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2 H A R L A N L. A L B E R T S, J R.,
3 having been first duly sworn by
4 a Notary Public of the State of
5 New York, was examined and
6 testified as follows:

7 EXAMINATION BY

8 MR. GAIR:

9 Q State your name and address for
10 the record, please.

11 A Harlan L. Alberts, Jr., 538 North
12 Cottage, Taylorville, Illinois 62568.

13 Q Good afternoon, Mr. Alberts.

14 A Good afternoon.

15 Q My name is Anthony Gair.

16 As you know, you have been here
17 through Miss Chambers's deposition and I
18 represent Miss Chambers in this action which
19 results from this accident which occurred on
20 May 15th of 2015.

21 I am going to be asking you
22 questions. I am not a big one for giving
23 instructions, I am sure your attorney has
24 told you, but there's one thing I'd ask you.

25 A lot of the questions that I am

1 Harlan L. Alberts, Jr.
2 going to ask you, you are going to know where
3 I am going before I get through.

4 Wait until I finish because the
5 court reporter can't take us both down if we
6 are speaking over each other. Okay?

7 A Yes, sir.

8 Q And try to answer verbally with
9 a yes or no or whatever. No mmhmm or nods of
10 the head.

11 A Yes, sir.

12 Q And if you don't understand any
13 of my questions, if you find them confusing,
14 just let me know and I will rephrase the
15 question for you.

16 A Yes, sir.

17 Q Sir, what is your date of birth?

18 A January 3rd, 1960.

19 Q Where were you born?

20 A Fort Leonard Wood, Missouri.

21 Q Now, are you currently employed?

22 A Yes, sir.

23 Q By whom are you employed?

24 A Cavallo Bus Lines.

25 Q What is your position with

1 Harlan L. Alberts, Jr.

2 Cavallo Bus Lines?

3 A Motor coach operator.

4 Q By that, I assume you mean you
5 drive buses, correct?

6 A Yes.

7 Q How long have you been employed
8 by Cavallo Bus Lines?

9 A Since October 1st of 2001.

10 Q Have you always been employed by
11 Cavallo Bus Lines as a motor coach operator,
12 bus driver, if you will?

13 A Yes, sir.

14 Q Prior to becoming employed by
15 Cavallo Bus Lines, had you had any previous
16 employment as a bus driver?

17 A Yes, sir.

18 Q With what company were you
19 employed prior to Cavallo?

20 A Vandalia Bus Lines.

21 Q Where is Vandalia Bus Lines
22 located?

23 A Caseyville, Illinois.

24 Q How long were you employed by
25 them, approximately?

1 Harlan L. Alberts, Jr.

2 A Six years.

3 Q Was that your first job as a bus
4 driver?

5 A No, sir.

6 Q What was your prior job as a bus
7 driver?

8 A Before going full-time with
9 Vandalia, I worked part-time for them and
10 drove a trash truck for Waste Management, and
11 prior to that I started driving a bus for
12 Smith Bus Service on January 5th of '95.

13 Q What is the highest level of
14 education you have attained?

15 A I have a GED. I would say 11th
16 grade.

17 Q Did you go to formal school
18 until 11th grade and then you got what is
19 called a general equivalency high school
20 diploma?

21 A Yes, sir.

22 Q Since the time you graduated
23 from high school, have you always been
24 employed as a bus or truck driver?

25 A No. I have worked at a couple

1 Harlan L. Alberts, Jr.
2 of fast food restaurants and also worked in a
3 slaughter house for several years.

4 Q Prior to coming here to testify
5 for this deposition, in order to refresh your
6 recollection about the events surrounding
7 this accident, did you review any documents,
8 photos, videos?

9 A I received some information and
10 looked at it, but not a lot of information,
11 no.

12 Q When you say information, did
13 you receive documents to review?

14 A It was the date when the
15 accident happened and that was it.

16 Q Just to be clear, you didn't
17 review the police report regarding this
18 accident?

19 A No, sir.

20 Q Did you review your motor
21 vehicle accident report, your MV-104?

22 A No, sir.

23 Q And you looked at no videos; is
24 that right?

25 A No, sir. I did not.

1 Harlan L. Alberts, Jr.

2 Q At the time of this accident, is
3 it correct that you were driving a 2014 MCI
4 bus?

5 A Yes, sir.

6 Q And that is what you refer to as
7 a motor coach?

8 A And bus drivers, we don't call
9 them buses, we call them motor coaches.

10 Q I know. It is a tour bus, if
11 you will?

12 A Yes, sir.

13 Q When were you first licensed to
14 operate a motor vehicle, approximately?

15 A You mean my driver's license?

16 MR. VITUCCI: A motor vehicle, a
17 car, anything.

18 A Driver's license?

19 Q Yes.

20 A 1976.

21 Q Did you at some point have to
22 get a commercial driver's license in order to
23 drive a motor coach?

24 A Yes. And I gave you the wrong
25 date. It was January of 1990 that I started

1 Harlan L. Alberts, Jr.

2 driving a school bus. I said '95. It was
3 1990.

4 I started driving a school bus,
5 yes, and before school got out that May, I
6 had gotten my license to drive a charter bus.

7 Q What you referred to as a motor
8 coach?

9 A Yes.

10 Q The type of bus you were driving
11 at the time of this accident?

12 A Yes.

13 MR. GAIR: Off the record,
14 please.

15 (Discussion off the record.)

16 EXAMINATION CONTINUED

17 BY MR. GAIR:

18 Q In order to drive a motor coach,
19 the type you were driving at the time of this
20 accident, you had to have a commercial
21 driver's license; is that correct?

22 A Yes, sir.

23 Q What class license did you have
24 as of May 15th of 2015?

25 A B.

1 Harlan L. Alberts, Jr.

2 Q A commercial class B?

3 A Yes.

4 Q What does that entitle you to
5 drive?

6 A At that point it entitled me to
7 drive anything without air brakes and also
8 had passenger endorsement which enabled me to
9 haul passengers.

10 Q When did you first get your CDL,
11 your commercial driver's license?

12 A I believe it was January 8th.

13 Q Of what year?

14 A Of 1990.

15 Q And in order to get the
16 commercial driver's license, did you have to
17 take any type of specific training courses?

18 A I went out with the owner of the
19 bus company and rode around with her.

20 When the kids got on the bus,
21 she would drive. When the kids got off the
22 bus, I would drive out in the country.

23 After a couple of days she felt
24 comfortable what I was doing. She asked if I
25 felt comfortable with taking the test.

1 Harlan L. Alberts, Jr.

2 I then went out and took a
3 written test. When I passed it, they brought
4 a bus out and I took a driving test and at
5 that point I got my commercial license.

6 Q Was that a school bus --

7 A That I started with?

8 Q -- that you drove for the road
9 test for the State?

10 A Yes, sir.

11 Q And that was for Illinois you
12 got that?

13 A Yes, sir.

14 Q And at the time of this accident
15 you had an Illinois commercial driver's
16 license; is that correct, 5-B?

17 A Yes, sir.

18 Q Is that correct, a class 5-B or
19 class B?

20 A Class B, yes, sir.

21 Q When you went to work for --
22 withdrawn.

23 Is Vandalia Bus Lines the same
24 type of company as Cavallo?

25 By that I mean, do they operate

1 Harlan L. Alberts, Jr.

2 motor coaches that transport passengers for
3 tours, that type of thing?

