

1 [REDACTED] * IN THE
 2 Plaintiff * CIRCUIT COURT
 3 vs. * FOR
 4 JOHN DOE, et al. * BALTIMORE CITY
 5 Defendants * CASE NO.: 24-C-04-002782

6 * * * * *

7 The deposition of DENNIS MILLER was held on
 8 Friday, January 7, 2005, commencing at 4:05 p.m., at
 9 the Law Offices of Franklin & Prokopik, Two North
 10 Charles Street, Suite 600, Baltimore, Maryland 21201,
 11 before Janet A. Colman, Notary Public.

12 * * * * *

13
 14
 15
 16
 17
 18
 19
 20

21 REPORTED BY: Janet A. Colman

Page 2

1 APPEARANCES:
 2 LAURA ZOIS, ESQUIRE
 On behalf of Plaintiff
 3
 4 MICHAEL F. NERONE, ESQUIRE
 On behalf of Defendants Dennis Miller
 and A & R Transport, Inc.
 5
 6 ANDREW T. STEPHENSON, ESQUIRE
 On behalf of Defendants Dennis Miller
 and A & R Transport, Inc.
 7
 8 JOHN P. RUFÉ, ESQUIRE
 On behalf of Defendant
 Industrial Refrigeration Services, Inc.
 9
 10 ALSO PRESENT: ██████████
 11 Don Page
 Senior Liability Adjuster
 Great West Casualty Company
 12 Mike Tallaksen, CDS
 13 Vice President Safety & Compliance
 A & R Transport, Inc.
 14
 15
 16
 17
 18
 19
 20
 21

Page 3

1 PROCEEDINGS
 2 -----
 3 MR. NERONE: I just wanted to clarify a
 4 couple of things. There were some typographical errors
 5 in our written Discovery Responses, specifically, our
 6 Answers to the Interrogatories directed to Mr. Miller.
 7 Interrogatory Number 5, there's a reference
 8 to Washington, D.C. in our Answer that should be to
 9 Baltimore, Maryland. And Interrogatory Number 11 --
 10 MS. ZOIS: Let me catch up with you.
 11 MR. NERONE: Okay.
 12 MS. ZOIS: It's not A & R Transfer Inc.'s
 13 Answers, it's actually Dennis Miller's Answers?
 14 MR. NERONE: Correct.
 15 MS. ZOIS: Okay. Let me get to where you
 16 were.
 17 MR. NERONE: Dennis gave us the correct
 18 information, but it was never -- the original draft was
 19 never properly corrected.
 20 MS. ZOIS: Your lawyer screwed up.
 21 MR. NERONE: Yeah. That's right. So

Page 4

1 Number 5, Washington, D.C. should be Baltimore,
 2 Maryland, which I think is probably self-evident.
 3 MS. ZOIS: I have Baltimore, Maryland.
 4 MR. STEPHENSON: I think we made these
 5 changes before --
 6 MR. NERONE: Okay. Well, then, we didn't
 7 screw up.
 8 MS. ZOIS: I have Baltimore.
 9 MR. NERONE: That's easy. Turn to
 10 Number 11 then. Does it say '86 or '96? After the
 11 objection.
 12 MS. ZOIS: I got bupkus. You didn't tell
 13 me about that one.
 14 MR. NERONE: Okay. In any event, I
 15 apologize. Moving right along, I don't know if these
 16 were produced to you or not (indicating)?
 17 MS. ZOIS: I did get these. These I did
 18 get.
 19 MR. NERONE: With that out of the way, we
 20 can proceed.
 21 -----

Page 5

1 Whereupon,
 2 DENNIS MILLER,
 3 called as a witness, having been first duly sworn to
 4 tell the truth, the whole truth, and nothing but the
 5 truth, was examined and testified as follows:
 6 EXAMINATION BY MS. ZOIS:
 7 Q Good afternoon, Mr. Miller. How are you?
 8 A Good.
 9 Q As you know, I am Plaintiff's counsel for
 10 ██████████ My name is Laura Zois. You had the
 11 opportunity to sit through her deposition; is that
 12 correct?
 13 A Yes.
 14 Q I just want to make sure that you
 15 understand the deposition process before I start to ask
 16 you questions. Okay?
 17 A (Nodding head.)
 18 Okay.
 19 Q Okay. One of the first rules is you
 20 actually have to respond to all my questions verbally.
 21 You can't shake your head yes or no. You actually have

2 (Pages 2 to 5)

