

Deposition of
[REDACTED]

Date: June 26, 2006

Volume:

Case: [REDACTED] v. [REDACTED]

Phone: (410) 268-6006

Fax: (410) 268-7006

Email: corbinandhook@corbinandhook.com

Internet: www.corbinandhook.com

- LOCATIONS -

1831-G Forest Drive
Annapolis, Maryland

111 N. West Street
Easton, Maryland



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Deposition of [REDACTED]
Taken on June 26, 2006

Page 1 1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF MARYLAND 3 [REDACTED] 4 Plaintiff, Case No. [REDACTED] 5 vs. 06-CV-638 6 [REDACTED] 7 Defendants. 8 _____ 9 10 Pursuant to Notice, the deposition of 11 [REDACTED] was taken on Monday, June 26th, 12 2006, commencing at 12:45 p.m., at the offices 13 of Miller and Zois, 7310 Ritchie Highway, Suite 14 1001, Glen Burnie, Maryland 21061, before [REDACTED] 15 Kathryn M. Benhoff, Notary Public. 16 17 18 19 20 Corbin & Hook Reporting, Inc. 21 Annapolis, MD 21401-9996	Page 3 1 INDEX 2 Name of Witness 3 [REDACTED] 4 Examination: Page 5 By Mr. Miller 4 6 7 Exhibits: 8 Exhibit 1 - Drawing 55 9 10 11 12 13 14 15 16 17 18 19 20 21
Page 2 1 APPEARANCES 2 ON BEHALF OF THE PLAINTIFF: 3 RONALD V. MILLER, JR., ESQUIRE 4 Miller and Zois 5 7310 Ritchie Highway -- Suite 1001 6 Glen Burnie, Maryland 21061 7 410-553-6000 8 9 10 ON BEHALF OF THE DEFENDANTS: 11 GERARD F. MILES, ESQUIRE 12 Huesman, Jones and Miles, LLC 13 Executive Plaza III, Suite 300 14 11350 McCormick Road 15 Hunt Valley, Maryland 21031 16 443-589-0150 17 18 19 20 21	Page 4 1 IT IS HEREBY STIPULATED AND AGREED that 2 the reading and signing of this deposition are not 3 waived. 4 [REDACTED] 5 duly been sworn to tell the truth, the whole truth, 6 and nothing but the truth, testifies as follows: 7 EXAMINATION 8 BY MR. MILLER: 9 Q. Good morning, [REDACTED] 10 A. Hi. 11 Q. Actually, it's good afternoon at this 12 point, I believe. 13 A. Yeah. 14 Q. My name is Ron Miller. I'm an attorney on 15 behalf of the Plaintiff, [REDACTED]. I'm asking the 16 questions here today. I tend to talk very quickly 17 at times. Please make sure you understand my 18 questions fully, and if you don't understand my 19 question, please tell me you don't understand my 20 question. I'll be glad to rephrase it or ask it 21 again. Okay?

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Page 5 1 A. Okay. 2 Q. Also, just for the court reporter's sake, 3 let's make sure that we don't talk over each other 4 because she's trying to write it all down, and she 5 struggles when I'm talking so fast, and we'll try 6 not to talk over each other. Okay? What is your 7 name, sir? 8 A. [REDACTED] 9 Q. And where do you live, sir? 10 A. 1101 Brentwood Drive, Kinston, North 11 Carolina. 12 Q. And how long have you lived at that 13 address? 14 A. Since 1989. 15 Q. Okay. And where did you live prior to 16 that? You don't have to give me the address, just 17 the ballpark. You know, was it North Carolina? 18 A. Yeah. It was Kinston. 19 Q. Okay. Take me, if you would, just for a 20 brief biological background of yourself. Have you 21 lived in Kinston all of your life?	Page 7 1 A. Yeah. 2 Q. Okay. Tell me about that. 3 A. Well, we had, we had what they call five, 4 five inch 54 gun, guns on the ship, and sometime we 5 would go down the river and stay out on the coast 6 and shoot, shoot all night, so was just combat 7 action. 8 Q. Okay. You were shooting at the enemy? 9 A. Yeah. 10 Q. Okay. Was the enemy returning fire to 11 you? 12 A. Yeah. 13 Q. Okay. 14 A. I wasn't, wasn't really a shooter. You 15 know, I was just part of the ship's -- my job was 16 air conditioning and refrigeration, so. 17 Q. Okay. And then at some point, you 18 returned from the Navy and came back to North 19 Carolina? 20 A. Yeah, right. 21 Q. And then what did you do then, sir?
Page 6 1 A. Yeah, except Navy time. 2 Q. Okay. Let's go there. You graduated from 3 high school at some point? 4 A. Yes. 5 Q. Okay. What year was that? 6 A. '70 -- 1971. 7 Q. Okay. And then you joined the Navy? 8 A. Yeah. 9 Q. Okay. Tell me about that a little bit. 10 A. Well, I was on a -- I joined the Navy in 11 September 1971 and got out September 1974, and I was 12 on a guided missile destroyer in the Navy. 13 Q. That's cool. Where were you? 14 A. I was stationed on the West Coast out at 15 Long Beach, California, and we did a couple cruises 16 over to -- well, Vietnam was still going on, and 17 Pacific cruises. 18 Q. Okay. And what year was that again, I'm 19 sorry? 20 A. 1971 to '74. 21 Q. Okay. Did you see any combat in Vietnam?	Page 8 1 A. I held several local jobs, and then I 2 finally got a job at Proctor & Gamble in Greenville, 3 and I worked there for 18 years. 4 Q. Is Greenville pretty close to your home? 5 A. Yeah. 6 Q. How far? 7 A. Less than 30 minute. 8 Q. Okay. And you say you worked for Proctor 9 & Gamble for how long? 10 A. About 18 years. 11 Q. Okay. And what happened there? Why did 12 you leave Proctor & Gamble? 13 A. Well, they, they phased that factory out 14 and kind of sold it to a new name, and they offered 15 people packages that come out, you know, to cut 16 back, so I took the package. 17 Q. And after you left Proctor & Gamble, what 18 did you do next? 19 A. Went to truck driving school. 20 Q. Okay. What school did you go to? 21 A. Carolina Training Center, Kernersville,