4 A Yes, sir.

5 Q You worked for Vandalia, I
6 believe you stated, for six years?

7 A Roughly, yes, sir.

8 Q Did you have to take any special
9 training before being allowed to drive buses
10 for Vandalia?

11 A I don't remember if the owner
12 went out with me or not.

13 Q Now, I believe you stated you
14 started with Cavallo on October 1st of 2001;
15 is that right?

16 A Yes, sir.

17 Q When you started with Cavallo,
18 did you receive any specific type of training
19 from Cavallo itself?

20 A I did a road test with
21 Mr. Cavallo.

22 Q That is Larry Cavallo?

23 A Yes, sir.

24 Q And Larry Cavallo is the
25 president of Cavallo Bus Lines, is he?

1 Harlan L. Alberts, Jr.

2 A Owner, operator, yes, sir.

3 Q Do you know his wife Gail?

4 A Yes, I know her.

5 Q She is the secretary of the
6 corporation, right?

7 A I don't know her exact title,
8 but yes.

9 Q She has something to do with the
10 company, correct?

11 A Yes.

12 Q So, tell me about what you did
13 with Larry Cavallo, as to any training he
14 gave you.

15 A He has a road course that you --
16 stop signs that you go through, turns you
17 make, straight-aways, and he just, you know,
18 instructs you on how to do it the proper way.

19 Q How long did that training last
20 with Mr. Cavallo?

21 A An hour.

22 Q After that hour, he was satisfied
23 you were qualified to drive the motor coaches
24 they operated?

25 A He was comfortable with the way

1 Harlan L. Alberts, Jr.

2 I operated the bus, yes, sir.

3 Q You were involved in an accident
4 on May 15th of 2015; is that correct?

5 A Yes, sir.

6 Q And you were operating a motor
7 coach at that time; is that correct?

8 A Yes, sir.

9 Q And it was a 2014 MCI motor
10 coach?

11 A I believe it was.

12 Q Withdrawn.

13 Was it a 2014 MCI motor coach?

14 A I believe it was.

15 Q Did it have a specific number
16 assigned to it by Cavallo Bus Lines?

17 A There is. I don't remember what
18 it was.

19 Q Did you always operate the same
20 motor coach or bus for Cavallo or would it
21 depend on which ones were available?

22 A We don't have assigned buses.

23 Q So it was whatever bus was
24 assigned to you for any particular trip; is
25 that correct?

1 Harlan L. Alberts, Jr.

2 A Yes, sir.

3 Q How many buses are in the fleet
4 that Cavallo owns, approximately?

5 A Roughly 120.

6 Q Are they all MCIs?

7 A Yes. Well, no. We have two
8 TEMSAs. They are 35-passenger.

9 Q Did you drive the TEMSAs as well?

10 A I don't like driving them, and,
11 no, I don't drive them.

12 Q Why don't you like driving them?

13 A I am so used to driving the MCI.

14 The TEMSA, the gauges and
15 everything are set up so much different and
16 I usually drive one of the larger motor
17 coaches.

18 Q What is the seating capacity of
19 the bus you were driving at the time of the
20 accident?

21 A 56 passengers.

22 Q Did that particular bus have an
23 automatic or standard transmission?

24 A Automatic.

25 Q How many forward gears did it

1 Harlan L. Alberts, Jr.

2 have?

3 A Six.

4 Q Was the gear shift on the floor
5 or on the column?

6 A Key pad on the left side.

7 Q It operated by a key pad?

8 A Yes, sir.

9 Q And it also had a reverse,
10 correct?

11 A Yes.

12 Q Do you know the approximate
13 length of the bus that you were operating at
14 the time of the accident?

15 A 45-foot.

16 Q Do you happen to know its height?

17 A 11-6.

18 Q 11 feet, six inches?

19 A Yes, sir.

20 Q Do you know its width?

21 A I believe it is 102 inches.

22 Q Did that bus have a radio in it?

23 A Yes.

24 Q Did it have a CD player?

25 A Yes.

1 Harlan L. Alberts, Jr.

2 Q Did it have a two-way radio?

3 A No, sir.

4 Q At the time of the accident, was
5 the radio on?

6 A I believe the tour manager was
7 on the microphone, so the radio wouldn't have
8 been on.

9 Q Who was the tour manager?

10 A Timi Kaufman.

11 Q And Timi Kaufman is a woman; is
12 that correct?

13 A Yes.

14 Q As you are seated in the bus
15 driving it, you are seated to the left; is
16 that right?

17 A Yes, sir.

18 Q And the door is to your right?

19 A Yes.

20 Q And there's no seat next to you;
21 is that right?

22 A No, sir.

23 Q The closest seat would be
24 backwards to the right; is that correct?

25 A There's two seats behind me and

1 Harlan L. Alberts, Jr.

2 two seats to the right of me.

3 Q Would the two seats to the right
4 of you be for passengers or for the tour
5 manager?

6 A However the tour company sets
7 them up.

8 Q Was Timi Kaufman the tour
9 manager employed by Cavallo?

10 A No. Timi Kaufman is the owner
11 of Timi's Tours.

12 Q As of May 15th of 2015, is it
13 fair to say that you were very familiar with
14 the operation of this type of MCI motor coach
15 or bus?

16 A Yes.

17 Q Do you know what an EDR is, an
18 event data recorder?

19 A Yes. That is our cameras which
20 we have on there.

21 Q I understand there's cameras on
22 the bus, and those cameras show a forward
23 view in the direction that you are going and
24 also a reverse view showing the driver's
25 area; is that correct?

1 Harlan L. Alberts, Jr.

2 A Yes, sir.

3 Q But I am referring to an event
4 data recorder, what is called a black box.
5 Does that bus have a black box?

6 A I have heard of them. I don't
7 know.

8 MR. VITUCCI: He is just asking
9 if you are familiar with the term.

10 A Not really.

11 Q So, you don't know whether that
12 particular bus had a black box in it, do you?

13 A Not really.

14 Q You have never seen any
15 information downloaded from a black box in
16 the bus that you were operating at the time
17 of the accident, with regard to the time of
18 the accident?

19 A No.

20 MR. GAIR: I will put it in
21 writing, but I am just going to ask for
22 the production of any data extracted
23 from the black box, if there is one,
24 which I know there is, in that
25 particular bus for the time of the

1 Harlan L. Alberts, Jr.

2 accident and a minute or so prior
3 thereto.

4 MR. VITUCCI: And you will put
5 that in writing?

6 MR. GAIR: Of course. I am
7 just putting that in there so I will
8 remember.

9 MR. VITUCCI: And send it to
10 Miss Ragone in my office and that will
11 remind you, too.

12 Q Has your license to operate a
13 bus or any type of motor vehicle ever been
14 suspended or revoked for any reason?

15 A No.

16 Q Have you ever had to take any
17 driver education courses?

18 A Prior to getting my license.

19 Q I mean as a result of accidents
20 or traffic infractions, have you ever had to
21 take any driver education courses?

22 A No.

23 Q Have you ever had to take any
24 point reduction courses?

25 Do you know what a point

1 Harlan L. Alberts, Jr.

2 reduction course is?

3 A No, sir.

4 Q In other words, have you ever
5 been required, because of getting too many
6 traffic infractions, to go to school and take
7 a course?

8 A No.

9 Q Now, at the time of this
10 accident, were you operating this bus in the
11 course and scope of your employment with
12 Cavallo Bus Lines?