<p style="text-align: right;">Page 6</p> <p>1 to say yes or no. And as you probably learned from the 2 first deposition, you also will be reprimanded if you 3 sigh uh-huh or unh-unh by your attorney or myself. 4 A Hit with the pen. Okay. 5 Q And it won't be me, I assure you. 6 If at any time during your deposition I ask 7 you a question you do not understand, I want you to let 8 me know. Okay? 9 A Yes. 10 Q Otherwise, I'm going to assume you heard 11 the question, understood the question, and were 12 answering my question. So please don't hesitate to 13 tell me if you don't understand anything I ask you. 14 Okay? 15 A Okay. 16 Q We're here about an automobile accident 17 case. I'm going to be asking you some questions about 18 times, speeds, and distances. I'm not -- I know you 19 weren't out there with a tape measure on the day of the 20 accident. 21 I am entitled to what's called your best</p>	<p style="text-align: right;">Page 7</p> <p>1 estimate. Okay? I don't want you to guess at 2 anything, but if I ask you for a distance, I'm entitled 3 to your best estimate. Do you understand that? 4 A Yes. 5 MR. NERONE: If he can provide one. 6 MS. ZOIS: Correct. 7 Q Which would be your best estimate. Do you 8 understand that? 9 A Yes. 10 Q If at any time during the deposition you 11 want to take a break, just let me know. That's fine, 12 just as long as there isn't a question pending to you. 13 Okay? 14 A Okay. 15 Q Do you understand that your testimony here 16 today is just as if you were testifying in front of a 17 judge or a jury? 18 A Yes. 19 Q Can we begin with your full name, please? 20 A Dennis Eugene Miller. 21 Q And your current address?</p>
<p style="text-align: right;">Page 8</p> <p>1 A 6579 Route 225, Elizabethville, 2 Pennsylvania 17023. 3 Q How long have you lived at that address? 4 A I'm trying to think now. I moved in June 5 of '03. 6 Q So you moved to this address in June of 7 '03? 8 A Yes. 9 Q What was your address before June of '03? 10 A Oh, gee. Memory on that -- I lived down 11 in -- I had a Dover, Pennsylvania address. I can't 12 recall the street exactly. 13 Q I might be able to help you out. Was it 14 2739 Jenna (phonetic) Circle? 15 A Jenna Circle, yeah. 16 Q Jenna Circle. How long did you live at the 17 Jenna Circle, PA address? 18 A If I recall right, we moved in there about 19 '89. No. No. Wait a second. It couldn't have been 20 that. I'm sorry. I just -- my memory in that area 21 is --</p>	<p style="text-align: right;">Page 9</p> <p>1 Q That's okay. 2 A -- terrible. 3 Q Do you think you lived at that address for 4 some period of time -- 5 A Yes, we did. 6 Q -- longer than ten years? 7 A Yeah. It was longer than ten years. 8 Q Okay. And you were living at that address 9 on the date of this accident, July 3rd, 2001? 10 A Yes. 11 Q And then in June of '03, you moved to your 12 new address in -- is it Elsbeth? 13 A Elizabethville. 14 Q Elizabethville, Pennsylvania? 15 A Yes. 16 Q Okay. Your Social Security number? 17 A 179-44-8181. 18 Q And your date of birth? 19 A 4/18/57. 20 Q What type of driver's license do you carry? 21 A Class A.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q Is that a CDL?</p> <p>2 A Yes.</p> <p>3 Q When did you first obtain a CDL license?</p> <p>4 A When I had to. I don't know what the State</p> <p>5 law was. I've been driving for quite some time.</p> <p>6 Q About how long have you been driving?</p> <p>7 A Approximately 29 years.</p> <p>8 Q Have you carried the CDL license for those</p> <p>9 29 years?</p> <p>10 A In the beginning, I don't believe they had</p> <p>11 CDL. It's when it came time for you to get it, I had</p> <p>12 to get it or not drive.</p> <p>13 Q Okay. Is it fair to say that as soon as</p> <p>14 they said, if you want to drive a truck, you have to</p> <p>15 have a CDL, you got one?</p> <p>16 A I complied with the law.</p> <p>17 Q Okay. And at the time of this accident</p> <p>18 back in July of 2001, you were employed with A & R</p> <p>19 Transport, Inc.; is that correct?</p> <p>20 A That's correct.</p> <p>21 Q When did you first become an employee of</p>	<p style="text-align: right;">Page 11</p> <p>1 A & R Transport, Inc.?</p> <p>2 A I believe it was August of 2000.</p> <p>3 Q Who did you work for before that?</p> <p>4 A Let's see --</p> <p>5 MR. NERONE: Just to save time. I think</p> <p>6 we've produced a copy of his employment app. There's a</p> <p>7 whole lot of prior employers, and maybe you could show</p> <p>8 it to him and he could just verify that it's accurate.</p> <p>9 MS. ZOIS: Okay.</p> <p>10 THE WITNESS: There's a whole lot.</p> <p>11 MS. ZOIS: I'll look for that. I'll keep</p> <p>12 going, so we don't waste any time.</p> <p>13 Q When you began your employment in August of</p> <p>14 2000 with A & R Transport, Inc., give me your job</p> <p>15 description.</p> <p>16 A My job is quite involved. The</p> <p>17 transportation -- how should I say -- I got to start.</p> <p>18 The preparation for loading and -- loading,</p> <p>19 transportation, and unloading of plastic from a</p> <p>20 pneumatic tank.</p> <p>21 Q Is the pneumatic tank that you pick up from</p>
<p style="text-align: right;">Page 12</p> <p>1 in the same place all the time?</p> <p>2 A My terminal is in Philly, if that's what</p> <p>3 you're asking.</p> <p>4 Q Yes.</p> <p>5 A Yes.</p> <p>6 Q So the terminal where you pick up your</p> <p>7 product is in Philadelphia?</p> <p>8 A Yes. True.</p> <p>9 Q And when you would pick up the product from</p> <p>10 Philadelphia, you would drive it to various different</p> <p>11 places?</p> <p>12 A Yes.</p> <p>13 Q All right. What's the extent of your</p> <p>14 territory, if you will? East Coast? West Coast? How</p> <p>15 far do you drive?</p> <p>16 A I was classified more or less local. I</p> <p>17 didn't go that far. Couple hundred miles out maybe and</p> <p>18 back.</p> <p>19 Q And the couple hundred miles would take you</p> <p>20 into Maryland?</p> <p>21 A Yeah, it would take me into Maryland.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q Are you still driving into Maryland?</p> <p>2 A Yes.</p> <p>3 Q All right. Back on the date of this</p> <p>4 accident, July 3rd, 2001, can you remember what time</p> <p>5 you picked up, if at all, your product in Philadelphia?</p> <p>6 A That was picked up the day before.</p> <p>7 Q And your counsel has been so kind as to</p> <p>8 provide you with your -- it looks like your log. And</p> <p>9 you can -- please, I need you to help me explain what</p> <p>10 these tell me, anyway. So if those help you, can you</p> <p>11 explain to me when you picked up the product in</p> <p>12 Philadelphia?</p> <p>13 A Picked up the -- well, the product -- to be</p> <p>14 correct, the product was not picked up in Philadelphia.</p> <p>15 It was picked up in Chester, PA at a loading site.</p> <p>16 Q When did you pick up the product in</p> <p>17 Chester, PA?</p> <p>18 A (Looking at document.)</p> <p>19 It says 5:30 p.m. on the 2nd.</p> <p>20 Q So the evening before, you went to Chester,</p> <p>21 PA to pick up the product, correct?</p>

4 (Pages 10 to 13)

<p style="text-align: right;">Page 14</p> <p>1 A Yes.</p> <p>2 Q And you picked it up. Where did you head</p> <p>3 from there?</p> <p>4 A I went to Frederick, Maryland.</p> <p>5 Q Did you drop the product off in Frederick?</p> <p>6 A Not that night.</p> <p>7 Q Okay.</p> <p>8 A I went to sleep there.</p> <p>9 Q Okay. So you spent the night in Frederick?</p> <p>10 A Yes.</p> <p>11 Q Where was your ultimate destination with</p> <p>12 the product?</p> <p>13 A Frederick, Maryland.</p> <p>14 Q Okay. So the next day you dropped the</p> <p>15 product off in Frederick?</p> <p>16 A That is correct.</p> <p>17 Q Do you know what time you dropped the</p> <p>18 product off in Frederick?</p> <p>19 A 8:00 a.m.</p> <p>20 Q And is that what time you arrived in</p> <p>21 Frederick, or is that what time you completed the</p>	<p style="text-align: right;">Page 15</p> <p>1 dropoff?</p> <p>2 A I told you I arrived the night before in</p> <p>3 Frederick at 8:30 p.m.</p> <p>4 Q Right. That wasn't my question exactly,</p> <p>5 but we'll --</p> <p>6 A I'm sorry.</p> <p>7 Q That's okay. We'll stay together. Don't</p> <p>8 worry. In the morning of the 3rd, you dropped the</p> <p>9 product off, correct?</p> <p>10 A Unloaded, yes.</p> <p>11 Q Unloaded. Okay. You said you unloaded at</p> <p>12 8:00 a.m.; is that correct?</p> <p>13 A Started the process.</p> <p>14 Q That was what I was wondering. So you</p> <p>15 started the unloading process at Frederick at 8:00 a.m.</p> <p>16 Do you know what time you left Frederick?</p> <p>17 A At quarter of 9:00, which would be</p> <p>18 8:45 a.m.</p> <p>19 Q So you're back on the road at 8:45,</p> <p>20 correct?</p> <p>21 A Yes.</p>
<p style="text-align: right;">Page 16</p> <p>1 Q Where were you heading when you left</p> <p>2 Frederick?</p> <p>3 A For Philadelphia terminal.</p> <p>4 Q Back to your starting place?</p> <p>5 A Yeah.</p> <p>6 Q Did you have any expected time of arrival</p> <p>7 back in Philadelphia?</p> <p>8 A No.</p> <p>9 Q When you left Frederick at 8:45 a.m., what</p> <p>10 route did you take up until the point where this</p> <p>11 accident happened?</p> <p>12 A You have to come out of Frederick. And I</p> <p>13 proceeded south on 15 to Interstate 70 East.</p> <p>14 Q And did you get off at 70 East to 695?</p> <p>15 A 695 was jammed up northbound because of</p> <p>16 construction.</p> <p>17 Q Okay.</p> <p>18 A So I know my way around a little bit. I</p> <p>19 went south on 695 to 95.</p> <p>20 Q So you went the lower loop instead of the</p> <p>21 upper loop?</p>	<p style="text-align: right;">Page 17</p> <p>1 A I just took that and then connected onto</p> <p>2 95 North.</p> <p>3 Q Okay. So you got onto 95 North at its</p> <p>4 intersection with 695?</p> <p>5 A That is correct.</p> <p>6 Q Okay. When you got onto 95 North, how far</p> <p>7 did you travel before the accident happened?</p> <p>8 A I can't -- I can only approximate.</p> <p>9 Q That's all I can ask you to do.</p> <p>10 A I don't know. It's only a couple miles up</p> <p>11 there.</p> <p>12 Q Okay. During your time on 95 before the</p> <p>13 accident happened, can you describe the traffic</p> <p>14 conditions for me?</p> <p>15 A Traffic was fairly heavy.</p> <p>16 Q Define for me what you mean by "heavy".</p> <p>17 A It's moving.</p> <p>18 Q Can you estimate the speed of the flow of</p> <p>19 traffic for me?</p> <p>20 A I was moving with traffic approximately 50.</p> <p>21 Q All right. And how many lanes are there</p>

