

1 representative?

2 MR. STEPHENSON: I'm not gonna lie to you and  
3 tell you he is -- Your Honor, but he's the guy I've got  
4 here on behalf of BTL today; yes.

5 THE COURT: Well, he's the representative.  
6 Isn't he allowed to stay?

7 MR. BRATT: Understood, Your Honor.

8 THE COURT: As I understand it Mr. Quade  
9 basically says, I have no knowledge of what happened but  
10 this is what I normally do.

11 MR. STEPHENSON: Right.

12 MR. BRATT: Correct.

13 THE COURT: So, but they're -- they're entitled  
14 to have a corporate representative.

15 MR. STEPHENSON: Okay.

16 MR. BRATT: Thank you, Your Honor.

17 THE COURT: Okay.

18 (Counsel returns to trial tables.)

19 MR. BRATT: I'd call the Plaintiff, Mr. Ervin,  
20 Your Honor.

21 THEODORE ERVIN,  
22 a witness, produced on call of the Plaintiff,  
23 first having been duly sworn according to law, was  
24 examined and testified as follows:

25 DIRECT EXAMINATION

1 BY MR. BRATT:

2 THE CLERK: Thank you. Please be seated.

3 Please state your name, address, and occupation  
4 for the record.

5 A: Theodore Ervin, 1067 Gardenvue Loop,  
6 Woodbridge, Virginia.

7 My occupation, Operations Manager,  
8 Environmental Services, Fairfax Hospital.

9 THE CLERK: Thank you.

10 Q: How old are you Mr. Ervin?

11 A: I'm 45.

12 Q: And you're married?

13 A: Yes, I am.

14 Q: Could you tell the jury about our family.

15 A: I have three boys ages 13, 17 -- 17 and 23.  
16 And a wife.

17 Q: And what's your wife's name Mr. Ervin?

18 A: Jacqueline.

19 Q: And is she here today?

20 A: Yes, she is.

21 Q: Now, could you tell the jury about your  
22 educational background?

23 A: Sure. I attended Johnson C. Smith  
24 University in Charlotte, North Carolina.

25 Q: And what did you study there?

1 A: Business Management.

2 Q: How long did you go to school there?

3 A: Three years there.

4 Q: Did you graduate?

5 A: No, not from Johnson C. Smith.

6 Q: How far do you -- have you done anything  
7 else towards your degree besides that education?

8 A: Sure, I've gone -- well for -- other than  
9 military training; yes.

10 Q: In what?

11 A: Military training in basic supply.

12 Q: Now, how close are you to graduating with  
13 your Bachelor's?

14 A: I would say about a semester and a half.

15 Q: And you testified that you are now employed  
16 by Arrowmark as an Environmental Services Manager?

17 A: That is correct.

18 Q: And is that the same job that you had at  
19 the time this accident happened in March of '06?

20 A: That is correct.

21 Q: Could you explain to the jury what your job  
22 entails?

23 A: As an Operations Manager -- Operations  
24 Manager at Enova Fairfax Hospital, I -- I manage a crew  
25 that cleans the hospital. And we're responsible for

1 making sure everything from the front door to the  
2 operating rooms to non -- clinical and non-clinical areas  
3 are -- are cleaned and that we prevent any hospital given  
4 infections from happening to patients.

5 Q: And how many folks do you supervise?

6 A: Approximately 50.

7 Q: And how do you do your job?

8 A: I do a lot of walking on my job. I -- I  
9 have to be observant of all the surroundings around me.

10 Q: Why?

11 A: It's very important to keep the hospital  
12 clean.

13 Q: And so what sorts of things are you  
14 typically looking for?

15 A: I look -- I'm looking in corners and edges  
16 for dirt. I'm looking in the ceilings for dust on vents.  
17 I make sure that bathrooms are clean. I make sure that  
18 the operating rooms are clean so that the next surgery  
19 comes in it -- that -- that occurs -- there's no  
20 infections involved in there.

