



Transcript of [REDACTED]

**Date:** [REDACTED]

**Case:** [REDACTED]

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| <p>1 IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY,<br/>2 MARYLAND<br/>3 -----X<br/>4 [REDACTED] :<br/>5 Plaintiff, :<br/>6 v. : Case No.<br/>7 [REDACTED], : [REDACTED]<br/>8 Defendant. :<br/>9 -----X<br/>10<br/>11 Deposition of OFFICER [REDACTED]<br/>12 Baltimore, Maryland<br/>13 Tuesday, November 15, 2016<br/>14 10:03 a.m.<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20 Job No.: 127037<br/>21 Pages: 1 - 36<br/>22 Reported by: Linda H. Cole</p> | <p>3<br/>1 A P P E A R A N C E S<br/>2 ON BEHALF OF PLAINTIFF:<br/>3 [REDACTED]<br/>4 MILLER &amp; ZOIS, LLC<br/>5 One South Street<br/>6 Suite 2540<br/>7 Baltimore, Maryland 21202<br/>8 (410) 553-6000<br/>9<br/>10 ON BEHALF OF DEFENDANT:<br/>11 [REDACTED]<br/>12 [REDACTED]<br/>13 [REDACTED]<br/>14 [REDACTED]<br/>15 [REDACTED]<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22</p>  |
| <p>2<br/>1 Deposition of OFFICER [REDACTED] held at the<br/>2 offices of:<br/>3<br/>4<br/>5 MILLER &amp; ZOIS, LLC<br/>6 One South Street<br/>7 Suite 2540<br/>8 Baltimore, Maryland 21202<br/>9 (410) 553-6000<br/>10<br/>11<br/>12<br/>13<br/>14 Pursuant to notice, before Linda H. Cole, Notary<br/>15 Public of the State of Maryland.<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22</p>   | <p>4<br/>1 C O N T E N T S<br/>2 EXAMINATION OF OFFICER [REDACTED] PAGE<br/>3 By [REDACTED] 5<br/>4 By [REDACTED] 34<br/>5<br/>6<br/>7 E X H I B I T S<br/>8 (Exhibits retained by Mr. Fiore.)<br/>9 [REDACTED] DEPOSITION EXHIBIT PAGE<br/>10 Exhibit 1 Maryland Vehicle Accident Report 5<br/>11 Exhibit 2 Photographs A through M 5<br/>12 Exhibit 3 Diagram 25<br/>13<br/>14<br/>15<br/>16<br/>17<br/>18<br/>19<br/>20<br/>21<br/>22</p> |

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| <p style="text-align: right;">5</p> <p>1 PROCEEDINGS</p> <p>2 OFFICER [REDACTED]</p> <p>3 having been duly sworn, testified as follows.</p> <p>4 (Exhibits 1 through 2 were premarked for</p> <p>5 identification and were retained by counsel.)</p> <p>6 EXAMINATION BY COUNSEL FOR PLAINTIFF</p> <p>7 BY MR. FIORE:</p> <p>8 Q Would you state your full name for the</p> <p>9 record, sir?</p> <p>10 A Officer [REDACTED]</p> <p>11 Q And your duty station, sir?</p> <p>12 A (Unintelligible) police crash team.</p> <p>13 Q Officer, my name is [REDACTED] I'm an</p> <p>14 attorney, and I represent [REDACTED] who is the</p> <p>15 pedestrian in a vehicle versus pedestrian accident</p> <p>16 that happened on September 19, 2013.</p> <p>17 Did you have some involvement in</p> <p>18 investigating that occurrence?</p> <p>19 A Yes.</p> <p>20 Q I want to ask you some questions today</p> <p>21 about yourself and about your investigation of that</p> <p>22 occurrence.</p>  | <p style="text-align: right;">7</p> <p>1 A Two or three, to the best of my</p> <p>2 recollection.</p> <p>3 Q Have you ever testified in court with</p> <p>4 regard to a motor vehicle accident and your</p> <p>5 investigation of it?</p> <p>6 A Yes.</p> <p>7 Q Did you testify as a fact witness or an</p> <p>8 expert witness --</p> <p>9 A Yes.</p> <p>10 Q -- or both?</p> <p>11 A Expert.</p> <p>12 Q And what area of expertise were you</p> <p>13 qualified in in that case?</p> <p>14 A Crash reconstruction.</p> <p>15 Q Can you tell us your background as far as</p> <p>16 your training and experience in crash reconstruction</p> <p>17 investigation?</p> <p>18 A I have a Bachelor of Science -- well, I</p> <p>19 have a bachelor's degree in physics from</p> <p>20 Randolph-Macon and 14 years in the police department</p> <p>21 and eight years on the crash team.</p> <p>22 I have -- I don't recall the exact hours,</p>  |
| <p style="text-align: right;">6</p> <p>1 If at any time I ask you a question and</p> <p>2 you don't hear it or you don't understand it, please</p> <p>3 tell me that and I'll repeat the question for you or</p> <p>4 I'll ask it a different way.</p> <p>5 You were sworn today with the same oath</p> <p>6 that you would take at the trial of this case. So,</p> <p>7 if you answer any question for us today, we all</p> <p>8 shall take it that you heard the question and that</p> <p>9 you understood it and that you then gave your sworn</p> <p>10 answer; is all of that clear?</p> <p>11 A Yes.</p> <p>12 Q Have you ever had your deposition taken</p> <p>13 before in an official capacity?</p> <p>14 A Yes.</p> <p>15 Q In connection with your investigation of</p> <p>16 motor vehicle accidents or something else?</p> <p>17 A Both.</p> <p>18 Q Both?</p> <p>19 A Uh-huh.</p> <p>20 Q Okay. How many times have you had your</p> <p>21 deposition taken with regard to motor vehicle</p> <p>22 accident investigation, approximately?</p> | <p style="text-align: right;">8</p> <p>1 but it's over 200, a couple hundred hours of</p> <p>2 training with like Levels 1, 2, 3, pedestrian,</p> <p>3 motorcycle, crush -- I mean, there's a multitude of</p> <p>4 schools. Again, I can't remember them all right</p> <p>5 now.</p> <p>6 Q Was some of that training with the</p> <p>7 police department?</p> <p>8 A Except for the college degree, all of the</p> <p>9 other training was with the police department.</p> <p>10 Q And you have conducted accident</p> <p>11 reconstruction investigations in your career as a</p> <p>12 police officer, I take?</p> <p>13 A Yes.</p> <p>14 Q How many have you done where you were the</p> <p>15 lead investigator, if you will, approximately?</p> <p>16 A I'm thinking. Usually I write around 30</p> <p>17 reports a year, and I've been doing it for eight</p> <p>18 years, so that's --</p> <p>19 Q A lot of reports?</p> <p>20 A I mean, with actual reconstruction, maybe</p> <p>21 200.</p> <p>22 Q And you're approximating?</p> |