13 A Was I working for Cavallo at the
14 time?

15 Q Yes.

16 A Yes.

17 Q And you had their permission and
18 consent to operate the bus, correct?

19 A Yes.

20 Q In the 24 hours prior to the
21 accident, had you consumed anything of an
22 alcoholic nature to drink?

23 A No.

24 Q Had you taken any drugs within
25 24 hours prior to the accident?

1 Harlan L. Alberts, Jr.

2 A Nothing other than doctor-
3 prescribed medication.

4 Q What prescription medication
5 were you on at the time of the accident?

6 A Blood pressure medicine and
7 cholesterol.

8 Q And you have been on those for
9 some time, I assume?

10 A Yes.

11 Q Now, you mentioned that Timi
12 Kaufman was the owner of Tammy's Tours.

13 Do you remember that?

14 A Timi's Tours, yes.

15 Q I am sorry, Timi's Tours.
16 At the time of this accident,
17 were you on a charter job for Timi's Tours?

18 A On a tour, yes, sir.

19 Q Where did this tour originate?

20 A In Illinois.

21 Q Where in Illinois?

22 A I believe my first pick-up was
23 Taylorville.

24 Q Where was the ultimate designation
25 of this tour?

1 Harlan L. Alberts, Jr.

2 A New York City.

3 Q Were there any stops along the
4 way?

5 A Well, I believe we stayed in
6 West Virginia the night before we came into
7 Secaucus.

8 Q And then you stayed overnight in
9 Secaucus, did you?

10 A Yes.

11 Q What I mean is, was this trip,
12 this tour, solely intended as a trip to visit
13 New York City?

14 A Yes.

15 Q At the time of the accident, did
16 you have 28 passengers in the bus?

17 A I am not sure how many we had.

18 MR. GAIR: I am going to mark as
19 Plaintiff's Exhibit 1 a Report of Motor
20 Vehicle Accident signed by, I believe --

21 Q Is that your signature,
22 Mr. Alberts?

23 A Yes, it is.

24 MR. GAIR: I am going to mark
25 an MV-104, Report of Motor Vehicle

1 Harlan L. Alberts, Jr.

2 Accident, completed by Mr. Alberts as
3 Plaintiff's Exhibit 1.

4 I am going to mark the overlay
5 for the MV-104 as 1-A, and I am going to
6 mark the police report for this accident
7 as Exhibit 2.

8 MR. VITUCCI: I gave you that?

9 MR. GAIR: Yes.

10 MR. VITUCCI: By mistake or was
11 that in my responses?

12 MR. GAIR: Off the record.

13 (Discussion off the record.)

14 MR. GAIR: I am going to mark
15 the police report for this accident as
16 Plaintiff's Exhibit 2 and I am going to
17 mark the overlay for the police report
18 as Plaintiff's Exhibit 2-A.

19 MR. VITUCCI: The witness wanted
20 to amend a response he gave earlier to
21 one of your questions, specifically with
22 regard to the video.

23 MR. GAIR: Sure.

24 MR. VITUCCI: I can just ask
25 him.

1 Harlan L. Alberts, Jr.

2 You did see the video at my
3 office yesterday?

4 THE WITNESS: I forgot about
5 seeing the video. Yes.

6 MR. GAIR: Fair enough.

7 (The above-mentioned records
8 were marked as Plaintiff's Exhibits 1,
9 1-A, 2 and 2-A, respectively, for
10 identification.)

11 EXAMINATION CONTINUED

12 BY MR. GAIR:

13 Q Mr. Alberts, you just mentioned
14 that you did review the video from the camera
15 located in the bus, correct?

16 A I watched part of it. I couldn't
17 watch all of it.

18 Q So, you watched part of it?

19 A Yes.

20 Q And that was a video taken from
21 the camera that is part of the bus, correct?

22 A Yes, sir.

23 Q And as we discussed, it shows
24 your view as you are sitting in the driver's
25 seat and then it shows the reverse, showing

1 Harlan L. Alberts, Jr.

2 the entire front where you were sitting and
3 to the right, correct?

4 It shows the whole front of the
5 bus through the windshield?

6 A Yes.

7 Q Correct?

8 A Yes.

9 Q And that has just been provided
10 to us.

11 I am going to ask you, does that
12 fairly and accurately, that video, portray
13 the events immediately prior to the accident
14 with the bicyclist?

15 A Yes, sir.

16 Q Now, I will go over this more in
17 a minute, but I just want to show you this
18 MV-104 which was marked as Plaintiff's
19 Exhibit 1 for identification.

20 Is all the writing on this form
21 yours?

22 A It looks to be mine.

23 Q And it is your signature?

24 A Yes.

25 Q And it is dated May 25th of 2015?

1 Harlan L. Alberts, Jr.

2 A Yes.

3 Q Where was this filled out?

4 A I believe the office of Cavallo
5 Bus Lines.

6 Q In Illinois?

7 A In Illinois.

8 Q It says please see police report
9 for passenger list on bus, right?

10 A Yes.

11 Q So, would it be fair to say, at
12 the time you filled out this MV-104, you had
13 a police report as well?

14 MR. VITUCCI: Is it fair to say
15 that? He is asking you a question.

16 A Yes.

17 MR. VITUCCI: Did you have the
18 police report?

19 THE WITNESS: I think there was
20 one there.

21 Q And you reviewed it, correct?

22 A I would say I did, yes.

23 Q And that is how you knew that,
24 instead of writing out all the passengers,
25 you said see the police report for passengers

1 Harlan L. Alberts, Jr.

2 on the bus, right?

3 A Yes.

4 Q Thank you. I will get back to
5 that. I just wanted to establish the number
6 of passengers.

7 So, showing you Plaintiff's
8 Exhibit 2, the police report, I counted it
9 out. I counted 28 passengers. Does that
10 help refresh your recollection?

11 A My job is not to count the
12 passengers.

13 MR. VITUCCI: Just answer the
14 question.

15 He asked you, does that refresh
16 your recollection?

17 In other words, does seeing that
18 police report now, does that make you
19 remember the number of passengers on the
20 bus?

21 A Yes.

22 Q Would you accept that the police
23 report lists 28 passengers?

24 A I guess it doesn't have a list
25 of passengers on it.

1 Harlan L. Alberts, Jr.

2 Q Look at this. I am showing you
3 2-A. Exhibit 2-A is an overlay, just so you
4 have the numbers on the side --

5 MR. VITUCCI: This is the key to
6 reading the police report.

7 Q If you will look at number 11,
8 it says ejection from vehicle, and then it
9 lists -- do you see where it says one, one,
10 one, one, these numbers?

11 A Yes.

12 Q So, that refers to the passengers
13 in the bus. Okay?

14 A Okay.

15 Q So, it has you, correct?

16 A Yes.

17 Q And then we have, obviously,
18 Miss Chambers is three.

19 She is the bicyclist?

20 A Yes.

21 Q After that, these are all number
22 ones; we have one, two, three, four, five,
23 six, seven, eight, nine, ten, 11, 12, 13, 14,
24 15, 16, 17, 18, 19, 20, 21, 22, 23, and that
25 is Timi?

1 Harlan L. Alberts, Jr.

2 A Yes, sir.

3 Q 24, 25, 26, 27, 28.

4 So, the police report, would you
5 agree, indicates there were 28 passengers on
6 the bus?

7 A Yes, sir.

8 Q Thank you.

9 Were all these passengers
10 Illinois residents?

11 A I believe they were.

12 Q Did you pick up the various
13 passengers at different locations within the
14 state of Illinois or did some of them come to
15 the Cavallo Bus Lines facility or something
16 else?

17 A I picked up all of them in
18 Illinois at different locations.

19 Q Throughout the state?

20 A Yes.

21 Q On what day?

22 First, in order to start this
23 tour, you went to pick up a bus at Cavallo
24 Bus Lines, their faculty; is that right?

25 A I don't remember if I had the

1 Harlan L. Alberts, Jr.

2 bus at home the night before or if I went and
3 picked it up that morning.