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Page 9 1 North Carolina. 2 Q. Okay. And what kind of training did you 3 receive there, sir? 4 A. It was regular book training and on the 5 road training. Just regular truck driver. It was 6 about four weeks. 7 Q. Okay. So a four-week class of both work 8 on the road and work in the classroom? 9 A. Parking in the yard and driving some and 10 paperwork, so you had to do your paperwork. 11 Q. And you graduated from that school? 12 A. Yeah. 13 Q. And what kind of trucking license did you 14 hold at that time after you graduated? 15 A. Class A CDL. 16 Q. Okay. And tell me what a class A CDL is. 17 A. It's a commercial driver license. 18 Q. Okay. And what year was -- I guess I 19 could probably do the math if I was smarter, 20 [REDACTED] What year was that? 21 A. September '95.	Page 11 1 nobody in particular. You kind of freelance and try 2 to find your own work. 3 Q. What kind of materials were you 4 transporting? 5 A. Dirt, rocks, asphalt. 6 Q. Stuff that goes in a dump truck? 7 A. Yeah, for highway construction. 8 Q. Okay. Okay. 9 A. Sand, rocks. 10 Q. And then at some point, you say it was 11 around 2000, 2001, is that fair to say, you bought a 12 straight van? 13 A. Yeah. 14 Q. Okay. And what was the purpose of 15 purchasing this particular vehicle? 16 A. Better working conditions. It was, the 17 work was more steady, because a dump truck, you 18 can't work in bad weather and cold weather, you 19 know, and I was delivering air freight with the 20 straight truck. 21 Q. Okay. A little easier work?
Page 10 1 Q. Okay. So you've been driving a truck 2 since 1995? 3 A. Yeah. 4 Q. Okay. And after you graduated from that 5 school, did you find employment? 6 A. Yeah. 7 Q. And where did you find employment? 8 A. I bought my own truck. 9 Q. Good for you. 10 A. And that was a tandem dump truck. I kept 11 that from '96 'til I think it was 2000, four or five 12 years, and that got beat up, you know, took a lot of 13 wear and tear, and I sold that truck and I bought a 14 straight van, a box, delivering air freight. 15 Q. When you were driving the dump truck that 16 you had from '96 to somewhere around 2000, who were 17 you driving for at that time? 18 A. Different, different contractors, 19 whichever one needed some trucks, man. 20 Q. Fair enough. 21 A. That's the way that -- you don't work for	Page 12 1 A. Yeah. 2 Q. Okay. And did you have a particular 3 client when you were delivering for the air freight? 4 A. Yeah, I was leasing on to a company. 5 Q. Who was that, sir? 6 A. Exel Logistics. 7 Q. Okay. How do you spell that? 8 A. Let's see. E-X-E-L. I think that's the 9 way they spell it. E-X-E-L. 10 Q. Okay. And so I understand, you were an 11 independent contractor for them? 12 A. Yeah. 13 Q. Okay. Did you work exclusively for them? 14 A. Yeah. 15 Q. Okay. And how long had you worked, did 16 you work exclusively for Exel Logistics? 17 A. Oh. Maybe two years. 18 Q. Okay. And what time period does that take 19 us up to, sir? 20 A. To 9/11. Right after 9/11, the air 21 freight business dropped off and I left that.

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Page 13 1 Q. Okay. Did you sell your truck at that 2 time? 3 A. Yeah. 4 Q. Okay. So you sold your truck sometime in 5 2001, late 2001, early 2002? Is that your 6 recollection? 7 A. Maybe it was 2003. Maybe it was 2003. 8 Q. Okay. So you think if you held onto the 9 truck for another year -- I'm just trying to 10 understand the chronology. I don't want to belabor 11 the point here, but you said that it was after 9/11 12 that you made the decision to sell the truck? 13 A. Yeah, business had dropped off. 14 Q. Okay. But you stuck with it for a while 15 after 9/11 and then sold it sometime close to 2003? 16 I don't need you to be exact. 17 A. Yeah. 18 Q. Just ballpark. 19 A. Yeah, it was 2003. 20 Q. And then what? What's next? 21 A. I bought another truck. I sold that one	Page 15 1 a tractor and then leased the trailer portion of the 2 tractor trailer? 3 A. Yeah. 4 Q. Okay. And this was -- was this in 2003? 5 A. 2004. 6 Q. Okay. Were there gaps in between where 7 you didn't have work in between buying a new truck 8 and selling the old truck? 9 A. Yeah, I sat around for a while between 10 that straight truck and the tractor. 11 Q. Okay. How come? 12 A. I was just kind of burnt out, tired. 13 Q. Okay. Okay. So you went into sort of 14 temporary retirement, if you will? 15 A. Yeah, I stopped working for a couple 16 months. 17 Q. Okay. This tractor that you're telling me 18 about now and this trailer you were leasing, do you 19 still have those? 20 A. No. 21 Q. Okay. When did you get rid of that
Page 14 1 and bought a tractor. 2 Q. You say tractor. Is that a tractor 3 trailer? 4 A. Yeah. 5 MR. MILES. Well, a tractor is the truck 6 portion. 7 A. A tractor. 8 Q. Okay. 9 MR. MILES: Tractor trailer are two 10 separate vehicles. 11 Q. Okay. Fair enough. Thanks for the 12 education. What was your plan with that vehicle, 13 sir? 14 A. I using it the same way I used the dump 15 truck. I was going out getting my own work. 16 Q. Okay. So you went back to looking for 17 different sources of employment as an independent 18 contractor? 19 A. Yeah. I leased a trailer and had leased 20 on with a guy, running under his authority. 21 Q. Okay. So you supplied both -- you bought	Page 16 1 tractor? 2 A. 2004. 3 Q. Okay. So you sold it the same year? 4 A. Yeah. 5 Q. How come? 6 A. I was leasing it, and you know, I turn it 7 back in because after 9/11, fuel jumped up, man, and 8 I hit rock bottom with it, so I sold it. I turn it 9 back in. It was a leased truck, anyway. 10 Q. Okay. So you didn't buy the tractor, you 11 leased it? 12 A. Yeah, I was leasing it to own. 13 Q. Okay. I understand. What's next? 14 A. Let's see. We up to the company I'm with 15 now. 16 Q. Okay. When did you join that company? 17 A. 2004. 18 Q. Okay. And this is the company you are 19 working for currently, correct? 20 A. Yeah. 21 Q. This the company you were working for at