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| <p style="text-align: right;">9</p> <p>1       <b>A Yes.</b></p> <p>2       Q Have you had any contact with me before</p> <p>3 today?</p> <p>4       <b>A I don't think so.</b></p> <p>5       Q Have you had any contact with [REDACTED],</p> <p>6 the attorney who represents the driver of the</p> <p>7 vehicle in this incident, before today?</p> <p>8       <b>A No.</b></p> <p>9       Q With regard to that pedestrian versus car</p> <p>10 incident that happened on September 19, 2013, what</p> <p>11 was your role in that investigation?</p> <p>12       <b>A Lead investigator.</b></p> <p>13       Q Were there others that assisted you in the</p> <p>14 investigation?</p> <p>15       <b>A Yes.</b></p> <p>16       Q How many others?</p> <p>17       <b>A I don't recall.</b></p> <p>18       Q But you were the lead?</p> <p>19       <b>A Uh-huh; yes.</b></p> <p>20       Q Were you the first officer upon the scene</p> <p>21 that day?</p> <p>22       <b>A No.</b></p>  | <p style="text-align: right;">11</p> <p>1       <b>that's what happened.</b></p> <p>2       Q I guess I should ask you this</p> <p>3 question first. Do you have -- as you sit here</p> <p>4 today, do you have any independent recollection of</p> <p>5 the incident that's documented on Exhibit 1?</p> <p>6       <b>A Honestly, the only thing I remember is, I</b></p> <p>7 <b>believe this is the same crash, the guy had dog poop</b></p> <p>8 <b>on his shoe and that's how we got an AOI. It's like</b></p> <p>9 <b>the smear mark of dirt on the road is the only thing</b></p> <p>10 <b>I really remember about the crash because it was</b></p> <p>11 <b>odd. It's like one of those random things. It</b></p> <p>12 <b>never happens, and it happened.</b></p> <p>13       Q And the AOI is what?</p> <p>14       <b>A Area of impact. I apologize.</b></p> <p>15       Q So you do recall that because it's an</p> <p>16 unusual fact.</p> <p>17       Do you recall independently anything else</p> <p>18 about your investigation?</p> <p>19       <b>A No.</b></p> <p>20       Q And it would assist you to look at your</p> <p>21 report, I take it, and your papers as you are</p> <p>22 testifying?</p> |
| <p style="text-align: right;">10</p> <p>1       Q When you arrived, had the scene been</p> <p>2 secured by other officers?</p> <p>3       <b>A Yes.</b></p> <p>4       Q Exhibit 1 in the deposition is your -- is</p> <p>5 the state of Maryland Motor Vehicle Accident Report,</p> <p>6 No. [REDACTED].</p> <p>7       Is that a report you had any hand in</p> <p>8 preparing?</p> <p>9       <b>A Yes.</b></p> <p>10       Q What was your involvement in preparing</p> <p>11 that report that's Exhibit 1?</p> <p>12       <b>A I wrote the report.</b></p> <p>13       Q Did anyone else give you input into the</p> <p>14 report as far as police officer personnel go, not</p> <p>15 fact witnesses?</p> <p>16       <b>A I don't recall.</b></p> <p>17       Q The incident is reported on Exhibit 1 as</p> <p>18 happening on September 19, 2013, at 1800 hours.</p> <p>19       Is that in accord with your recollection?</p> <p>20       <b>A Honestly, I don't -- it was over three</b></p> <p>21 <b>years ago. I don't recall every detail. That's why</b></p> <p>22 <b>I write the report. So, if it's on the report,</b></p> | <p style="text-align: right;">12</p> <p>1       <b>A Yes.</b></p> <p>2       Q Okay. So please feel free to do so.</p> <p>3       You arrived on the scene, and you do</p> <p>4 remember you weren't the first officer on the scene?</p> <p>5       <b>A I wouldn't have been the first officer.</b></p> <p>6 <b>My unit is called secondary. After it is deemed the</b></p> <p>7 <b>person is injured enough and they are going to a</b></p> <p>8 <b>trauma center and have a certain amount of injuries,</b></p> <p>9 <b>we are called in to do the investigation.</b></p> <p>10       Q So you know you weren't the first officer</p> <p>11 on the scene because of that fact?</p> <p>12       <b>A Yes.</b></p> <p>13       Q When you arrived at the scene, do you have</p> <p>14 any recollection of getting there and what you saw</p> <p>15 when you got there?</p> <p>16       <b>A No.</b></p> <p>17       Q What would have been your protocol back on</p> <p>18 September 19, 2013, to investigate an accident of</p> <p>19 this nature?</p> <p>20       You received a call saying it was a car</p> <p>21 and a pedestrian; did you have that much</p> <p>22 information?</p>                                  |