21 Q: And do you have any military service, Mr.  
22 Ervin?

23 A: Yes, I do.

24 Q: Could you describe that to the jurors?

25 A: I'm a Reservist -- part time in the Navy.

1 I also have volunteered to go on Active Duty during the  
2 time of the -- the last Iraqi war.

3 Q: And what is your specialty in the military?

4 A: Supply.

5 Q: And specifically what do you do?

6 A: I'm in a unit where we have five aircraft  
7 that are constantly -- hauling anywhere from a Humvee  
8 equip -- Humvee vehicle to -- to -- a unit -- a -- Marine  
9 Unit or whatever -- wherever they need to go around the  
10 world, and those planes have to be on -- they -- those  
11 planes have to be ready to fly whenever they're called  
12 upon.

13 My job is to make sure that they have all the  
14 supplies and parts that they need. With them constantly  
15 flying, a lot of maintenance is required so my job is to  
16 make sure that we have the supplies to keep them in the  
17 air.

18 Q: And in the course of your military duties  
19 have you had occasion to serve overseas?

20 A: Yes, I have.

21 Q: When and where?

22 A: I've spent over --.

23 MR. STEPHENSON: Your Honor, I'd like to note  
24 objections to relevance at this point.

25 THE COURT: Approach please.

1 (Counsel approaches the bench.)

2 How is this relevant?

3 MR. BRATT: Well, Your Honor, this is relevant  
4 as to his background and credibility as --.

5 THE COURT: Well, you -- you -- he --.

6 MR. BRATT: His case rests on his credibility.

7 THE COURT: He basically covered his -- his --  
8 well you've covered his pedigree but as far as going into  
9 five planes flying around the world and putting parts on  
10 them, I don't think that -- that's a little bit too far.

11 MR. BRATT: But, that was actually the last  
12 question I was gonna ask anyway.

13 THE COURT: Oh, well.

14 Objection is moot.

15 (Counsel returns to trial tables.)

16 Q: Now, Mr. Ervin, where were you living on  
17 March 13th, 2006?

18 A: 12 -- 12447 Turtle Dove Place in Waldorf.

19 Q: And when did you move there?

20 A: I moved there approximately -- the date was  
21 -- December 28, 2 -- 1999 actually. No, I'm sorry; 2000.

22 Q: And from December of 2000 until the date of  
23 this accident did you live there continuously?

24 A: Yes, I did.

25 Q: Now, in the course of your military duties

1 where was your job station?

2 A: Andrews Air Force Base.

3 Q: Okay.

4 And when did you join the Navy Reserves?

5 A: I joined the Navy Reserve.

6 MR. STEPHENSON: Objection, Your Honor.

7 THE COURT: Sustained.

8 A: I joined the Navy Reserves in 19 --.

9 THE COURT: Whoa. Whoa.

10 Next question.

11 Sustain the objection.

12 Q: When did you begin -- when were you first  
13 stationed at Andrews?

14 A: Right after the 911 incident with the --  
15 the bombing of the -- the blowing up of the -- World  
16 Trade Center and the -- Pentagon.

17 Q: Okay.

18 Now, did you -- had you ever had occasion to  
19 travel from your home to Andrews Air Force Base and back  
20 before March 13th?

21 A: Yes.

22 Q: How many times?

23 A: Well over 1,500.

24 Q: And could you describe to the jury the  
25 route that you took on March 13th.

1           A: I was just leaving Andrews Air Force Base.  
2 I came out the back out which is the Virginia Gate. It  
3 comes out onto -- Alexander Ferry Road. I made a right  
4 turn and I went up two traffic lights to Coventry Way and  
5 made a left turn.

6           From Coventry Way I went onto Branch Avenue  
7 which is a left lane going Route 5 south. I proceeded  
8 into -- Charles County and made a left turn onto  
9 Mattawoman Beantown Road.

10          Q: Okay.

11          Now, on March 13th what was -- what caused you  
12 to go to Andrews that day?

13          A: I wanted to do my required physical  
14 training. I usually exercise about two to three times a  
15 week. My preferred -- the preferred way I like to --  
16 work out is by riding my bicycle.

17          So I went to Andrews Air Force Base to ride my  
18 bicycle around the base.

19          Q: And what time did you leave to go to  
20 Andrews that day?

21          A: About 10:15, 10:30 that day.

22          Q: Could you tell the jury what you did from  
23 when you left home that morning until you arrived at the  
24 scene?