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Page 17 1 the time of the accident? 2 A. Yeah. 3 Q. When this company hired you, sir, to the 4 best of your knowledge, what kind of investigation 5 did they do in terms of determining whether you were 6 appropriate for employment with their company? 7 A. I did a drug test, and they run a check 8 on, with the DMV on your driver license number. 9 They got some kind of system they go into and check 10 all, ever since you had a CDL. I don't know what's 11 that called, but I know that's what every employee 12 probably does, I think. 13 Q. Anything else that you know of? 14 A. No. 15 Q. Okay. What kind of work -- and what's the 16 name of your current company? 17 A. TAI. 18 Q. Okay. And how are you paid by TAI? If 19 it's changed over time, you'll want to tell me that. 20 A. I'm paid by the, 25 percent of the, what 21 the load pay.	Page 19 1 A. No. No, it's not the same truck. We -- 2 they change equipment. They lease trucks from like 3 Ryder, Pensky. If you have problem with one, you 4 know, you got to take that one back in the shop, to 5 the shop. Most the time, they give you another one. 6 Q. Okay. The truck that was involved in the 7 accident in question in this case, was that a Pensky 8 truck? Don't assume that I'm right. I'm trying to 9 find out what you know. 10 A. I think it was a Pensky. 11 Q. Okay. What's the basis for that 12 information? 13 A. Because the color. I remember that truck 14 being yellow. 15 Q. Okay. How long did you have the truck 16 that was involved in the accident? 17 A. I don't recall. 18 Q. Do you recall generally how long? Would 19 it have been a matter of weeks, months, years? 20 A. Months. 21 Q. Is that typical? You typically have a
Page 18 1 Q. And how does that work? Explain that to 2 me. 3 A. Well, say, say you got a load on your 4 truck for that's paying \$1000 that go out to say 5 Mississippi or down to Georgia. I will pick up that 6 load and deliver that load, and my pay cut out of it 7 would be 250. 8 Q. Okay. Has that changed at all over the 9 last two years, sir? 10 A. No, it's always been that way. 11 Q. Same program? Okay. 12 A. Since I been there. 13 Q. Okay. How are you paid? Are you given a 14 1099, or what's the, what's the mechanism by which 15 you're paid? 16 A. No, they don't take out taxes. 17 Q. Okay. Are you an independent contractor, 18 then? 19 A. Yeah, lease. 20 Q. Okay. Have you had the same truck with 21 TAI over the course of your entire tenure there?	Page 20 1 vehicle for a few months? 2 A. Yeah. 3 Q. Do you recall how long after the accident 4 you had that vehicle? 5 A. Couple months. 6 Q. Tell me, sir, if you would, how is that 7 vehicle equipped? Describe it to me. 8 A. Equipped with -- 9 Q. Not the best question in the world. 10 Starting first, describe the vehicle to me. 11 A. It was just, it was a fairly new truck, 12 and it's just your typical tractor that you see 13 going down the road. This was a International 14 model. 15 Q. Okay. Eighteen wheels? 16 A. Counting if you pulling a trailer, yeah, 17 you got 18 wheels. 18 MR. MILES: Tractor has, usually has 10 19 wheels. 20 Q. Right. 21 MR. MILES: You have wheels on the

