

1 objection for the record. Thank you, Your Honor.

2 THE COURT: So noted, and thank you, Counsel.

3 MS. HOWARD: The witness?

4 THE COURT: Hmm?

5 MR. BRATT: Hmm?

6 MS. HOWARD: The calling of the witness.

7 MR. BRATT: Uh, we could do that now or we can do it
8 before you call the witness. Either way you're gonna' make a
9 proffer.

10 MS. HOWARD: Okay, we won't do it now. Okay, we'll
11 wait, okay.

12 (Counsel returned to the trial tables and the following
13 occurred:)

14 (Husher turned off.)

15 MS. ZOIS: May it please the Court?

16 THE COURT: You may proceed, please.

17 MS. ZOIS: Good afternoon. It's been a long morning,
18 congratulations. Um, all drivers have a duty to pay
19 attention to the traffic in front of them. We have these
20 safety rules to help keep our community safe. And when a
21 driver fails to pay attention to the traffic in front of them
22 they're responsible for the harms and losses that they've
23 caused to someone that they've injured.

24 Back on June 26th of 2009 Kelsey Sapp was home with
25 her younger sister and two of their friends. They decided

1 they wanted to go to the Outback Steakhouse that night for
2 dinner. She took her mom's keys, got into her car and headed
3 towards Frederick. She was in the left hand lane heading
4 westbound towards the Outback. It started to rain, it
5 started to get foggy. She didn't realize that traffic was at
6 a complete stop up ahead of her. Suddenly she saw the brake
7 lights of a blue Honda directly in front of her. She slammed
8 on her brakes, hydroplaned and crashed into the back of the
9 blue Honda. Jacqueline Exline-Hassler was in the blue Honda.
10 She was shook in the car, slammed up against the left hand
11 door of the car, and she'll tell you that the impact was so
12 severe that it felt like her teeth shook. The axle, that
13 doesn't look at that bad, the axle of her car was broken
14 because of the impact. Her car wasn't drivable from the
15 scene and it had to be towed.

16 The Defendant's car also broke an axle, and her
17 front dri (sic), that's the front driver's side wheel nearly
18 came off the car. Both of the vehicles had to be towed from
19 the scene. There was significant property damage to both of
20 the vehicles. The Defendant's vehicle was \$7500 and change
21 to be repaired. The Plaintiff's vehicle was over \$5000 to be
22 repaired.

23 During the crash Jackie's back was wrenched. And
24 what ended up happening, and I'll come back to this in a
25 second, but what ended up happening was the discs between her

1 vertebrae were sheared, because of the force. And she ended
2 up develing (sic) what are, developing what are called
3 annular tears in the discs in her back from the force, and
4 I'll come back to that in a second. But first, let me tell
5 you who we're suing and why. Jacqueline Exline-Hassler is
6 suing Kirsten Sapp for not paying attention to the roadway,
7 failing to operate her vehicle at a speed under the weather
8 conditions as appropriate, and not paying attention to the
9 traffic in front of her.

10 Kirsten Sapp has pled guilty in court, and this is
11 her transcript from her District Court hearing.

12 (Audio recording being played.)

13 FEMALE VOICE: So, um, what is your, what is
14 your name and plea (unclear - two words)?

15 MS. SAPP: Kirsten Sapp, I plead guilty to
16 (unclear).

17 FEMALE VOICE: Um, you ladies are not going
18 to testify. You (unclear - three words) you can
19 just (unclear - one word). Thank you. All
20 right, what is your (unclear - one word)?

21 MS. SAPP: Um, it had just started raining
22 on the highway, and by the time I realized the
23 person in front of me was (unclear - four words)
24 I hit 'em.

25 FEMALE VOICE: You slide into them?

1 MS. SAPP: Yeah, my car just, I didn't even
2 know if I hit the car (unclear - two words).

3 (End of audio recording.)

4 MS. ZOIS: Could you hear that? Okay. After pleading
5 guilty in court she also answered a set of interrogatories
6 initially back in June of 2012. And we asked her in that set
7 of interrogatories . . . are you claiming that the Plaintiff
8 did anything wrong in this case? Are you claiming that
9 Jacqueline Exline-Hassler did anything to cause or contribute
10 to this occurrence, and her answer back in June of 2012 was,
11 "I make no such," I believe that was probably misspelled, but
12 "contention."

13 In December of 2012, however, Kirsten Sapp, under
14 new representation has said, "The Plaintiff was
15 contributorily negligent for suddenly and unexpectedly
16 stopping in the roadway." I don't believe that would be the
17 testimony in this case, but I've been surprised before.

18 We are also suing Guido Porcarelli's client who is
19 a different defendant in this case.

20 MR. GILLCRIST: Objection, Your Honor.

21 THE COURT: Approach.

22 (Counsel approached the bench and the following
23 occurred:)

24 (Husher turned on.)

25 THE COURT: What independent, I mean what --