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| <p style="text-align: right;">13</p> <p>1       <b>A</b> If we -- if the crash came up, the police</p> <p>2       <b>responded, and patrol units would request the crash</b></p> <p>3       <b>team and we responded, we would go to the scene and,</b></p> <p>4       <b>I guess, get out and talk to witnesses, analyze the</b></p> <p>5       <b>scene, take measurements and photographs, and</b></p> <p>6       <b>respond to the hospital. I guess that's normal</b></p> <p>7       <b>protocol.</b></p> <p>8       <b>Q</b> When you arrived, were you alone?</p> <p>9       <b>A</b> I don't recall.</p> <p>10      <b>Q</b> What would have been the practice; would</p> <p>11      you have been alone or would you have had someone</p> <p>12      with you?</p> <p>13      <b>A</b> Usually, it's one officer per car, and we</p> <p>14      <b>work the entire county so it's not -- other people</b></p> <p>15      <b>could have been other places in the county and they</b></p> <p>16      <b>all go to the crash so we respond at different</b></p> <p>17      <b>times. So I don't recall.</b></p> <p>18      <b>Q</b> What equipment did you have with you; did</p> <p>19      you have a digital camera?</p> <p>20      <b>A</b> For the unit, yes, because we use a</p> <p>21      <b>digital camera for pictures, but each car has</b></p> <p>22      <b>different equipment in it. I mean, usually it's</b></p> | <p style="text-align: right;">15</p> <p>1       <b>individually.</b></p> <p>2       <b>Q</b> Do you recall ever speaking with the</p> <p>3       pedestrian [REDACTED] [REDACTED]?</p> <p>4       <b>A</b> I don't recall if I spoke to the</p> <p>5       pedestrian.</p> <p>6       <b>Q</b> Looking at your report that's labeled as</p> <p>7       Exhibit 1, does that assist you in determining</p> <p>8       whether you had any interaction with either the</p> <p>9       pedestrian [REDACTED] or the vehicle driver</p> <p>10      [REDACTED]?</p> <p>11      <b>A</b> Does it assist me in recalling if I spoke</p> <p>12      to them?</p> <p>13      <b>Q</b> Yes. In other words, if you look at that,</p> <p>14      does that refresh you; would you say, oh, yeah, I</p> <p>15      spoke with the lady or I spoke with the man?</p> <p>16      <b>A</b> If I wrote in the report that I spoke to</p> <p>17      the individual, then I spoke to them. In this</p> <p>18      instance, both of them completed written statements</p> <p>19      and I just copied their written statements. So, by</p> <p>20      that, I would say, no, I did not talk to them.</p> <p>21      <b>Q</b> What would have been the practice back</p> <p>22      then; normally, would you speak with witnesses or</p> |
| <p style="text-align: right;">14</p> <p>1       <b>measuring equipment, like a wheelie-walker, tape</b></p> <p>2       <b>measures, levels, that kind of thing. But, as in</b></p> <p>3       <b>who brought the camera that was used, I don't</b></p> <p>4       <b>recall.</b></p> <p>5       <b>Q</b> Did you take the pictures?</p> <p>6       <b>A</b> I don't recall if I did or not.</p> <p>7       <b>Q</b> The pictures that are marked as Exhibit 2</p> <p>8       and they are subtitled A through M, do you recognize</p> <p>9       those as pictures from this file?</p> <p>10      <b>A</b> Yes. The only the thing I'd say is that's</p> <p>11      my arm --</p> <p>12      <b>Q</b> Okay.</p> <p>13      <b>A</b> -- on J.</p> <p>14      <b>Q</b> On Exhibit 2J, you recognize your arm, and</p> <p>15      it's the exhibit of the hand holding the shoe?</p> <p>16      <b>A</b> Yes. So, by that, I would surmise that I</p> <p>17      took the pictures.</p> <p>18      <b>Q</b> When you arrived at the scene, do you have</p> <p>19      any recollection of speaking with the operator of</p> <p>20      the motor vehicle identified as Lisa Michelle</p> <p>21      Barracato?</p> <p>22      <b>A</b> I don't remember talking to her</p>   | <p style="text-align: right;">16</p> <p>1       would one of your subordinates speak with the</p> <p>2       witnesses?</p> <p>3       <b>A</b> When we arrive at a scene, we all take</p> <p>4       different jobs just to facilitate, I guess, handling</p> <p>5       the crash quicker to open up the roadway. So</p> <p>6       somebody does pictures, somebody does measurements,</p> <p>7       somebody talks to witnesses, somebody talks to the</p> <p>8       drivers. So the jobs get shuffled up every time we</p> <p>9       go.</p> <p>10      <b>Q</b> So you can't say who would have done --</p> <p>11      <b>A</b> Yeah.</p> <p>12      <b>Q</b> -- that task on September 19, 2013?</p> <p>13      <b>A</b> No.</p> <p>14      <b>Q</b> There is a statement from the driver which</p> <p>15      is part of Exhibit 1, the second to last page, and</p> <p>16      then also from a witness named Grant Baber. You're</p> <p>17      looking at those statements right now.</p> <p>18      Looking at them, does that assist at all,</p> <p>19      jog your memory, as to whether you were involved in</p> <p>20      the completion of this statement?</p> <p>21      <b>A</b> By completion of the statement, what do</p> <p>22      you mean, like taking the statement from the</p>         |