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Page 21 1 trailer. They're two separate vehicles. 2 Q. Fair enough, fair enough, but was it 18 3 wheels at the time of the accident, the tractor 4 trailer? 5 A. Yeah, yeah 6 Q. Okay. What kind of safety equipment did 7 the vehicle have? When I say safety equipment, I 8 don't mean it's got rear view mirrors like my car 9 does. I mean truck specific safety equipment. 10 A. I, I don't understand the question. 11 Q. A lot of people don't understand my 12 questions. My wife never understands my questions, 13 so I'll work with you. 14 A. I mean, it's got your side view mirrors 15 and your spot mirrors. You got, it had two mirrors 16 on the hood for spotting. 17 Q. And that's the kind of stuff I'm looking 18 for, sir, because I don't have mirrors on the hood 19 of my car. 20 A. Uh-huh. 21 Q. So I'm trying to find the things you had	Page 23 1 don't remember what day it was. 2 Q. Okay. Let me ask you -- let me change 3 subjects for just a second. We'll come back to 4 this. Was there a blind spot in your tractor 5 trailer when you were trying to turn lanes in 6 general? Not necessarily this accident, just in 7 general? 8 A. Yeah, if you making a wide right turn, 9 when your trailer is not going the same way your 10 tractor, there's a blind spot there. 11 Q. Okay. Do you believe there was a blind 12 spot at the time of this accident? 13 A. Yes. 14 Q. Was there a blind spot to your right at 15 the time of the accident? 16 A. What, in the driveway? 17 Q. At the time of the accident -- let's cut 18 right to the chase a little bit more, then. Tell me 19 what happened in the accident. Why don't you just 20 describe it to me first? 21 A. Well, I had a delivery right in front of
Page 22 1 available to you that improved the safety of the 2 vehicle. 3 A. Yeah, it had two mirrors on the hood. 4 Q. Okay. Anything else? 5 A. It had a turn signal midway the trailer. 6 Q. Okay. 7 A. And it had two turn signals on the tractor 8 itself, one in front and one back near the sleeper. 9 Q. How many turn signals in all? 10 A. Four. 11 Q. Four sets or -- 12 A. No. Let me count them. One, two -- I'm 13 sure four. 14 Q. And again, you mean four sets? 15 MR. MILES: Four each side, you mean? 16 Q. Yeah 17 A. Yeah, four each side. That's two on the 18 trailer and two on the tractor. 19 Q. Do you recall the day of the accident? Do 20 you know, let's start, do you know what day it was? 21 A. No, I didn't know what day it was. I	Page 24 1 the place where the accident happened. I was 2 pulling in that driveway, trying to make a wide 3 right turn, and I straddled two lanes -- I had my 4 turn signal on. I straddled two lanes of traffic to 5 make that wide right turn because it was traffic in 6 and out the driveway, and there's a telephone, there 7 was a telephone pole on the curbing. 8 Q. Right. 9 A. So you can't be in the righthand lane and 10 make a, you know, a right turn, so I had to straddle 11 two lanes to make that right turn. 12 Q. And what two lanes were you straddling. 13 sir? 14 A. The right and the middle. 15 Q. Okay. At the time you pulled into the 16 right lane, were you able to see Miss [REDACTED] 17 vehicle? 18 A. No. 19 Q. Okay. When did you first discover 20 Miss [REDACTED] vehicle was there? 21 A. When her pickup hit my front tire.

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Page 25 1 Q. Okay. We'll come back to that. Let me 2 back up to where I was kind of going before. Where 3 were you coming from or where were you coming from 4 and where were you going to at the time of the 5 accident? 6 A. I know I picked up that load in Goldsboro, 7 North Carolina, and it came to Baltimore. 8 Q. What was it, Goldsboro? 9 A. Yeah, Goldsboro. 10 MR. MILES: Goldsboro. 11 Q. Goldsboro. 12 MR. MILES: G-O-L-D-S-B-O-R-O. 13 Q. Okay. I have heard of that, yeah. 14 A. It was a load of shingles, and I picked 15 that up from the shingle plant. 16 Q. Okay. Big load, small load? 17 A. Yeah, it was a full load. 18 Q. Okay. And you were going to Baltimore? 19 A. Yeah. 20 Q. Where in Baltimore? 21 A. Allied building. Allied building that was	Page 27 1 the Maryland line. From Virginia? 2 A. Yeah. 3 Q. Okay. 4 A. So you come on into Maryland, and, I don't 5 recall whether I came in on 95 or came in on 97 6 because sometime you, you cut off in Virginia, you 7 know, come in on 301. 8 Q. How long had you been driving 9 consecutively before the accident occurred? 10 A. I don't recall because I don't have my 11 logbook, so I can't -- I don't recall. 12 Q. Okay. And you say you don't have a 13 logbook. Do you normally keep a logbook? 14 A. Every day. 15 Q. Okay. And you don't have a log. Did you 16 keep a logbook for this particular day? 17 A. Yeah. 18 Q. Do you know where that logbook is? 19 MR. MILES: TAI doesn't have it anymore. 20 They only keep them for six months. which is 21 all the law requires. He turns them in to the
Page 26 1 right in front of the place where the accident 2 happened. That was my destination. 3 Q. I'm just trying to understand the 4 chronology, sir. Had you made it into -- had you 5 already dropped off the shingles? 6 A. No. 7 Q. Okay. You were still trying to get to 8 drop the shingles off? 9 A. I was pulling in that driveway. 10 Q. So describe how the accident occurred to 11 me, if you would. I think you already have in part, 12 but describe it to me again going back a little bit 13 as to where you were exactly, where you were coming 14 from. I know you know that I know details about the 15 accident. 16 A. Yeah. 17 Q. But pretend like I don't and you were 18 telling me like I was a friend that you were telling 19 after the accident. 20 A. Well, how far do you want me to go back? 21 Q. Let's go back to the minute you cross over	Page 28 1 company. 2 Q. Fair enough, but I just want to get it 3 from him, if you don't mind. 4 MR. MILES: Okay. I was just trying to 5 help. 6 Q. I appreciate it, Gary. Thanks. 7 MR. MILES: Sure. 8 Q. You kept a logbook for the date of this 9 accident? 10 A. Yeah. 11 Q. If I told you the date of the accident was 12 August 5th, 2005, would you agree with that? 13 A. Yeah. 14 Q. Okay. I'm going to tell you that was the 15 day. So you had a, you kept a logbook for that day, 16 and you turned it in to your company at some point? 17 A. Yeah. 18 Q. When did you do that; do you know? 19 A. We turn them in weekly. 20 Q. Okay. Did you turn it in in the ordinary 21 fashion in this case?

