintiff's Exhibit No. 18.  
9 MS. ZOIS: Counsel. May I approach, Your  
10 Honor?  
11 THE COURT: You may.  
12 BY MS. ZOIS:  
13 Q. I'm going to show you what has been marked  
14 as Plaintiff's Exhibit No. 18. Is this a copy of the  
15 distracted driving quiz that you took?  
16 A. I can't remember, but if it's in my file,  
17 then I would have taken it.  
18 Q. Does that look like your handwriting?  
19 A. Yeah.  
20 MS. ZOIS: Your Honor, at this time, we  
21 would offer into evidence Plaintiff's Exhibit No. 18.  
22 THE COURT: Any objection, counsel?  
23 MS. BESCHE: No, Your Honor.  
24 THE COURT: So admitted. Plaintiff's  
25 Exhibit 18 now in evidence.

1 (Plaintiff's Exhibit No. 18  
2 was received in evidence.)  
3 (Plaintiff's Exhibit No. 19  
4 was marked for identification.)

5 BY MS. ZOIS:

6 Q. And you've also taken a quiz related  
7 entitled "The Point of No Return," correct? And I'll  
8 show you what has been marked as Plaintiff's Exhibit  
9 No. 19.

10 A. Yes.

11 Q. And you've indicated in this quiz that you  
12 know that the posted speed limit is the maximum legal  
13 speed for cars, correct?

14 A. I'm sorry?

15 Q. You indicate in this quiz that the posted  
16 speed limit is the maximum legal speed for cars,  
17 correct?

18 A. Where is that?

19 Q. Question one.

20 A. Oh, question one. Yes.

21 MS. ZOIS: Your Honor, we would offer into  
22 evidence Plaintiff's Exhibit No. 19.

23 THE COURT: Any objection, counsel?

24 MS. BESCHE: No, Your Honor.

25 THE COURT: So admitted. Plaintiff's

1 Exhibit 19 now in evidence.

2 (Plaintiff's Exhibit No. 19  
3 was received in evidence.)

4 BY MS. ZOIS:

5 Q. Following the accident, you filled out an  
6 accident report for Eastern Petroleum, correct?

7 MS. BESCHE: Could we show it to the  
8 witness, please?

9 BY MS. ZOIS:

10 Q. Do you remember whether or not you filled  
11 out an accident report?

12 A. I filled out something after the accident.  
13 I would have to see it. I'm pretty sure I did.

14 (Plaintiff's Exhibit No. 16  
15 was marked for identification.)

16 MS. ZOIS: Okay. May I approach, Your  
17 Honor?

18 THE COURT: You may.

19 MS. BESCHE: May I see it? Okay.

20 BY MS. ZOIS:

21 Q. I'm going to show you what has been marked  
22 for identification as Plaintiff's Exhibit No. 16 and  
23 have you take a look at that. Does that look like the  
24 accident report that you filled out after the accident?

25 A. I didn't -- I fill out my name -- I fill



1 out my name and address and driver's license, but I  
2 didn't fill out the rest of it. That's somebody  
3 else's --

4 Q. Look at the second page and look at the  
5 description of the accident. Is that your handwriting?

6 A. No.

7 Q. Did you provide information to someone as  
8 to how the accident happened and they wrote that?

9 A. Yeah, I'd speculate, but I know I talked  
10 about the accident.

11 Q. The description of the accident on that  
12 page, you're saying, is not your handwriting?

13 A. Yeah, I guess the -- wait a minute. Let  
14 me just -- hold on.

15 Q. Take your time.

16 A. I mean, I know I filled out something. I  
17 guess -- I guess this is me, yeah. Yeah, the character  
18 -- that's my bad description of my truck, yeah.

19 Q. So that's your handwriting --

20 A. Yeah.

21 Q. -- and that's your description of the  
22 accident, correct?

23 A. The description, some of this is my  
24 writing and some of it's not. "Traveling down  
25 Pennington Road" --

1           Q.       My question is, is the area of that  
2       document for the description of the accident, is that  
3       your handwriting?

4           A.       The diagram within this, yes, this would  
5       be.

6           Q.       And the text above it, the handwritten  
7       text above it as to how the accident happened, is that  
8       your handwriting?