4 Q When were you first assigned to
5 this tour?

6 A I don't recall the date I was
7 dispatched.

8 Q But do you recall the date that
9 you first got in the bus and started to drive
10 to begin the job, the tour?

11 A Yes.

12 Q What day was that?

13 A I believe the 11th of May.

14 Q Correct me if I am wrong, but as
15 I understand it, Timi's Tours hired Cavallo
16 Bus Lines for this specific tour, correct?

17 A Yes.

18 Q Which was a trip to New York
19 City?

20 A Yes.

21 Q And Timi Kaufman accompanied the
22 passengers, the tourists, on this trip,
23 correct?

24 A Yes.

25 Q In fact, in the video you can

1 Harlan L. Alberts, Jr.

2 see her in sort of a pink outfit standing up
3 with a microphone in her hand; is that right?

4 Do you recall?

5 A Yes.

6 Q What time did you start out on
7 the trip on May 11th of 2015?

8 When did you first start driving
9 the bus that day?

10 A The day of the accident?

11 Q No, on May 11th.

12 MR. VITUCCI: When your tour
13 started in Illinois.

14 A I believe around six o'clock in
15 the morning. Without looking at my log book
16 I don't recall.

17 Q I was going to ask you about
18 that.

19 Do you in the normal course of
20 tours such as this maintain a driver's log
21 book?

22 A Yes, sir.

23 Q According to the Federal Motor
24 Carrier Safety Administration Rules, you are
25 required to fill out that log book on a daily

1 Harlan L. Alberts, Jr.

2 basis, are you?

3 A Yes, sir.

4 Q And did you do so on this trip?

5 A Yes, sir.

6 Q Do you use a separate log book
7 for each trip?

8 A No, sir.

9 Q Do you know where the log book
10 for this trip happens to be?

11 A I am not sure.

12 MR. GAIR: I will call for
13 production of the log book for this
14 trip. And I am only doing this so I can
15 put it on the record.

16 I will follow-up in writing.

17 MR. VITUCCI: We have his log
18 here for the month of May.

19 MR. GAIR: I never saw them. I
20 don't need to look at them now.

21 MR. VITUCCI: Off the record,
22 please.

23 MR. GAIR: Sure.

24 (Discussion off the record.)

25 EXAMINATION CONTINUED

1 Harlan L. Alberts, Jr.

2 BY MR. GAIR:

3 Q Were you the only bus operator
4 for this tour or was there an alternate bus
5 operator?

6 A I was the only driver.

7 Q So, you started out on May 11th
8 of 2015 and you had to pick up the passengers,
9 right?

10 A Yes.

11 Q Did you pick up Timi first?

12 A I don't believe so.

13 Q What day of the week was
14 May 11th? It was four days before.

15 A Monday or Tuesday.

16 Q Did you have to drive throughout
17 the state of Illinois to pick up passengers
18 or were they in a close vicinity of where you
19 started out?

20 A Close vicinity.

21 Q And you either started out from
22 your home or from the offices of Cavallo Bus
23 Lines; is that correct?

24 A Yes.

25 Q Where are their offices again?

1 Harlan L. Alberts, Jr.

2 A Gillespie, Illinois, Springfield,
3 Missouri, Indianapolis, Indiana.

4 Q Did you work out of a particular
5 facility?

6 A Gillespie, Illinois.

7 Q What is the address there in
8 Gillespie?

9 A 509 Illinois Avenue.

10 Q So, you don't recall whether
11 you went there that morning to the Gillespie
12 yard -- can I call it a yard? That is where
13 they keep their buses, right?

14 A Yes, sir.

15 Q You don't recall if you went to
16 the yard that morning or if you had gotten
17 the bus and taken it home to start out in the
18 morning from your home; is that right?

19 A No, I don't.

20 Q That would be in your log book,
21 probably?

22 A Yes, sir.

23 Q How long did it take you to
24 drive in Illinois, to complete picking up
25 these passengers, the 28 passengers, which

1 Harlan L. Alberts, Jr.

2 included Timi Kaufman?

3 A What was my driving time for the
4 day; is that what you are asking?

5 Q Exactly.

6 A Without looking at my log book,
7 I am not sure. I am going to say better than
8 nine hours.

9 Q That nine hours was not limited
10 to just Illinois, was it?

11 A No, sir.

12 Q So you first had to pick up the
13 passengers in Illinois?

14 A Yes.

15 Q And Timi Kaufman?

16 A Yes.

17 Q How long did that take you?

18 A I don't recall the route. I
19 don't remember if, after I picked her up, if
20 we went to Springfield and then Decatur,
21 which I believe we would have done that.

22 I don't remember if I left the
23 garage that morning or if I had the bus at
24 home.

25 Q Fair enough.

1 Harlan L. Alberts, Jr.

2 Now, when you said you drove for
3 approximately nine hours on May 11th, where
4 did you stop?

5 A The end of the day?

6 Q At the end of the day.

7 A Probably West Virginia.

8 Q Are you guessing or do you know?

9 A I am not 100 percent sure. I
10 don't recall the route we took.

11 MR. GAIR: Off the record,
12 please.

13 (Discussion off the record.)

14 MR. GAIR: We are going to mark
15 as Plaintiff's Exhibit 3 Mr. Alberts's
16 driver's daily log book for the month of
17 May.

18 Q That is what this is, correct?

19 A Yes.

20 (The above-mentioned record
21 was marked as Plaintiff's Exhibit 3 for
22 identification.)

23 EXAMINATION CONTINUED

24 BY MR. GAIR:

25 Q Mr. Alberts, we have marked your

1 Harlan L. Alberts, Jr.

2 daily log book for the month of May of 2015
3 as Exhibit 3. I am just going to May 11th.

4 Let's go to May 11th of 2015 in
5 your log book. I just have a couple of quick
6 questions and you can answer them.

7 It refers to the bus number 239,
8 correct?

9 A Yes, sir.

10 Q It says total miles driven today
11 is 172?

12 A Yes.

13 Q Is that the entry for the day
14 you left for the job or is it something else?

15 A This is another trip.

16 Q That was a trip prior to the one
17 you started, right, the one you were on at
18 the time of the accident?

19 A Correct.

20 Q So, if we go to May 12th, is
21 that the daily log book for the tour you were
22 on for Timi's Tours that you were on at the
23 time of the accident?

24 A Yes.

25 Q It is also bus 239?

1 Harlan L. Alberts, Jr.

2 A Yes.

3 Q In fact, you had been on another
4 trip with the bus the day before, a short
5 trip, on May 11th, bus 239, right?

6 A Yes.

7 Q By looking at this, and when I
8 say this, the daily log book for May 12th of
9 2015, does that indicate to you where you
10 started driving that day, that morning?

11 A Yes.

12 Q Where did you start driving from?

13 A Taylorville.

14 Q From your house?

15 A The same town I live in.

16 Q Does that indicate that you kept
17 the bus overnight and you started out from
18 your home on this tour?

19 A Yes.

20 Q What else does this indicate as
21 to the trip that day?

22 A Stops that I made when I picked
23 up my passengers, rest stops, and where we
24 ended up for the day.

25 Q And you drove a total of 587

1 Harlan L. Alberts, Jr.

2 miles that day; is that correct?

3 A Yes.

4 Q And you ended up in Wheeling,

5 West Virginia; is that correct?

6 A Yes.

7 Q Under Wheeling, West Virginia,

8 that is all your writing?

9 A Yes.

10 Q What does it say under that,

11 Wheeling, West Virginia?

12 A I dropped the passengers off at

13 Wheeling, West Virginia. At Wheeling, West

14 Virginia, I got fuel. I went back to the

15 Wheeling, West Virginia, for the night.

16 Q And you stayed at a motel?

17 A Yes.

18 Q And the passengers stayed at a

19 motel?

