



Part II: Case File/Fact Pattern



American Board
of Trial Advocates



ROBIN GREEN vs. STACY WOOD

By

William S. Bailey
Fred C. Moss

(Version # 1, 10/2/2017)

ROBIN GREEN vs STACY WOOD

TABLE OF CONTENTS

Case Summary.....	2
Complaint	3
Answer	5
Special Trial Instructions and Stipulations	7
Deposition Summaries of Plaintiff’s Witnesses:	
Robin Green	8
Jamie Smith	11
Deposition Summaries of Defendant’s Witnesses:	
Stacy Wood	14
Madison Bell	18
Report of Edward Lopez.....	21
Exhibits	
Exhibit 1 – Original Police Report	24
Exhibit 2 – Original Police Intersection/Accident Diagram.....	27
Exhibit 3 – Police Photo of Right Front of Van.....	28
Exhibit 4 – Police Photo of Left Side of Van.....	29
Exhibit 5 – Plaintiff’s Panoramic Photo of the Intersection.....	30
Exhibit 6 – Plaintiff’s Photo of Man in the Crosswalk.....	31
Exhibit 7 – Diagram of the Intersection.....	32
Exhibit 8 – Wood’s Police Statement	33
Exhibit 9 – Green’s Police Statement.....	34
Exhibit 10 – Smith’s Police Statement	35
Exhibit 11 – Bell’s Police Statement	37
Jury Instructions	38
Jury Verdict Form	41

CASE SUMMARY

GREEN v. WOOD

This lawsuit arises from a pedestrian-vehicle collision. It is specifically designed to provide a vehicle for new litigators to gain basic training in case analysis, opening statements, direct and cross examination, closing arguments, and evidentiary issues.

Plaintiff Robin Green has alleged that while walking across a street in the crosswalk one rainy evening, Defendant Stacy Wood, who was driving Wood's employer's van and who was turning left, collided with Green, causing injuries that sent Green to the hospital. Both parties have alleged that the other was the sole negligent cause of the accident.

There are two other witnesses who were stopped in their vehicles at the intersection where the accident occurred. One will testify for the plaintiff, the other will testify for the defense.

The case is designed to be tried only on liability and not on damages.

The authors of this case file wish to thank Duane Hoffman of Hoffman Legal Design, Seattle, Washington, for his invaluable assistance.

Fred C. Moss, Dallas, Texas
William S. Bailey, Seattle, Washington
2017

IN THE CIRCUIT COURT OF
URBAN COUNTY, MAJOR
CIVIL DIVISION

ROBIN GREEN)	
)	CIVIL ACTION
Plaintiff,)	NO 01-13-6016
)	
v.)	
)	
STACY WOOD,)	
)	
Defendant.)	
<hr/>		

COMPLAINT

COMES NOW the Plaintiff and makes an amended claim for damages against defendant, Stacy Wood, stating in the following particulars:

I. PARTIES AND JURISDICTION

1.1 At all times material, plaintiff Robin Green resided at 1492 Columbus Circle, Springfield, Major.

1.2 At all times material, defendant Stacy Wood resided at 1048 Westside Drive, Metropolis, Major.

1.3 On or about December 22, YR-2, defendant Stacy Wood was operating a motor vehicle upon the public highways of Urban County.

II. LIABILITY

2.1 On or about December 22, YR-2, at approximately 7:00 p.m., Robin Green was a pedestrian in the south crosswalk at the intersection of State Road 2 and Main Street in Springfield, Urban County.

2.2 Defendant Stacy Wood was proceeding westbound on State Road 2, turning left onto Main Street. Defendant was negligent, and his negligence proximately caused a collision that inflicted injuries on Robin Green.

III. INJURIES

3.1 As a direct and proximate result of the negligence of defendant, Robin Green suffered substantial head, neck and back injuries requiring continuing medical care and treatment.

IV. DAMAGES

4.1 As a direct and proximate result of the negligence of defendant, plaintiff Robin Green has incurred medical expenses, loss of physical capacity, lost wages, and loss of earning capacity.

4.2 As a further result of said defendant's negligence, plaintiff Robin Green has suffered pain, anguish, disability, and loss of enjoyment of life.

V. PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment against defendant for damages in a reasonable sum to be proved at trial, taxable costs of this action, attorney's fees, and further relief as seems just and proper.

DATED this 28th day of July, YR-1.

CICERO and CATULLUS, PC

Anthony B. Cicero

ANTHONY B. CICERO
Attorney at Law

IN THE CIRCUIT COURT OF
URBAN COUNTY, MAJOR
CIVIL DIVISION

ROBIN GREEN,)	
)	CIVIL ACTION
Plaintiff,)	
)	NO. 1-13-6016
v.)	
)	
STACY WOOD,)	
)	
Defendant.)	
<hr/>		

ANSWER

Defendant STACY WOOD, in answer to Plaintiff's Complaint for Personal Injuries, hereby admits, denies and alleges as follows:

1. Answering paragraph 1.1, defendant is without sufficient information to admit or deny the allegations contained therein and, therefore, denies same.
2. Answering paragraph 1.2, defendant admits the allegations contained therein.
3. Answering paragraph 1.3, defendant admits the allegations contained therein.
4. Answering paragraph 2.1, defendant admits that Robin Green was a pedestrian. Defendant is without sufficient information to admit or deny the remaining allegations in paragraph 2.1 and, therefore, deny same.
5. Answering paragraph 2.2, defendant admits that Stacy Wood was proceeding westbound on State Road 2, turning left onto Main Street. Defendant denies the remaining allegations in paragraph 2.2.
6. Answering paragraph 3.1, defendants admit that plaintiff suffered some injury, but disputes the nature and extent of any claimed injury. Defendants deny the remaining allegations in paragraph 3.1.
7. Answering paragraph 4.1, defendant denies the allegations contained therein.
8. Answering paragraph 4.2, defendant denies the allegations contained therein.

AFFIRMATIVE DEFENSE

1. Plaintiff's damages may have been caused in whole or in part by the conduct of Robin Green and any damages must be denied completely or reduced accordingly.

2. Defendant was not negligent, observing all applicable traffic rules and regulations.

3. Defendants reserve the right to assert additional affirmative defenses as further discovery may warrant.

WHEREFORE, having answered Plaintiff's Complaint for Personal Injuries, defendant prays for the following relief:

1. That plaintiff's complaint be dismissed with prejudice.
2. For the award of reasonable attorneys' fees and costs, as allowed under the applicable court rules and statutes; and
3. For such other and further relief as this Court may deem equitable and just.

DATE: August 27, YR-1

GARCIA, WEIR & LESH, P.S.

By: Jerome Garcia

Jerome Garcia

Attorneys for Defendant

SPECIAL INSTRUCTIONS AND STIPULATIONS

Special Trial Instructions:

1. This trial will be on the issue of liability only. If there is a verdict in the Plaintiff's favor, a separate trial on damages will be held.
2. The laws of the State of Major govern this case. The applicable law is contained in the jury instructions set forth in this case file.
3. Major is a comparative negligence state. However, if plaintiff's negligence exceeds the defendant's the plaintiff recovers nothing. If the plaintiff's responsibility is fifty percent or less, the plaintiff's recovery is reduced by the percentage of the plaintiff's responsibility.
4. The date of the accident, December 22, YR-2, was a Tuesday.
5. The parties must call the following witnesses. They may not call either of the other side's witnesses to testify.
 - a. Plaintiff - Robin Green and Jamie Smith;
 - b. Defense – Stacy Wood and Madison Bell.
6. Each witness must acknowledge that the signatures on their deposition summary and written police statement are authentic.
7. The Major Rules of Evidence are identical to the Rules of Evidence of the state in which the program that is using this case file is located.
8. When dates are given, years are expressed as "YR-#." This means "the current year minus the given number of years." Thus, "YR-1" means last year; "YR-2" means two years ago. However, counsel and witnesses should use actual years rather than expressing the date as "YR-2," for example. If the trial is being held in 2017, then "YR-2" should be stated as "2015." If the trial is being held in 2018, then "YR-2" should be stated as "2016."

Both parties have agreed to the following stipulations:

1. There is no issue of jurisdiction, venue, service of process, or propriety of the parties.
2. The witnesses' deposition summaries are to be treated as authentic, verbatim testimony and are admissible to the extent that deposition testimony is admissible.
3. Edward Lopez is unavailable to testify; his report is admissible and may be read into evidence by either party.
4. Exhibit 1, the Police Report of the accident, is authentic. Its author, Officer Mary Cooper, is no longer with the Springfield Police Department and has moved to another state.
5. Exhibit 2, the Police Intersection/Accident Diagram, was prepared by Officer Mary Cooper and is admissible.
6. Exhibits 3 and 4, the photographs of the van, were taken by Officer Cooper and are admissible.
7. Exhibits 5 and 6, photos of the intersection at night, were taken by Plaintiff's attorney and are authentic.
8. Exhibits 8 – 11, the witnesses' written police statement, are authentic.
9. Neither party has an objection to the jury instructions or the jury verdict form.

DEPOSITION SUMMARY OF PLAINTIFF ROBIN GREEN

My name is Robin Green. My age is 35. I live at 1492 Columbus Circle here in Springfield. I've lived here all my life. I went to Springfield High, and then got a job at Big Box Warehouse after graduation, where I've worked ever since. I'm now a supervisor. My spouse, Jamie, and I have two kids, ages 5 and 7. Jamie works outside the home as the office manager for a small geotech engineering firm.

December 22, YR-2, was a Tuesday. The end of the year is always kind of nuts for me. The warehouse is super busy with customers stocking up for the holidays and we also start taking our annual inventory.