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| <p style="text-align: right;">17</p> <p>1 individual?</p> <p>2 Q Yes.</p> <p>3 A No, it doesn't. I would say, like, our</p> <p>4 normal protocol is I don't take the statement, but</p> <p>5 my name is on the long form because that's -- they</p> <p>6 all have to filled out. Since it's my report, I get</p> <p>7 all the statements and I just put my name on them --</p> <p>8 Q Understood.</p> <p>9 A -- before we turn in the report.</p> <p>10 Q Okay. That's why I was asking.</p> <p>11 So I know you don't have any independent</p> <p>12 recollection of this specific accident, but take me</p> <p>13 through the steps that you would go through when</p> <p>14 investigating an accident of this nature back at</p> <p>15 that time.</p> <p>16 A Um --</p> <p>17 Q Just in summary form. You don't have to</p> <p>18 go into great detail.</p> <p>19 A I respond to the scene, and I get out.</p> <p>20 Usually I walk the scene to get an idea of what</p> <p>21 happened, if there's any evidence on the road,</p> <p>22 damage to the car, see if there are witnesses.</p>  | <p style="text-align: right;">19</p> <p>1 Q Do you know who that was?</p> <p>2 A By the boots, I cannot.</p> <p>3 Q Do you have an idea what that individual</p> <p>4 is doing in that photograph?</p> <p>5 A Probably either making note of what's</p> <p>6 going on inside the car or trying to hook up the EDR</p> <p>7 to do an image of the air bag monitor.</p> <p>8 Q Do you know if any EDR data was downloaded</p> <p>9 for this crash in that vehicle?</p> <p>10 A The only thing I can say is if it's not in</p> <p>11 the report -- I mean, if it's in the report, it was</p> <p>12 done. If it's not in the report, it didn't get</p> <p>13 done. Because sometimes you can download a car and,</p> <p>14 if it's not severe enough, it doesn't record</p> <p>15 anything.</p> <p>16 Q I know you don't have great</p> <p>17 recollection -- independent recollection because of</p> <p>18 the number of crashes you investigate, but when you</p> <p>19 arrived do you recall if the motor vehicle was in</p> <p>20 the general vicinity that is shown on photograph 2A?</p> <p>21 A The only the thing I can testify to is</p> <p>22 that it is, I guess, protocol that if we're called</p> |
| <p style="text-align: right;">18</p> <p>1 Then it's take notes of the car, note any</p> <p>2 vehicle damage, take photographs of the car,</p> <p>3 photograph the scene, make note of any evidence in</p> <p>4 the roadway of either shoe scuffs, hats, shoes,</p> <p>5 blood.</p> <p>6 Then measure the scene, measure the</p> <p>7 evidence that we found, and talk to the witnesses</p> <p>8 and drivers, if they are available and at the scene.</p> <p>9 Then, once the on-scene investigation is complete,</p> <p>10 then usually it's respond to the hospital and speak</p> <p>11 to the individuals involved.</p> <p>12 Q And you don't have any recollection of</p> <p>13 going to the hospital and speaking with [REDACTED]</p> <p>14 [REDACTED] ?</p> <p>15 A No.</p> <p>16 Q Exhibit 2 is the photographs taken at the</p> <p>17 scene, we believe. The third picture, photo C</p> <p>18 labeled down in the corner, shows -- it looks like</p> <p>19 an officer is in the vehicle I presume trying to get</p> <p>20 data from the hook up in the vehicle.</p> <p>21 Is that you in that photograph?</p> <p>22 A No.</p> | <p style="text-align: right;">20</p> <p>1 the scene is left alone. So cars are not supposed</p> <p>2 to be moved before our arrival; and, if they are, we</p> <p>3 are noted, like we are given notation.</p> <p>4 Q And you don't have any notation that this</p> <p>5 vehicle was moved before you arrived on the scene?</p> <p>6 A Correct.</p> <p>7 Q There were cones set up as shown in</p> <p>8 photograph 2A.</p> <p>9 Would those be cones you would have placed</p> <p>10 just from your practice or would they have been put</p> <p>11 there before you arrived?</p> <p>12 A I would say it's standard practice for a</p> <p>13 patrol to cone items, especially in pedestrian</p> <p>14 crashes, that are of interest, shoes, hats, and</p> <p>15 that. So they know, if somehow somebody kicks it</p> <p>16 and it's moved, they still have the general area of</p> <p>17 where it was.</p> <p>18 So we usually do not put down cones. I</p> <p>19 mean, it has happened in the past, but as a general</p> <p>20 practice usually a patrol does it.</p> <p>21 Q On page 2 of Exhibit 1, which is the</p> <p>22 police report, in the middle of the page there's a</p>                         |