20 A I believe the same motel.

21 Q You all stayed together?

22 A Yes.

23 Q What time did you arrive at

24 Wheeling, West Virginia on the 12th?

25 A I believe 5:45.

1 Harlan L. Alberts, Jr.

2 Q 5:45 p.m.?

3 A Yes.

4 Q That evening?

5 A Yes.

6 Q And you started out, it says
7 here, and I can't read it upside down, but it
8 looks like you started out around 5:00 a.m.?

9 Am I reading that wrong?

10 A Yes.

11 Q I am reading it wrong?

12 A No, 5:00 is right.

13 Q So, 5:00 a.m.?

14 A Yes, sir.

15 Q So, you drove approximately nine
16 or ten hours, something like that?

17 A Yes.

18 Q And, then, for the next day, the
19 daily log is for May 13th of 2015, correct?

20 A Yes, sir.

21 Q And that day you drove 405 miles;
22 is that right?

23 A Yes.

24 Q It indicates where you made rest
25 stops along the way?

1 Harlan L. Alberts, Jr.

2 A Yes, sir.

3 Q And it looks like you made four
4 rest stops or three?

5 A I believe three.

6 Q And you ended up in Secaucus,
7 New Jersey, did you?

8 A Yes.

9 Q And there's numbers underneath
10 that. Does that refer to the plate number of
11 the bus?

12 A The bus number. The plate number
13 is different than the bus number.

14 Q I know. I am saying the plate
15 number.

16 A PTI, post-trip inspection --

17 Q Okay. Of 239?

18 A Of 239, yes.

19 Q And what inspection would you
20 have done?

21 A I would have walked around,
22 checked the tires, checked the windshield,
23 looked at the wiper blades.

24 Q You did that every day?

25 A I do that every morning, every

1 Harlan L. Alberts, Jr.

2 night.

3 Q And everything was okay with the
4 bus, right?

5 A Yes.

6 Q Or wasn't it?

7 A I believe it was.

8 Q I am just looking at this.

9 There doesn't seem to be any notations that
10 there was anything wrong with it, right?

11 A No, sir. Right.

12 Q By the way, in addition to the
13 driver's daily log book, is there a separate
14 driver's daily inspection book?

15 A Yes, sir.

16 Q When you first take out a bus on
17 a job, is there a pre-inspection checklist
18 you have to go through and fill out?

19 A The same list every day.

20 Q And that you keep separately?

21 A Yes, sir.

22 Q Those pre-inspection trip lists
23 are specifically assigned to the specific
24 bus, correct?

25 A Yes, sir.

1 Harlan L. Alberts, Jr.

2 Q Would those be maintained, those
3 pre-inspection trip lists, with regard to bus
4 239 for this trip by Cavallo?

5 A Yes.

6 Q They would have it?

7 A Yes.

8 MR. GAIR: I would ask for the
9 pre-inspection checklist. I will put it
10 in writing.

11 Q On May 14th of 2015, you drove a
12 total of 33 miles, right?

13 A Yes, sir.

14 Q What time did you -- you started
15 out in Secaucus, correct?

16 A Yes, sir.

17 Q And you returned to Secaucus
18 later in the day, at 6:00 p.m.; is that
19 correct?

20 A Central Time.

21 Q You are using Central Time?

22 A I have to use my home time no
23 matter where I am at.

24 Q So, it would be an hour later in
25 New York, 7:00 p.m.?

1 Harlan L. Alberts, Jr.

2 A Yes, sir.

3 Q Or New Jersey?

4 A Yes, sir.

5 Q And you started out on the 14th
6 at 7:00 a.m., correct, or 7:30 a.m.?

7 A Yes, sir.

8 Q And then your first stop was --
9 does that say New York --

10 A New York City, New York.

11 Q And then Bronx, New York?

12 A Yes, sir.

13 Q What did you do? Take the
14 people to the Bronx Zoo? I am just asking.

15 A I think we went to the ballpark.

16 Q To Yankee Stadium?

17 A I believe so.

18 Q Do you recall going to a game?

19 A No, sir. They just went for a
20 stadium tour.

21 Q Did you take part in that tour?

22 A No, sir.

23 Q You waited in the bus?

24 A I found a spot to park that I
25 was told about by the step-on guide and I

1 Harlan L. Alberts, Jr.

2 parked the bus.

3 Q Who was that?

4 A I don't remember who the step-on
5 guide was.

6 Q Is that a person who was assigned
7 to the tour?

8 A It was a person that was hired
9 by Timi to be a step-on guide in the city.

10 Q To meet the bus in the city?

11 A Yes, sir.

12 Q And did that step-on guide
13 accompany everyone in the bus throughout the
14 trip in New York City?

15 A I believe so.

16 Q Do you know the step-on guide's
17 name?

18 A No, I don't.

19 Q What did you do? Stay in the
20 bus all day?

21 A Yes.

22 Q Did you sleep in the bus?

23 A No.

24 Q What did you do?

25 A I just --

1 Harlan L. Alberts, Jr.

2 Q Hung out?

3 A Yes.

4 Q And then you brought everybody
5 back to Secaucus at 7:00 p.m. New Jersey
6 time; is that correct?

7 A Eastern Time.

8 Q 6:00 p.m. Central Time?

9 A Correct.

10 Q So, according to this log book,
11 and correct me if I am wrong -- withdrawn.

12 According to this log book, and
13 correct me if I am wrong, there were two
14 stops made in New York, one in the Bronx and
15 then somewhere else in New York City, at
16 2:30 p.m. Central Time or 3:30 p.m. New York
17 time; is that correct?

18 A Three stops.

19 Q So, New York -- what does that
20 say?

21 A New York City, New York.

22 Q Do you know where that stop was?

23 A I don't recall.

24 Q And that stop was only for -- it
25 was from 8:30 to 10:00; is that right?

1 Harlan L. Alberts, Jr.

2 A 9:30 to 10:15.

3 Q And you don't recall where that
4 was?

5 A No, sir.

6 Q And then the Bronx stop. Was
7 that at Yankee Stadium for the tour?

8 A I believe so, yes.

9 Q And then you drove to another
10 location in New York City, and you arrived
11 there at around 2:30 Central, 3:30 New York
12 time?

13 A Yes, sir.

14 Q Where in New York City?

15 A I don't recall.

16 Q Do you recall how long you
17 stopped at whatever location that was?

18 A About two hours.

19 Q How can you tell that?

20 A By the log sheet. An hour and
21 45 minutes.

22 Q Are there any documents that
23 would show where you stopped other than this
24 log book?

25 A I don't have the trip -- the

1 Harlan L. Alberts, Jr.

2 itinerary.

3 Q Correct me if I am wrong, the
4 itinerary would be maintained by Timi's Tours,
5 right?

6 A Yes, sir.

7 Q Would a copy of the itinerary be
8 given to Cavallo Bus Lines prior to the tour,
9 in the normal course of things?

10 A Sometimes they get them;
11 sometimes they don't.

12 Q You don't remember if they did
13 in this case?

14 A I don't remember if it was in my
15 book or if Timi gave me the itinerary when we
16 started the trip.

17 Q You would have certainly been
18 given a copy of the itinerary, right?

19 A Yes.

20 Q When you are done with a job,
21 with a tour, what do you do with your copy of
22 the itinerary?

23 A If the company wants it back, I
24 give it to them. If not, I put it in my book
25 and it goes to the office.

1 Harlan L. Alberts, Jr.

2 Q When you say if the company
3 wants it back, you are referring to Timi's
4 Tours?

5 A The tour company.

6 Q Do you know if in fact in this
7 case it went to Timi's Tours or it went to
8 Cavallo Bus Lines?

9 A I don't recall.

10 MR. GAIR: I will ask for a
11 copy of the trip itinerary if it is
12 available. I will put it in writing.

13 Q And then you went back to
14 Secaucus, and you arrived in Secaucus at 6:00
15 Central, 7:00 Eastern; is that correct?