While on the way home for dinner, my car began to overheat. I could tell when I was stopped at a stop light. Smoke or steam was coming from under the hood. Fortunately, I was a half block from a Chevron station that was still open. I pulled in there and they said they could replace the belt, but the mechanic had to finish up changing a tire before he could get to it. The Chevron station is at the southeast corner of Route 2 and Main Street. I called Jamie to say that the family should go on and have dinner without me since I didn't know how long the repair would take. I decided to walk to McDonalds and grab a bite to eat. I had only a light lunch several hours earlier, and was very hungry. The McDonalds is a block south of Rt. 2 on the west side of Main.

Exhibit 7, the diagram of the intersection, is accurate, but does not show the Chevron station or the McDonalds.

I had my little dog Buster with me. My workplace is pet friendly and Buster hangs out in my office during the day. I decided to take him with me to McDonald's, since the mechanic would be working on my car. I got the leash and we went to the intersection.

It was raining – not hard, but light and steady. Of course, being close to 7:00 p.m., it was dark and the street lights were on. Unfortunately, I had forgotten to put both my umbrella and my hat in the car, so I was walking fairly briskly to avoid getting too wet. Exhibits 5 and 6 accurately depict the intersection, however, the pictures do not show the reduced visibility caused by the rain the night of the accident.

When Buster and I reached the intersection crosswalk, both the traffic light on Rt. 2 and my crosswalk signal were red. I pressed the button and only had to wait about a few seconds for it to turn green. I started to cross Main in the crosswalk, with Buster trailing behind me to the right.

I walked past a car that had come to a stop at the light. There was truck behind it, I think. Both were in the left-hand lane heading north on Main, headlights on. The right lane was empty.

1 Just before I got to the middle of the street, I glanced to my right to check for cars turning left
2 from Route 2 onto Main. I'm almost positive that no vehicles, and certainly not a white van,
3 were stopped in the left-turn lane westbound on Route 2.

4
5 When I got to the middle of the street, I was facing the crosswalk signal. It just had started
6 blinking red. A few step later, Buster stopped suddenly. I don't know why. I stopped briefly,
7 turned slightly to my right, tugged on the leash, and said, "Come on boy, let's move it." I know
8 that a witness has said that I bent down in the middle of the crosswalk, but that is simply not
9 true.

10
11 When I was partly turned to my right I could see a white van turning left off Route 2 headed
12 right at me. It was so close and going so fast that I couldn't do anything to get out of the way.
13 So I jumped up in the air, trying not to get run over. I prayed Buster wouldn't get hit too.

14
15 The van was going fast, at least 20 m.p.h. The van driver did not slow down or honk. There was
16 no tire skid sound.

17
18 The moment I jumped up, I was hit by the van on my right side. I still remember hearing the
19 "thump" I made, and being launched in the air. My last thought was that I would not survive. I
20 don't recall much after that until I was in the emergency room. I do remember trying to wiggle
21 my toes in the ambulance. I also worried about Buster. I learned later that he was okay, going
22 under the van, not hit.

23
24 Again, I'm almost certain that the van was not waiting to turn left down Main from Route 2
25 when I first reached the intersection and pushed the button. The first time I saw it was
26 immediately before it hit me. If I had seen it waiting to turn, I would have been more careful
27 when I reached the middle of Main. I know that, as a general rule in Springfield, if I have a
28 green or blinking red crosswalk signal, then traffic turning across my crosswalk will not have a
29 green arrow. They might get a solid green light at some point, but in that case, I have the right
30 of way. Turning cars without an arrow have to yield to pedestrians.

31
32 Yes, I was headed to McDonalds and it was down Main to my left. I intended to stay in the
33 crosswalk all the way across Main and then turn left when I reached the traffic island there. I
34 absolutely did not "cut the corner" and turn left toward the restaurant and leave the crosswalk
35 at any time before being hit. I stayed in the crosswalk and was there when the van hit me.

36
37 I was wearing dark pants and brown boots. My coat was navy blue. I had no hat on. I was
38 walking faster than a "stroll," probably a little faster than I normally walk because of the rain
39 and I had no umbrella. But Buster can't walk very fast, so this limited my progress.

40
41 I don't recall seeing eastbound vehicles on Route 2 stopped at the light at Main Street. I also
42 don't recall whether any eastbound vehicles on Route 2 went through the intersection. I was
43 focused on the car I passed in front of, the crosswalk signal and Buster.

1 I spent several days in the hospital. Not the way you want to spend Christmas with your family.
2 I suffered a deep gash behind my left ear, and, I'm told, a "closed head injury," a concussion,
3 when I hit the ground. The van hit my lower right back and pelvis. I was lucky I didn't get any
4 broken bones. I had lots of headaches and low back pain. I don't have headaches any more but
5 my mind still seems foggy at times. My spouse agrees that I am more forgetful and don't seem
6 to think as well as I used to. The doctors are hopeful that this will get better with time, but can't
7 give me any guarantees. My neck and back get sore too, particularly when I have to do a lot of
8 stooping or bending at work. I also have nightmares and flashbacks, with the van coming right
9 at me.

10
11 After I got out of the hospital and recuperated some at home, I went to the police station and
12 gave a written statement. Exhibit 9 is my statement.

13
14 =====
15 I have read the foregoing transcript of my deposition and find it is a true and
16 accurate representation of my testimony given on the 4th day of
17 December, YR-1.

18
19 Signed this 20th day of December, YR-1

20
21 Robin Green

22
23 Reported by: F. Crawford Moss

24 F. Crawford Moss, Certified Court Reporter

DEPOSITION SUMMARY OF JAMIE SMITH

My name is Jamie Smith. I am 32 years old, married and have two children, ages 8 and 4. I live with my family at 1243 Ridge Road here in Springfield. I have lived here all my life. I am a real estate agent for Hallie Ebbiday Real Estate, and have been for the last 7 years. I specialize in renting commercial space to businesses.

Around seven p.m. on December 22, two years ago, I was driving home from work north, really northeast, on Main Street here in Springfield in my GMC Yukon. It is a big SUV I had just bought new. I liked it because I can haul lots of real estate signs in the rear and I sit higher than in a car. I like the increased visibility.

That afternoon, Hallie, my boss threw an office Christmas party for all the salespersons and staff. It went from about 4:30 to 7:00 p.m. Snacks, hot hors d'oeuvres, and beer and wine were served. You know cheese and pate on crackers, hot stuffed mushrooms, and little roast beef sandwiches. Stuff like that. They were good. I attended for about an hour and a half before leaving for home. I drank two beers, I think, and ate several snacks. I was not feeling the effects of the beers at all when I left for home.

As I approached Route 2, the light was yellow so I stopped behind a small pickup truck. One of those little Japanese-made vehicles. We were both in the left lane. The pickup was the only vehicle in front of me, so I was second in line. I don't believe there were any vehicles to our right stopped at the light.

There was traffic on Rt. 2 in both directions. When my light turned red, the east and westbound traffic on Rt. 2 went through the intersection. After the eastbound traffic cleared the intersection, I first noticed the white van that hit the Plaintiff. The van had entered the intersection and was traveling through the middle of it when I first saw it. It had its left turn signal on and just cruised through the intersection turning left onto Main. I didn't see it stop at any time.

It was dark and rainy; not a hard rain, but light and steady. It immediately occurred to me that the van was going pretty fast given the fact it was turning in the rain, on wet pavement, it was dark, and there might be pedestrians in the area. The van was going about 25 m.p.h.; I think that 10 m.p.h. would be a safe speed. The van's speed told me that the van never came to a stop before turning left. I think it just cruised into the turn lane and kept on coming. It must have faced a solid green light. It would not have had a protected turn arrow since eastbound Rt. 2 traffic was going through the intersection just before I saw the van.

I've lived in Springfield all my life, so I am familiar with that intersection. I live only a mile or so away from it and travel through the intersection several times a week. I know how the traffic signals there work. I know that if cars going east on Rt. 2 have a green light, then cars in the westbound Rt. 2 left turn lane -- where the white van was coming from -- do not have a protected turn green arrow.

1 Before I saw the van, I first saw the pedestrian with the dog when I was slowing to stop at the
2 light. The pedestrian was approaching Main Street, headed from the southeast corner to the
3 southwest corner of the intersection, that is, right in front of me and the pickup. I don't recall
4 seeing the pedestrian push the crosswalk button or even break stride before entering the
5 crosswalk. I can't say what the pedestrian's crosswalk signal was doing when the pedestrian
6 entered the street. My head was turned the other way – toward the pedestrian. The
7 pedestrian was in the crosswalk while crossing in front of us. I saw Plaintiff and the dog clearly
8 in the pickup's headlights. The pedestrian was wearing dark clothing, and had no hat or
9 umbrella, despite the rain. The pedestrian was walking at about normal speed; not fast, not
10 slow. The dog had short legs, probably a bulldog, so it couldn't move too fast. I did not notice
11 any other pedestrians crossing Main in either direction on our side of Rt. 2 at the time.
12

13 Just before the van hit the pedestrian, I realized that the pedestrian did not see the van coming
14 because the pedestrian was facing west and the van was approaching sort of from behind the
15 pedestrian's right shoulder. The pedestrian was walking when hit. I didn't see the pedestrian
16 stop or bend down at any time. I'm 99% certain that the pedestrian and the dog were in the
17 crosswalk when hit. I saw the van driver start to brake about a half a car length before striking
18 the pedestrian and the dog. I didn't hear the van's brakes lock up and skid, probably because
19 the road was wet. The dog went under the van, but the pedestrian was hit and thrown past my
20 SUV, sideways in the air, back to me. The van was still moving but came to a stop about a half a
21 car length beyond my vehicle.
22

23 I got out of my SUV and ran around the back of the van. The pedestrian was on hands and
24 knees gasping for breath and bleeding from behind the left ear. I got the pedestrian to rollover
25 on his/her back. The pedestrian said his/her lower back hurt.
26