25          A: I -- left my house which is not even a



1 block away from the intersection of Leonardtown Road --  
2 Leonardtown and Mattawoman Beantown and I went down to  
3 Andrews Air Force Base, took my bicycle out the back of  
4 my car -- out of the trunk of my car. And -- I rode it  
5 around the base, the perimeter of the base. And once I  
6 finished I put the bicycle back in the car and left the  
7 base. It usually takes me about a hour to make that  
8 ride.

9 Q: And about what time did you leave the base  
10 that day?

11 A: About 11:30.

12 Q: And how long of a trip is it to get back  
13 home?

14 A: 20 -- 25 minutes to a half hour.

15 Q: And you were driving a vehicle?

16 A: I was driving my car.

17 Q: And what kind of car was that?

18 A: It's a Honda Accord.

19 Q: Now, were you involved in an accident on  
20 March 13th?

21 A: I was.

22 Q: Can you tell the jury what happened?

23 A: As I was coming down -- Maryland Route 5,  
24 Branch Avenue, it'd be right before I turned onto -- to --  
25 -- Leonard -- I mean to Mattawoman Beantown Road.

1 I did observe a Baltimore Tank Line truck and  
2 what made it stand out so much was my brother was working  
3 for Baltimore Tank Line at the time.

4 So at the light, the intersection light right  
5 there where you make the turn is a three lane turn, I  
6 looked up and I just noticed -- I didn't see the tractor  
7 or anything until I got -- until we pulled up next to  
8 each other. And I noticed that it was a -- a Caucasian  
9 man driving the truck and I said definitely not my  
10 brother.

11 And I just started to go down -- down  
12 Leonardtown Road. We were right at the light together  
13 next to each other. At some point he turn -- he went  
14 past -- he drove past me and that is a two lane -- that  
15 is a two lane highway. I was in the left lane at first.  
16 He was in the right lane. And later on he did pass me  
17 and get over to the right lane.

18 As we approached Leonardtown Road and the lanes  
19 -- the lanes start to open up and merge I got over  
20 immediately. As -- the driver kept going straight and I  
21 though he was gonna keep going straight where it goes  
22 down to Charles -- Charles -- St. Charles Parkway.

23 And as he kept going straight I pulled up on  
24 the side of him about to approach my left lane, my left  
25 turn. I was in the far most -- the -- the -- lane number

1 two of the left, of the left turn.

2 Q: May I approach the witness, Your Honor?

3 THE COURT: Sure.

4 Q: Would you mark this for identification for  
5 me please.

6 (Diagram was marked as  
7 Plaintiff's Exhibit Number 1 for  
8 identification.)

9 Your Honor, may I ask the witness to approach  
10 the easel?

11 THE COURT: Certainly.

12 Q: Thank you.

13 Mr. Ervin, could you come on over here with me?

14 A: Sure.

15 Q: The way this courtroom's set up it's a  
16 little clunky to do this any other way so I apologize for  
17 putting you on display.

18 Now, can you take a look at what's been marked  
19 for identification as Plaintiff's Exhibit 1? Do you know  
20 what this is a diagram of?

21 A: This is diagram of -- Bean -- Mattawoman  
22 Beantown Road as it approaches with Leonardtown.

23 Q: And does this diagram fairly and accurately  
24 represent the way that road was laid out on the day this  
25 accident happened?

1 A: That is correct.

2 Q: Can you show me where you were when you  
3 first observed that -- tractor trailer?

4 A: I was back here somewhere.

5 Well, when I first observed it way down -- way  
6 down on Route 5.

7 Q: So you had seen him for the first time  
8 sometime before you arrived at the area that's shown on  
9 the exhibit?

10 A: That is correct.

11 Q: Using the exhibit can you show the ladies  
12 and gentlemen of the jury how the accident happened.

13 A: Well, as I say -- stated -- I was coming  
14 down Maryland Route 5, Mattawoman Beantown Road. At  
15 about this point right here I know the road -- the lane  
16 turn -- merges for you to get over. I always get over  
17 right here.