16 A Yes.

17 Q You stayed at a hotel or motel
18 in Secaucus?

19 A Yes, sir.

20 Q Do you remember the name of it?

21 A No, I don't.

22 Q That is not written down
23 anywhere? It might be written down in the
24 trip itinerary but nowhere else?

25 A Yes, sir.

1 Harlan L. Alberts, Jr.

2 Q By the way, had you ever driven
3 a motor coach such as the one you were
4 operating at the time of the accident in
5 New York City before?

6 A A couple of times.

7 Q How many times?

8 A Three or four times.

9 Q When was the last time prior to
10 May 15th of 2015 that you drove a motor coach
11 in New York City?

12 A I don't recall the exact date.

13 Q Can you approximate it?

14 A I don't believe -- I don't
15 recall what day it was.

16 Q Do you know what year it was?
17 Let me ask you this way: Had you driven a
18 motor coach in New York City within a year
19 prior to May 15th of 2015?

20 A Yes.

21 Q On how many occasions within the
22 year prior?

23 A I don't recall.

24 Q Would that have been for Cavallo
25 Bus Lines?

1 Harlan L. Alberts, Jr.

2 A Yes.

3 Q Now, were you familiar with 11th
4 Avenue or the West Side Highway, as we have
5 been referring to it, in the area of 14th
6 Street prior to May 15th of 2015?

7 A Vaguely.

8 Q What do you mean by vaguely?

9 A It is not a road that I am on --
10 that I remember being on that much.

11 Q Had you ever been on that
12 roadway in a southbound direction in the area
13 of 14th Street before?

14 A I don't recall.

15 Q So, on May 15th of 2015, as you
16 were proceeding in a southern direction on
17 the West Side Highway towards 14th Street,
18 were you familiar with that roadway?

19 Were you familiar with it?

20 MR. VITUCCI: Had you been on
21 this road before, this particular road
22 before?

23 A I am sure I had. I don't recall.

24 Q So, you are sure you have, but
25 you have no independent recollection of it?

1 Harlan L. Alberts, Jr.

2 A Right.

3 Q So, would it be fair to say, as
4 you drove the motor coach in a southerly
5 direction on the West Side Highway towards
6 14th Street, you were not familiar with that
7 roadway?

8 MR. VITUCCI: Objection to the
9 form.

10 MR. GAIR: I will risk the form.

11 A Not really.

12 Q You were not really familiar with
13 it?

14 A No.

15 MR. VITUCCI: Objection to the
16 form.

17 Q Just going back to your log book
18 which is Exhibit 3 for May 15th of 2015, does
19 it indicate what time you left Secaucus,
20 New Jersey?

21 A Yes, it does.

22 Q So I don't misread it, why don't
23 you tell me?

24 A Seven o'clock Central, eight
25 o'clock Eastern.

1 Harlan L. Alberts, Jr.

2 Q In the morning?

3 A Yes, a.m.

4 Q What time did you go to sleep
5 the night before?

6 A I am sure it wasn't too late.

7 Q Do you have an approximate time?

8 A Probably nine o'clock.

9 Q And you got a good night sleep?

10 A Yes.

11 Q And then you made a stop in
12 New York City; is that right?

13 A Where?

14 Q On the second line, or is that
15 your destination?

16 A That was the accident.

17 Q Where were you going to at the
18 time of the accident?

19 A Battery Park.

20 Q And you were taking the tourists
21 to visit Battery Park?

22 A Yes, sir.

23 Q Was that to see the World Trade
24 Center, the monument, things like that?

25 A I am not sure. I think they were

1 Harlan L. Alberts, Jr.

2 going on a boat ride.

3 Q Did they ever take that boat
4 ride that day?

5 A I dropped them off.

6 Q After the accident?

7 A Yes, sir.

8 Q Now, we have marked your MV-104.
9 You saw that?

10 A Yes, sir.

11 Q And you are aware that is
12 something that has to be filed with the state
13 of New York when someone is involved in a
14 motor vehicle accident?

15 A Yes.

16 MR. VITUCCI: Objection to the
17 form. Are you aware?

18 Q Are you aware?

19 A Yes, I am.

20 Q Other than this MV-104 accident
21 report, did you fill out any other reports
22 regarding this accident in the regular course
23 of business of Cavallo Bus Lines?

24 A I don't recall.

25 Q Do you recall ever filling out

1 Harlan L. Alberts, Jr.

2 an accident report that had to be filed with
3 the Federal Motor Carrier Safety
4 Administration?

5 A I don't recall.

6 Q Is that the usual thing one does
7 when they are in an accident in a bus?

8 A I carry an accident report
9 envelope in my briefcase.

10 Q When you say an accident report
11 envelope, the federal forms, right?

12 A I believe so.

13 Q Did you fill out a federal
14 accident form for this particular accident?

15 A I don't recall if I had or not.

16 Q Isn't it a legal requirement you
17 do so?

18 MR. VITUCCI: Objection to the
19 form.

20 Q Are you aware of whether the
21 Federal Motor Carrier Safety Administration
22 requires a motor coach operator who is
23 engaged in interstate transfer of passengers
24 and is involved in an accident to fill out a
25 form and submit it to the administration?

1 Harlan L. Alberts, Jr.

2 MR. VITUCCI: Objection to the
3 form. You can answer.

4 Are you aware?

5 A Yes, I am aware. And if there
6 was one that had to be filled out, I would
7 fill it out with Mark.

8 Q Mark who?

9 A Mark Sereg, the safety director.

10 Q Mark Sereg is the safety director
11 of Cavallo, is he?

12 A Yes.

13 Q Do you recall filling one out
14 with him?

15 A I don't recall.

16 Q And you don't recall ever seeing
17 one?

18 A I don't remember.

19 Q In the normal course and scope
20 of things, would you have filled out such a
21 report?

22 A Yes.

23 MR. GAIR: I will call for
24 production of any report filled out by
25 Mr. Alberts and submitted to the Federal

1 Harlan L. Alberts, Jr.

2 Motor Carrier Safety Administration.

3 MR. VITUCCI: By counsel, I
4 don't think there is one.

5 MR. GAIR: Fine. That shortcuts
6 things.

7 MR. VITUCCI: But to the extent
8 there is and I find one, I will give it
9 to you.

10 MR. GAIR: I appreciate it.

11 Q Going back to Exhibit 3, the
12 daily log for May 15th, does this indicate
13 the time that the accident occurred?

14 A That is the exact time that I
15 could put down on my log sheet, yes.

16 Q What time did you put down?

17 A 9:15, 8:15 Central.

18 Q How did you get from the hotel
19 in Secaucus into the City?

20 A I came in through the Lincoln
21 Tunnel.

22 Q After you came through the
23 Lincoln Tunnel, how did you get onto the West
24 Side Highway?

25 A Turned left on 41st Street, went

1 Harlan L. Alberts, Jr.

2 down the West Side Highway, turned left on
3 West Side Highway.

4 Q And then you were going in a
5 southbound direction?

6 A I believe so.

7 Q Do you know how many lanes there
8 are for southbound traffic on the West Side
9 Highway in the area from 23rd Street to
10 14th Street?

11 A I believe there's three lanes.

12 Q You got on the West Side Highway
13 at 41st Street; is that what you said?

14 A I believe so.

15 Q And as you were driving south,
16 did you stay in the same lane for the whole
17 time, until the time of the accident?