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Page 29 1 A. Yeah. 2 Q. Okay. Let's go back to where we were. 3 You said you were coming into -- you don't have your 4 logbook with you, but you were coming into Maryland. 5 Did you stop anywhere in Maryland that you recall? 6 A. I'm thinking I stopped at, in Virginia to 7 get fuel. 8 Q. Okay. Where would you have stopped; do 9 you remember? 10 A. Ruther Glen. 11 MR. MILES: R-U-T-H-E-R G-L-E-N, I'm 12 guessing. 13 A. Yeah. 14 Q. Okay. Then I interrupted you. You were 15 telling the story. You were coming across the 16 Maryland line, perhaps from Ruther Glen from a fill 17 up, and take me through the chronology of events. 18 A. Well, I came straight to my destination, 19 and we come up here a lot and I had delivered 20 shingles there before, and for every load, I always 21 call when I, when I get my bill to get directions,	Page 31 1 Q. Okay. Are there any other blind spots on 2 the truck? 3 A. There's a blind spot near the tractor, 4 right there by the sleeper or fuel tank, and that's 5 that big blind spot in the back when they too close 6 to your bumper. 7 Q. And how close to your bumper does the 8 vehicle need to be to be in the blind spot? 9 A. I know a car length. You in the blind 10 spot then. 11 Q. Okay. If you were following behind about 12 a car length. Now, this isn't necessarily in the 13 same lane as you. This is in the right lane, 14 correct? In other words, this vehicle is not 15 following you. It's in the other lane, this lane 16 that you're not in as you're trying to go from the 17 center lane to the right lane? 18 MR. MILES: Objection. I'm confused on 19 when you're talking about going from the center 20 lane to the right line. He was, he was -- and 21 I don't want to --
Page 30 1 and I knew where that place was because it was sort 2 of easy getting off 95 going in there, and like I 3 say, when I got to the destination, I straddled two 4 lanes to make that right turn going in there, and 5 next thing I knew, boom. Accident happened. 6 Q. Is it fair to say that you pulled into 7 both the center and the right lanes at the same 8 time? 9 A. Yeah, I straddled two lanes. 10 Q. Okay. Did you attempt to see if there 11 were any vehicles in the righthand lane before you 12 did that? 13 A. Yes. 14 Q. And when you made that attempt, what did 15 you see? 16 A. Nothing, but if a vehicle behind you is 17 too close to your bumper, you can't see them, 18 anyway. 19 Q. Is that the only place you can't see them? 20 A. No, there's another blind spot on the side 21 of your truck.	Page 32 1 Q. No, go ahead. I'll let you go. Go ahead. 2 MR. MILES: I think what he's describing 3 is he's in the right lane and he moved to 4 straddle both lanes, and then as he makes the 5 turn, the tractor turns back into the right 6 lane, and I don't know when you're talking 7 about him looking in the mirrors. 8 Q. Describe to me, you've told me about the 9 fact that there's a blind spot, and you told me that 10 you saw the truck hit -- you did not see the truck 11 hit Miss [REDACTED] vehicle until there actually was an 12 impact? 13 A. Right. 14 Q. Describe to me what you, what maneuver you 15 were making just before the impact, and slow it down 16 for me if you would. Let's break it down step by 17 step. 18 A. I was making a wide right turn. 19 Q. Do you want to draw it out for me? 20 A. Yeah. 21 Q. Okay.

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Page 33 1 A. This is the building I was delivering. 2 Q. That's the Allied building? 3 A. Yeah. 4 Q. Okay. 5 A. It had a driveway coming out here. 6 Curbing is right here, pole. You got three lanes. 7 I'm coming up this way, righthand lane, getting, 8 getting near the delivery spot. Straddling these 9 two lanes, and when I get in front of the driveway, 10 her, her driver's side tire caught the, my front 11 tire on the righthand side. 12 Q. Okay. So draw her vehicle for me, if you 13 would, you know, just a box where her vehicle is. 14 A. She had to come up here. 15 Q. Okay. So she was driving along in the 16 righthand lane, correct? 17 MR. MILES: He didn't see her. 18 A. I didn't see her. 19 MR. MILES: He said he didn't see her 20 until impact. 21 Q. Okay. But he can tell us that.	Page 35 1 A. I did not identify a vehicle behind me. 2 Q. Okay. Tell me again about, you said that 3 a blind spot is also created when you're trying to 4 take a wide turn? 5 A. Yeah, because if the tractor is going 6 straight and your trailer is jacked, it's a blind 7 spot. 8 MR. MILES: If you'll go off the record, 9 I'll explain what he's trying to say. 10 Q. Okay. Off the record for a second. Go 11 ahead. 12 (Discussion off the record.) 13 BY MR. MILLER: 14 Q. Okay. Mr. [REDACTED] do you believe there's 15 anything that you could have done now with the 16 benefit of hindsight to have avoided this accident? 17 MR. MILES: I'll object to the question, 18 but I'll let him answer it. You can go ahead. 19 A. No, other than stopping in the street 20 completely and letting traffic go by. 21 Q. Was that an option that was available to
Page 34 1 MR. MILES: He already did tell you he 2 didn't see her. 3 Q. Okay. Well, he can tell me again. He can 4 explain it to me. Do you have any belief, any 5 reason to believe she was doing anything other than 6 driving in the righthand lane? Did you see her do 7 anything else prior to the accident? Did you see 8 the vehicle before? Sometimes you see a vehicle 9 before the accident, you know, before the impact 10 actually occurs. Maybe not just before the 11 accident, but generally speaking, as you're both on 12 the road. 13 MR. MILES: Let me just make an objection. 14 I think you asked him about four questions in 15 there. 16 Q. I'm just trying to lay a foundation so he 17 understands what I'm saying. 18 MR. MILES: Okay. I think it's confusing 19 when you ask so many questions at once. 20 Q. Okay. Answer any one of those you'd like 21 to answer.	Page 36 1 you? 2 MR. MILES: Objection. You can answer. 3 Q. One second. Hold on, Mr. [REDACTED] sir. 4 What's the basis for the objection? 5 MR. MILES: I don't think it's a fair 6 question to ask him a hypothetical about what 7 could have happened or ask his opinion about 8 different options about what might have 9 happened at the time of the accident. 10 Q. Okay. You think it's unfair? That's the 11 basis for the objection? 12 MR. MILES: I think it's not proper to ask 13 a fact witness a hypothetical question -- 14 Q. Okay. 15 MR. MILES: -- which is what you're doing. 16 Q. That's exactly what I'm doing, sir. Well, 17 it's not hypothetical, actually, but I hear what 18 you're saying. And my question was, you said you 19 could have stopped and waited for traffic to pass. 20 Was that an option that was available to you? 21 A. No.

