

1 PLANTIFF: Ms. Miller

2 WITNESS: Brian Reed

3 COURT:

4 DEFENDANT: Ms. Collins

5

6 WARM UP

7 THE COURT: All right. Your next witness.

8 MS. MILLER: Your Honor, I would like to call the
9 defendant, Brian Reed.

10 THE COURT: Are you ready to proceed now?

11 MS. COLLINS: Yes, we are, / your Honor. My client
12 is right outside. I will ask him to come in.

13 THE COURT: Thank you.

14 MS. COLLINS: Counsel, let me return your exhibit
15 book to you. /

16 MS. MILLER: Okay. Thank you.

17 THE COURT: Let's proceed.

18 Have a seat at the witness stand, Mr. Reed. Please
19 state and spell your name for the record.

20 THE WITNESS: Brian Dean / Reed, R-E-E-D.

21 DIRECT EXAMINATION

22 Q. BY MS. MILLER: Good afternoon, Mr. Reed.

23 Now, you were driving the tow truck for Robert's
24 Towing on November 14th, 2007? /

25 A. Yes.

26

1 Q. And this accident occurred as you were exiting
2 the parking lot of the liquor store pictured in that
3 photograph right behind you?

4 A. Yes.

5 Q. It / is located at 2623 Lincoln Boulevard?

6 A. Yes.

7 Q. Sir, was it your intent to make a right turn
8 as you exited the driveway? /

9 A. Yes.

10 Q. And, in fact, you could only make a right turn
11 at that point, correct?

12 A. That's correct.

13 Q. How long had you been employed at Robert's /
14 Towing prior to this accident?

15 A. Ten months, I think.

16 Q. Prior to working for Mr. Scott, how long had
17 you been a tow truck driver?

18 A. A */ year and a half, two years.

19 Q. What other companies did you work for?

20 A. West Coast Towing and Metro Towing.

21 Q. How long did you work for / each of them?

22 A. West Coast was about six months. Metro was
23 maybe just shy of a year.

24 Q. Okay. And did you receive any special
25 training / as a tow truck driver from those companies?

26 A. Yes.

END OF WARM UP

1 EXAM

2 Q. BY MS. MILLER: All right. What type of
3 special training did you receive, Mr. Reed?

4 A. Basically, I was instructed how to tow
5 vehicles. I learned that at Metro / a few weeks before
6 I went out on my own.

7 Q. Can you tell me part of that training process?

8 A. How to operate everything on the / vehicle,
9 all the safety procedures. I even had to take a test
10 before I could go out on my own.

11 Q. When you were employed at / Robert's Towing,
12 did you receive any type of safety training?

13 A. No.

14 Q. And it is my understanding that the
15 approximate weight of the tow truck you / were driving
16 on the date of this accident is about 10,000 pounds?

17 A. Yes.

18 Q. Now, that's the weight when it is empty. You
19 didn't have / anything --

20 MS. COLLINS: Objection. Counsel is testifying.
21 Move to strike.

22 THE COURT: Objection sustained.

23 Q. BY MS. MILLER: You weren't carrying anything
24 with you at the time, were you?

25 A. No, I wasn't.

26

1 Q. So / on November 14th, 2008, what time did you
2 start that morning?

3 A. I think 7:00 o'clock.

4 Q. Now, it is my understanding you had five /
5 assignments that day, right?

6 A. I don't recall.

7 Q. And how many hours per day did you work on a
8 daily basis?

9 A. 12.

10 Q. Do you recall what */ your final assignment
11 was before this accident occurred?

12 A. No.

13 Q. Okay. You resided across the street from the
14 location of the accident, correct?

15 A. That's correct.

16 Q. I / don't know, but can we see your residence
17 depicted in that photograph marked exhibit 12?

18 A. It's to the right there at the top.

19 Q. Okay. So / that would be the hotel located in
20 the right corner?

21 A. Yes.

22 Q. And how long had you lived there?

23 MS. COLLINS: Objection. Relevance.

24 THE COURT: Overruled.

25 Q. BY MS. MILLER: How long had you / been there?

26 A. A year.

1 Q. During the ten months that you were employed
2 for Mr. Scott, did you always park the tow truck in the
3 parking / lot where this accident occurred?

4 A. I usually parked there, yes.

5 Q. Did you have some verbal or written agreement
6 with the owner of the parking lot / to allow that?

7 A. The gentleman at the liquor store, he appeared
8 to be in charge of the little retail center there and
9 he always said / it was okay.