18 A Yes, sir.

19 Q Was that, as you were driving,
20 the far right lane?

21 A Yes, sir.

22 Q The lane closest to the Hudson
23 River; is that right?

24 A Yes, sir.

25 Q Now, for the two blocks prior to

1 Harlan L. Alberts, Jr.

2 being involved in this accident, do you recall
3 at what speed you were going?

4 A I would say less than the speed
5 limit because I wasn't passing anybody.

6 Q At some point before the accident
7 happened, did you pass a car in the center
8 lane?

9 A Not that I recall.

10 Q Do you recall prior to the
11 accident a car in the center lane coming to a
12 stop and your passing it?

13 A I don't recall.

14 Q One way or the other?

15 A Right. I don't recall.

16 Q From the time your bus got on
17 the West Side Highway at 41st Street and
18 proceeded in a southbound direction in the
19 far right lane, was Timi speaking on the
20 microphone to the tourists?

21 A I am sure she was.

22 Q Do you have an independent
23 recollection of that?

24 A No. I don't remember.

25 Q But that is what she would

1 Harlan L. Alberts, Jr.

2 normally do?

3 A Yes.

4 Q Point out the various sites and
5 whatnot?

6 A Yes.

7 Q Were you looking around at the
8 various sites?

9 A I am sure I might have looked
10 from time to time.

11 Q Looked to your right, looked to
12 your left?

13 A Yes. Also I looked out my
14 mirrors.

15 Q You mean your sideviews?

16 A Yes, sir.

17 Q To see if there were cars behind
18 you?

19 A Yes, sir.

20 Q What was the weather like that
21 day?

22 A Clear.

23 Q The roadway was dry?

24 A As best I recall.

25 Q Was the air conditioner on in

1 Harlan L. Alberts, Jr.

2 the bus?

3 A I am sure it was.

4 Q So, the windows were closed?

5 A I don't open them. Yes, they
6 were closed.

7 Q They are never open; is that
8 right?

9 A No.

10 Q No, it is not right?

11 A No, we don't open them.

12 Q The intersection of 14th Street
13 and 11th Avenue, or West Side Highway, as we
14 have been referring to it, as you approached
15 the intersection of 11th Avenue and
16 14th Street driving in a southerly direction
17 in the far right lane, did there come a time
18 where you observed a traffic signal?

19 A I am sure I observed a couple.
20 The one at 14th?

21 Q Yes. I am talking specifically
22 about the one at 14th Street.

23 A Yes. I specifically remember it
24 being green.

25 Q Where was your bus or how far

1 Harlan L. Alberts, Jr.

2 was the front of your bus from that traffic
3 signal when you first observed it? How far
4 away?

5 A I am sure it was a ways away. I
6 don't really recall.

7 Q 50 feet? 100 feet? Do you have
8 any idea?

9 A Probably 100 feet, 200 feet.

10 MR. VITUCCI: Are you guessing
11 or is that some sort of reasonable
12 approximation?

13 THE WITNESS: 200 feet.

14 Q When you first observed that
15 traffic signal -- withdrawn.

16 By the way, that was a traffic
17 light, correct?

18 A Yes, sir.

19 Q And it was an overhead traffic
20 light; is that right? It was on a pole,
21 wasn't it?

22 A Yes.

23 Q When you first observed it,
24 when your bus was some 200 feet north of the
25 light, what color was it?

1 Harlan L. Alberts, Jr.

2 A Green.

3 Q Did it ever change to a different
4 color prior to the accident?

5 A Not that I remember.

6 Q This was a straightaway that you
7 were driving on for at least 200 feet prior
8 to the intersection of 14th Street, correct?

9 A Yes.

10 Q And there was nothing that
11 obstructed your vision of that traffic light,
12 was there?

13 A No.

14 Q And there was nothing that
15 obstructed your vision of the intersection,
16 was there?

17 A No.

18 Q So, my question is, from the
19 time you first observed that traffic light
20 when the front of your bus was some 200 feet
21 north of it, did it ever change from green to
22 another color?

23 A Not that I remember.

24 Q It may have?

25 A It may have.

1 Harlan L. Alberts, Jr.

2 Q It may have changed before you
3 went through it?

4 A Yes.

5 Q And is it possible it may have
6 been red when you went through it?

7 A It is possible.

8 Q Now, from the time you got on the
9 West Side Highway going south at 41st Street,
10 did you ever have to come to a complete stop
11 for any traffic lights?

12 A I could have.

13 Q Do you have any independent
14 recollection of stopping?

15 A No.

16 MR. GAIR: Off the record,
17 please.

18 (Discussion off the record.)

19 EXAMINATION CONTINUED

20 BY MR. GAIR:

21 Q Now, from the point you were 200
22 feet away from the traffic light at the
23 intersection of 14th Street and the West Side
24 Highway in the far right lane for southbound
25 traffic, were there any vehicles immediately

1 Harlan L. Alberts, Jr.

2 in front of your bus?

3 A I don't recall.

4 Q I think we have agreed, have we,
5 that there was nothing that obstructed your
6 vision of either the crosswalk or traffic
7 light, true?

8 MR. VITUCCI: Objection. Asked
9 and answered.

10 MR. GAIR: Fine. You are right.
11 I won't push it.

12 Q From the time that you were 200
13 feet north of the traffic light driving in a
14 southerly direction on the West Side Highway,
15 do you recall any cars passing you, any
16 trucks, vehicles, buses, anything?

17 A I am sure there were, yes.

18 Q Do you remember that?

19 A Yes.

20 Q Do you remember passing anyone?

21 A No.

22 Q At the time that you were
23 approximately 200 feet north of the traffic
24 light at the intersection of 14th Street and
25 11th Avenue or the West Side Highway, what

1 Harlan L. Alberts, Jr.

2 gear were you in?

3 A It is automatic.

4 Q It changes automatically by

5 computer?

6 A Yes, sir.

7 Q So, you don't remember?

8 A No, sir.

9 Q How does it change? By the
10 speed?

11 A I believe so.

12 Q Just so I understand it, this is
13 one of those buses in which the forward
14 motion and the speed, the gear that it is in,
15 is totally controlled by a computer and
16 depending upon how far you depress the gas
17 pedal?

18 MR. VITUCCI: Objection to the
19 form.

20 Q If you know.

21 How does it work?

22 A The faster you go, then it
23 shifts gears.

24 Q Do you know whether that
25 information as to which gear you would be in

1 Harlan L. Alberts, Jr.

2 and when the gears shifted would be contained
3 in the data, in the event data recorder for
4 that bus?

5 A I know nothing about that.

6 Q What was the name of the safety
7 manager again at Cavallo?

8 I am sorry. I forgot.

9 A Mark Sereg.

10 Q Do you know whether Mark Sereg
11 ever had the information from the event data
12 recorder extracted from the bus?

13 A Not for sure.

14 Q During the course and scope of
15 your employment with Cavallo and particularly
16 with regard to these modern MCI buses, the
17 2014 models and later, have you ever heard of
18 that being done after an accident?

19 A No, sir.

20 MR. VITUCCI: Do you want to
21 make a request on me?

22 MR. GAIR: Yes. I am just
23 requesting the data.

24 There's several computer modules
25 on this bus. There may be an ECM

1 Harlan L. Alberts, Jr.
2 module; there's certainly an EDR black
3 box.

4 So, I will request all
5 electronic data from the bus from the
6 time Mr. Alberts got on the West Side
7 Highway until the time of the accident.

8 MR. VITUCCI: To the accident
9 that is able to be produced, we will
10 produce it.

11 I don't know if it has been
12 overwritten.

13 The bus was used following the
14 incident, so I am doubtful whether that
15 data is available to anyone. But to the
16 extent it is, we will produce it.

