

1           And on the day in question these vehicles were  
2 traveling in the vicinity of what I'm showing you as --  
3 for demonstrate -- for demonstration -- is Mattawoman  
4 Beantown Road -- approaching its intersection with  
5 Leonardtown Road.

6           Before we get started I'm gonna tell you a  
7 little bit about my client, Mr. Ervin. He's married; has  
8 three kids. He's been employed since 1999 by Arrowmark  
9 Corporation. What he does for them is he's an  
10 Environmental Services Manager.

11           He works in hospitals. Arrowmark's a  
12 contractor. They hire Arrowmark to run some of their  
13 operations. And what Mr. Ervin does is he supervises the  
14 Environmental Services -- crew there which is the folks  
15 that are -- they keep that hos -- that whole hospital  
16 clean; everywhere from the clinical places, the ER, the  
17 operating rooms; all the way to everything that they have  
18 there. So part of his job is supervising those folks and  
19 making sure they do what they're supposed to do.

20           Like probably a lot of folks in Charles County,  
21 Mr. Ervin also -- has some military experience. He is a  
22 member of the Navy Reserve. At various times he's been  
23 on active duty. He served overseas.

24           And what he's gonna tell you is that on the day  
25 that this happened, March 13th, he had gone to Andrew's

1 Air Force Base because as, most people familiar with the  
2 military know, you have certain physical training or PT  
3 requirements to make sure that you're physically able to  
4 carry out your duties. And part of that means that you  
5 have to exercise to be able to meet the requirements.

6 What Mr. Ervin liked to do is he liked to ride  
7 his bike so what he would do is on days that he was gonna  
8 do that he'd drive up to Andrews and ride his 24 speed  
9 Greg Lamon bike around the entire perimeter of the base  
10 which is about ten miles.

11 And he had -- you'll -- you'll hear him tell  
12 you that he had done that on this day. He had gotten up  
13 in the morning as he had to work later in the afternoon  
14 but not that time.

15 He had gone to Andrews and he had done his  
16 exercise and he was on his way back. At the time he'll -  
17 - well, he'll tell you where he lived at the time but  
18 what you will hear is that in order for him to get home  
19 he had to take Mattawoman Beantown Road down to where it  
20 intersects with Leonardtown Road.

21 And that Mr. Ervin's gonna tell you he had to  
22 make a left and then to get to his house he had to make  
23 more or less an immediate right after he made that left  
24 hand turn.

25 And what else Mr. Ervin's gonna tell you is

1 that on that day there were some other vehicles in the  
2 vicinity. One of them was a Baltimore Tank Lines fuel  
3 tanker truck. Just like any kind of tractor trailer  
4 combo that you're used to it's gonna have a tractor at  
5 the front and then that trailer that it pulls. And in  
6 this case it's a tanker trailer.

7 Mr. Ervin recognizes it as a Baltimore Tank  
8 Lines vehicle because he had seen it in traffic and it  
9 was a marked vehicle. It had their information on it.  
10 And at the time his brother actually worked for the  
11 company so he'll tell you that it was easy for him to  
12 I.D. it as a Baltimore Tank Lines vehicle.

13 And what Mr. Ervin's gonna say about how this  
14 accident happened is that Mattawoman Beantown Road as it  
15 comes down to Leonardtown Road, starts out with two  
16 through lanes; the left and the right lane and they both  
17 go in the same direction.

18 As it gets closer to Leonardtown Road as you  
19 can see in the diagram, that lane -- those lanes widen  
20 out. And what you get is you get two through lanes to  
21 the right and two left turn lanes which are the two left-  
22 most lanes.

23 And as you can see, as it approaches the  
24 intersection where Leonardtown Road is it adds another  
25 lane off to the right but that -- we shouldn't hear much

1 talking about that today.

2 And Mr. Ervin's gonna describe to you how this  
3 accident took place. And what he's gonna tell you is  
4 basically this, if I don't drop it on the floor. This is  
5 working out real for me ladies and gentlemen; let's try  
6 it this way. It's like I'm doing a video on what not to  
7 do during an opening statement. I'm gonna have to  
8 apologize for that. I'm usually -- actually that's a  
9 lie. I'm always this clumsy.

10 What you're gonna see and what Mr. Ervin's  
11 gonna tell you and we realize that there's debate as to  
12 how this accident happened. You're gonna hear other  
13 testimony. This is what Mr. Ervin's gonna say.