27 The driver got out of the van and walked to where the pedestrian and I were. The driver said
28 s/he was going to move the van, got back in the van and drove off. Somebody called 911 pretty
29 quick, because the ambulance pulled up in about 5 minutes, followed shortly by Springfield
30 police officer Cooper. The pedestrian had lapsed into unconsciousness by the time the EMTs
31 took Green away. The driver walked back to where I was and spoke to the police officer. I told
32 the officer what I saw and agreed to go to the station and give a written statement, which I did
33 about two days later. It is Exhibit 10, and it's a true and correct copy of my statement. That's
34 my signature on it.
35

36 That night, I didn't notice if any of the street lights near the intersection were malfunctioning.
37 A couple of days later, while stopped at the same light on the way home from my office again, I
38 noticed that the street light on Rt.2 just east of the intersection was flickering and somewhat
39 dim. I don't think that it impaired my seeing what I saw the night of the accident. The two
40 photos of the intersection at night, Exhibits 5 and 6, are pretty accurate except for the absence
41 of the wet streets and rain, and the traffic.
42

1 Yes. I did meet with Green's attorney a couple of times before testifying today. The lawyer just
2 wanted to know what I saw and to clarify a couple of things that he said were important. We
3 did rehearse some parts of my testimony, but, ultimately, I was told simply to tell the truth.
4
5
6
7
8
9
10
11

12 =====
13 I have read the foregoing transcript of my deposition and find it is a true and
14 accurate representation of my testimony given on the 3d day of November,
15 YR-1.
16

17 Signed this 1st day of December, YR-1
18

19 Jamie Smith
20

21 Reported by: F. Crawford Moss
22

F. Crawford Moss, Certified Court Reporter

Deposition Summary Of Defendant Stacy Wood

I am 25 years old and single. I live in the Viking Apartments, 1048 Westside Dr., Metropolis, Major. I never have been married. I grew up in Stevens Point, Wisconsin, a town of about 25,000. I have a diploma from Stevens Point High School. I got my license on my 16th birthday and have driven ever since. After I graduated from high school, I worked a number of jobs. I was a cashier and stocked shelves at the Walmart near Stevens Point. Not seeing any future for myself in my home town, I moved with my older sister to Durham, North Carolina when I was 19 years old. I got a job as a faucet tester and assembler at Chrome Flow Industries outside Durham. After about two years at that job, I moved on and did quality control and testing work for a bar code printer manufacturer for another two years at Shop Tech. I made some bad decisions, getting into drugs, first meth and then cocaine. But drug court gave me a second chance. The judge let me go into rehab and I straightened myself out. I have been clean and sober for the past year, getting my record expunged.

I went to work for Data Couriers 9 months ago. I saw their ad on Craigslist and applied. The salary was \$15.00 an hour to start, with health benefits. I always wanted to be a professional driver. I get bored easily and liked that I'd always be on the move.

I went in and interviewed for the job. They asked me about my driving record, but not about any criminal convictions. Besides, my only conviction had been expunged, and my lawyer said I didn't have to tell anyone about it anymore. I didn't say anything about my drug problems. I only had two traffic tickets, one for failure to yield the right of way from a fender bender accident and another for going 65 mph in a 50 mph zone. Both of these were while I lived in North Carolina. I am not sure of the exact dates, but one was probably when I was 20 and the other a few years after that. I paid a fine by mail both times.

I was not tested on my ability to drive a van when I interviewed with Data Couriers. I never actually had been behind the wheel of a van before, but figured I could do it no problem. They hired me that same day. The basic requirements of the job were to pick up and deliver small packages, freight and envelopes of documents from various locations on a scheduled route.

1 I had a one day training session at Data Couriers. Their safety guy showed us a
2 video about driving a van. It talked about how intersections are dangerous places
3 and a driver always needs to scan and stay alert for pedestrians and other cars. It
4 also said to try and avoid left turns if possible. The safety guy said these are more
5 likely to lead to collisions. He also said if we ever were in an accident, never to
6 admit fault.

7
8 The company had suggested pickup and drop off times on my route, but we were
9 not supposed to hurry if we got behind. I was driving my regular route on the
10 swing shift for Data Couriers on December 22. I start at 7:30 AM and work until
11 6:30 PM Monday through Friday. I was running about 20 minutes behind
12 schedule. Traffic was bad and I had to wait several times, when the pickup wasn't
13 ready yet. I was going to be late for a friend's dinner party, but I usually am
14 "fashionably late," so this was no problem. I wasn't hurrying.

15
16 I was not familiar with the route to the next stop when the accident happened.
17 But I had put the address into the Google Maps app on my cell phone prior to
18 leaving the last pickup. My cell was on the front passenger seat. I was not looking
19 at the screen, only listening to the audio directions.

20
21 I approached the stoplight to make a left turn at the intersection where the
22 accident happened. Exhibit 7 is an accurate diagram of the intersections and of
23 my left turn. The light was red so I stopped. When the green arrow turned on, I
24 started to turn left. I know that the arrow gives me a "protected" turn where
25 everybody else has red lights. The drizzle and pockets of darkness in the
26 intersection made me cautious. Exhibits 5 and 6 are pretty close to what the
27 intersection looks like at night, but the visibility was worse the night of the
28 accident due to the rain and the reflections of the street lights off the wet
29 pavement. Also, the backlight from the headlights of the cars waiting to turn
30 made it harder to see. I wasn't looking at my speedometer, but never got going
31 any faster than about 15 mph. As I said, the on-coming traffic was stopped so I
32 wasn't speeding through the turn to beat on-coming cars.

33
34 I am certain that my headlights showed that the crosswalk ahead of me was clear
35 when I started the turn. I was mostly through the turn when a pedestrian and dog
36 suddenly appeared in my path. I don't know where they came from. They
37 certainly were not in the crosswalk when I started the turn. There was no time to

1 stop before hitting them. I remember hitting the pedestrian on the right side of
2 the body toward the back.

3
4 I got out of my van and went over to the pedestrian on the pavement. The dog
5 was gone. Someone already had called 911, so I moved my van and called my
6 boss. When the police got there, I told them what happened. I did not see the
7 pedestrian and dog until they were right in front of me. I did not have time to
8 stop. I am quite certain that I had the green arrow before beginning the turn.
9 Exhibits 3 and 4 are accurate pictures of my van that night. Exhibit 8 is my police
10 statement, with my signature.

11
12 I was told after Christmas that I was fired from my job. I had one ticket 6 months
13 prior to this for failure to yield the right of way. I did not admit fault on this, but
14 can't remember the details. My lawyer took care of it. I don't know if I paid a fine.
15 I definitely didn't have to go to trial.

16
17 I had enough training to perform my job safely. I had to be on time, but they said
18 no package was worth an accident, so take your time. I was not speeding or taking
19 chances. I did not hit the pedestrian in the crosswalk.

20
21 I still have nightmares about this, waking up to the sound of that awful "thump."
22 I'm happy the pedestrian was not hurt any worse and, apparently, has fully
23 recovered. The dog was found unharmed and returned. But even though I feel
24 badly about what happened, it was not my fault. The pedestrian was not paying
25 attention, proven by the witness who saw that the pedestrian had stopped in the
26 middle of the street, turned around and bent down toward the dog. Certainly,
27 the accident was unfortunate --- for both of us! I lost a job I really liked because
28 of Plaintiff's inattention!

29
30 I have read the foregoing transcript of my deposition and find it is a true
31 and accurate representation of my testimony given on the 29th day of
32 December, YR-1.

33
34 Signed this 2nd day of January, YR-0

35
36 Stacy Wood
37

- 1 Reported by: *F. Crawford Moss*
- 2 F. Crawford Moss, Certified Court Reporter

Deposition of Madison Bell

My name is Madison Bell. I am 25 years old and single, currently living at my parents' house, 3355 Timberland Drive, Springfield. I moved back home 6 months ago after I broke up with my longtime boyfriend/girlfriend. I am tired of living in apartments and want to save up enough money for a down payment and buy a house.

I graduated from junior college with an AA degree in finance and got a job right away at the Mutual Bank here in Springfield. I am working as a teller now, but they are training me to become a home loan officer. I am taking some night classes to give me more background skills to advance my career at the bank.

I had to work late at the bank on the night of December 22, two years ago, doing prep work for end of the year reports. I was headed north toward home in my compact 2009 Toyota Tacoma pickup truck. It was around 7 PM. I stopped at intersection of Hwy 2 and Main St. Having spent all my life in Springfield, I know this intersection well. It is commercial district that is fairly bright at night. All the businesses and parking areas along the road have lighted signs. There are a number of light poles overhead on all sides. But the light is not uniform, with shadow pockets that make some places harder to see.

I could see that the light was red for northbound traffic as I approached the intersection, so I slowed to a stop. I had my phone out. A friend had texted me about getting together. I definitely wanted to meet up after putting in such a long day. I was responding about the details of when and where as I sat waiting for the light to change. There was some kind of SUV right behind me. its lights were a bit annoying, coming up over the bed of my truck, creating glare in my rear-view mirror.

This is a somewhat long light for northbound traffic. I knew it was going to take a bit, so I grabbed my cell from the seat and texted one of the friends that I'd just seen for dinner. We had been talking about going to a party that weekend. My attention went back and forth between the screen and the traffic light ahead. Something seemed wrong with the overhead light to my immediate right, like it was about to burn out. It was flickering and a bit dimmer than usual.