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Page 37 1 Q. Why not? 2 A. Trucks have to make big wide turns all the 3 time. I just don't see that as a option. 4 Q. And I won't ask you again, I promise, but 5 can you tell me why not? 6 MR. MILES: I'll object. You can answer. 7 A. I don't know. 8 Q. Okay. Would it be too time consuming to 9 do it that way? 10 A. I don't know. 11 Q. Do you know what a black box is, sir? 12 A. Yeah. 13 Q. What is a black box? 14 A. You mean the ones they use on trucks or 15 airplanes? 16 Q. Either one, yeah. What are they? What's 17 your understanding what a black box is? 18 A. They know your location, your speed, how 19 much fuel you're consuming, things like that. 20 Q. Big brother, yeah? 21 A. Yeah, overseer.	Page 39 1 minutes later, was there, and he told me to move my 2 truck up so I wouldn't block two lanes, and I guess 3 he called a EMS for her, and then I had to go down 4 the street, turn around and come back because I 5 couldn't back up, and I went on and delivered the 6 load. 7 Q. Okay. Did you have occasion to talk to 8 the police officer after the accident? 9 A. No. 10 Q. Did anyone ask you any questions after the 11 accident as to how the accident occurred? 12 A. I don't recall, because it was, the 13 police -- it was sort of self-explanatory. 14 Q. Okay. Do you know whether the police 15 officer talked to Miss [REDACTED] after the accident? 16 A. I don't know. 17 Q. I've asked some inartful questions. My 18 first question to you, sir, was did you talk to the 19 police officer after the accident and you said no, 20 and then I said did you talk to anyone -- 21 MR. MILES: I think he said --
Page 38 1 Q. Yeah, sure. Did you have a black box on 2 this vehicle? 3 A. No. 4 Q. Can you guesstimate your speed at the time 5 of the accident? 6 A. Ten or less. 7 Q. Okay. And to the best of your knowledge, 8 because I think you testified about this earlier, 9 what part of Miss [REDACTED] vehicle collided with 10 yours? 11 A. Her vehicle, driver's side front door and 12 driver's side front tire and front headlight area. 13 Q. Okay. And then, sir, what happened after 14 the accident? Could you just sort of take me 15 through the scene of events after the collision 16 occurred? 17 A. Yeah. I, I stopped on the spot. She 18 stopped on the spot. I got out to check on her to 19 ask her was she all right, but she, she didn't 20 respond to me, so I got over on the curbing. A lady 21 behind us, she called the police department. Five	Page 40 1 Q. and you said I don't know. 2 A. I don't, I don't recall. 3 MR. MILES: I might be wrong. 4 Q. Yeah. We could read it back. I think 5 I'll be correct, but I want to find out -- I don't 6 want to play semantic games with you. I want to 7 find out what your answer is. Do you recall whether 8 or not you spoke to the police officer after the 9 accident? 10 A. I don't recall. 11 Q. So you think it's possible, then, just as 12 a corollary to that, you think it's possible that 13 you didn't speak at all to the police officer after 14 the accident? 15 A. I'm sure I spoke to them because they came 16 and got my insurance papers for the truck and my 17 driver license. 18 Q. Okay. Fair enough. Do you recall -- and 19 hopefully just asking the questions is jogging your 20 memory, but when he did that, do you recall whether 21 or not he actually asked you questions about how the