9           A.       Yes, that looks like it is mine. It looks  
10      like I put "Cherry" instead of "Church," though.

11           MS. ZOIS: Your Honor, at this time, I  
12      would offer into evidence Plaintiff's Exhibit No. 16.

13           MS. BESCHE: I object, Your Honor.

14           THE COURT: Come forward.

15           (Counsel approached the bench and the  
16      following ensued:)

17           MS. BESCHE: I object because it has  
18      handwriting from people other than him on the first  
19      page and then there's handwriting from even a third  
20      person down here.

21           THE COURT: Well, he said something about  
22      the diagram, but then he said something about the text  
23      above it, that that's his handwriting, which I believe  
24      are admissible because he's the author of it, but that  
25      other stuff down there is not his handwriting and I

1       don't know what the heck it is.

2                   MS. BESCHE: Well, neither is any of this  
3       up here.

4                   MS. ZOIS: I can redact it over the  
5       weekend, Your Honor.

6                   THE COURT: Well, we're going to make sure  
7       before it gets to the jury that that which is not his  
8       is redacted.

9                   MS. ZOIS: Fair enough.

10                  MS. BESCHE: I think you're saying just  
11       these two things, correct?

12                  THE COURT: I don't know what they are. I  
13       don't know what they are. I know he said this part --  
14       I presume it's this part here --

15                  MS. ZOIS: Yes.

16                  MS. BESCHE: Yes.

17                  THE COURT: -- and just two lines here --

18                  MS. BESCHE: Yes.

19                  THE COURT: -- and I think his name and  
20       whatever on the other page.

21                  MS. BESCHE: Yes, his name and --

22                  THE COURT: So I'll admit it with the  
23       direction that it be properly redacted before it goes  
24       to the jury. All right. Thank you.

25                  MS. ZOIS: Fair enough, Your Honor. Thank

1       you.

2                       (Counsel returned to the trial tables and  
3       the following ensued:)

4                       THE COURT:   The exhibit, Plaintiff's  
5       Exhibit 16 for identification, will be admitted as  
6       Plaintiff's Exhibit 16 with the proper instructions at  
7       sidebar.

8                                       (Plaintiff's Exhibit No. 16  
9                                       was received in evidence.)

10                      BY MS. ZOIS:

11                      Q.       And as a result of the accident, there was  
12       about \$12,000 worth of damage done to the tanker?

13                      A.       I'm not sure of the amount.   It's whatever  
14       Eastern has written.

15                      Q.       You're not sure?

16                      A.       No.

17                      MS. ZOIS:   Okay.   Fair enough.   Your  
18       Honor, the only other two things we would do is offer  
19       into evidence Plaintiff's Exhibit No. 42 and  
20       Plaintiff's Exhibit No. 43.   Forty-two is his MVA --

21                      THE COURT:   Did you say 42, or 32?

22                      MS. ZOIS:   Forty-two, Your Honor.

23                      THE COURT:   Forty-two.

24                      MS. ZOIS:   Forty-two is the certified copy  
25       of the MVA record.

1 THE COURT: Any objection, counsel?  
2 MS. BESCHE: No, Your Honor.  
3 THE COURT: So admitted.  
4 (Plaintiff's Exhibit No. 42  
5 was received in evidence.)  
6 MS. ZOIS: And 43 is the hazmat  
7 training --  
8 THE COURT: Any objection, counsel?  
9 MS. BESCHE: No, Your Honor.  
10 THE COURT: So admitted.  
11 (Plaintiff's Exhibit No. 43  
12 was received in evidence.)  
13 THE COURT: Any further questions for this  
14 witness at this time?  
15 MS. ZOIS: No, Your Honor.  
16 THE COURT: Redirect examination?  
17 MS. BESCHE: Unfortunately, Your Honor, I  
18 do have to. So --  
19 THE COURT: Go on.  
20 MS. BESCHE: May I approach the witness,  
21 Your Honor?  
22 THE COURT: You may.  
23 REDIRECT EXAMINATION  
24 BY MS. BESCHE:  
25 Q. Mr. [REDACTED], I'm going to show you

1 Plaintiff's Exhibit 17, which are Eastern Petroleum  
2 Corporation policy that counsel was showing you, and  
3 she was asking you questions about policy six, correct?