18 At about right up in this area the Baltimore  
19 Trank -- Tank Line came over. I was already over in the  
20 lane somewhere around here where the second -- well, this  
21 turn lane here starts.

22 So I was about right here. There's a hill  
23 right over here. And at that time I saw the tanker  
24 coming over and as I -- as I saw him coming over I  
25 immediately got in this lane.

1 Just as soon as I got in this lane I was rear-  
2 ended. The accident happened somewhere around here  
3 because the State Trooper came along and when he took my  
4 -- my bumper off my car he put it over here on the hill.  
5 And I asked him was that okay. He said --.

6 MR. STEPHENSON: Objection.

7 A: He said someone --.

8 THE COURT: Approach please.

9 Q: When somebody says objection you gotta stop  
10 talking till the Judge decides, okay?

11 (Counsel approaches the bench.)

12 THE COURT: What's the response gonna be?

13 MR. BRATT: I don't really have one, Your  
14 Honor. I didn't really need to -- for him to tell me  
15 what the officer said in the first place.

16 MR. STEPHENSON: I -- I don't suggest he did.  
17 I just wanted to make sure we don't have any inadvertent  
18 hearsay.

19 THE COURT: I thought he says is it okay to put  
20 the bumper over here. I mean is this relevant to  
21 anything?

22 MR. BRATT: Not really.

23 THE COURT: Well, then.

24 MR. BRATT: And I wasn't gonna ask him anything  
25 else the officer said either.

1 THE COURT: Okay.

2 The other thing I've got to warn you about, I  
3 don't know if is this is gonna be -- go up on appeal. It  
4 doesn't sound like it's a case you want to.

5 But in any event if he's pointing to this  
6 diagram they'll be nothing in the record to show what  
7 he's pointing to.

8 So, if you want to -- you know, draw something  
9 on there or so forth but otherwise they won't know what -  
10 - in Annapolis they won't know what happened, okay?

11 MR. BRATT: I -- maybe I ought to clean that up  
12 with the next exhibit, Your Honor.

13 THE COURT: Okay.

14 (Counsel returns to trial tables.)

15 Q: So, so we're clear for the record, Mr.  
16 Ervin, what you're pointing to, the area where the  
17 accident took place, is Section C of what's been marked  
18 as Exhibit 1, correct?

19 A: That is correct.

20 Q: Okay.

21 Now, I'd like to show you something else.

22 If I can get this marked for I.D. as well,  
23 please.

24 Thanks.

25 THE CLERK: Um hum.

(Diagram was marked as  
Plaintiff's Exhibit Number 2 for  
identification.)

Q: Now, Mr. Ervin, I'm gonna show you what's  
been marked for identification as Plaintiff's --  
Plaintiff's Exhibit 2. Have you seen this diagram  
before?

A: Yes, I have.

Q: What is it?

A: It's a diagram that actually I created by  
passing -- pasting all the vehicles involved and how the  
accident actually occurred.

Q: Okay.

So, you used the diagram that was produced as  
part of this litigation by the defense, correct?

A: That is correct.

Q: And you didn't -- didn't do it on this size  
but you used a smaller piece and then I've had it blown  
up, right?

A: That is correct.

Q: Okay.

Could you tell the jury what this diagram that  
you made shows?

A: It shows the location of the -- the vehicles  
and how I perceived them as -- as the accidents happened.

1 Q: And so we're clear, this frame, Exhibit 2,  
2 is Part C of the main diagram, correct?

3 A: That is correct.

4 Q: Okay.

5 Why don't you tell the jury what you're  
6 illustrating here.

7 A: I'm illustrating the three lane -- the  
8 three vehicles involved; the Dodge Caravan, the Honda  
9 Accord and the tractor trailer.

10 As I also stated back here, I merged over into  
11 this lane and stayed in this lane. And this is where the  
12 next turn lane begins.

13 As I'm going up here I see the tractor trailer  
14 coming over. He was in this lane at first. So, with my  
15 vehicle right here I didn't see any -- any -- and I could  
16 still see his head -- come up here. I didn't see any  
17 turn signals at all.