1 I don't think there was much traffic in any direction. It continued to rain lightly.
2 The streets were wet. My truck was about a foot or two back from the stop line.
3 After I had been there a little bit, I saw a guy off to my right walking toward me
4 with his dog. He was in some kind of dark jump suit, looked a bit like a bum. The
5 dog was squat and lower to the ground, a bulldog maybe. It was on a leash. Out of
6 the corner of my left eye, I could see the "Don't walk" sign was flashing red after
7 he entered the crosswalk.

8
9 It looked to me like his dog was going too slow for him, the guy was tugging a bit
10 on the leash. After he passed in front of my headlights, I saw the guy turn back
11 toward his dog, who looked like it had stopped. Then he bent down, like he
12 dropped the leash or something. It seemed like he had walked slightly to the left
13 and out of the crosswalk. I was still texting my friend while this was going on, so I
14 was not paying attention the whole time.

15
16 Then I had this instinct, like you get when something is about to go wrong. I
17 looked up and saw a beige delivery van making a left turn off Hwy 2, coming into
18 the lane next to me. I only saw it for a second or two, but am sure that it was not
19 speeding, going 10 to 15 miles an hour.

20
21 The pedestrian was standing at this point and seemed frozen in place. It all went
22 by so quickly. The van hit the pedestrian pretty much square on and he went
23 flying. I'm not sure what happened to the dog.

24
25 I pulled my emergency brake and jumped out of the car, going to where the guy
26 landed on the pavement. He was moaning and groaning, moving back and forth. I
27 was glad he was still alive. I called 911 right away. I knew they would come
28 quickly, as we were right in town. I stayed at the scene until the fire department
29 ambulance and the police got there. I told the police what had I seen. It was still
30 very fresh in my mind.

31
32 Exhibit 7, the diagram of the intersection, is accurate. Exhibits 5 and 6, the photos
33 of the intersection taken at some other time are pretty close to what the
34 intersection looked like, except it was raining that night. Exhibit 10 is a true copy
35 of the police statement I gave several days after the accident.

1 I met with the lawyer for the defendant prior to my deposition. I told him about a
2 lawsuit that had been filed against me last year by a person that I'd rear ended at
3 low speed. It really kind of bugged me. I didn't think the person had been hurt,
4 but they'd run up a bunch of chiropractor bills and claimed all kinds of pain and
5 suffering. My insurance company ended up settling it, raising my rates afterward.
6

7 I have read the foregoing transcript of my deposition and find it is a true
8 and accurate representation of my testimony given on the 23d day of
9 November, Yr-1.

10
11 Signed this 14th day of December, YR-1

12
13 Madison Bell
14

15 Reported by: F. Crawford Moss

16 F. Crawford Moss, Certified Court Reporter

REPORT OF EDWARD LOPEZ

I am Edward Lopez. I am a Traffic Control Engineer for the City of Springfield, State of Major. I am 40 years old and have been a Traffic Control Engineer for Springfield for 8 years. Before that I was an Assistant Traffic Control Engineer in Douglas, Major for 5 years, and then an Assistant Traffic Control Engineer in Springfield for 2 years. I have a junior college degree in mechanical engineering.

I have been asked to describe the operation of the traffic and pedestrian control signals at the intersection of Route 2 and Main Street in Springfield on December 23, YR-2. Traffic in each direction on Route 2 has a left turn lane – one for east-bound vehicles turning north on Main, and one for west-bound traffic turning south on Main. I am told that Wood's van was west-bound in this case, turning south onto Main when Green was hit.

The traffic control signals on Main and Route 2 are “dynamic,” with their operation adjusting to existing conditions. The traffic signals facing traffic on both Route 2 and Main have the standard progression of a solid green ball shifting to yellow and then red. This is modified by the Vehicle Detection Devices in Route 2's left turn lanes when a vehicle enters. If the left turning vehicle faces a red signal initially, a green turn arrow will be added to the mix in the next cycle. The turning vehicle then gets a “protected turn.” The crossing traffic on Main simultaneously gets a red light, as does the on-coming Route 2 traffic.

The left turning driver gets a warning near the end of the cycle, with the green arrow turning to yellow. The solid red “Don't Walk” signal tells pedestrians not to cross Main as long as the turn lane has a green or yellow arrow. Both the left-turning vehicles and through traffic headed in the same direction can go simultaneously if there are no vehicles in the opposite left turn lane.

The cross-walk signals are controlled by a button at the corner. Until pushed, the pedestrian signal remains solid red. If activated, the signal changes to green when the traffic light timing cycle permits. The green signal starts blinking red after a period of time and then turns solid red. When blinking red, pedestrians cannot enter the cross-walk. Those already in it the cross-walk must step up the pace, getting to the opposite corner before the signal turns solid red. No numerical count-down is displayed by the pedestrian signal as this happens.

If a pedestrian pushes the button to cross Main while the Route 2 traffic has a green light and no left turn arrow is illuminated, the pedestrian icon will not turn green until the system runs through another cycle. When through traffic on Route 2 gets a new green light, so will the pedestrians wanting to cross Main.

Both left turning vehicles on Route 2 and pedestrians crossing Main have to be alert to when the turn arrow disappears and the cross-walk signal turns green. At that point, left turning vehicles are controlled by the same solid green ball signal as through traffic. They can only turn left when it is safe to do so and must yield the right of way to pedestrians and oncoming traffic.

The timing of the pedestrian and vehicle signals is as follows:

1. The green light for through traffic in both directions on Route 2 stays illuminated for 25 seconds. Then the yellow light illuminates for 3 seconds. Then the light goes red for 21 seconds
2. The green light for through traffic in both directions on Main stays illuminated for only 20 seconds because it is less heavily traveled. The yellow light illuminates for 3 seconds, followed by the red signal for 26 seconds.
3. After the signals for traffic on Route 2 and Main turn red, there is a 1-second delay, with red traffic signals for all directions to allow traffic to clear the intersection.
4. The left turn arrow stays green for 5 seconds if only one vehicle is waiting to turn. It then turns yellow for 3.6 seconds before the arrow disappears. If any more vehicles either are in or enter the lane in the first 5 seconds of green, the arrow remains green for up to 15 seconds before changing to yellow.
5. When the left turn arrow disappears, oncoming traffic gets a green light, and turning vehicles are governed by the same green signal controlling through traffic.
6. When activated, the pedestrian cross-walk signal is green for 7 seconds, then blinks red for 15 seconds before turning solid red.

This intersection's traffic controls have a "conflict monitor." If the signals cause traffic or pedestrian movements that conflict (such as a left-turn arrow turns green while the oncoming traffic has a green light), all lights go to flashing red in order to stop all traffic. The conflict monitor was working on the day of the collision in this case and was not activated. Also, there are no reports that the traffic and pedestrian control signals were malfunctioning on the day of this accident.

However, a report from the "Streets" department of the city states that the street light at the S.E. corner of the intersection was in a "cycling mode." (This light is not shown on Exhibit X, the diagram of the intersection but is shown on the police diagram, Exhibit Y.) This means that the light was about to fail and was blinking on and off. When it blinked on, it would be somewhat dimmer than normal. These lights go into this mode so we know which ones need to be

replaced before they totally fail. This light extends over the eastbound lane of Route 2 like the other lights shown in the panorama picture of the intersection, Exhibit Z.

Respectfully submitted,

Edward Lopez

Edward Lopez

Traffic Control Engineer,

City of Springfield, Major

SPRINGFIELD POLICE DEPARTMENT – TRAFFIC ACCIDENT REPORT

[Incident # YR-218]

SECTION I - VEHICLE DATA

1. DRIVER'S NAME (Last, first, middle) Stacy Wood		2. DRIVER'S LICENSE NO./STATE/LIMITATIONS 075318642/Major/NA		3. DATE OF ACCIDENT 12-22-YR-2	
4a. DEPARTMENT/FEDERAL AGENCY PERMANENT OFFICE ADDRESS 1048 Westside Dr., Metropolis, Major, Apt. 23				4b. WORK TELEPHONE NUMBER (300) 760-2742	
5. TAG OR IDENTIFICATION NUMBER IOC-3667	6. EST. REPAIR COST \$ Unknown	7. YEAR OF VEHICLE YR-4	8. MAKE Ford	9. MODEL Econo Van	10. SEAT BELTS USED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
11. DESCRIBE VEHICLE DAMAGE Small dent, right front					

SECTION II - OTHER VEHICLE DATA (Use Section VIII if additional space is needed.)

12. DRIVER'S NAME (Last, first, middle) N/A		13. DRIVER'S LICENSE NUMBER/STATE/LIMITATIONS	
14a. DRIVER'S WORK ADDRESS		14b. WORK TELEPHONE NUMBER ()	
15a. DRIVER'S HOME ADDRESS		15b. HOME TELEPHONE NUMBER ()	
16. DESCRIBE VEHICLE DAMAGE		17. ESTIMATED REPAIR COST \$	
18. YEAR OF VEHICLE	19. MAKE OF VEHICLE	20. MODEL OF VEHICLE	21. TAG NUMBER AND STATE
22a. DRIVER'S INSURANCE COMPANY NAME AND ADDRESS		22b. POLICY NUMBER	
		22c. TELEPHONE NUMBER ()	
23. VEHICLE IS <input type="checkbox"/> CO-OWNED <input type="checkbox"/> RENTAL <input type="checkbox"/> LEASED <input checked="" type="checkbox"/> PRIVATELY OWNED		24a. OWNER'S NAME(S) (Last, first, middle) Data Couriers	
		24b. TELEPHONE NUMBER (800) 777-1234	
25. OWNER'S ADDRESS(ES) 234 Main Street, Springfield, Major			

SECTION III - KILLED OR INJURED (Use Section VIII if additional space is needed.)