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| <p style="text-align: right;">21</p> <p>1 heading, quote, Part 2: Observations (of the</p> <p>2 investigator).</p> <p>3 Are you the investigator referred to</p> <p>4 there?</p> <p>5 <b>A Yes.</b></p> <p>6 <b>Q</b> So those were your observations in the</p> <p>7 narration underneath part 2?</p> <p>8 <b>A Yes.</b></p> <p>9 <b>Q</b> Let's go down to the one thing that you do</p> <p>10 specifically recall because it was unusual and that</p> <p>11 is the dirt mark in the road.</p> <p>12 Was it dirt or was it, in fact, dog feces</p> <p>13 or a combination of both?</p> <p>14 <b>A I think it was a combination of both</b></p> <p>15 <b>because it was unusual. Shoe scuffs are very hard</b></p> <p>16 <b>to find and to have one on scene is kind of -- it's</b></p> <p>17 <b>a rarity. The dirt on the shoe makes the shoe</b></p> <p>18 <b>scuff. Like I said, that's the only thing I</b></p> <p>19 <b>remember from the crash.</b></p> <p>20 <b>Q</b> Fair enough. How did you determine that</p> <p>21 the -- strike that.</p> <p>22 There's a photo in Exhibit 2, subphoto D,</p>                                       | <p style="text-align: right;">23</p> <p>1 inspection and a deduction-type conclusion?</p> <p>2 <b>A From my experience in doing crash</b></p> <p>3 <b>reconstruction, when you have a shoe scuff, that's</b></p> <p>4 <b>the area of impact. It's where the pedestrian was</b></p> <p>5 <b>standing when he was struck by the vehicle.</b></p> <p>6 <b>Q</b> Did you measure where that scuff mark is</p> <p>7 in reference to any point?</p> <p>8 <b>A Yes.</b></p> <p>9 <b>Q</b> What page of the report are you looking</p> <p>10 at?</p> <p>11 <b>A Page 5.</b></p> <p>12 <b>Q</b> On page 5, in the middle of the page, it</p> <p>13 says, quote, area of impact, dash, 29 feet, 11</p> <p>14 inches east and 8 feet, 11 inches north of the</p> <p>15 reference point; is that what you're looking at?</p> <p>16 <b>A Yes.</b></p> <p>17 <b>Q</b> Up above that writing on page 5 of Exhibit</p> <p>18 1 is your description of what you used as the</p> <p>19 reference points.</p> <p>20 Can you read that part into the record?</p> <p>21 <b>A The east curb of Beechfield Avenue and the</b></p> <p>22 <b>south curb of Wilkens Avenue were used as reference</b></p> |
| <p style="text-align: right;">22</p> <p>1 the fourth one down.</p> <p>2 Is that a photo of the transfer of the</p> <p>3 dirt or dog feces to the roadway that you're talking</p> <p>4 about remembering?</p> <p>5 <b>A Yes.</b></p> <p>6 <b>Q</b> And it's your opinion that shows what?</p> <p>7 <b>A It shows where the shoe was located when</b></p> <p>8 <b>it was, I guess, abruptly moved sideways. That</b></p> <p>9 <b>would be considered the AOI, area of impact.</b></p> <p>10 <b>Q</b> Going on down, photo J is the shoe, and</p> <p>11 we've already commented you remember that's you hold</p> <p>12 the shoe there?</p> <p>13 <b>A Uh-huh.</b></p> <p>14 <b>Q</b> Did you take that photograph or would</p> <p>15 someone else have taken it?</p> <p>16 <b>A I would have taken it.</b></p> <p>17 <b>Q</b> Okay. In determining that the transfer of</p> <p>18 the soil to the roadway was the point of impact, did</p> <p>19 you use any calculations or was it just your</p> <p>20 reckoning from what you saw?</p> <p>21 In other words, did you use any analysis</p> <p>22 to arrive at that or was it just from a visual</p> | <p style="text-align: right;">24</p> <p>1 <b>points for the following measurements.</b></p> <p>2 <b>Q</b> Okay. And then you measured the road</p> <p>3 dimensions of Wilkens Avenue?</p> <p>4 <b>A Yes.</b></p> <p>5 <b>Q</b> And that's not using the reference points.</p> <p>6 That's just measuring the roadway; correct?</p> <p>7 <b>A Yes.</b></p> <p>8 <b>Q</b> Then, beneath that, you have measurements</p> <p>9 of the wheel position of all four wheels of the</p> <p>10 vehicle.</p> <p>11 Are those measurements taken with regard</p> <p>12 to the reference points?</p> <p>13 <b>A Yes.</b></p> <p>14 <b>Q</b> Can you show me maybe using page 9 of the</p> <p>15 report, the page with the diagram -- is it possible</p> <p>16 to show me or show us, because we have some</p> <p>17 confusion, where those reference points are, if we</p> <p>18 come around and take a look?</p> <p>19 <b>A Okay.</b></p> <p>20 <b>Q</b> And the reason I'm asking is because I had</p> <p>21 a little trouble getting it.</p> <p>22 <b>A If you look on --</b></p>   |