5 (Pages 14 to 17)


<p style="text-align: right;">Page 18</p> <p>1 heading northbound on 95 in the direction you were 2 traveling?</p> <p>3 A Four.</p> <p>4 Q Which lane were you in when you got onto 95 5 off of 695?</p> <p>6 A Second from the left.</p> <p>7 Q Okay. Let's call the far left-hand lane -- 8 just so we know we're on the same page -- the far 9 left-hand lane, Lane 1 and the far right-hand Lane 4. 10 Are you with me?</p> <p>11 A Okay.</p> <p>12 Q So 1, 2, 3, 4. So which lane were you in?</p> <p>13 A Two.</p> <p>14 Q So you were in -- okay. Got you. So when 15 you got onto 95 from 695, you got into the second lane.</p> <p>16 A When I got off of what?</p> <p>17 Q 695.</p> <p>18 A Onto 95.</p> <p>19 Q Correct.</p> <p>20 A Yes. Okay.</p> <p>21 Q So you're traveling along in Lane Number 2;</p>	<p style="text-align: right;">Page 19</p> <p>1 is that correct?</p> <p>2 A Yes.</p> <p>3 Q At any point before the accident, did you 4 change lanes?</p> <p>5 A No.</p> <p>6 Q All right. As you approached the area 7 where the accident happened, do you know what the 8 nearest exit is?</p> <p>9 A There -- it's a bad area. There's an 10 on ramp comes up and the off-ramp for 395. That's why 11 I was in the lane I was in.</p> <p>12 Q That's why you were in Lane Number 2?</p> <p>13 A I o stay out of that mess. Trucks are not 14 allowed in the far left lane in any big city. You will 15 get a stiff fine for that.</p> <p>16 Q Do you know what the intersection number 17 was or the exit number?</p> <p>18 A I don't go by numbers. I go by routes.</p> <p>19 Q And you believe the nearest exit where the 20 accident happened was the exit for 395?</p> <p>21 A That was up ahead of us. And right here</p>
<p style="text-align: right;">Page 20</p> <p>1 immediately came on an on-ramp.</p> <p>2 Q Okay. So I can just make sure I understand 3 what you were saying.</p> <p>4 You were in an area where there was an 5 on-ramp and the next exit up ahead was the exit for 6 395; is that accurate?</p> <p>7 A Yes.</p> <p>8 Q Okay. Great. As you're traveling along in 9 Lane Number 2, what type of vehicle are you in?</p> <p>10 A I'm in a '95 Freightliner pulling a bulk 11 tank. I'm an empty tractor-trailer.</p> <p>12 Q And you have no load?</p> <p>13 A No load.</p> <p>14 Q And had you driven that vehicle before?</p> <p>15 A Yes, I've driven that since I've been 16 there.</p> <p>17 Q That was the vehicle that you were assigned 18 to?</p> <p>19 A Yes.</p> <p>20 Q You were not an independent contractor; 21 you're actually an employee of A & R Transport, Inc.,</p>	<p style="text-align: right;">Page 21</p> <p>1 correct?</p> <p>2 A That is correct.</p> <p>3 Q All right. As you approached the on-ramp 4 where the accident happened, is there traffic in Lanes 5 Number 1, 3, and 4?</p> <p>6 A Yeah. All the lanes are pretty much -- you 7 know, have cars and traffic in.</p> <p>8 Q At any point before my client came over 9 into your lane, did you ever take special notice of her 10 vehicle?</p> <p>11 A No. I had the full picture. I didn't key 12 on any particular car at that particular time before 13 the accident.</p> <p>14 Q All right. In your own words, tell me what 15 you saw and how this accident happened.</p> <p>16 A At that time of the accident, you're 17 talking about?</p> <p>18 Q Yes.</p> <p>19 A Proceeding northbound in my lane, which I 20 indicated, at a safe distance from the vehicle in front 21 of me.</p>

6 (Pages 18 to 21)

1 Q That's a good point. How much distance
 2 were you keeping between the front of your vehicle and
 3 the rear of the vehicle in front of you?
 4 A Safe distance.
 5 Q What does that mean?
 6 A A distance I'm comfortable that I think I
 7 can stop my vehicle within a given amount of time.
 8 Q Okay. And is that four car lengths? Five
 9 car lengths? Six car lengths? Two truck lengths?
 10 A Safe distance. I mean --
 11 Q Okay. Here's where the best estimate --
 12 A I can't -- you want me to guess?
 13 Q No. I absolutely don't want you to guess.
 14 I'll help you along with this.
 15 Was the distance between the front of your
 16 car and the rear of the car in front of you greater
 17 than a car length?
 18 A Repeat that again.
 19 Q Sure. Was the distance between the front
 20 of your truck and the rear of the next car ahead of you
 21 in your lane greater than a car length?

1 A Oh, yeah.
 2 MR. STEPHENSON: At the time of the
 3 accident?
 4 Q Before the accident happened.
 5 A Yes. Yes.
 6 Q Was the car in front of you from the front
 7 of your truck to the rear of that car, was the distance
 8 less than a football field?
 9 A It was quite a lot of distance. I didn't
 10 get out and measure it, ma'am.
 11 Q I understand. Well, let me ask you --
 12 A I have a hard time correlating a football
 13 field into a distance.
 14 Q Okay. Was it less than a mile?
 15 A It was less than a mile.
 16 Q Was it less than a quarter mile?
 17 A I mean, a quarter mile, that has a lot of
 18 room -- how should I say. A quarter mile and half mile
 19 are hard to distinguish when you're moving down the
 20 road. Do you understand what I'm saying?
 21 Q Sure. I'm just trying to find some sort of

1 measurement that you and I can both be comfortable
 2 with. So far we have less than a mile and greater than
 3 a car length. That's a long way.
 4 So I'm trying to narrow it down to where
 5 we're both comfortable. And it's not a trick question.
 6 I'm just trying to get to your best estimate.
 7 When you say -- I'm assuming that you
 8 always keep a safe distance behind cars directly in
 9 front of you; is that correct?
 10 A That's correct.
 11 Q So you know what you consider to be a safe
 12 distance, which is what I'm trying to find out.
 13 So was it -- what's the length of your
 14 truck?
 15 A What is a tank? Forty-five feet? Tractor
 16 another 13, 15 feet. Something like that.
 17 Q So somewhere between 50 and 55 feet, right?
 18 A Probably more like 60 or something.
 19 Q Okay. So assuming that the length of your
 20 truck is 60 feet, how many trucks could you fit between
 21 the front of your car and rear of the car traveling

1 directly in front of you?
 2 A I don't want to guess. Three, maybe.
 3 Q Okay. Now, as you're traveling down the
 4 road, you're keeping a lot of distance, between 180
 5 feet or so, between the front of your car and the back
 6 of the car in front of you.
 7 And we've established that you've assessed
 8 traffic all around you and you haven't honed in
 9 specifically on the -- who you learned later to be
 10 , the Plaintiff's car. Now, tell me what
 11 happens.
 12 A Well, out of the corner of my eye, I catch
 13 a dark-colored pickup flying up the ramp.
 14 Q Okay. Let me stop you right there. When
 15 you say "dark", did you appreciate the color of the
 16 pickup?
 17 A No, I didn't.
 18 Q Okay. When you say pickup truck, do you
 19 mean a flatbed truck?
 20 A No. It was a pickup truck. Has a box on
 21 behind, you know, like a pickup truck.