14 What he's gonna tell you is, is that you can  
15 see that this is more or less a same section of the  
16 diagram you just looked at; it's just zoomed in a little  
17 bit. And what this portion is and it's a little tough to  
18 see but what it shows you is the portion of Mattawoman  
19 Beantown Road where the two turn lanes start to split off  
20 to the left side as it approaches Leonardtown Road which  
21 would be up here.

22 And Mr. Ervin's gonna tell you that he -- as  
23 soon as the turn lanes came into being that he got over  
24 to his left at a constant speed, the same speed he'd been  
25 going, and began proceeding up to the light.

1           He's gonna tell you that this is a trip that he  
2 had made thousands of times. He'd lived there for about  
3 six years when this happened. He'd been working up at  
4 Andrews. That was his duty station for the Navy Reserves  
5 pretty much that entire time. And combined with the  
6 periods of his reserve duty and his active duty where he  
7 was there all the time, literally he had done this over  
8 1,500 times.

9           And he always goes the same way and he had an  
10 important reason that he always goes the same way because  
11 he knows that to get to his house he has to make a right  
12 turn after he makes his left onto Leonardtown Road. So  
13 in order for him to do that he's always in the right-most  
14 of the two left turn lanes. You know, you've got a left  
15 hand left turn lane and a right hand left turn lane. I  
16 know that's confusing terminology but all the lawyers  
17 talked about it and we couldn't come up with a better way  
18 to tell you about these lanes.

19           And so what Mr. Ervin did is, at a constant  
20 speed, he immediately merged over into that right-most  
21 left turn lane. And that as he came up the, trunk -- the  
22 tractor trailer, was next to him at this point. And he  
23 was about right here and it's marked with an "H" cause he  
24 was driving a Honda. And he was about midway on this  
25 truck -- this tractor trailer. This is the tanker

1 portion and this is the track -- the trailer portion.

2 And then as he proceeded up he's gonna tell you  
3 that this tractor trailer suddenly came over into his  
4 lane and when he did that he had to decide what to do.  
5 And what he did is -- the first thing he did is he moved  
6 away from that tractor trailer. Why? He's gonna tell  
7 you why. Because it's a fuel tanker. He didn't want to  
8 get hit by a fuel tanker. Nobody wants to get hit by a  
9 tractor trailer but nobody really wants to get by one  
10 carrying fuel because it could -- it's a fire hazard.

11 So what he did is he came over into this left  
12 lane; he -- he saw nothing in the left lane. When he  
13 entered the left lane right afterwards he was struck from  
14 the rear by this Dodge driven by Ms. Young, okay.

15 And what you're gonna be asked to determine  
16 today is if anybody was negligent in this accident. And  
17 negligence, you hear it a lot, but really what it means  
18 is it's just a term for did somebody act carelessly. Did  
19 somebody not use the degree of care that they should have  
20 used operating a motor vehicle that day?

21 Now, what our argument's gonna be when it's  
22 time for you to render a verdict is we're gonna ask you  
23 to find that the driver of the Baltimore Tank Lines  
24 vehicle was negligent by coming over into the lane when  
25 the lane wasn't clear and without making sure that the

1 lane was clear.

2 Now, you're also gonna have to determine what  
3 to do with Ms. Young. Ms. Young's a party in this case  
4 because she was involved in the accident so she's sort of  
5 a necessary party. And what you're gonna be asked to  
6 determine about Ms. Young is whether -- you know, she in  
7 some way failed to exercise due care whether that would  
8 have been by going slower or having a chance to see the  
9 accident quicker. But you'll have to determine if she  
10 did something negligent that caused her car to hit Mr.  
11 Ervin's vehicle.

12 And you'll be asked to determine that the  
13 driver of the Baltimore Tank Lines vehicle was negligent  
14 by failing to make sure that that lane was clear before  
15 he got into it.

16 Thanks very much for your attention.

17 THE COURT: Mr. Ford.

18 MR. FORD: Thank you, Your Honor.

19 OPENING STATEMENTS

20 BY MR. FORD:

21 Good morning.

22 THE JURORS: Good morning.

23 I'm Frank Ford. I was previously introduced  
24 but I couldn't see you because of the column and you  
25 probably didn't see me either.