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1 Q Do you mind if we stand around you?

2 A See how I have this marked here and that

3 marked there? They are my references. I'm using

4 the curb here.

5 MR. FIORE: Okay. Let's do this, then.

6 Let's mark this as the next exhibit.

7 (Exhibit 3 was marked for identification

8 and was retained by counsel.)

9 Q We're talking about the reference points

10 that you used in Exhibit 1 to take some

11 measurements. I'm showing you now what is marked as

12 Exhibit 3.

13 Can you identify what that is?

14 A A copy of my diagram, handwritten diagram.

15 Q And would this diagram have been created

16 at the scene or at some point later?

17 A At the scene.

18 Q Can you show us on Exhibit 3 the reference

19 points you're using when you say you're using the

20 east curb of Beechfield Avenue and the south curb of

21 Wilkens Avenue as reference points?

22 A The east curb of Beechfield and the south

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1 curb of Wilkens.

2 Q Okay. And then you have drawn in a

3 rectangle which depicts the approximate place of the

4 vehicle?

5 A Yes.

6 Q And you have drawn in a stick figure that

7 depicts the approximate place of the resting point

8 for the pedestrian?

9 A Yes.

10 Q And you have drawn in a dark line along

11 the curbing.

12 Does that indicate the sewer grate?

13 A No. That's just a reference for myself to

14 know what curbs I used as reference points.

15 Q Okay. So the two dark lines along the

16 curbing are just indications of that's the reference

17 point -- those are the reference points?

18 A Yes.

19 Q So, in your report where you say the right

20 front wheel was 37 feet, 9 inches east and 9 feet --

21 and 4 feet, 0 inches north of the reference point,

22 can you show us on Exhibit 3 where you're measuring

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1 from?

2 A If this is the point, and I measure -- you

3 said the right front wheel?

4 Q Yes, the first entry there for unit one.

5 A It's 37 feet, 9 inches from this curb.

6 Q From the east curb of Beechfield?

7 A Yes.

8 Q Okay. Was there anything else that

9 factored into your determination of the AOI other

10 than, essentially, the dead reckoning of seeing the

11 scuff mark on the road versus the shoe?

12 A The one thing I would say is that it

13 coincides with the damage on the vehicle. It kind

14 of lined up in the middle of the vehicle. The

15 damage lined up in the middle of the vehicle so it

16 all -- I would say they coincided with each other.

17 Q The area of the resting place for the

18 pedestrian, did any calculations go into that other

19 than the fact that that's where the blood was, the

20 pool of blood, which I think is shown in one of the

21 photographs?