26. NAME (Last, first, middle) Robin Green		27. SEX	28. DATE OF BIRTH 4-1-YR-35
29. ADDRESS 1492 Columbus Circle, Springfield, Major			
A 30. MARK "X" IN TWO APPROPRIATE BOXES <input type="checkbox"/> KILLED <input type="checkbox"/> DRIVER <input type="checkbox"/> PASSENGER <input checked="" type="checkbox"/> INJURED <input type="checkbox"/> HELPER <input checked="" type="checkbox"/> PEDESTRIAN		31. IN WHICH VEHICLE <input type="checkbox"/> FED <input type="checkbox"/> OTHER (2)	32. LOCATION IN VEHICLE
33. FIRST AID GIVEN BY Springfield F.D. EMT			
34. TRANSPORTED BY S.F.D. ambulance		35. TRANSPORTED TO Springfield Memorial Hospital	
36. NAME (Last, first, middle) N/A		37. SEX	38. DATE OF BIRTH
39. ADDRESS			
B 40. MARK "X" IN TWO APPROPRIATE BOXES <input type="checkbox"/> KILLED <input type="checkbox"/> DRIVER <input type="checkbox"/> PASSENGER <input type="checkbox"/> INJURED <input type="checkbox"/> HELPER <input type="checkbox"/> PEDESTRIAN		41. IN WHICH VEHICLE <input type="checkbox"/> FED <input type="checkbox"/> OTHER (2)	42. LOCATION IN VEHICLE
43. FIRST AID GIVEN BY			
44. TRANSPORTED BY		45. TRANSPORTED TO	

46. Pedestrian	a. NAME OF STREET OR HIGHWAY Main Street at Rt. 2	b. DIRECTION OF PEDESTRIAN (SW corner to NE corner, etc.) FROM SE corner TO SW corner	
	c. DESCRIBE WHAT PEDESTRIAN WAS DOING AT TIME OF ACCIDENT (Crossing intersection with signal, against signal, diagonally; in roadway playing, walking, hitchhiking, etc.) Walking with dog on leash in the crosswalk with the signal.		

SECTION IV - ACCIDENT TIME AND LOCATION (Use Section VIII if additional space is needed.)

47. DATE OF ACCIDENT
12/22/YR-2

48. PLACE OF ACCIDENT (Street address, city, state, ZIP Code; Nearest landmark; Distance nearest intersection; Kind of locality (industrial, business, residential, open country, etc.); Road description).

49. TIME OF ACCIDENT
AM
7:00 PM

south of intersection of Rt. 2 and Main St. on Main St

50. INDICATE ON THIS DIAGRAM HOW THE ACCIDENT HAPPENED

Use one of these outlines to sketch the scene. Write in street or highway names or numbers.

a. Number Federal vehicle as 1, other vehicle as 2, additional vehicle as 3 and show direction of travel with arrow.

Example:



b. Use solid line to show path before accident and broken line after the accident



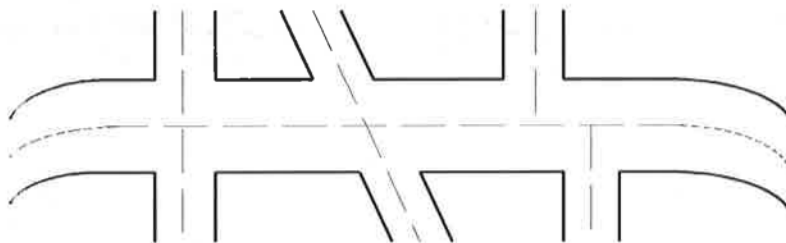
c. Show pedestrian by



d. Show railroad by



e. Place arrow in this circle to indicate NORTH

**51. POINT OF IMPACT** (Check one for each vehicle)

FED	2	AREA
		a. FRONT
x		b. R. FRONT
		c. L. FRONT
		d. REAR
		e. R. REAR
		f. L. REAR
		g. R. SIDE
		h. L. SIDE

52. DESCRIBE WHAT HAPPENED (Refer to vehicles "Fed", "2", "3", etc. Please include information on posted speed limit, approximate speed of the vehicles, road conditions, weather conditions, driver visibility, condition of accident vehicles, traffic controls (warning light, stop signal, etc.) condition of light (daylight, dusk, night, dawn, artificial light, etc.), and driver actions (making U-turn, passing, stopped in traffic, etc.).

See attached diagram.

It was after sundown. Streetlights on. Streetlight on Rt.2 south side just east of Main was cycling. Light rain falling; streets wet. Driver was making a left turn from the westbound left turn lane of Hwy 2. Vehicle struck a pedestrian in a the crosswalk that was walking from the southeast corner to the southwest corner of the intersection. Pedestrian was thrown 57 feet and came to rest in the southbound outside traffic lane of Main Street. Witness A said that there was traffic that was stopped in the eastbound lanes of Rt. 2, the signal turned green for the eastbound traffic which proceeded through the intersection. Witness A first observe the Vehicle within the intersection approx. 20-40 feet from the westbound left turn lane traveling about 25 mph, suggesting that the Vehicle could not have been stopped in the left turn lane as the driver states nor would have the green left turn arrow. (cont. below)

SECTION V - WITNESS/PASSENGER (Witness must fill out SF 94, Statement of Witness) (Continue in Section VIII.)

A	53. NAME (Last, first, middle) Jamie Smith	54. WORK TELEPHONE NUMBER (300) 745-6890	55. HOME TELEPHONE NUMBER (300) 435-1029
	56. BUSINESS ADDRESS Halley Ebbiday Real Estate, 27 DuPont Cir., Springfield		
B	58. NAME (Last, first, middle) Madison Bell	59. WORK TELEPHONE NUMBER (300) 745-8746	60. HOME TELEPHONE NUMBER (300) 435-2945
	61. BUSINESS ADDRESS Mutual Bank of Springfield, 1000 Shylock Way, Springfield		
62. HOME ADDRESS 3355 Timberland DR, Springfield			

SECTION VI - PROPERTY DAMAGE (Use Section VIII if additional space is needed.)

63a. NAME OF OWNER Data Couriers		63b. OFFICE TELEPHONE NUMBER (300) 777-1234	63c. HOME TELEPHONE NUMBER () N/A
63d. BUSINESS ADDRESS 234 Main Street, Springfield		63e. HOME ADDRESS N/A	
64a. NAME OF INSURANCE COMPANY unknown		64b. TELEPHONE NUMBER ()	64c. POLICY NUMBER
65. ITEM DAMAGED hood	66. LOCATION OF DAMAGED ITEM front of van		67. ESTIMATED COST \$??

SECTION VII - POLICE INFORMATION

68a. NAME OF POLICE OFFICER Mary Cooper		68b. BADGE NUMBER 714	68c. TELEPHONE NUMBER (300) 999-1111
69. PRECINCT OR HEADQUARTERS 2d District		70a. PERSON CHARGED WITH ACCIDENT Stacy Wood	70b. VIOLATION(S) 27-318 Fail to yield

SECTION VIII - EXTRA DETAILS

SPACE FOR DETAILED ANSWERS. INDICATE SECTION AND ITEM NUMBER FOR EACH ANSWER. IF MORE SPACE IS NEEDED, CONTINUE ITEMS ON PLAIN BOND PAPER.

Witness B said the pedestrian stopped in the crosswalk before being hit. Driver of Vehicle 1 stayed at scene, said doing only 10 mph and didn't see the pedestrian when made the turn. Driver claims to have had the turn arrow. All traffic and pedestrian controls working properly.

Driver cited for failing to yield to a pedestrian in the crosswalk.

SECTION XII - ATTACHMENTS

LIST ALL ATTACHMENTS TO THIS REPORT

See attached diagram

SECTION XIII - COMMENTS/APPROVALS

86. REVIEWING OFFICIAL'S COMMENTS

87. ACCIDENT INVESTIGATOR		88. ACCIDENT REVIEWING OFFICIAL	
a. SIGNATURE AND DATE		a. SIGNATURE AND DATE	
<i>Mary Cooper</i>	12/24/YR-2	<i>William Bailey</i>	12/27/YR-2
b. NAME (First, middle, last)		b. NAME (First, middle, last)	
Mary Cooper		William Bailey	
c. TITLE		c. TITLE	
Officer		Sgt.	
d. OFFICE		d. OFFICE	
Springfield P.D. - 2d Dist.		Springfield P.D. - 2d Dist.	
e. OFFICE TELEPHONE NUMBER		e. OFFICE TELEPHONE NUMBER	
(300) 999-1111		(300) 999-1111	