<p style="text-align: right;">Page 26</p> <p>1 Q Okay. I don't really know what a pickup 2 truck is, exactly. When you say "pickup truck", do you 3 mean not an industrial-type truck, but a regular truck 4 with a bed that's open in the back? 5 A Yeah. It was no -- it didn't appear -- to 6 the best of my recollection, it didn't appear to have 7 any toolboxes on the side or whatever you're trying to 8 say. It was a pickup truck. 9 Q Okay. 10 MR. NERONE: Maybe you could give her an 11 example of what, by make and model, of what you 12 consider a pickup truck, because I think that's what 13 she's trying to figure out. Could you give her an 14 example? 15 THE WITNESS: An example? 16 MR. NERONE: Yes. 17 A A standard Chevy pickup. Not even -- you 18 know, just like you'd go buy at a dealership. 19 Q On the day of the accident, did you 20 appreciate what type -- when I say appreciate, I mean, 21 did you notice -- what type of truck it was?</p>	<p style="text-align: right;">Page 27</p> <p>1 A No. It happened so quick. 2 Q So you couldn't say if it was a Chevy? A 3 Ford? 4 A No, I couldn't distinguish that. 5 Q Isuzu? 6 A Within seconds everything had gone down. 7 Q Okay. So you're driving along. And you 8 said that out of the corner of your eye you see a 9 pickup truck. And you used the word "flying". What do 10 you mean by that? 11 A High rate of speed. Moving faster than the 12 flow of traffic. Much faster. 13 Q Was that what drew your attention to that 14 vehicle? 15 A Well, it stuck out. My peripheral vision 16 picked it out. And I'm thinking to myself, where's 17 this clown going; there's no room. 18 Q Okay. Based on -- 19 A But I didn't have time to even say that 20 until after it all went down. 21 Q Is it fair to say that based on your</p>
<p style="text-align: right;">Page 28</p> <p>1 experience as a truck driver, something like that is 2 going to stick out to you because you're a trained 3 driver? Is that fair to say? 4 A Fair to say that I would notice -- you 5 know, pick up. I think anybody would catch that. 6 Q Okay. After you noticed the pickup 7 truck -- where is the pickup truck the first time you 8 see the pickup truck? 9 A Looking out my right window. Caught it out 10 my right window. 11 Q Okay. So the pickup truck is actually 12 behind you? 13 A No. Beside me. Coming up. 14 Q Okay. So it's to your right? 15 A (Nodding head.) 16 Q Yes? 17 MR. NERONE: You have to say it out loud. 18 A Yes. 19 Q Is the pickup truck in Lane Number 4, or is 20 the pickup truck on the ramp still? 21 A He's on the ramp yet, coming up the ramp.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q How close is the pickup truck to the -- I'm 2 going to call it the mouth of where the ramp meets Lane 3 Number 4 when you first notice him? 4 A Best of my recollection, that's where 5 proceeding northbound with the traffic at the same time 6 he's right about the mouth of the ramp where he needs 7 to join. 8 Q Okay. What happens next? 9 A Well, I don't know where he's going. 10 There's no room. He makes room. 11 Q What does he do? 12 A That's when I lose contact of that, of him. 13 Q Okay. 14 A Okay. At that point, the car swerves over 15 into my lane, slowing simultaneously, makes contact 16 with -- my right front corner and her left rear corner 17 of her car made contact. 18 Q Okay. 19 A You want me to go on through the whole 20 works? 21 Q Sure. Go ahead. And then we'll back up.</p>

8 (Pages 26 to 29)

1 A After the impact, my steering locks.
2 I'm -- at that point, because of the -- I didn't even
3 have time to react, but when I do react, the brakes
4 locked. The steering's locked. I'm sliding for the
5 Jersey barrier.

6 I can't free the steering. I'm sitting
7 there looking at oncoming traffic going, I wonder if
8 this Jersey barrier holds trucks. I hit the Jersey
9 barrier oblivious to anything else that's going on, you
10 know. I hit the barrier. I regain steering
11 capability.

12 I look in the mirror to see if there's
13 anybody underneath the trailer or anything. I didn't
14 see anything. I put my four-ways on. I proceed
15 safely, because everybody has stopped. And I don't
16 know where the cars will get to that were beside me.
17 It was a miracle.

18 And I proceed to the right far lane.
19 Everything -- steering, my oil pressure, and water
20 temperature is still good. And I started going north.
21 There's no real safe place to pull over there, because

1 A And I pointed to her that that's where I
2 was going. She had no idea where I was going, but I
3 was going in that direction. And to leave her know
4 that I knew what the deal was.

5 I hope I communicated that much. And I
6 went up there to the -- before the tollbooth is a wide
7 spot to pull off safe out of the way. I knew they'd
8 probably be looking for me in case she didn't see me,
9 so I got out of the truck.

10 Q Let me stop you there.

11 A Okay.

12 Q After the accident, at some point, you had
13 to fill out an A & R Transport, Inc. Accident Property
14 Damage Report, correct?

15 A Yes.

16 Q I just want to go through this with you a
17 little bit. And there are one, two -- it appears to be
18 actually two pages.

19 MS. ZOIS: Madam Court Reporter, do you
20 want to mark these now?

21 THE COURT REPORTER: Whatever you want.

1 you're right there at that ramp and everything.

2 Q Okay. Let me interrupt you for one second.

3 A Okay.

4 Q Eventually, you end up off on the far
5 right-hand shoulder?

6 A No. I never stopped.

7 Q Okay. That's where you lost me.

8 A There's no safe place to pull off there. I
9 mean, it's just -- you know. So I didn't assess it to
10 be, okay. To get out and start walking around, traffic
11 picks back up again, someone's going to get killed.
12 You don't do that, I didn't feel.

13 So I started proceeding there. The only
14 safe place that's coming to mind is up by the tollbooth
15 on the other side of the tunnel. So I proceed
16 northbound with the four-ways on. I saw her on the
17 left berm standing outside her car.

18 Q When you say "her", you mean [REDACTED]

19 [REDACTED]

20 A Yes.

21 Q Okay.

1 It's up to you.

2 MS. ZOIS: Okay. We'll do it afterwards.

3 Q I'm going to show you what we're going to
4 mark as the Accident Property Damage Report on A & R
5 Transport, Inc.'s letterhead and Page Number 1. Page
6 Number 1 appears to take down your personal data, [REDACTED]
7 [REDACTED] information.

8 And at the bottom of the page -- and I'll
9 show you -- first let me ask you, is that your
10 handwriting?

11 A Yes, it appears to be.

12 Q So you filled this report out yourself,
13 correct?

14 A Yes.

15 Q Do you recall if you filled the report out
16 on the very day of the accident?

17 A Yes, when I got back to the terminal.

18 Q Okay. At the very bottom of the first page
19 of the report, there's an indication that says, three
20 miles south of Fort McHenry Tunnel, Baltimore, Maryland
21 on I-95 northbound.

<p style="text-align: right;">Page 34</p> <p>1 And then there's a little -- I can't quite 2 read it, but is says, something 51.5. Is that intended 3 to be mile marker? 4 A I couldn't -- it might be. 5 Q Okay. 6 A It might be. 7 MR. NERONE: It actually says two to three 8 miles. 9 THE WITNESS: Because it's missing here. 10 Because part of the M must be missing there for that. 11 Q That's what I was wondering. 12 A That was a guess, the best of my 13 recollection after -- you know, I'm trying to bring all 14 this back in my head. 15 Q I know. 16 MR. NERONE: We may have a better copy of 17 this. 18 MS. ZOIS: Okay. Great. 19 MR. NERONE: Does that help you 20 (indicating)? 21 MS. ZOIS: We can use that.</p>	<p style="text-align: right;">Page 35</p> <p>1 THE WITNESS: Actually, yeah, that looks 2 like a mile marker, yeah. 3 MS. ZOIS: That's what I thought it was. I 4 just wanted to confirm that. And actually, my copy 5 we're not going to use, because it's missing the two to 6 three miles. 7 MR. NERONE: You only have three? 8 MS. ZOIS: Yeah, I only have three. If we 9 could use your copy, then. 10 MR. NERONE: We'll make another copy of 11 that. 12 Q As for Page Number 2 in the section where 13 it says, was the accident preventable in your opinion, 14 I just want to read back to you what you wrote on that 15 day. 16 (Reading.) Heavy traffic about 50 miles per 17 hour traffic flow. Vehicle I collided with crosses 18 divider line from lane to my right. I immediately -- 19 to -- I'm sorry -- immediately in front of me and hits 20 brakes. Didn't even have reaction time. 21 Is that right?</p>
<p style="text-align: right;">Page 36</p> <p>1 A Yeah. I didn't have any reaction time. 2 Q Okay. 3 A Nowhere to go. 4 Q Right. That's what I was getting to. Then 5 there's a portion extended off the page that says, 6 nowhere to go. 7 A And what I mean by that is I was going to 8 maintain my lane to the best of my capability because I 9 didn't want to -- we could have had a bloodbath if I 10 had just flipped the wheel. 11 Q Okay. Further down it indicates that there 12 was a witness to the accident, and he was identified as 13 Richard Southworth (phonetic) Lanterman; is that right? 14 A Yes. 15 Q All right. Going down to, please write 16 below in your own words what events occurred up to and 17 including the accident, you said, heavy traffic; I was 18 running in lane second from Jersey barrier. 19 When you say, second from Jersey barrier, 20 you have indicated in here that you are Vehicle Number 21 1, correct?</p>	<p style="text-align: right;">Page 37</p> <p>1 A Yeah. 2 Q So that's Lane Number 2 on our drawing, 3 right? 4 A Yeah. 5 Q Okay. And then you said, because of heavy 6 merge area on right lanes of that area. And you 7 explained that to me before how you were staying out of 8 what you referred to as I think "a mess", right? 9 A Yes. 10 Q All right. Vehicle Number 3 moved into 11 Vehicle 2 lane. Are you with me? 12 A Yes. 13 Q All right. Vehicle Number 3, that was the 14 pickup truck, correct? 15 A Vehicle Number 3, yeah. Pickup truck. 16 Q Did you actually see then the pickup truck 17 enter into her lane? 18 A He came up and made room, and she swerved. 19 And that's -- I just -- he's no longer in the picture. 20 I have my hands full; where do I go? 21 Q Right. Well, did you actually observe him?</p>