4 A. Yes.

5 Q. It says, "The following procedure is to be  
6 followed immediately in the event of a petroleum  
7 product spill of one gallon or more," correct?

8 A. Yes.

9 Q. It doesn't say this procedure is to be  
10 followed in the event of a vehicle accident involving a  
11 bodily injury, does it?

12 A. No.

13 Q. So where it says that you are to stop the  
14 flow of product immediately, and if the spill is of a  
15 serious nature and you are unable to stop the flow, you  
16 are to call 9-1-1 immediately?

17 A. Yes.

18 Q. So the 9-1-1 is being called because of  
19 the flow of the product?

20 A. As it states, yes. As it states there,  
21 yes.

22 Q. Now, when this first happened, you called,  
23 you said, dispatch or Mr. [REDACTED], one or the other?

24 A. Yes, one or the other.

25 Q. And is it company procedure for them to

1       then call 9-1-1? I think you said that.

2               A.       Yeah. Yeah, they would alert  
3       (unintelligible), you know.

4               Q.       What were you doing as it relates to the  
5       spill when this accident happened and you got out of  
6       the tractor? What were you doing vis-a-vis the spill?

7               A.       When I got out, yeah, I was containing the  
8       spill.

9               Q.       Were you able to stop the flow of the  
10       product?

11              A.       Just temporarily.

12              Q.       So, the bottom line is, Plaintiff's 17  
13       relates to the spill itself?

14                      MS. ZOIS: I'm going to object, Your  
15       Honor. I've let the leading go a while because it's  
16       late, but --

17                      THE COURT: As to the characterization of  
18       the question. Just redirect him as to what you're  
19       trying to elicit.

20                      BY MS. BESCHE:

21              Q.       Does paragraph six of Plaintiff's Exhibit  
22       17 relate to the spill, or to something else?

23              A.       It relates to the spill.

24              Q.       Take a look at Plaintiff's Exhibit 18  
25       about distractions. Were you picking any objects off

1 the floor prior to this incident?

2 A. No.

3 Q. You're sure?

4 A. Yes.

5 Q. Were you eating any snacks, sandwiches, or

6 meals at the time of this accident?

7 A. No.

8 Q. Were you reading any maps, newspaper, or

9 other publications?

10 A. No.

11 Q. Were you talking on a cell phone?

12 A. No.

13 Q. Were you drinking any beverage?

14 A. No.

15 Q. Were you looking at things outside the

16 vehicle for more than a second at a time?

17 A. No.

18 Q. Were you making adjustments to your radio

19 or music system?

20 A. No.

21 Q. Were you reaching for objects in a

22 briefcase?

23 A. No.

24 Q. Were you deep in thought about work,

25 family, or other issues?



1           A.       No.

2           Q.       And did you have any children or  
3 passengers in your vehicle?

4           A.       No.

5           Q.       Okay. Let's talk about "The Point of No  
6 Return" question. Question one says, "The posted speed  
7 limit is" and it's got four items?

8           A.       Yes.

9           Q.       You selected "D," which is "the maximum  
10 legal speed for cars"?

11          A.       Yes.

12          Q.       You did not select "A," which is "the  
13 maximum legal speed for all vehicles"?

14          A.       No.

15          Q.       Why was that?

16          A.       Well, there are times that tractor  
17 trailers have a different speed in certain speed zones.

18          Q.       Is it a lower speed?

19          A.       Yes.

20          Q.       And, lastly, Exhibit 16, counsel  
21 referenced with you a diagram on page two. Now, the  
22 street layout, is that preprinted on here?

23          A.       Yes.

24          Q.       You couldn't actually draw the  
25 intersections?

1           A.       No.

2           Q.       Okay. And I believe you said -- well,  
3 read what it says.

4           A.       "While traveling down Pennington Road, car  
5 came through light off of Cherry and impacted truck on  
6 side, right."

7           Q.       And "Cherry" is wrong. It's Church?

8           A.       Yeah, it's Church.

9           Q.       Up above on that document where it says  
10 "Location of Accident," what does it say?

11          A.       "Pennington and Church."

12          Q.       And, then, down in the diagram, instead of  
13 saying "Church," you said "Cherry"?

14          A.       That's correct.

15          Q.       And the diagram shows an intersecting  
16 street between where you have the impact and where you  
17 stopped?