18 So when I saw him coming over from the  
19 peripheral of my vision, I hurried up -- I -- I -- just  
20 reacted and got over because I knew he was -- well I  
21 thought he was carrying fuel knowing that Baltimore Tank  
22 Line carries fuel. That's from my knowledge of my  
23 brother and that's the type of work that he was doing.

24 So, I got over in this lane and as I got over  
25 in this lane right here I was rear-ended by the Dodge



1 Caravan. And the tractor trailer just kept going  
2 straight. He didn't stop or any --.

3 Q: All right.

4 Now, did you take any measurements or anything  
5 like that of the scene?

6 A: No, I didn't.

7 Q: And so what did you base your placement of  
8 these vehicles on?

9 A: The hill.

10 Q: And that's what you're saying is your  
11 knowledge of the hill you testified about earlier?

12 A: That is correct.

13 Q: And so is -- would it be fair to say this  
14 is your estimate of where the vehicles were to illustrate  
15 how the accident happened?

16 A: That is correct.

17 Q: Okay.

18 You can take your seat again.

19 Now, Mr. Ervin, you testified that you had  
20 initially seen the Baltimore Tank Lines trailer some  
21 distance down -- Mattawoman Beantown Road, correct?

22 A: That's correct.

23 Q: Can you describe your observations of that  
24 vehicle from there until the accident took place?

25 MR. STEPHENSON: Objection.

1 THE COURT: Overrule.

2 Continue.

3 A: Well, as I stated earlier, we were coming  
4 off of 301 and 5; where 301 and 5 merge. We had just  
5 crossed -- the street where the 7-11 and -- and the --  
6 the -- Wa-Wa Gas Stations are right across from each  
7 other.

8 And right -- as soon as you pass there there's  
9 a -- another traffic light. That traffic light is  
10 Mattawoman Beantown Road and Crain Highway. And at that  
11 time we pulled up next to each other. I was on the  
12 inside lane. He was on the outside line making --  
13 outside lane making a turn.

14 There's three turns right there. There's three  
15 lanes right there. And that's when I looked to the side.  
16 Well, I had first noticed him when I was coming up and I  
17 was behind him and I saw the BTL on the back of his  
18 truck.

19 Q: Okay.

20 And you turned onto Mattawoman Beantown Road,  
21 correct?

22 A: I made a left turn on Mattawoman Beantown  
23 Road.

24 Q: And after you make that left turn onto  
25 Mattawoman Beantown Road, what -- what does Mattawoman

1 Beantown Road look like there in terms of the lanes?

2 A: Up until you get cross the train tracks  
3 right there, there's three lanes.

4 Q: And then what happens after you cross the  
5 tracks?

6 A: They become two lanes.

7 Q: And that's two through lanes on Mattawoman  
8 Beantown Road?

9 A: That is correct.

10 Q: And after that turn happened where were you  
11 in relation to the tractor trailer?

12 A: I was in the left lane. We were at one  
13 time side by side but he accelerated past me. The speed  
14 limit on that -- that route is 45 miles an hour. I was  
15 doing 45 miles an hour.

16 MR. STEPHENSON: Objection, Your Honor.

17 THE COURT: Approach please.

18 (Counsel approaches the bench.)

19 THE COURT: Okay.

20 MR. STEPHENSON: Your Honor, this is exactly  
21 why I objected initially because they're trying to --  
22 offer testimony of some alleged improper driving by my  
23 client prior to the accident which is clearly  
24 impermissible under Maryland law.

25 This has no relevance to what happened at the

1 accident. Now he's trying to suggest that my client was  
2 speeding prior to the accident so as to prejudice the  
3 jury.

4 THE COURT: What's the response gonna be?

5 MR. BRATT: Your Honor, my response is, is that  
6 the objection can be sustained. That's not why I asked  
7 him that. All I asked him was -- to describe where the  
8 truck was and he was in relation to the lanes.

9 THE COURT: Didn't we cover this once before?

10 MR. FORD: Early.

11 THE COURT: Earlier.

12 MR. BRATT: It's a -- it's a long road. It  
13 gets a little confusing.

14 Well, I'll make you a bet. Every pet -- member  
15 of the jury has been on that left turn all the way down  
16 to 5 at least a dozen times. I mean, it's a major  
17 thoroughfare.