10 (Pages 34 to 37)

<p style="text-align: right;">Page 38</p> <p>1 When you say "make room", did he make room in her lane?</p> <p>2 A He came up there. And I can't honestly</p> <p>3 tell you where the room was made, but he made it. And</p> <p>4 it could have been any one of them cars bouncing off of</p> <p>5 each other or two or three, you know. I didn't know</p> <p>6 what's going to happen.</p> <p>7 Q Okay. When you --</p> <p>8 A The focus was not totally on her, you know.</p> <p>9 I was trying to get a full picture.</p> <p>10 Q Okay. You write in here, Vehicle 3 moves</p> <p>11 into Vehicle 2, arrow, lane.</p> <p>12 A Vehicle 3 moves into Vehicle 2's lane.</p> <p>13 Q Is that right?</p> <p>14 A Yeah. Best I can see that I can remember.</p> <p>15 Q Okay. And this was back -- you wrote this</p> <p>16 back on the day of the actual accident, right?</p> <p>17 A Yeah.</p> <p>18 Q And then you wrote, her Vehicle 2 reaction</p> <p>19 was to turn wheel putting her immediately in front of</p> <p>20 me. Right?</p> <p>21 A Yeah.</p>	<p style="text-align: right;">Page 39</p> <p>1 Q Okay. How much time, if you can estimate,</p> <p>2 passed from the time you saw the truck up until the</p> <p>3 time her vehicle ended up in your lane?</p> <p>4 A From the time I saw the truck --</p> <p>5 MR. NERONE: The pickup truck we're talking</p> <p>6 about.</p> <p>7 Q The pickup truck, correct.</p> <p>8 A Pickup truck. Split seconds.</p> <p>9 Q Okay. The next part of your statement</p> <p>10 says, I started to move left and hit the brakes.</p> <p>11 Apparently startled, she hit the brakes.</p> <p>12 Are you with me?</p> <p>13 A Yeah.</p> <p>14 Q Do you know whether or not she hit the</p> <p>15 brakes first or you tried to hit your brakes first?</p> <p>16 A I think it was a simultaneous deal with</p> <p>17 everybody.</p> <p>18 Q Okay.</p> <p>19 A You see something's going to go down, it's</p> <p>20 a reaction.</p> <p>21 Q Okay. The next portion of it says, cars</p>
<p style="text-align: right;">Page 40</p> <p>1 all around; nowhere to go; I hit Vehicle 2.</p> <p>2 What portion of your vehicle came into</p> <p>3 contact with what portion of her vehicle?</p> <p>4 A My right front fender and bumper and her</p> <p>5 left rear fender and bumper.</p> <p>6 Q When the vehicles came into contact with</p> <p>7 one another, was your vehicle entirely in Lane</p> <p>8 Number 2?</p> <p>9 A That's my lane. The one -- yeah.</p> <p>10 Q Correct.</p> <p>11 A Yes, it was.</p> <p>12 Q Was your vehicle square in Lane Number 2?</p> <p>13 Do you know what I mean when I say, "square" in Lane</p> <p>14 Number 2?</p> <p>15 A You mean the same amount on each side of</p> <p>16 the road.</p> <p>17 Q Yes.</p> <p>18 A No. I was hugging my left line.</p> <p>19 Q Okay. Was your truck at an angle of any</p> <p>20 sort in your lane, or were you just hugging the left</p> <p>21 line?</p>	<p style="text-align: right;">Page 41</p> <p>1 A I was hugging the left line straight in my</p> <p>2 lane.</p> <p>3 Q When your vehicle came into contact with</p> <p>4 her vehicle, what angle, if any, was her vehicle on?</p> <p>5 Do you understand my question?</p> <p>6 A I don't understand what you're saying.</p> <p>7 Q Okay. Your vehicle is entirely in your</p> <p>8 lane, and you're hugging the left line, correct?</p> <p>9 A Yeah.</p> <p>10 Q The front right portion of your vehicle</p> <p>11 comes into contact with the rear left portion of her</p> <p>12 vehicle, correct?</p> <p>13 A Yeah.</p> <p>14 MR. NERONE: Whoa. Whoa. I think that's a</p> <p>15 little bit inaccurate. He said fender and bumper.</p> <p>16 Maybe you can describe where the fenders are.</p> <p>17 THE WITNESS: The fender is the wheel well.</p> <p>18 MS. ZOIS: I'm not that stupid. I know</p> <p>19 where the fender is.</p> <p>20 MR. NERONE: We had a difference in our</p> <p>21 understanding earlier.</p>

11 (Pages 38 to 41)

Page 42

1 THE WITNESS: I'm a farm boy. He didn't
 2 know what a fender was.
 3 MS. ZOIS: I know what a fender is.
 4 MR. NERONE: I needed it explained.
 5 MS. ZOIS: I might not know what a pickup
 6 truck is. Let me ask the question a different way.
 7 Q The whole front of your vehicle didn't come
 8 in contact with the whole rear of her vehicle, correct?
 9 A No.
 10 Q Okay. So her vehicle was on an angle when
 11 the two vehicles came in contact with one another,
 12 correct?
 13 A How do you mean, an angle? I don't
 14 understand what you mean. Was she like sideways in
 15 front of me?
 16 Q Yes. Exactly.
 17 A No. She was not sideways in front of me.
 18 Q Okay. So her vehicle was facing the same
 19 direction you were traveling when the impact took
 20 place?
 21 A Yes.

Page 44

1 A Like this (indicating).
 2 Q Okay. Is it fair to say that your vehicle
 3 and her vehicle made contact at the same moment she
 4 came over into your lane?
 5 A When she came into my lane, she made
 6 contact.
 7 Q Okay. Do you know whether or not you were
 8 able to get to your brakes before you struck -- or the
 9 two vehicles came into contact with one another?
 10 A Well, it's like you go through the
 11 reaction, but then they don't -- you know, it's all
 12 time. So probably the brakes probably grabbed after
 13 the impact --
 14 Q Okay.
 15 A -- because that was the reaction.
 16 MR. NERONE: The question she asked you
 17 was: Were you able to get your foot on the brake
 18 before contact? Do you know whether you got your foot
 19 to the brake before contact?
 20 THE WITNESS: No.
 21 MR. NERONE: You don't know?