22 Did anything else go into your calculation

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1 of the final resting point of the pedestrian other

2 than the pool of blood?

3 A Calculation or measurement?

4 Because the resting point was not

5 calculated, but measured.

6 Q And it was measured from the reference

7 point to the pool of blood?

8 A Yes.

9 Q I understand.

10 Did you have any idea of the speed of the

11 vehicle just from what you saw there?

12 A From my experience, it looked like a

13 low-speed impact.

14 Q And were you basing that on the damage to

15 the motor vehicle?

16 A It's the damage to the motor vehicle and

17 the distance from where the pedestrian was struck to

18 where they came to final rest. The higher the

19 speed, the greater the distance.

20 Q And I would presume the more damage to the

21 car --

22 A Yes.



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| <p style="text-align: right;">29</p> <p>1 Q -- likely as well?</p> <p>2 You hadn't done the calculations to come</p> <p>3 up with the approximate speed the vehicle was going</p> <p>4 at the scene. Just eyeballing it, your conclusion</p> <p>5 was, well, this wasn't a high-speed impact?</p> <p>6 <b>A Correct.</b></p> <p>7 Q And you don't recall the driver of the</p> <p>8 vehicle saying anything to you as far as what her</p> <p>9 speed was?</p> <p>10 <b>A No.</b></p> <p>11 Q There is a statement by the witness, Grant</p> <p>12 Baber, on the last page of Exhibit 1 where he states</p> <p>13 or writes that the vehicle, the black SUV, was</p> <p>14 "traveling at a high rate of speed."</p> <p>15 Did you attach any significance to that</p> <p>16 statement?</p> <p>17 <b>A No.</b></p> <p>18 Q Why not?</p> <p>19 <b>A Most witnesses have a false perception of</b></p> <p>20 <b>speed.</b></p> <p>21 Q Do you remember speaking with Mr. Baber?</p> <p>22 <b>A No.</b></p>   | <p style="text-align: right;">31</p> <p>1 Q Go ahead.</p> <p>2 <b>A If I recall, there were some on the west</b></p> <p>3 <b>part of the intersection. There was a crosswalk to</b></p> <p>4 <b>cross Wilkens Avenue.</b></p> <p>5 Q Is there such a thing in Maryland law as</p> <p>6 an unmarked crosswalk?</p> <p>7 <b>A There is. I think it's called an implied</b></p> <p>8 <b>crosswalk.</b></p> <p>9 Q And what's an implied crosswalk?</p> <p>10 <b>A I don't have the definition.</b></p> <p>11 Q What's the general understanding?</p> <p>12 I'm not holding you to the words of any</p> <p>13 statute, but what is your understanding of the</p> <p>14 implied crosswalk?</p> <p>15 <b>A Where you have -- the sidewalk comes down</b></p> <p>16 <b>and the curb is lowered for ease of, I guess,</b></p> <p>17 <b>getting off the curb to go onto the street. When</b></p> <p>18 <b>you have that but no crosswalk, like no painted</b></p> <p>19 <b>crosswalk, that would be implied.</b></p> <p>20 Q So a pedestrian crossing there would be</p> <p>21 entitled to the protections of a crosswalk even</p> <p>22 though there's none painted on the roadway?</p> |
| <p style="text-align: right;">30</p> <p>1 Q Mr. Baber also writes "he -- meaning the</p> <p>2 pedestrian -- was in the crosswalk at the time."</p> <p>3 Did you attach any significance to that</p> <p>4 statement?</p> <p>5 <b>A No.</b></p> <p>6 Q Why not?</p> <p>7 <b>A Well, the area of the impact put the -- I</b></p> <p>8 <b>mean, the shoe scuff put the area of impact outside</b></p> <p>9 <b>of a crosswalk. So pedestrians have -- not</b></p> <p>10 <b>pedestrians, excuse me, witnesses don't have the</b></p> <p>11 <b>best recollections.</b></p> <p>12 Q Was there a crosswalk at the intersection</p> <p>13 there where the accident occurred, where this</p> <p>14 pedestrian was crossing?</p> <p>15 <b>A For Wilkens Avenue where the crash</b></p> <p>16 <b>occurred there was no crosswalk.</b></p> <p>17 Q Are you saying there were no painted</p> <p>18 crosswalk lines on the roadway?</p> <p>19 <b>A No.</b></p> <p>20 Q That's correct, there were no painted</p> <p>21 crosswalk lines on the roadway?</p> <p>22 <b>A Correct.</b></p> | <p style="text-align: right;">32</p> <p>1 <b>A I would -- I don't know.</b></p> <p>2 Q How wide is your standard crosswalk when</p> <p>3 one is painted on the roadway?</p> <p>4 <b>A I don't know the specific dimensions, but</b></p> <p>5 <b>usually I would say eight to ten feet.</b></p> <p>6 Q And you're approximating?</p> <p>7 <b>A It's an approximation.</b></p> <p>8 Q In your experience, are they usually</p> <p>9 uniform sizes when they're painted or do they vary</p> <p>10 in what you've seen?</p> <p>11 <b>A They vary.</b></p> <p>12 Q Do you know where Mr. [REDACTED] entered</p> <p>13 the roadway of Wilkens Avenue?</p> <p>14 <b>A As in?</b></p> <p>15 Q Can you identify within a few feet where</p> <p>16 he entered the roadway?</p> <p>17 <b>A No.</b></p> <p>18 Q Is your understanding of where he was, at</p> <p>19 least when the contact occurred, limited to that</p> <p>20 scuff mark from the shoe that's in the roadway?</p> <p>21 <b>A Yes. There's physical evidence that puts</b></p> <p>22 <b>him at that location.</b></p>   |