18 Well, first of all we'll sustain the objection.  
19 But I think you've basically covered this.

20 MR. BRATT: Okay.

21 THE COURT: Haven't you?

22 MR. BRATT: Thank you, Your Honor.

23 (Counsel returns to trial tables.)

24 Q: So, Mr. Ervin, at some point you ended up  
25 behind the tractor trailer?

1 A: Yes, I did.

2 Q: What lane were you in on Mattawoman  
3 Beantown Road then?

4 A: I was in the left lane.

5 Q: Okay.

6 And what happened next?

7 A: After we cross -- I can't get the names of  
8 the streets in my mind right now, but once we crossed  
9 that last light before we approached -- before we  
10 approached Mattawoman -- Leonardtown Road, I was behind  
11 the B -- the BTL truck.

12 Q: Okay.

13 And at that point were you approaching the area  
14 where -- where it turns to four lanes?

15 A: That is correct?

16 Q: How fast were you going?

17 A: I was doing 35 miles an hour.

18 Q: What, if anything, did you do as you  
19 approached the area where the road widens to four lanes?

20 A: I merged over to that first turn lane.

21 Q: And when you say the first turn lane, if  
22 we're going from left to right, this road has a left turn  
23 lane all the way to the left side of the road -- a left  
24 turn lane to the right of that lane and then there are  
25 two through lanes that continue going straight, right?

1 A: Correct.

2 Q: Okay.

3 And when you say you were in the -- the right  
4 lane are you talking about the right sided left turn  
5 lane?

6 A: The right sided left turn lane.

7 Q: What happened next?

8 A: I start traveling a few yards and then  
9 another turn -- the next turn lane begins. And that's  
10 when -- the Baltimore Tank Line started to merge over so  
11 that he can make that turn as well.

12 Q: And as you went from the portion of the  
13 road that was two lanes to your place in the right sided  
14 turn lane, did your speed change?

15 A: No.

16 Q: What happened next?

17 A: At that point I saw, from my peripheral  
18 vision I saw the Baltimore Tank Line truck coming over.  
19 And that's when I -- on sudden reaction I just got out of  
20 his way and moved over to the very far left turn lane.

21 Q: Now, when -- right before you saw that  
22 tractor trailer start to come over did you see any turn  
23 indicators?

24 A: No, I did not.

25 Q: Did you see any other signals or brake

1 lights?