10 Q. You would pick up the truck in the morning and
11 drop it off at night?

12 A. Yes.

13 Q. Do you recall approximately what time / you
14 got your final assignment before this accident?

15 A. Late afternoon.

16 Q. How long had you been in your hotel room prior
17 to this?

18 A. I don't know. */

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1 START TYPING

2 Q. BY MS. MILLER: Do you have any estimate at
3 all, Mr. Reed?

4 A. I don't know how long I was there.

5 Q. When you got the assignment, was it from / the
6 telephone or your cell phone?

7 A. My two-way radio.

8 Q. What was conveyed to you from Robert's Towing?

9 MS. COLLINS: Objection. It is hearsay.

10 THE COURT: Sustained.

11 Q. BY MS. MILLER: Well, you got / your
12 assignment over the phone, right?

13 MS. COLLINS: Objection. Misstates his answer.

14 THE COURT: Sustained.

15 MS. MILLER: That's fine, your Honor. I will just
16 rephrase my question.

17 THE COURT: Ask your next question. /

18 Q. BY MS. MILLER: You got your assignment over
19 your cell phone; is that right?

20 MS. COLLINS: Objection. Misstates the facts.

21 THE COURT: Well, sustained.

22 THE WITNESS: It is the Nextel two-way radio.

23 Q. BY MS. MILLER: Did you / write down the
24 assignment?

25 A. Yes.

26

1 Q. And did you write down the location only, or
2 did you write down what the purpose for the call was? /

3 A. I wrote down both.

4 Q. Okay. And you left your hotel room at some
5 point after you got the assignment?

6 A. Yes.

7 Q. And you walked directly across / the street?

8 A. Yes.

9 Q. You didn't go around the block and go to the
10 crosswalk, right?

11 MS. COLLINS: Objection. Relevance.

12 THE COURT: Overruled.

13 Q. BY MS. MILLER: Did you jaywalk across the
14 street?

15 MS. COLLINS: Your / Honor, I am going to object.
16 It is asking him for a legal conclusion.

17 THE COURT: I didn't hear what you said.

18 MS. COLLINS: I am objecting. She is / seeking a
19 legal conclusion here, and she is being argumentative.
20 She asked my client if he jaywalked across the street.

21 THE COURT: Objection sustained.

22 Q. BY MS. MILLER: So you crossed / the street to
23 get to your truck. What did you have with you in your
24 hands other than your assignment?

25 A. Just my radio.

26 Q. Did you / have anything else in your hands?

1 A. No, ma'am.

2 Q. Did you have any beverage or any food with
3 you?

4 A. It is possible.

5 Q. Now, I don't know / if we have got a good
6 photograph, but your tow truck was parked in the right
7 corner, correct?

8 A. Yes.

9 Q. Approximately how many parking spaces to / the
10 right was your tow truck?

11 A. It was either located in this second space or
12 that one.

13 Q. Okay. So the first or second parking space? /

14 A. Yes.

15 Q. Do you remember other vehicles being located
16 in the parking space next to your tow truck?

17 A. No, I don't.

18 Q. Now, I assume after you / started your truck
19 to leave, you had to back up?

20 A. That's correct.

21 Q. Okay. After you initially backed up, did you
22 proceed then to pull out / of the driveway?

23 A. Yes.

24 Q. Prior to either backing up or proceeding
25 forward, did you ever try to find the location of your
26 assignment in the / Thomas Guide?

1 A. Well, if I needed to, that would have been
2 before I backed up.

3 Q. Periodically, would you ever back up and kind
4 of look / at the Thomas Guide at the same time?

5 MS. COLLINS: Objection. Relevance.

6 THE COURT: Overruled.

7 THE WITNESS: No, I wouldn't do that.

8 Q. BY MS. MILLER: Now, at any point from the
9 time that you / backed up until you approached the
10 sidewalk, were you using your Nextel radio?

11 A. No.

12 Q. At any point that you backed up until the time
13 that / you reached the sidewalk, did you have a
14 beverage in your hand?

15 A. No.

16 Q. Now, where was your vehicle in relation to the
17 driveway? In other / words, was it more to one side,
18 or was it in the middle?

19 A. A little more to the right.

20 Q. Could other vehicles have entered or / exited?

21 MS. COLLINS: Objection. Calls for speculation.

22 THE COURT: Overruled. You may answer.

23 THE WITNESS: Definitely.

24 Q. BY MS. MILLER: As you exit there, you can see
25 that large strip of sidewalk on Lincoln Boulevard? /

26 A. Yes.

1 Q. In the top photograph on the right you can see
2 bushes near the exit, correct?

3 A. Okay.

4 Q. Do you see those bushes?

5 A. Yes, I see / those.

6 Q. Were they present at the time of your
7 accident?

8 A. Yes, ma'am.

9 Q. And had they been present during the entire
10 period of your employment?

11 A. Yes. /

12 Q. Did those bushes make it more difficult to see
13 pedestrians or traffic coming from the right side?

14 A. No, I don't believe so.

15 Q. When you proceeded / toward the exit, was
16 there a moment you brought your vehicle to an absolute
17 complete stop before you reached the sidewalk?