Page 43

1 Q Okay. But she was just up ahead of you and
 2 to your right? She wasn't directly in front of you in
 3 your lane, correct?
 4 A No. She was -- her fender was about like
 5 this (indicating). She swerved in front of me, and
 6 we're both moving.
 7 Q Right.
 8 A But the fact that she swerved over and lost
 9 distance when she did that, there's no time to react.
 10 Q Okay. I understand what you're saying.
 11 Okay. So you're -- both of your vehicles were facing
 12 the same direction when the impact took place, correct?
 13 A Yes.
 14 Q Okay. After the impact between -- well,
 15 let me back up a minute.
 16 When she came over into your lane, can you
 17 estimate for me, was there any distance between the
 18 front of your vehicle and the rear of her vehicle?
 19 A Was there any distance -- we were about
 20 even.
 21 Q Okay.

Page 45

1 THE WITNESS: I don't recall.
 2 Q Okay. That's okay. After the two vehicles
 3 come into contact with one another, did you take notice
 4 of where her vehicle -- what path her vehicle took?
 5 A After we made contact?
 6 Q Yes.
 7 A Oh, I had a steering that was locked. I
 8 wasn't where -- I was trying to see if I could break it
 9 loose (indicating). I didn't give anything --
 10 Q Okay.
 11 MR. NERONE: For the record, you gestured
 12 with your hands as if you were turning a steering wheel
 13 to the right. Is that correct? Is that what you did?
 14 THE WITNESS: Yes.
 15 Q My question, though, was: Did you take
 16 notice of the path of her vehicle after the impact?
 17 And you basically said, no, I was -- you were too
 18 worried about where your truck was going; is that fair
 19 to say?
 20 A Yes. I was trying to correct, and I was
 21 oblivious to everything.

12 (Pages 42 to 45)

Page 46

1 Q Okay. After you regained control of your
 2 truck, were you then able or were you ever able to see
 3 the pickup truck that started this chain of events?
 4 A No.
 5 MR. RUFÉ: Objection.
 6 Q You never saw him again? I'll rephrase the
 7 question.
 8 Is it fair to say that after the impact
 9 with your vehicle and [REDACTED] vehicle, you did not
 10 see the blue pickup truck you identified earlier again?
 11 A I didn't identify a blue pickup. I just
 12 said a dark-color pickup.
 13 Q Okay. So you didn't see the dark-colored
 14 pickup again after the two vehicles made contact?
 15 A After we made contact?
 16 Q Correct.
 17 A No.
 18 Q Okay. After -- before the two vehicles
 19 made contact and for those few -- I think you said
 20 split seconds that you were able to see the
 21 dark-colored pickup truck, could you tell whether or

Page 47

1 not the pickup truck was being driven by a man or a
 2 woman?
 3 A No.
 4 Q Okay. Could you tell whether or not the
 5 pickup truck was being driven by someone who was
 6 Caucasian? Someone who was African-American?
 7 A No.
 8 Q Could you tell whether or not there were
 9 any signs on the pickup truck?
 10 A No.
 11 Q Do you know -- do you remember seeing any
 12 signs on the pickup truck?
 13 A No.
 14 Q Do you remember seeing anything in the bed
 15 of the pickup truck?
 16 A No.
 17 Q Do you remember formulating some idea of
 18 the year of the pickup truck? Was it a new pickup
 19 truck or an old pickup truck?
 20 A No.
 21 Q You don't remember?

Page 48

1 A It was quick. It was just -- I mean -- I
 2 mean, I saw the pickup, and it was going down.
 3 Q Do you remember seeing any sort of rack on
 4 the pickup truck?
 5 A No.
 6 Q Do you remember seeing any ladders on the
 7 pickup truck?
 8 A No.
 9 Q In Discovery your counsel provided me with
 10 a piece of paper. And I'm not really sure what it is.
 11 So I'm going to show it to you and ask you if you can
 12 tell me.
 13 There's a GW number 892798. And there's
 14 some writing down below that appears to be in your
 15 handwriting, but tell me if it isn't.
 16 A It's on the bottom there?
 17 Q Yes.
 18 A Yeah, that's my handwriting.
 19 Q That's your handwriting. Okay. I need my
 20 cheat sheet back. All right.
 21 The bottom portion of this piece of paper

Page 49

1 says, license -- I think, 52526W Maryland, question
 2 mark, Ford F250 blue, temp plate. And then below it
 3 says, forced the car I collided with into my lane.
 4 Do you remember making that notation?
 5 A Well, it's in my handwriting, but that
 6 was -- that came after the -- that's when I exchanged
 7 information. She had that to give to me.
 8 Q Okay. And that was my question. When you
 9 made this notation, was this based on you getting this
 10 information from [REDACTED]
 11 A From [REDACTED] yeah.
 12 Q So you didn't ascertain this information or
 13 you didn't get this information on your own?
 14 A No, I did not.
 15 Q You didn't see the tag on the pickup truck?
 16 A No, I did not.
 17 Q And you didn't afterwards make a notation
 18 of what you thought the tag to be?
 19 A No. She gave me that. I copied it down,
 20 figured it might be information I might need to hand in
 21 to my company.

1 Q Do you recall ever being able to see the
2 tag on the back of the pickup truck?
3 A No.
4 Q After the accident, you said that you went
5 through the tunnel and pulled over onto the shoulder of
6 the road when it was safe to do so, correct?
7 A Yeah. There's a wide spot right before the
8 tollbooth.
9 Q And you were there, and at some point [REDACTED]
10 [REDACTED] came, correct?
11 A Yes.
12 Q And a police officer was there, correct?
13 A Yes.
14 Q Was it one police officer or more than one;
15 do you remember?
16 A I just remember one.
17 Q Do you remember which police department he
18 was with?
19 A He was with the -- what is that there?
20 Q The Maryland Transportation Authority?
21 A Yeah. The ones that take care of the

1 the officer.
2 Q Okay. Did you ever have any conversations
3 with Richard Lanterman after the accident?
4 A Not that I can recall.
5 Q Okay. Did you have any conversations with
6 [REDACTED] after the accident?
7 A Yes, I did.
8 Q Tell me exactly what you said to her and
9 exactly what she said to you at the scene of the
10 accident.
11 A After the scene of the accident. Okay.
12 Q After the accident happened and you both --
13 A And we were up there by the tollbooth?
14 Q Correct.
15 A I got out. I asked her if she was all
16 right. She said, yeah, a little shaken. She asked me
17 if I was all right. I said, yeah, a little shook up,
18 too. We just looked at her car.
19 She bent over and looked at her car. And
20 we just more or less got our information together, gave
21 it to the officer, and he gave our information back,

1 tunnel and stuff like that.
2 Q Okay. At any point after the accident, did
3 you talk to anybody else at the scene of the accident
4 other than the police officer, [REDACTED] and the
5 witness that you identified, Richard Lanterman?
6 MR. NERONE: He didn't say he talked to
7 Lanterman.
8 MS. ZOIS: I didn't ask him that, but I
9 will. Don't worry.
10 A I talked to the tollbooth lady and told her
11 to get the officer, that I was up there waiting.
12 Q Okay.
13 A And I called my safety man, Mike Tallaksen,
14 and told him I was in an accident.
15 Q Okay. Did anybody else other than Richard
16 Lanterman, [REDACTED] the police officer from
17 MTA -- and I know that -- I don't even think you were
18 there when Mr. Lanterman was there, but did anybody
19 else show up at the scene of the accident after the
20 accident?
21 A Not that I saw. It was just her, I, and

1 and more or less went on our way, best I can recollect.
2 Q Did the two of you discuss the pickup
3 truck, the dark pickup truck?
4 A Yeah. I said I saw this pickup come up the
5 ramp and make room. And it was a dark-colored pickup,
6 but I had no idea what the license plate was or any
7 distinguishing marks or anything like that, because
8 like I said, he come up there, and it just was a
9 second, it was all over with.
10 Q Okay. Since the date of the accident, have
11 you talked to [REDACTED] about the facts of the
12 accident?
13 A Not to my recollection at any time.
14 Q Do you think you'd remember talking to that
15 pretty lady, if you did?
16 A I probably would.
17 Q Okay.
18 A Not since then I don't recollect.
19 Q How about Richard Lanterman? Have you ever
20 talked to Richard Lanterman about the accident?
21 A I don't even recall, other than I wrote his

Page 54

1 name and address down. I think I might even have got
 2 that from her.