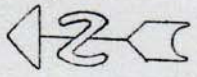
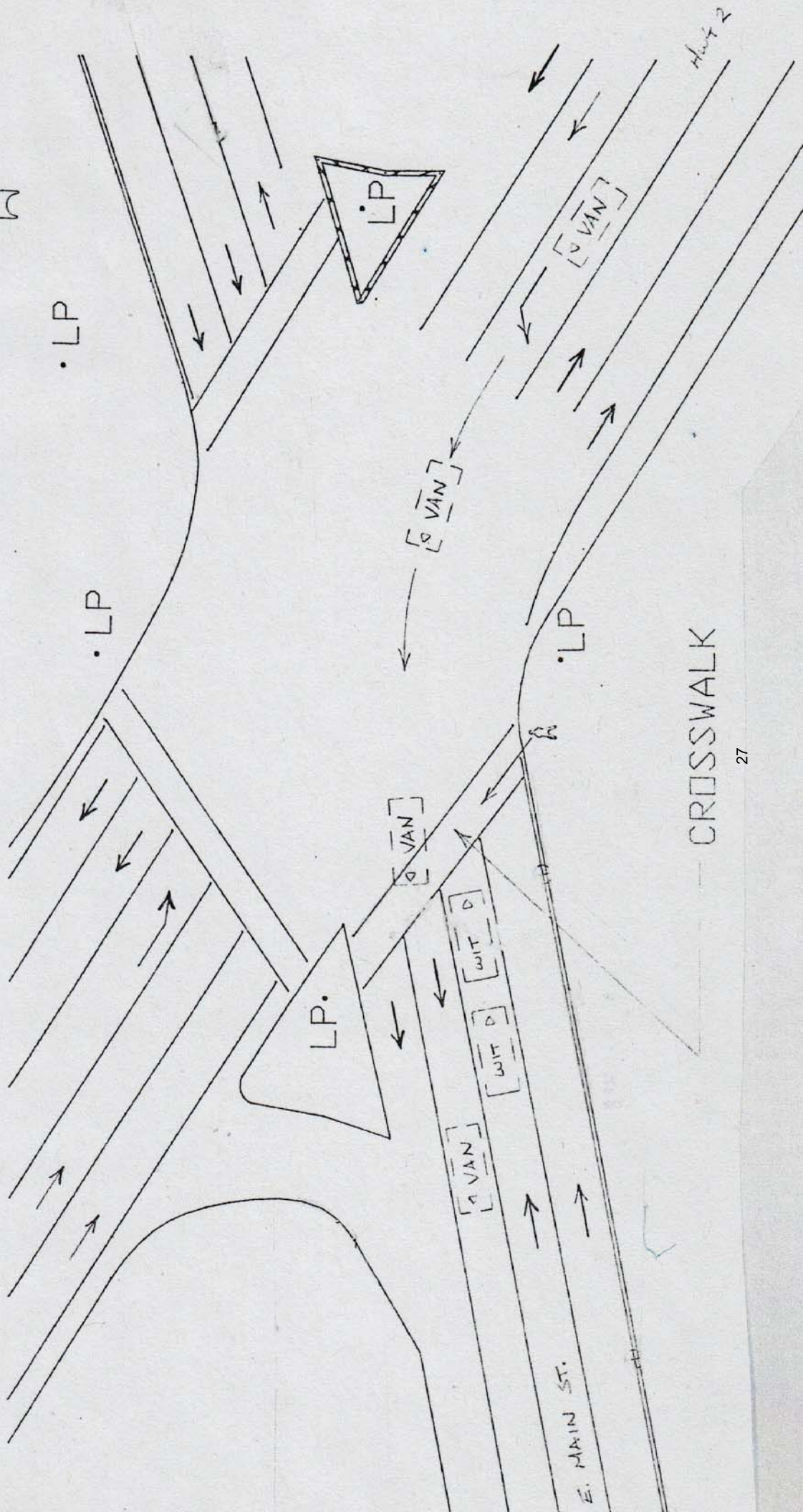


Exhibit 2

shot 2



CROSSWALK

Exhibit 3

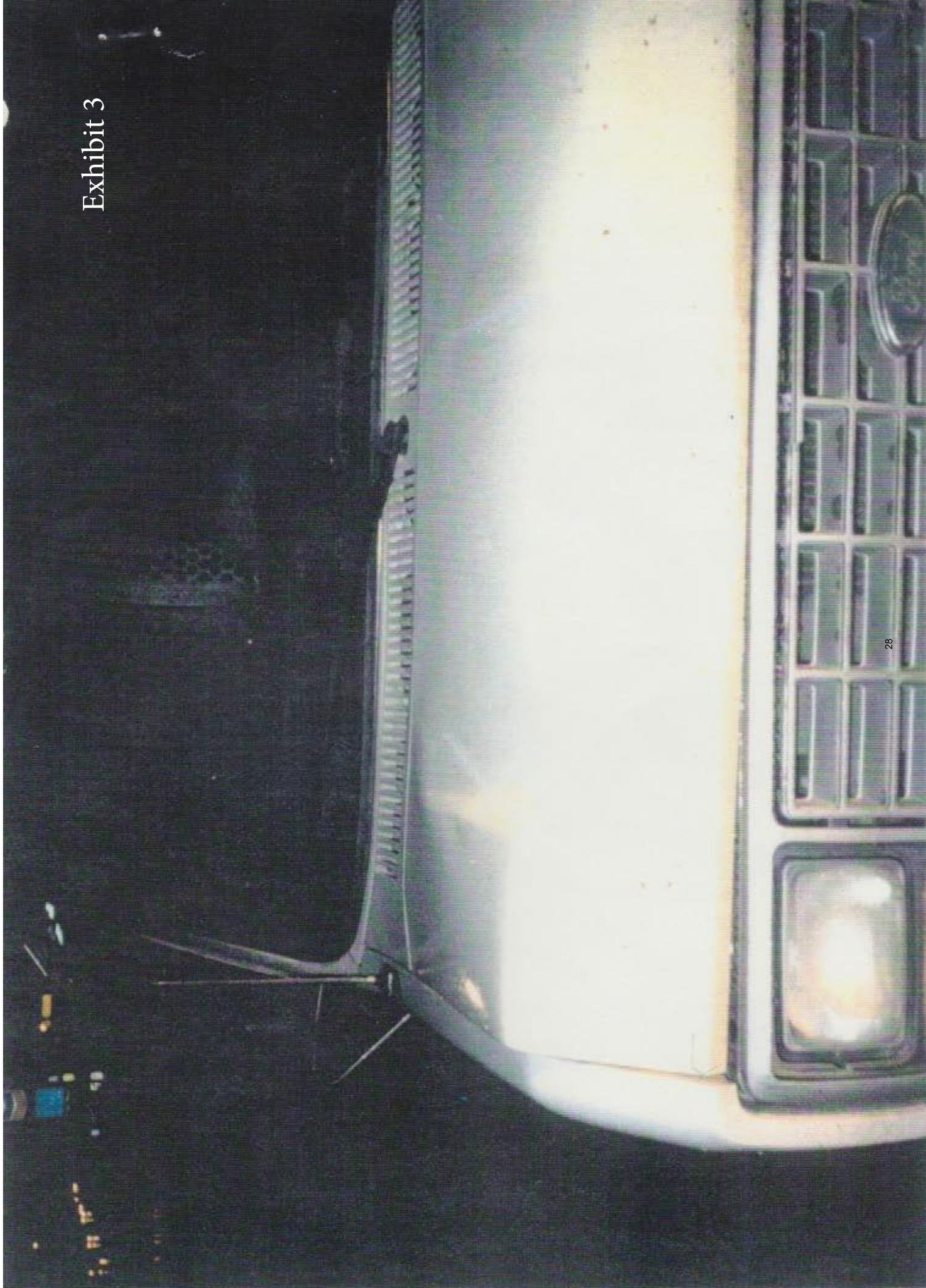
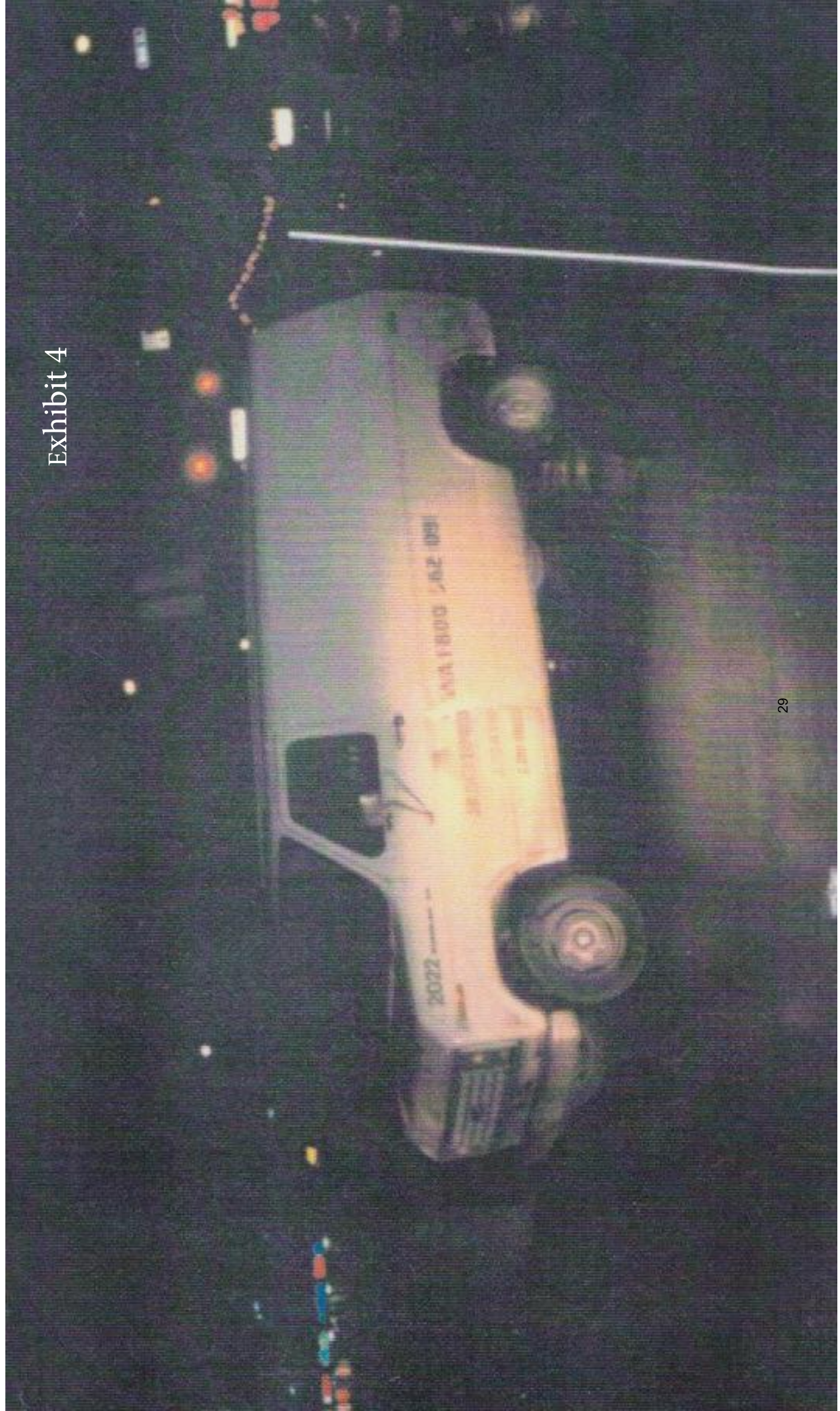
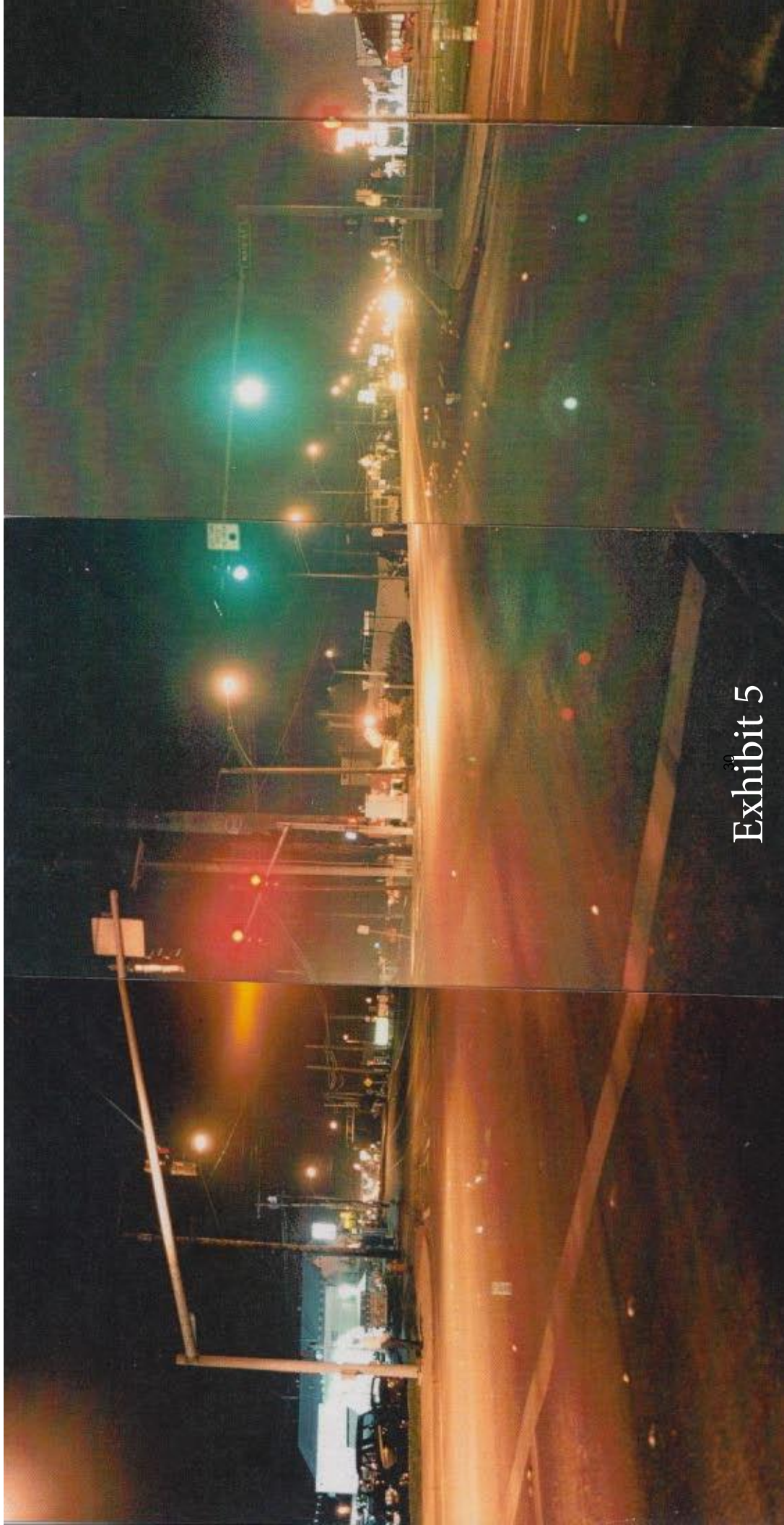