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Page 41 1 accident had occurred? 2 A. I don't recall. 3 Q. Do you believe, sir, that the accident was 4 the fault of Miss [REDACTED] 5 MR. MILES: Objection. You can answer. 6 Q. And if so, what do you think she did 7 wrong? 8 MR. MILES: Objection. You can answer. 9 You can answer. 10 A. I think it was her fault. 11 Q. How so? 12 A. She didn't yield to my wide right turn. 13 Q. Okay. How do you believe she should have 14 yielded to your wide right turn? What should she 15 have done? 16 A. I think she should have yielded until my 17 tractor and trailer was off the street. 18 Q. And how do you believe she should have 19 done that? 20 A. Slowed down to a stop. 21 Q. Okay. Do you believe Miss [REDACTED] would have	Page 43 1 side. I don't recall. 2 Q. So there may have been, you don't know? 3 A. I don't recall. 4 Q. Who was the first person that you spoke to 5 about the accident? 6 A. At the company I work for? 7 Q. Maybe you called your, your girlfriend. I 8 don't know who would you have called. First person 9 you would have spoke to about the accident. 10 A. Well, I talked - 11 MR. MILES: You mean after the accident 12 scene? 13 Q. Yeah. 14 MR. MILES: After he left the accident 15 scene. Okay. I just want to make sure because 16 obviously, he might have spoken to Miss [REDACTED] or 17 the police or a witness. 18 A. After the scene? 19 MR. MILES: I don't know what you're 20 asking in terms of time frame. 21 Q. About the accident. Who was the first
Page 42 1 known that you were making a turn? 2 MR. MILES: Objection. You can answer. 3 A. My turn signals was on. 4 Q. That wasn't my question, though. My 5 question was, do you believe Miss [REDACTED] knew that you 6 were making a turn? 7 MR. MILES: Objection. You can answer. 8 A. I don't know. 9 Q. How long had you had your turn signal on 10 before making the turn? 11 A. One minute. 12 Q. How far would, how far would you have 13 driven in that one minute? 14 A. City block or better. 15 Q. How fast were you going approaching the 16 turn? 17 A. I would say about, between 25 and 30. 18 Q. Were there other possible places you could 19 have made that turn before the area where you did 20 make the turn or attempted to make the turn? 21 A. No, I don't recall anything being on that	Page 44 1 person you told about the accident? 2 A. Oh, my dispatcher. I called safety 3 department. 4 Q. Okay. And what did you tell the 5 dispatcher? Do you remember who that was? 6 A. Yeah, Susan. 7 Q. Do you remember her last name? 8 A. I called safety department and left a 9 recording, and then I told Susan that I had a 10 fender-bender. 11 Q. Okay. And that was left by voice mail? 12 A. No, I talked to her personally. 13 Q. Okay. Did you tell her how the accident 14 occurred? 15 A. No. 16 Q. Did she ask? 17 A. I left a recording on the safety 18 department. See, that's not her job. Her job is my 19 dispatcher. 20 Q. Okay. 21 A. I told her it was a fender-bender.

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Page 45 1 Q. So this is a live conversation you had 2 with her? 3 A. Yeah. 4 Q. You left a message for somebody else 5 before or after that? 6 A. Before that. 7 Q. Okay. So your first call, then -- thank 8 you. 9 A. Was to the safety department. 10 Q. Okay. And you left a message? 11 A. Yeah. 12 Q. What did the message say; do you recall? 13 A. I told them there had been a accident. 14 Q. Anything else? 15 A. No. 16 Q. And then you got ahold of Susan? 17 A. Yeah, I told Susan. 18 Q. Did you tell her how the accident happened 19 or no? 20 A. She didn't ask. She asked -- she didn't 21 ask me.	Page 47 1 while you were making the turn, there would not have 2 been, there would not have been an accident? 3 A. Yeah. 4 Q. How so? 5 MR. MILES: Objection. You can answer. 6 A. Well, if she had of slowed down and let me 7 get farther in front of her and complete my turn, 8 there wouldn't have been a accident. 9 Q. Okay. Okay. So she just wouldn't have 10 been in that spot had she been going slower, or 11 faster for that matter, right? 12 MR. MILES: Objection. 13 A. I guess. 14 Q. Is there anything, sir, in your training 15 as a truck driver that leads you to believe that 16 drivers have a duty to stop and yield as tractor 17 trailers are making turns? 18 A. Wide right turns or left turns? 19 Q. Either one. 20 A. Wide right turns, yes. 21 Q. And where did you learn that?
Page 46 1 Q. Okay. Who was the first person that you 2 described the accident to in terms of how it 3 happened? 4 A. It was the insurance, insurance lady that 5 called me. 6 Q. And when was that conversation? 7 A. For the trucking insurance. I don't 8 really recall the date. 9 Q. I mean, was it -- that's fair. I wouldn't 10 expect you to, but was it days, weeks, months later? 11 A. I don't recall how long it was after the 12 accident. It might have been weeks. 13 Q. Besides stopping her vehicle, do you 14 believe there was anything else Miss [REDACTED] could or 15 should have done that would have enabled her to 16 avoid the accident? 17 MR. MILES: Objection. You can answer. 18 A. Just yield. I mean, she didn't have to 19 come to a complete stop, but she could have slowed 20 down and yield. 21 Q. So you believe if she had slowed down	Page 48 1 A. It was probably in training. 2 Q. Okay. And what were you told? 3 A. I don't recall it, the words. 4 Q. What about, what about did you learn? I'm 5 not asking you for verbatim. That was a long time 6 ago. It was '95, '96? 7 A. Yeah. 8 Q. I'm not asking for verbatim. Just tell me 9 what you learned. 10 A. We was showed how to make a right turn. 11 Q. No, I understand that. I'm saying, what 12 I'm asking you, sir, just to be clear, I'm asking 13 you about what you were taught or trained with 14 respect to the duty of other drivers on the road 15 when truck drivers are making turns -- 16 A. We was -- 17 Q. -- and what obligations those drivers 18 have, if you learned anything in that regard. 19 A. I was taught to look out for the other 20 drivers. 21 Q. Okay. And I understand that, but my