3 Q So it's fair to say you've never talked to
 4 Richard Lanterman about the facts of the accident,
 5 right?

6 A Yeah, best of my recollection.

7 MS. ZOIS: I think that's all I have, but I
 8 just want to review some of your Answers to
 9 Interrogatories. And I'm sure that Mr. -- John has
 10 questions for you. So while he's asking you
 11 questions -- I might not be done with you, is what I'm
 12 telling you, Mr. Miller. So as not to waste time
 13 I'll -- thank you.

14 EXAMINATION BY MR. RUFÉ:

15 Q I just have a few questions for you,
 16 Mr. Miller. And I apologize for the angle that we're
 17 sitting at the table, but hopefully my voice will be
 18 loud enough for you to hear and the reporter can take
 19 down your answers and my questions.

20 Thank you for your testimony so far. I'd
 21 just like to go back over some of your answers, if I

Page 55

1 may.

2 The on-ramp onto I-95 North at the spot of
 3 this location of the incident, do you know what that
 4 on-ramp -- what road that on-ramp is coming off of?

5 A No. I don't have a clue.

6 Q Okay. Earlier you were here when [REDACTED]
 7 [REDACTED] deposition was taken. And she testified she
 8 thought that it was the exit to 395 Russell Street, or
 9 is that what you testified to was ahead of, past this
 10 on-ramp? Is that what you remember?

11 A I don't understand that.

12 MR. NERONE: Could you rephrase that?

13 MS. ZOIS: Could you see the wheels turning
 14 in my head?

15 MR. NERONE: I don't know what to object
 16 to.

17 MR. STEPHENSON: Russell Street and 395 are
 18 two separate exits.

19 MR. RUFÉ: I understand. I didn't want to
 20 confuse --

21 MR. NERONE: Ask one question at a time.

Page 56

1 Q I'll just ask it more simply. The on-ramp
 2 coming off of the road that you don't know onto I-95
 3 North, what's the next exit from that proceeding
 4 northbound on I-95?

5 A 395.

6 Q 395. Okay. Now, when you first saw this
 7 pickup truck to your right-hand side, it was
 8 essentially parallel with your truck, that is, directly
 9 to your right-hand side?

10 A Yeah.

11 Q Is that a yes?

12 A Yes. Yes.

13 Q And in your recollection, the pickup truck
 14 was, at the time you first noticed it, in the lane that
 15 made up that on ramp?

16 A In the mouth of it.

17 Q Okay. When you say "mouth", could you --
 18 well, let me back up. Define mouth. I'm not sure what
 19 you mean by that, but I'm going to start off this way.

20 The lane that constituted that on-ramp,
 21 were there any markings delineating or separating that

Page 57

1 lane, that on-ramp lane from the northbound far right
 2 lane of travel on I-95?

3 A I can't honestly say I remember, but it's
 4 like where the ramp starts to level off with the rest
 5 of the road --

6 Q Where it starts to merge into --

7 A -- is what I'm indicating as the mouth.

8 Q But you don't recall whether or not there
 9 were either solid or dotted lines --

10 A No.

11 Q -- separating the on-ramp from the travel
 12 portion of 95?

13 A No, I don't recall.

14 Q Fair enough. Okay. But as far as the
 15 physicality of the macadam, as it were, the street
 16 itself, where that on-ramp street was ending and
 17 merging into the traffic going northbound on I-95, that
 18 point is where you're talking about the mouth of the
 19 on-ramp in I-95; is that correct?

20 A Well, he still had ramp ahead of him.

21 Q Oh, okay.

1 A Okay.

2 Q So that's incorrect? There was more room

3 on the on-ramp?

4 A But there were cars in front of him going

5 slower, if you understand what I'm saying.

6 Q Were those cars still traveling on the

7 on-ramp, in your opinion?

8 A Everything -- it was -- it was heavy.

9 Q Well, the cars you say were in front of the

10 pickup truck, those cars were traveling in what would

11 be called the on-ramp; is that correct?

12 A Best of my recollection.

13 Q Okay. Do you remember how many cars were

14 in that on-ramp lane or whatever you want to recall it

15 right just prior to this accident?

16 A No.

17 Q Okay. But there was at least one in front

18 of this pickup truck?

19 A Yeah.

20 Q Okay.

21 A Yes.

1 Q Okay. But there is additional room going

2 forward for them to do that at any point in time a

3 little further up the on-ramp line; is that correct?

4 A Yes.

5 Q Okay. So is it fair to say that your

6 testimony is that your tractor-trailer was, when you

7 first saw the pickup truck, was at the point in the

8 on-ramp -- it was the first portion of the on-ramp

9 where the possibility was to begin to merge into the

10 travel portion of 95?

11 A Yes, it's possible to say that.

12 Q Okay. Now, as you said, you didn't make

13 note at the time based upon everything else that was

14 going on, any of the distinguishing features of the

15 pickup truck other than that is was a pickup truck; is

16 that fair to say?

17 A And he was moving fast.

18 Q Okay. Do you recall whether or not the

19 pickup truck had its turn signal on?

20 A No.

21 Q Okay. Now, your testimony was that you

1 Q That's fine. So when you say "mouth", what

2 are you referring to if there is more room on the

3 on-ramp in front of the pickup truck? What are you

4 referring to as the mouth?

5 A What I meant is -- I think if I remember

6 correctly, there's -- like the ramp comes up and

7 there's cement that comes out so far. And then the

8 cement disappears, and it turns into -- it starts to

9 open up. That's what I was referring to.

10 Q When you say "open up", what are you

11 referring to?

12 A Well, the person's got so much merge room

13 then to proceed into the other lane.

14 Q Okay. It's at that point where they have

15 to start merging into the lane or run out of on-ramp?

16 A They can begin to adjust their speed to

17 merge.

18 Q I see. That's the point at which they can

19 just start getting into the travel portion of 95; is

20 that what you're saying?

21 A Yes. Yes.

1 made note -- you took note of the pickup truck, then

2 you sorted out -- you put that aside. And next thing

3 you know, the Plaintiff's vehicle has swerved into you,

4 essentially; is that fair enough in recollection of

5 what you were saying?

6 A No.

7 Q Okay. Tell me where I went wrong. [REDACTED]

8 [REDACTED] is the Plaintiff's vehicle.

9 A Okay.

10 Q Your testimony, from my understanding, just

11 without re-reading everything, was that you noted that

12 there was a pickup truck. You sort of kind of turned

13 your attention. Next thing you know, there was a

14 swerved vehicle coming in front of you, which turned

15 out to be [REDACTED] car; is that fair to say?

16 A Repeat that again. I'm sorry.

17 Q I'm sorry, as well, because I may not be

18 able to repeat it accurately unless I have it read

19 back. But let me try to rephrase it for purposes of

20 what I'm trying to ask you.

21 You testified in response to Miss Zois'

1 questions that you noticed the pickup truck coming up
2 the on-ramp. You didn't pay any attention to it after
3 that. Next thing you know is you see this vehicle
4 swerving into your lane of traffic, which turned out to
5 be [REDACTED] car, the Plaintiff's.

6 MS. ZOIS: Objection to the form.

7 MR. NERONE: I object to form, as well.

8 You can answer, if you can understand the question.

9 A If I understand it correctly, okay, the
10 pickup comes up the ramp. He's flying. I can see by
11 the cars in front, he has nowhere to go. He's going to
12 bounce off of somebody. Little did I know that she was
13 going to swerve over in front of me simultaneously.

14 So I'm trying to get a big picture, and the
15 picture is there, right there beside me at this corner.
16 She swerves over. Because we're all moving at the same
17 time. And it goes down within split seconds.

18 Q All right. Well, taking all that into
19 account, I understand the difficulty you're having
20 either with my question or just restating what you've
21 already said three times in this deposition.