18          A.       That's correct.

19          Q.       Was there really an intersecting street  
20 there?

21          A.       No.

22          Q.       Is that part of the preprinted diagram?

23          A.       Yes.

24          Q.       Now, Mr. [REDACTED], you were asked some  
25 questions about some regulations relating to hazardous

1 materials and the regulation says, "Unless there is no  
2 practical alternative, a motor vehicle containing a  
3 hazardous material must not be operated over a route  
4 that goes through or near heavily populated areas."

5 A. Yes.

6 Q. Do you know if this is a "heavily  
7 populated area as defined or as intended by this  
8 regulation"?

9 A. It's populated.

10 Q. Do you know if it's "heavily populated" as  
11 defined in this regulation?

12 A. No.

13 Q. It says you can't go places where groups  
14 are assembled. Did you see any groups assembled?

15 A. No.

16 Q. It says you can't go through a tunnel.  
17 Was there a tunnel involved?

18 A. No.

19 Q. It says you can't go through a narrow  
20 street. Was there a narrow street?

21 A. No. I was on the --

22 Q. Huh?

23 A. No.

24 Q. It says you can't go through an alley.

25 Was there an alley?

1           A.       No.

2           Q.       It says, also, when we start this

3 sentence, "no practical alternative." To get to your

4 destination, if you did not go down Pennington Avenue

5 and you took a different route -- I think you talked

6 about the beltway?

7           A.       Yes.

8           Q.       How much farther is that? Is it a mile

9 farther?

10          A.       It's in the opposite direction. It's a

11 lot more than a mile, you know. It's hard to say. I

12 guess probably like 15 or 10, 15. I don't know.

13          Q.       Ten to 15 miles longer?

14          A.       I guess.

15          Q.       You're approximating?

16          A.       I'm approximating.

17          Q.       Okay. And you've been on Pennington

18 before with your tanker?

19          A.       Yes.

20          Q.       Have you seen other tankers on Pennington?

21               MS. ZOIS: Objection.

22               THE COURT: Sustained.

23               BY MS. BESCHE:

24          Q.       Let's talk about what is on Pennington.

25 We've talked about the medical center?

1           A.       Yes.

2           Q.       And after you go past the medical center  
3           and you go down Pennington, what is down at the foot --  
4           not the foot, but maybe a quarter-mile down Pennington?

5           A.       You're talking about the Hess terminal?

6           MS. ZOIS:  Objection, Your Honor.  It's  
7           beyond the scope of cross.

8           THE COURT:  Overruled.  I'll allow it.

9           BY MS. BESCHE:

10          Q.       I'm sorry.  I didn't hear you, sir.

11          A.       The Hess terminal.  It's a facility to  
12          fill our tankers with petroleum products.

13          Q.       So right there on Pennington is a terminal  
14          to fill the tankers?

15          A.       Yes.

16          MS. BESCHE:  Thank you.  Nothing further,  
17          Your Honor.

18          THE COURT:  Recross?

19          MS. ZOIS:  Just one, Your Honor.

20                    RECROSS-EXAMINATION

21          BY MS. ZOIS:

22          Q.       Is that where you were headed that day,  
23          then?

24          A.       No.

25          MS. ZOIS:  No.  Nothing further, Your

1 Honor.

2 THE COURT: Re-redirect examination?

3 MS. BESCHE: No re-redirect.

4 THE COURT: Thank you. Mr. [REDACTED] --

5 THE WITNESS: Yes.

6 THE COURT: -- sir, you may stand down and

7 rejoin your counsel at trial table.

8 THE WITNESS: Thank you.

9 (END OF EXCERPT - 5:14 p.m.)

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C E R T I F I C A T E

This is to certify that the proceedings  
in the matter of [REDACTED] vs. [REDACTED], et  
al., [REDACTED], held on August 7, 2009, were  
recorded by means of digital media.

I do hereby certify that the foregoing  
pages one through 87 constitute the official transcript  
as transcribed by me from said digitally-recorded  
proceedings in a complete and accurate manner.

In Witness Whereof, I have hereunto  
subscribed my name this 27th day of August, 2009.

  
[REDACTED]  
Official Court Reporter

[REDACTED]