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Page 49 1 question is, did you learn anything either in your 2 training as a truck driver or on the job with 3 respect to what the duty is of other drivers when 4 truck drivers who are driving tractor trailers such 5 as yours are making turns? 6 A. No, because everybody's not the same. 7 Everybody don't drive the same. 8 Q. Okay. So you don't know any particular 9 rules that would apply? 10 A. No. 11 Q. Okay. Let's take a five minute break. I 12 think I'm almost done. 13 (Brief recess.) 14 BY MR. MILLER: 15 Q. Who have you spoken to about the facts of 16 this accident who is not a lawyer or someone working 17 for a law office? 18 A. Safety department there at the job. 19 That's it. 20 Q. Who did you talk to there? 21 A. Her name is Dean Dunn and --	Page 51 1 A. No. 2 (Brief recess.) 3 BY MR. MILLER: 4 Q. Have you been in any other truck or auto 5 accidents? 6 MR. MILES: Objection. You can answer. 7 A. 19 -- what was it? 1997, I think. 8 Q. Were you -- 9 A. Or '98. 10 Q. Okay. What happened in that case? 11 A. Tapped somebody in the rear. 12 Q. Was there any damage? 13 A. Yeah. 14 Q. How much damage was done? 15 A. I don't recall. 16 Q. Was it a bumper tap -- 17 A. Yeah. 18 Q. -- was it a big collision? 19 A. A bumper tap. 20 Q. Okay. Were you driving a truck or your 21 own personal vehicle?
Page 50 1 Q. I'm sorry, Dean Dunn? 2 A. Yeah. 3 MR. MILES: D-U-N-N is the last name. 4 She's a female, and first name is D-E-A-N. 5 Q. I like that name for a girl. My wife's 6 pregnant. Anybody else? 7 A. No. 8 Q. Family members, friends? 9 A. No. 10 Q. Were you left with the impression that the 11 police officer believed you were at fault for the 12 accident? 13 MR. MILES: Objection. You can answer. 14 A. No. 15 Q. Did he give you any impression at all -- 16 it was a he, correct, the officer who arrived on the 17 scene? 18 A. Yeah. 19 Q. Did he give you any impression one way or 20 the other as to who he believed was at fault for the 21 accident?	Page 52 1 A. Dump truck. 2 Q. Do you know whether that person brought a 3 claim for their injuries in the accident? 4 A. No. 5 Q. You don't know? 6 A. There was no claim. 7 Q. Any other accidents? 8 A. No. 9 Q. Your entire life? 10 A. How far you going back? 11 Q. How far did you choose to go back? 12 A. In a truck? 13 Q. I said a truck, auto, whatever. 14 MR. MILES: Objection. You can answer. 15 A. Well, my driving record is clean for the 16 last seven years. 17 Q. How about prior to that, though? 18 A. Ten. 19 Q. Okay. How about before that? 20 MR. MILES: Objection. You can answer. 21 A. Yeah, I was in an auto accident when I was

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Page 53 1 in the Navy. 2 Q. Okay. That's a long time ago, fair 3 enough, but what happened in that accident? 4 A. I went to sleep. 5 Q. Okay. Were you injured? 6 A. Yeah. 7 Q. Was it a one car accident? 8 A. Yeah. 9 Q. How badly were you injured? 10 A. Head injury. 11 Q. Okay. How serious was the injury? 12 A. Just overnight stay in the hospital. 13 Q. Okay. Any other accidents? 14 A. No. 15 Q. You ever been convicted of a crime, sir? 16 A. No. 17 Q. I'm almost done, I promise. As you're 18 pulling up to make that turn, describe to me to the 19 extent that you can, Mr. [REDACTED], the changes in 20 speed. You said you were going about 35 miles an 21 hour in your approach to the turn, correct?	Page 55 1 A. (Witness shaking head.) 2 MR. MILLER: Okay. That's all the 3 questions I have. Thank you very much for your 4 time. Thanks for coming up here, too. 5 MR. MILES: We'll read and sign. 6 (Discussion off the record.) 7 MR. MILLER: Just going back on the record 8 for one second, in the presence of counsel, 9 we're marking as Exhibit 1 the diagram that 10 Mr. [REDACTED] drew during his deposition. 11 (Exhibit 1 marked.) 12 MR. MILLER: That's all. Thank you. 13 (The deposition concluded at 1:56 p.m.) 14 15 16 17 18 19 20 21
Page 54 1 A. Yeah. 2 Q. And then at some point, taking the turn. 3 I'm sure you weren't taking that turn at 35 miles 4 per hour, so tell me about the deceleration of 5 speed. 6 A. Well, you got, you got to decelerate to 7 change gears, all right, and the closer I got to the 8 place, I dropped my speed down to probably 10 or 9 15 miles per hour. 10 Q. And then made the turn? 11 A. Yeah. 12 Q. Did you ever stop before making the turn? 13 A. No. 14 Q. Why not? 15 A. That's not the normal way you make a 16 righthand turn. 17 Q. Okay. Fair enough. I'm not trying to 18 suggest anything. I'm just trying to find out why 19 you didn't stop. You didn't stop because normally, 20 you don't stop in making those kind of righthand 21 turns?	Page 56 1 STATE OF MARYLAND 2 I, Kathryn M. Benhoff, a Notary Public in 3 and for the State of Maryland, do hereby 4 certify that the within named, [REDACTED] 5 personally appeared before me at the time and 6 place herein set according to law, was 7 interrogated by counsel. 8 9 I further certify that the examination was 10 recorded stenographically by me and then 11 transcribed from my stenographic notes to the 12 within printed matter by means of 13 computer-assisted transcription in a true and 14 accurate manner. 15 I further certify that the stipulations 16 contained herein were entered into by counsel 17 in my presence. 18 I further certify that I am not of counsel 19 to any of the parties, not an employee of 20 counsel, nor related to any of the parties, nor 21 in any way interested in the outcome of this 22 action. 23 AS WITNESS my hand and Notarial Seal this 24 5th day of July, 2006, at Easton, Maryland 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000

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