18 A. I'm not totally sure / if it was before the
19 sidewalk or not. I'm not sure exactly where I
20 initially stopped.

21 Q. You don't remember if you brought your tow
22 truck / to a complete stop?

23 A. I'm positive I brought it to a complete stop,
24 yes.

25 Q. Do you remember if you came to a complete stop
26 before / you reached the sidewalk?

1 A. No.

2 Q. Is it possible that you stopped before you
3 reached the sidewalk?

4 MS. COLLINS: Objection. Calls for speculation.

5 THE COURT: All right.

6 MS. MILLER: I can rephrase / my question, your
7 Honor.

8 THE COURT: Ask your next question.

9 Q. BY MS. MILLER: Do you recall actually
10 stopping before you reached the sidewalk?

11 A. I think it was right there, yes. /

12 Q. So as you sit here today, do you have a
13 recollection of where you stopped your vehicle the
14 first time that you stopped?

15 A. Like I / said, within that proximity there.

16 Q. Do you recall coming to my office and having
17 your deposition taken?

18 A. Yes.

19 Q. And at that time you were with / your
20 attorney?

21 A. Yes.

22 Q. And I asked you questions about this accident?

23 A. Yes.

24 Q. I am not sure if there is a deposition
25 transcript up there or / not. I would like you to look
26 at the deposition transcript.

1 A. It is here, yes.

2 MS. MILLER: Your Honor, may I approach?

3 THE COURT: Counsel, what page and line / number?

4 MS. MILLER: Page 37.

5 MS. COLLINS: You're going to have to show it to

6 him.

7 THE COURT: Are you asking the witness to look at

8 the deposition?

9 MS. MILLER: Yes, your Honor. /

10 THE COURT: All right. Sir, please turn to page

11 37.

12 MS. MILLER: I can read it if you prefer.

13 MS. COLLINS: Well, let's find out what we are

14 dealing with first. / Which lines?

15 MS. MILLER: Lines 14 through 22.

16 THE COURT: Review that, sir, and let us know when

17 you are ready.

18 THE WITNESS: I have read that over.

19 Q. BY MS. MILLER: Do you recall / that

20 testimony?

21 A. Yes.

22 Q. Is it accurate that you stopped your vehicle

23 within two feet of the street?

24 A. Like I stated, within that distance.

25 Q. Do you / have an estimate of how wide that

26 sidewalk was?

1 A. I don't know. Three, four feet.

2 Q. So you are saying it is possible that you
3 stopped / your vehicle before the sidewalk, but it is
4 also possible that you stopped your vehicle maybe two
5 feet from the street?

6 A. Or it might have / been on the sidewalk.

7 Q. You are not positive?

8 A. No.

9 Q. Okay. But you remember bringing your vehicle
10 to a complete stop eventually?

11 A. Absolutely.

12 Q. Okay. Let's back / up a little bit.

13 You got into the vehicle and put it in reverse. You
14 then proceeded forward, and you were actually intending
15 on turning / right?

16 A. That's correct.

17 Q. At some point before the sidewalk or within
18 two feet of the street, did you ever look to your
19 right?

20 A. Yes.

21 Q. What / distance was the front of your tow
22 truck from either the sidewalk or the street when you
23 looked to your right?

24 A. I don't really know. /

25 Q. Do you have any estimate?
26

1 A. Well, you are asking me a question for
2 specifics. I can't answer that.

3 Q. Well, I did ask you that same / question in
4 your deposition, and you gave me an answer of two feet.

5 MS. COLLINS: Objection. Counsel is arguing.

6 THE COURT: Sustained.

7 MS. COLLINS: Move to strike.

8 THE COURT: What are you asking / to strike?
9 There was not an answer.

10 MS. COLLINS: Move to strike the question, then.

11 THE COURT: Well, I will strike the question, but
12 the jurors know that is / not evidence. Only the
13 answers are evidence.

14 MS. COLLINS: Fine. Thank you.

15 THE COURT: I think this is a good time to advise
16 the jury that depositions are testimony / taken under
17 oath before trial. It has the same force and effect as
18 if the person was testifying on the witness stand.

19 Next question.

20 Q. BY MS. MILLER: You / don't remember how far
21 your tow truck was from the street when you looked to
22 your right?

23 MS. COLLINS: Objection. Asked and answered.

24 THE COURT: Overruled. You may answer. /

25 THE WITNESS: Well, that's in a space of
26 approximately six or seven feet.

1 Q. BY MS. MILLER: Is that really your testimony?

2 A. Yeah.

3 Q. The sidewalk is between six and seven feet? /

4 A. No. I am saying from the area I stopped. You
5 know, I stopped within that area there. It could have
6 been on the sidewalk. I / know it was before the
7 street.