Exhibit 4





³⁰Exhibit 5



Exhibit 7

1 Data Couriers van makes left turn

2 Van strikes pedestrian

3 Pedestrian's body lands here

HWY 2

E. Main St.

Statement of: Stacy WoodRes. Address: 1048 Westside Drive, Metropolis, MajorDate of Birth: 3 / 14 / Yr.-25 Res. Phone: (300) 792-3690Bus. Phone (300) 777-1234 Ext. #: _____Date & Time statement taken: 12/ 23 / Yr.-2 at 7 : 15 ~~am~~/pm

=====

This Statement is being typed for Stacy Wood with his/her permission by Detective Richardson.

Yesterday, I was driving on Route 2 in my Data Courier van to my next pick up. It was about 7:00 p.m. It was raining. When I approached Main Street the light was red. I entered the left turn lane and came to a stop for less than 15 seconds before the left turn arrow turned green for me.

I started to turn and saw nobody walking in the crosswalk. As I swung around headed south on Main, the pedestrian just suddenly appeared out of nowhere in front of me. I was shocked. I tried to stop but the pedestrian was just too close and the street was wet so I hit him with the right front part of the van. I don't think I was going any more than 10 mph since I was just starting up from a complete stop. It was dark at that part of the intersection and the pedestrian had dark clothing on.

I came to a stop and got out of the van and went to the pedestrian, Green. Green was lying in the street and moaning. Another person had jumped out of a stopped SUV and was tending to Green. I got in my van and drove it into a parking lot nearby and walked back to where Green was to wait for the police.

Eventually, an Officer Cooper showed up and spoke to me and a couple of witnesses. The ambulance took Green to the hospital. Officer Cooper ticketed me for failure to yield even though I said Green was obviously walking against the light and crosswalk signal.

I, (print name) Stacy Wood, certify or declare under penalty of perjury under the laws of the State of Major that the foregoing is true and correct.

Signed: Stacy Wood Witness: Jon Richardson SPD

Statement of: Robin GreenRes. Address: 1492 Columbus Circle, SpringfieldDate of Birth: 4 / 1 / Yr - 35 Res. Phone: (300) 976-7149Bus. Phone (300) 749-8000 Ext. #: Date & Time statement taken: 1 / 17 / Yr-1 at 4 : 45 ~~am~~/pm

=====

This Statement is being typed with the permission of Robin Green by Detective Richardson, SPD.

I was walking from the southeast corner to the southwest corner of Route 2 and Main St. I had my dog on a leash. When I reached the southeast corner, the pedestrian light was solid red. I pushed the pedestrian signal button and shortly after that it turned green.

I walked somewhat briskly in the crosswalk across the northbound lane of Main and entered the southbound lane. The walk signal had just begun to blink red. When I got to the middle of the southbound lane I turned my head to the right and saw a van headed right at me. It was going so fast that I knew it was going to hit me, and it did.

Just as it hit me, I jumped up so I wouldn't go under the van and get run over. I didn't know then what happened to my dog, Buster, but I later learned that he went under the van and was not hurt. I don't remember anything after that until I was in the ER at the hospital.

I may have slowed or stopped just before getting hit. I think Buster stopped, probably to smell something on the street, but I did not bend down for any reason. I was still in the crosswalk. I didn't turn south and leave the crosswalk for any reason.

I can't tell you how fast the van was travelling, but it seemed be going pretty fast for the conditions. It was dark and rainy. It happened so quick, I didn't have a chance of avoiding getting hit. I don't specifically remember what the pedestrian signal was doing when I got hit. However, I'm almost certain that it would have been only blinking red at that point.

=====

I, (print name) Robin Green, certify or declare under penalty of perjury under the laws of the State of Major that the foregoing is true and correct.

Signed: Robin Green Witness: Det. J.H. Richardson

Statement of: Jamie SmithRes. Address: 1234 Ridge Road, Springfield, MajorDate of Birth: 4 / 1 / Yr- 32 Res. Phone: (300) 435-1029Bus. Phone (300) 745-6890 Ext. #: 5Date & Time statement taken: Dec. 27 at 4 : 30 ~~am~~/pm

=====

This Statement is being typed for Jamie Smith with his/her permission by Detective Richardson.

I was driving north on Main St. in my maroon and grey GMC Yukon. While slowing to stop at the red light at Route 2 I noticed a pedestrian with a dog in the gas station parking lot walking towards the S.E. corner of the intersection. I came to a stop. I was the second vehicle back from the light. We were in the left lane.

I noticed several cars in both lanes in the eastbound traffic lanes of Route 2. When the traffic light turned green, they proceeded straight through the intersection. Some cars headed west on Rt. 2 also went through the intersection.

I first noticed the white van right after these cars cleared the intersection. The van was in the intersection about two car lengths from the westbound left turn lane of Rt. 2. The white van was traveling about 15 mph when I first saw it. I was looking at the light from a side angle, rather than head on, but eastbound traffic had a green light.

The pedestrian with the dog was walking west in the crosswalk. I realized the van was going too fast to stop for them. The pedestrian did not realize the van was coming because s/he had stopped and was looking down at the dog and had his/her back to it. The van started to brake about a half a car length before hitting the pedestrian and the dog. I did not see or hear the van's brakes lock up in a skid. The van struck the pedestrian and the dog. The pedestrian was thrown past my stopped vehicle. The pedestrian was sideways in the air, back to me. The pedestrian landed on the left side. The van was still moving, but came to a stop about a half a car length behind my vehicle.