2 A: No, I did not.

3 Q: How -- can you describe how fast it came  
4 over?

5 A: It was -- it was sudden.

6 Q: And so you immediately went into the -- the  
7 next sided turn lane to your left, correct?

8 A: That is correct.

9 Q: What happened next?

10 A: Suddenly I was rear-ended.

11 Q: Okay.

12 What, if anything, did you do before getting  
13 over into that lane?

14 A: I don't recall.

15 Q: And how quickly did you switch lanes into  
16 that left turn lane?

17 A: Very sudden. It -- seconds.

18 Q: And what happened immediately next?

19 A: I -- I was rear-ended.

20 Q: Okay.

21 Now, did you -- did you see the vehicle that  
22 rear-ended you?

23 A: No, not at first.

24 Q: Okay.

25 Did you subsequently see the vehicle?

1 A: After it hit me.

2 Q: And what kind of vehicle was it?

3 A: It was a green Dodge Caravan.

4 Q: Did you have an opportunity to look to your  
5 left before changing lanes?

6 A: I'm sorry, I didn't hear you.

7 Q: Did you have a chance to look to your left  
8 before you changed lanes?

9 A: No.

10 Q: About how long did that lane change take?

11 A: Seconds.

12 Q: And what was the position of your vehicle  
13 in the far left lane after you switched over?

14 A: After I switched over I was in -- in the  
15 immediate lane.

16 Q: And how was your car oriented within that  
17 lane?

18 A: It was straight.

19 Q: And the vehicle, the Dodge that hit you,  
20 what part of that vehicle hit what part of your vehicle?

21 A: My left rear corner was hit. And if I'm  
22 not mistaken, the -- center of the Dodge had hit me.

23 Q: What happened after that -- strike that.

24 Was there any collision between your car and  
25 the tractor trailer?



1 A: None.

2 Q: And do you know why not?

3 A: I had got -- I have got out of that lane  
4 before it could occur.

5 Q: Now, what happened after the Dodge struck  
6 the rear of your vehicle?

7 A: I suddenly stopped.

8 Q: And what happened next?

9 A: I just cleared my head for a second and I  
10 immediately called my brother.

11 Q: Why?

12 A: Because I knew that he would give me some  
13 information on what -- since the Baltimore Tank Line  
14 truck didn't stop, I couldn't see the number or anything  
15 so I can report it. So I called him for the dispatcher's  
16 number to see if they can give me any information of who  
17 the driver was or anything.

18 Q: And did he -- did he give you that  
19 information.

20 MR. STEPHENSON: Objection.

21 THE COURT: Approach please.

22 (Counsel approaches the bench.)

23 Okay.

24 MR. STEPHENSON: First of all, Your Honor, its  
25 hearsay. Second of all we have admitted that the driver

1 was the only driver in the vicinity of the accident and  
2 the accident location when it occurred.

3 They're now trying to imply or inject some sort  
4 of cover up or we didn't provide information that was  
5 necessary. None of this is relevant to how the accident  
6 happened, Your Honor.

7 MR. BRATT: All I asked him was if his brother  
8 gave him the phone number. I'm not taking him through  
9 whatever conversations he may have had subsequently to  
10 that. We're not trying to interject anything. I'm just  
11 trying to show the course of events that happened from  
12 collision to the after the collision.

13 THE COURT: Well, after the collision basically  
14 it's all over, right?

15 MR. BRATT: Well there's -- there's another  
16 conversation that he has with Ms. Young, the other  
17 Defendant.

18 THE COURT: Oh.

19 MR. BRATT: And that's where I'm going.

20 THE COURT: Okay.

21 Well, I'll sustain the objection. We don't  
22 need to know about the brother.

23 MR. BRATT: I'm -- I'm not gonna ask him that,  
24 Judge.

25 (Counsel returns to trial tables.)

1 Q: And Mr. Ervin, after you talked to your  
2 brother did you talk to anybody else?

3 A: Well, I called the Baltimore Tank Line.

4 Q: No, the -- let me strike that.

5 Did you speak with Ms. Young?

6 A: Yes, we did.

7 Q: What, if anything, did you say to Ms.

8 Young?

9 A: I think the first thing that I asked her  
10 was did you see that truck run me out of my lane.

11 Q: And what, if anything, did she say back?

12 A: She said she didn't see it.

13 Q: Did you have any other conversation with  
14 Ms. Young at the scene?

15 A: We asked each other where -- was everybody  
16 -- were -- were we both okay.

17 Q: Okay.

18 And, what happened after that conversation with  
19 Ms. Young?

20 A: Afterwards we called the police. The  
21 police came to the scene. We exchanged information.

22 Q: And did you talk to the police officer?

23 A: We talked to the police officer.

24 Q: What, if anything, did you personally say  
25 to the officer?

1           A: Well, I told him how I -- how the accident  
2 happened.

3           Q: What did you say to him?

4           A: I told him how I was traveling in the  
5 direction that I was and how the tractor trailer had run  
6 me out of my lane. And -- and that was it.

7           Q: Okay.

8           And just -- so we're clear for the record the -  
9 - what I had shown you is -- what was I -- identified as  
10 Plaintiff's Exhibit Number 2, the diagram you had  
11 prepared. Does that fairly and accurately to the best of  
12 your recollection represent the area of the collision and  
13 what happened?

14          A: Yes.

15          Q: Your Honor, I'd ask that what's been I.D.'d  
16 as Plaintiff's 1 and 2 be admitted into evidence.

17          MR. STEPHENSON: No objection.

18          MR. FORD: No objection.

19          THE COURT: It'll be received.

20          Q: And I have no further questions for Mr.  
21 Ervin.

22          THE COURT: Why don't we take our lunch and  
23 recess now; it's almost 12:00.

24          Members of the jury we'll give you one hour.  
25 If you'd be back in the jury at five of one we'll start