1 Let me ask you this: At the time in which
2 the Plaintiff's vehicle swerved into your lane, did you
3 see the pickup truck?

4 A When she swerved into my lane, I didn't
5 acknowledge no pickup. I had things right there to
6 deal with.

7 Q I'm going to ask you a second question. At
8 any time prior to or after -- strike that.

9 Prior to [REDACTED] swerving her vehicle
10 into your lane, did you see the pickup truck in the
11 lane of travel that [REDACTED] vehicle was in prior
12 to the accident?

13 A I can't totally recall. I can't --
14 (Don Page preparing to leave deposition
15 room.)

16 MR. NERONE: Let's take a break.

17 MR. RUFÉ: Well, wait a minute.

18 MR. NERONE: He's got a flight to catch.

19 MR. RUFÉ: Are you finished your answer?

20 MR. NERONE: Yeah, I think he is. Are you
21 finished?

1 Q That's -- are you finished that answer,
2 sir?

3 A Yeah.

4 Q I'll ask you again.

5 DON PAGE: I have a car waiting downstairs.
6 (Don Page left the deposition room.

7 A discussion was held off the record.)

8 Q When you saw the pickup truck coming down
9 the off-ramp -- or, excuse me, the on-ramp, was the
10 pickup truck in the on-ramp? Was it on the on-ramp
11 itself?

12 A When I first saw it?

13 Q Right.

14 A Yes.

15 Q Was there ever a time that you saw that
16 pickup truck not on the on-ramp itself?

17 A I'm trying to picture this, okay. I'm
18 going back. It's been a while. It's been a long time.
19 He came up and made room. Where he got the room, I
20 don't know. Anyhow --

21 Q I really don't want to interrupt you when

1 you're trying to recall, but my question to you, sir,
2 was: Was there ever a time that you saw that pickup
3 truck not on the on-ramp?

4 A I can't recall. I can't honestly recall.

5 Q When you say "made room", what do you mean
6 by "make room"?

7 A There was nowhere for him to go at the
8 speed he was going to go. I mean, when he was coming
9 up the ramp there, he was going to hit somebody or
10 something.

11 Q Did you ever see him apply his brakes?

12 A No, not that I can recollect.

13 Q Would you have noticed if he did?

14 MR. NERONE: Objection. You can answer.

15 A No, that I could actually -- I couldn't
16 tell. He's a blur, man.

17 Q In fact, sir, you never saw him again after
18 you saw him the first time you looked directly to your
19 right; isn't that correct?

20 A I saw him proceed out the ramp to where
21 there was -- I'm wondering where he's going to -- I

1 didn't even get thinking to myself the word "go" out,
2 and I got things to contend with in front of me and
3 beside me and everything. I'm looking -- I'm looking
4 for a way out.

5 Q My question again, sir, was: You didn't
6 see him again, that is, the pickup truck, after you saw
7 him to your direct right when he was on the on-ramp;
8 isn't that correct?

9 A I would say if you're going to put it that
10 way, yes.

11 Q And when you saw him -- the last time you
12 saw him, the pickup truck was on the on-ramp; isn't
13 that correct?

14 A He was flying up the on-ramp.

15 Q Now, sir, in response to Miss Zois'
16 question regarding the Exhibit, that is the accident
17 report that you filled out, do you remember when you
18 filled that out?

19 A The day of.

20 Q The day of --

21 A When I got back to the terminal, I filled

1 that out.

2 Q If you need to refer to it, please feel
3 free, but I remember you saying something about -- Miss
4 Zois reading it -- that your recollection was that the
5 Plaintiff's vehicle, [REDACTED] vehicle, swerved and
6 then hit the brakes.

7 Is that your recollection of what that
8 says? If you want to read it, you can.

9 MS. ZOIS: Do you want the benefit of --

10 A It was a simultaneous thing I'm trying to
11 put into words. You know, everybody sees a potential
12 accident, you see nothing but brake lights, right.
13 When you see something -- people slow down, everybody
14 hits the brakes. It was a reaction by everybody.

15 Q Well, which words are we using? Today you
16 talked about instantaneous. On that report, you talked
17 about swerved and braked. Was there a swerving of the
18 vehicle before you saw brake lights or the noticing her
19 reducing the speed of the vehicle?

20 MS. ZOIS: Objection to the form of the
21 question.

1 MR. NERONE: Objection to the form of the
2 question here.

3 Q Did you notice? Did you notice that she
4 had swerved -- did you notice her brake lights before
5 she swerved?

6 A I can't see brake lights --

7 Q Did you ever see her brake lights?

8 A She's down there where I couldn't see
9 her --

10 Q My question is: Did you ever see her brake
11 lights?

12 A No.

13 Q So the braking portion of what you've been
14 talking about is your perception that the vehicle
15 reduced speed?

16 A Yes. Reduced speed.

17 Q Okay. You don't know whether the reduction
18 of speed was due to braking or whether it was due to
19 simply taking the foot off the accelerator; is that
20 correct?

21 A Reduced speed.

1 Q Okay. That's fair enough. That's what I
2 want to know, whether or not it was a braking by virtue
3 of what you noticed or whether you noticed a reduced
4 speed. And it's the later, it's a reduced speed you
5 noticed; is that correct?

6 A Yes.

7 Q Okay. Now, did you notice that reduced
8 speed before the vehicle swerved into your path?

9 MR. NERONE: Object. That's asked and
10 answered about four times.

11 MR. RUFÉ: I want him to answer it again.

12 MR. NERONE: He's going to answer it.

13 MR. RUFÉ: Thank you.

14 THE WITNESS: What did he say?

15 MR. NERONE: Did she swerve or slow first?
16 That's what he wants to know, right?

17 A Swerved and then slowed.

18 MR. NERONE: All right. I thought that's
19 what the --

20 MR. RUFÉ: Well, but he changed his answer
21 from earlier, so I just wanted --

Page 70


1 MR. NERONE: I don't think he changed
 2 anything.
 3 MR. RUFÉ: Fair enough. I'll move on.
 4 That's all I have.
 5 MR. STEPHENSON: Any follow-up?
 6 MS. ZOIS: I don't have anything based on
 7 that. Thank you very much, Mr. Miller.
 8 MR. NERONE: We will read.
 9 (The deposition concluded at 5:05 p.m.)
 10 (D. Miller Deposition Exhibit Numbers 1, 2,
 11 and 3 were marked for the purposes of identification.)
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21

Page 71

1 CERTIFICATE OF DEPONENT
 2
 3 I hereby certify that I have read and
 4 examined the foregoing transcript, and the same is a
 5 true and accurate record of the testimony given by me.
 6
 7 Any additions or corrections that I feel
 8 are necessary, I will attach on a separate sheet of
 9 paper to the original transcript.
 10
 11
 12 _____
 Dennis Miller
 13
 14
 15
 16
 17
 18
 19
 20
 21

Page 72

1 State of Maryland
 2 City of Baltimore, to wit:
 3 I, JANET A. COLMAN, a Notary Public of the
 4 State of Maryland, City of Baltimore, do hereby
 5 certify that the within-named witness personally
 6 appeared before me at the time and place herein set
 7 out, and after having been duly sworn by me, according
 8 to law, was examined by counsel.
 9 I further certify that the examination was
 10 recorded stenographically by me and this transcript is
 11 a true record of the proceedings.
 12 I further certify that I am not of counsel
 13 to any of the parties, nor in any way interested in
 14 the outcome of this action.
 15 As witness my hand and notarial seal this
 16 2nd day of February, 2005.
 17
 18 JANET A. COLMAN
 Notary Public
 19
 20 My Commission Expires:
 21 August 1, 2008



Page 73

1 INDEX
 2 Deposition of Dennis Miller
 3 January 7, 2005
 4
 5 Examination by: Page
 6 Ms. Zois 5
 7 Mr. Rufe 54
 8
 9 Exhibit No. Marked
 10 1. Accident Property Damage Report 70
 11 2. Log 70
 12 3. Miscellaneous Paper 70
 13
 14
 15
 16
 17
 18
 19
 20
 21