I got out of my truck and ran around the back of the van. The pedestrian was on hands and knees gasping for breath and bleeding from the head. I told the pedestrian to roll over and lay on the back, which s/he did. I asked where s/he was hurting and s/he replied the lower back and head which was bleeding like a "stuck hog." The head gash was over and slightly behind the left ear.

The driver of the van had gotten out and walked to where I was with the pedestrian. The driver said s/he was going to move the van and drove the van away. Then the driver came back shortly and waited with me for the ambulance and police. The EMTs arrived first, then a Springfield officer named Cooper showed up.

I did not see whether the pedestrian pushed the crosswalk button. It seemed to me that the pedestrian never broke stride before entering the intersection. As I was approaching the intersection, so was the pedestrian and dog. I could not say what the crossing signal for the pedestrian when s/he entered the crosswalk.

That is all I remember.

I, (print name) Jamie Smith, certify or declare under penalty of perjury under the laws of the State of Major that the foregoing is true and correct.

Signed: Jamie Smith Witness: J. H. Richardson

Statement of: Madison BellRes. Address: 3355 Timberland Drive, SpringfieldDate of Birth: 5/ 14 / Yr - 25 Res. Phone: (300) 435-2945Bus. Phone (300) 745-8746 Ext. #: 35Date & Time statement taken: 12/ 30 / YR - 2 at 12 : 15 ~~am~~/pm
=====

This Statement is being typed for Madison Bell with his/her permission by Detective Richardson.

I was driving my 8-year old Toyota Tacoma pickup north on Main Street when I stopped at the light at Route 2. I was in the left-hand lane, first in line with a large SUV behind me. I first saw the pedestrian who got hit when passing in front of my truck, walking a small dog on a leash.

While waiting for the light to turn green and before the accident, I don't recall seeing any traffic go through the intersection on Route 2.

The pedestrian stopped in the middle of the southbound lane of Main and then I saw a white or beige van in the middle of the intersection turning south from Route 2 onto Main. It was going about 10 mph but it was headed right toward the pedestrian who was only a few feet away from it at that point.

The van skidded and hit the pedestrian who was knocked 10-20 feet down Main, landing in the street.

I don't recall what the pedestrian signal was doing right at the time the pedestrian was hit.

I dialed 911 and reported the accident. The person in the SUV behind me was assisting the pedestrian who was on the ground.

I, (print name) Madison Bell, certify or declare under penalty of perjury under the laws of the State of Major that the foregoing is true and correct.

Signed: Madison Bell Witness: Det. Joh H. Richardson

GENERAL JURY INSTRUCTIONS

The following jury instructions state general principles applicable to the case, to be used at the discretion of the trial judge.

PART I PRELIMINARY INSTRUCTIONS

Instruction 01:01 -- Introduction

You have been selected as jurors and have taken an oath to well and truly try this cause. During periods when the Court takes a recess, you must not talk about this case among yourselves.

You should keep an open mind and reach no conclusion until you have heard all of the evidence, the arguments of counsel, and this Court's instructions.

Instruction 01:02 – Conduct of the Trial

The attorneys will have an opportunity to make opening statements. These are not evidence, only as a preview of what the attorneys expect the evidence will be.

Following the opening statements, witnesses will be called to testify. They will be placed under oath and questioned by the attorneys. Documents and other tangible exhibits may also be received as evidence.

It is counsel's right and duty to object when testimony or other evidence is being offered that he or she believes is not admissible.

When the Court sustains an objection to a question, the jurors must disregard the question and the answer, if one has been given. Jurors must also disregard evidence stricken from the record.

When the evidence is completed, the attorneys will make final statements. These final statements are not evidence. You may accept or reject them as you see fit.

PART II FINAL INSTRUCTIONS

Instruction 1:01 -- Introduction

Members of the jury, the evidence and arguments in this case have been completed. I will now instruct you as to the law.

It is your duty to follow all of these instructions, not singling out some and disregarding others.

Instruction 1:02 – Direct and Circumstantial Evidence

The law recognizes two kinds of evidence: direct and circumstantial. Direct evidence proves a fact directly. Circumstantial evidence raises an inference that a fact may be true, proving a fact indirectly.

The law makes no distinction between direct and circumstantial evidence. Each should be weighed and considered by you reaching your verdict.

Instruction 1:03 – Concluding Instruction

The Court does not by these instructions give its own opinions as to what has or has not been proven in the case.

Your own opinions about what the law ought to be should not govern your verdict, only the instructions of the Court.

Instruction 2:01 – Burden of Proof

The burden of proof on any issue means that you must be persuaded by the evidence that the issue is more probably true than not true.

Any findings of fact you make must be based on probabilities, not possibilities.

Instruction 3:01 – Claims of Parties

The plaintiff claims that the defendant was negligent because he/she was distracted, failing to yield the right of way to a pedestrian in a crosswalk, failing to keep a proper lookout, and drove at an excessive speed for conditions. The defendant denies these claims.

Defendant claims that the plaintiff was negligent in leaving the street corner, moving into the path of his/her vehicle when it was impossible for him/her to stop, and bending down while in the intersection making it impossible for the defendant to see him/her. The plaintiff denies these claims.

The defendant further denies the nature and extent of the claimed damages.

Instruction 3:02 – Burden of Proof

The plaintiff has the burden of proving each of the following propositions:

First, that the defendant acted, or failed to act, in one of the ways claimed by the plaintiff and was negligent;

Second, that the negligence of the defendant was a proximate cause of injury to plaintiff Robin Green;

Third, that the defendant's negligence caused plaintiff damages.

If the plaintiff proves each of these propositions, your verdict should be for the plaintiff and against the defendant. On the other hand, if any of these propositions has not been proved against the defendant, your verdict should be for the defendant.

Defendant Wood has the burden of proving both of the following propositions:

First, that the plaintiff Robin Green, acted, or failed to act, in one of the ways claimed by the defendant, and that in so acting or failing to act, was negligent;

Second, that the negligence of the plaintiff was a proximate cause of the plaintiff's damages and was therefore contributory negligence.

Instruction 3:03 -- Negligence

Negligence is the failure to exercise ordinary care. It is what a reasonably careful person would not do under the same or similar circumstances.

Ordinary care means the care a reasonably careful person would exercise under the same or similar circumstances.

Instruction 3:04 – Contributory Negligence

Contributory negligence is negligence on the part of the plaintiff which is a proximate cause of the injury complained of. If you find contributory negligence, you must determine the percentage of fault attributable to the plaintiff. The court will furnish you a special verdict form for this purpose. If you find that both the plaintiff and the defendant were negligent but that the plaintiff's negligence was less than 51% of the combined negligence of both parties, your answers will furnish the basis by which the court will reduce the amount of any damages you find to have been sustained by the plaintiff.

Instruction 3:05 – Statutory Violation

Any violation of a statute is not necessarily negligence, but may be considered by you as evidence in determining negligence.

Instruction 3:06 – Statute for Crosswalk Duty of Care

At the time of the occurrence, a statute provided as follows:

The driver of an approaching vehicle shall follow traffic control signals and yield to a pedestrian in a crosswalk.

A pedestrian crossing a roadway shall not suddenly enter a crosswalk into the path of a vehicle which is so close that the driver cannot yield safely.

Instruction 3:07 – General Duty of Care

Every person has a duty to see what would be seen by a person exercising ordinary care.

It is the duty of every person using a public street or highway whether a pedestrian or a driver to exercise ordinary care and avoid placing himself or herself or others in danger.

Every person using a public street or highway has the right to assume that others will use ordinary care and obey the rules of the road until he or she knows, or should know, to the contrary.

IN THE CIRCUIT COURT OF
URBAN COUNTY, MAJOR
CIVIL DIVISION

ROBIN GREEN,)	
)	
Plaintiff,)	CIVIL ACTION
)	NO 01-13-6016
v.)	
)	
)	VERDICT FORM
)	
STACY WOOD,)	
)	
Defendant,)	
)	

VERDICT

We, the jury, make the following answers to the questions submitted by the Court:

QUESTION NO. 1: Was the defendant, Stacy Wood, negligent as alleged by plaintiffs?
Answer "Yes" or "No."

ANSWER: Yes ____ No ____

If you answer Question No. 1 "No," sign and return this verdict. If you answer Question No. 1 "Yes," then answer Question No. 2.

QUESTION NO. 2: Was the negligence of the defendant, Stacy Wood, a proximate cause of injury or damage to Robin Green? Answer "Yes" or "No."

ANSWER: Yes ____ No ____

If you answer Question No. 2 "No," sign and return this verdict. If you answer Question No. 2 "Yes," then answer Question No. 3.

QUESTION NO. 3: Was the plaintiff Robin Green negligent as alleged by the defendant?
Answer "Yes" or "No."

ANSWER: Yes ____ No ____

If you answered "Yes," answer Question No. 4. If you answered "No," sign and return this verdict.

QUESTION NO. 4: Was the negligence on the part the plaintiff Robin Green the proximate cause of the damages or injuries to Robin Green? Answer "Yes" or "No."

ANSWER: Yes ____ No ____

If you answered "Yes," answer Question No. 5. If you answered "No," sign and return this verdict.

QUESTION NO. 5: Assume that 100 percent represents the total combined negligence which proximately caused Robin Green's damages. What percentage, if any, of this 100 percent is attributable to the Defendant Stacy Wood and to the Plaintiff Robin Green? (Your total must equal 100 percent.)

ANSWER:

PARTIES	PERCENTAGE
Plaintiff Robin Green	%
Defendant Stacy Wood	%
TOTAL	= 100%

Sign and return this verdict.

FOREPERSON'S SIGNATURE

DATE