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| <p style="text-align: right;">33</p> <p>1 Q Do you have any evidence that he was<br/>2 crossing the roadway in anything other than a<br/>3 straight line?<br/>4 A No evidence.<br/>5 Q Do you have any evidence of any other<br/>6 pedestrian crossing the roadway with him?<br/>7 I know you don't have specific recall of<br/>8 it, but does anything in your investigation, looking<br/>9 at Exhibit 1, give you any indication that there was<br/>10 more than one pedestrian crossing the roadway?<br/>11 A No.<br/>12 Q And that includes even the statement of<br/>13 the driver, Ms. Barracato; right?<br/>14 A Yes.<br/>15 Q Your report concludes, essentially, that<br/>16 the pedestrian is at fault for this accident.<br/>17 Why is that?<br/>18 A There's not a marked crosswalk.<br/>19 Basically, the pedestrian is illegally in the<br/>20 roadway. Cars have the right of way.<br/>21 Q Were you able to determine the color of<br/>22 the traffic lights for Wilkens or Beechfield at the</p> | <p style="text-align: right;">35</p> <p>1 A If it's not in the report, I didn't make<br/>2 notes of it, I didn't see it.<br/>3 Q Okay. And, had there been skid marks,<br/>4 those would have been measured; is that correct?<br/>5 A Yes.<br/>6 Q And put into your analysis as to the speed<br/>7 and the like; is that correct?<br/>8 A Yes.<br/>9 MR. COHEN: Those are all the questions I<br/>10 have.<br/>11 MR. FIORE: Thank you, Officer.<br/>12 (Discussion off the record.)<br/>13 MR. FIORE: In the presence of defense<br/>14 counsel, I advised the witness generally of his<br/>15 right to waive or read and sign the transcript. The<br/>16 witness told us that he elects to waive the reading<br/>17 and signing.<br/>18 Is that correct, Officer?<br/>19 THE WITNESS: Yes.<br/>20 THE REPORTER: Can I get your order?<br/>21 MR. COHEN: Copy.<br/>22 (Off the record at 10:40 a.m.)</p> |
| <p style="text-align: right;">34</p> <p>1 time the contact occurred?<br/>2 A Was I able to determine the specific light<br/>3 color?<br/>4 Q Yes.<br/>5 A No.<br/>6 MR. FIORE: Those are all of the questions<br/>7 I have for you, Officer. Thank you so much.<br/>8 EXAMINATION BY COUNSEL FOR DEFENDANT<br/>9 BY MR. COHEN:<br/>10 Q I'll be very brief. Good morning again.<br/>11 A Good morning.<br/>12 Q My name is Adam Cohen. I represent the<br/>13 driver, Lisa Barracato, involved in this incident.<br/>14 Do you know either [REDACTED] or<br/>15 Lisa Barracato?<br/>16 A No.<br/>17 Q And one of the findings that you would<br/>18 have noted at the scene would be skid marks if there<br/>19 were any; correct?<br/>20 A Yes.<br/>21 Q Were there any skid marks that you noted<br/>22 at the scene?</p>   | <p style="text-align: right;">36</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC<br/>2 I, Linda H. Cole, the officer before whom<br/>3 the foregoing deposition was taken, do hereby<br/>4 certify that the foregoing transcript is a true and<br/>5 correct record of the testimony given; that said<br/>6 testimony was taken by me stenographically and<br/>7 thereafter reduced to typewriting under my<br/>8 supervision; and that I am neither counsel for,<br/>9 related to, nor employed by any of the parties to<br/>10 this case and have no interest, financial or<br/>11 otherwise, in its outcome.<br/>12 IN WITNESS WHEREOF, I have hereunto set my<br/>13 hand and affixed my notarial seal this 18th day of<br/>14 November, 2016.<br/>15 My commission expires July 19, 2018<br/>16<br/>17<br/>18<br/>19 NOTARY PUBLIC IN AND FOR<br/>20 STATE OF MARYLAND<br/>21<br/>22</p>     |