8 Q. Okay. I previously asked you this in your
9 deposition. I will ask it again here. Can you
10 describe how / you looked to the right, whether it was
11 just a glance or whether it was something you really
12 paid attention to?

13 MS. COLLINS: I am going to / object as vague and
14 ambiguous.

15 THE COURT: Objection sustained.

16 Q. BY MS. MILLER: Can you describe or
17 characterize how you looked to the right?

18 A. I would have to say more than / a glance but
19 less than staring.

20 Q. You are covering all your bases, apparently.

21 A. You asked me a question. I gave you my honest
22 answer.

23 Q. I / am just trying to understand what you mean
24 by that.

25

26

1 A. Obviously, a glance is just a small
2 observation. I mean, staring is something longer. I /
3 don't know how to describe it. More than a glance.

4 Q. When you had more than a glance to your
5 immediate right, did you happen to / see Mr. Wilson on
6 a bicycle?

7 A. No.

8 Q. And how far could you see down that sidewalk
9 when you did more than a glance?

10 A. Maybe 20, / 30 feet.

11 Q. Okay. Thereafter, you did bring your tow
12 truck to a complete stop, correct?

13 A. That's correct.

14 Q. And why did you bring your vehicle to / a
15 stop?

16 A. So I could check for oncoming traffic.

17 Q. Did you observe traffic to your left?

18 A. Yes.

19 Q. How long did you stop?

20 A. Enough for the / cars to travel past.
21 Approximately four or five seconds.

22 Q. At any time during those seconds did you ever
23 look to your immediate right?

24 A. No.

25 Q. Did / you look to your left at all down the
26 sidewalk?

1 A. Well, if there was something coming down the
2 sidewalk, I would be able to see / it because I am
3 looking that way.

4 Q. Is it possible that you didn't see something
5 coming from the left because you are so focused on /
6 the traffic in the street?

7 A. No, it is not.

8 MS. COLLINS: Objection. Calls for speculation.

9 THE COURT: Objection sustained.

10 Q. BY MS. MILLER: At any point from the time
11 that you initially took / more than a glance until the
12 time that you began your right-hand turn, did you ever
13 look to the right?

14 MS. COLLINS: Objection. Asked and answered.

15 THE COURT: Overruled. /

16 THE WITNESS: No.

17 Q. BY MS. MILLER: Would it be accurate you
18 actually were making your right-hand turn without
19 looking to the right?

20 A. I wouldn't say that, no. I am not / going to
21 make a turn without looking.

22 Q. Were you looking straight ahead?

23 A. As I am starting to go, I am going to look to
24 the / right.

25

26

1 Q. Did you truly believe that it was safe to
2 initiate your right-hand turn even though you had
3 remained stopped for some time?

4 A. Yes.

5 Q. You / still believe, as you sit here today,
6 that it was safe?

7 MS. COLLINS: Objection. Irrelevant.

8 THE COURT: Objection sustained.

9 Q. BY MS. MILLER: So tell us what happened when
10 you began your right-hand / turn.

11 A. I traveled a short distance, and I heard a
12 thud against my vehicle.

13 Q. Approximately how far did you go?

14 A. Approximately eight feet. Maybe something /
15 like that.

16 Q. Was that before you heard that thud?

17 A. No.

18 Q. When you heard that thud, what did you do?

19 A. I immediately stopped my truck.

20 Q. Prior / to your stopping, was your foot on the
21 gas pedal or the brake?

22 A. I don't understand.

23 Q. Did you accelerate out of the driveway?

24 A. Yes.

25 Q. What / happened after you heard that thud?

26 A. Obviously, I stopped.

1 Q. What happened after that, Mr. Reed?

2 A. I immediately put the truck in park and exited
3 the / driver's side.

4 Q. What happened after you got out of your
5 vehicle?

6 A. I looked around to find out what that noise
7 was, and I didn't discover / anything on the driver's
8 side. I then walked around to the other side. That's
9 when I observed Mr. Wilson on the pavement.

10 Q. How far into / the actual roadway was your
11 truck at that point?

12 A. Actually, I was probably about ten feet.

13 Q. Were you kind of in shock when you saw / Mr.
14 Wilson?

15 A. Absolutely.

16 Q. And did you see your tire resting on top of
17 Mr. Wilson?

18 A. No, I did not.

19 Q. What did you observe?

20 A. I saw / my tire on what appeared to be his
21 jacket. It was not on top of him. It was on his
22 jacket.

23 Q. Can you describe for / us what you saw? Did
24 you see any blood?

25 A. Yes, I saw blood.

26 Q. Did Mr. Wilson appear to be injured?

1 MS. COLLINS: Objection. Lacks foundation.

2 THE COURT: Overruled.

3 THE WITNESS: Yes. /

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9 ******EACH EXAM VARIES. THE ACTUAL TEST GIVEN MAY BE***
10 ***SLIGHTLY DIFFERENT******
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