17 MR. GAIR: Okay.

18 Q As you were driving on the
19 West Side Highway in the far right lane for
20 southbound traffic, within 200 feet of the
21 intersection of 14th Street, did you see
22 anyone crossing the street, crossing the West
23 Side Highway, either from east to west or
24 west to east?

25 A Not that I recall.

1 Harlan L. Alberts, Jr.

2 Q Did you see any traffic moving
3 in a northerly direction on the northbound
4 lanes of the West Side Highway?

5 MR. VITUCCI: When? At the area
6 of this intersection?

7 MR. GAIR: Yes.

8 A I don't recall.

9 Q At some point in time, did your
10 bus strike a bicyclist?

11 A At the intersection of 14th and
12 West Side.

13 Q You were here when Suzanne
14 Chambers testified. Was that the bicyclist
15 that your bus struck?

16 A I believe so.

17 Q When did you first observe Miss
18 Chambers prior to striking her?

19 A About six to eight feet from her.

20 Q Was she on a bicycle?

21 A I believe so.

22 Q Was there a crosswalk there where
23 she was crossing?

24 A Yes.

25 Q Was she crossing from the west

1 Harlan L. Alberts, Jr.

2 side of the West Side Highway to the east
3 side?

4 A She was crossing from right to
5 left.

6 Q From your right to your left?

7 A Yes.

8 Q Did you notice other people also
9 beginning to cross?

10 A Not until I stopped.

11 Q What do you mean, not until you
12 stopped?

13 A I didn't see her until about
14 six to eight feet before I hit her and I
15 noticed after I stopped there were other
16 people there.

17 Q In the intersection?

18 A No, to the side of the bus.

19 Q What I was asking you is, prior
20 to striking her, whether any other people
21 were crossing the intersection from your
22 right to your left.

23 A I didn't notice anybody in the
24 intersection.

25 Q At the time that your bus struck

1 Harlan L. Alberts, Jr.

2 Miss Chambers -- withdrawn.

3 Prior to your bus striking
4 Miss Chambers, had your bus passed through a
5 traffic light for southbound traffic on the
6 West Side Highway at the intersection?

7 A I don't remember if there was
8 one before the intersection or if it was
9 after the intersection.

10 Q What did you do when you first
11 observed Miss Chambers?

12 A I applied the brakes.

13 Q Did your vehicle react? Did the
14 bus react?

15 A It slowed down.

16 Q Do you know what speed it slowed
17 down to?

18 A Not for sure.

19 Q Is there any way you can estimate
20 the speed of your bus at the time you first
21 saw Miss Chambers?

22 A I am guessing 15.

23 Q 15 miles per hour?

24 A 15 miles per hour.

25 Q And that is just a guess?

1 Harlan L. Alberts, Jr.

2 A That is a guess.

3 Q Can you estimate the speed of
4 your bus at the time it struck her?

5 A That is what I am -- I thought
6 that is what you were asking.

7 Q What I am saying is, at the time
8 you first saw Miss Chambers, before applying
9 your brakes, at what speed was your bus going?

10 A Less than 30.

11 Q How less?

12 A I am not sure.

13 Q So, then, you hit your brakes;
14 is that right?

15 A I applied my brakes, yes.

16 Q Are you saying that the front of
17 your bus was six to eight feet away from Miss
18 Chambers at the time you first saw her?

19 A I believe so.

20 Q And that is when you applied
21 your brakes?

22 A Yes, sir.

23 Q And did your bus slow down?

24 A Yes, sir.

25 Q And is that when you said it was

1 Harlan L. Alberts, Jr.

2 going 15 miles per hour, at the time it struck
3 her?

4 A I believe so.

5 Q Was she on her bicycle at the
6 time you struck her?

7 A Yes.

8 Q Do you recall the color of the
9 clothes she was wearing?

10 A No.

11 Q Do you recall whether she was
12 wearing a helmet?

13 A I don't remember, no.

14 Q As a result of the impact, was
15 Miss Chambers's bike and body moved in a
16 southerly direction?

17 MR. VITUCCI: Objection to the
18 form.

19 MR. GAIR: Withdrawn.

20 Q As a result of your bus striking
21 Miss Chambers on her bicycle, was she moved
22 in a south direction?

23 MR. VITUCCI: Objection to the
24 form.

25 Do you know if she was propelled

1 Harlan L. Alberts, Jr.

2 in any direction as a result of the
3 accident?

4 A When I stopped the bus, she was
5 in front of the bus.

6 Q How far in front of the bus?

7 A I don't recall. I am guessing
8 that --

9 MR. VITUCCI: No one wants you
10 to guess.

11 A I don't know.

12 Q Was the front end of your bus
13 past -- there was a marked crosswalk where
14 she was crossing, wasn't there?

15 A Yes.

16 Q Was the front end of your bus
17 south of that marked crosswalk when it came
18 to a stop after striking Miss Chambers?

19 A I don't remember.

20 Q From the time that you first
21 observed Miss Chambers until the time your
22 bus struck her on her bicycle, how much time
23 elapsed?

24 A A couple of seconds.

25 Q For the six or seven seconds

1 Harlan L. Alberts, Jr.

2 prior to your bus striking Miss Chambers,
3 where were you looking?

4 A I don't recall.

5 Q Were you looking straight ahead
6 at the roadway?

7 A I seen her about six or seven
8 feet before I struck her.

9 Q That is not my question.
10 My question is, sir, for the six
11 or seven seconds prior to your bus striking
12 Miss Chambers, where was your face pointed,
13 your head?

14 Were you looking straight ahead?

15 A I don't remember.

16 Q Could you have been looking to
17 your left?

18 A I could have been looking in
19 either direction.

20 Q So, you could have taken your
21 eyes off the roadway; is that fair to say?

22 MR. VITUCCI: Objection to the
23 form.

24 Q Did you take your eyes off the
25 roadway within the six or seven seconds prior

1 Harlan L. Alberts, Jr.

2 to your bus striking Miss Chambers?

3 A I don't recall.

4 Q You could have, you could not
5 have; is that what that means?

6 A I could have.

7 Q Why would you do that?

8 MR. VITUCCI: Objection to the
9 form.

10 A Looking out my mirrors.

11 Q Why would you be looking out
12 your mirrors? Did you have --

13 A Standard procedure.

14 Q Did you have intention to change
15 lanes?

16 A No.

17 Q Would there be any reason for you
18 to take your eyes off the roadway in front of
19 you?

20 A I am always looking out my
21 mirrors and looking ahead and at my gauges.

22 Q That is not what I am asking you.
23 In order to look at your
24 rearview mirrors, you don't have to take your
25 eyes off the roadway, do you?

1 Harlan L. Alberts, Jr.

2 MR. VITUCCI: Objection to the
3 form.

4 Q Do you have to take your eyes off
5 the roadway in front of you in order to look
6 in the rearview mirrors?

7 A Yes.

8 Q Why?

9 MR. VITUCCI: Objection to the
10 form.

11 A Because they are on the side of
12 the bus.

13 Q Let me make it more clear for
14 you.

15 Other than to look in your
16 rearview mirrors, do you recall whether you
17 took your eyes off the roadway in front of
18 you in order to look at sites, either to your
19 left or right?

20 MR. VITUCCI: Objection to the
21 form and it is asked and answered.

22 Q After your bus struck Miss
23 Chambers, what did you do?

24 A Stopped the bus.

25 Q I understand. You hit the

1 Harlan L. Alberts, Jr.

2 brakes, right?

3 A Yes.

4 Q And that was about what, how

5 many seconds before? I just forgot.

6 A Six to eight feet.

7 MR. VITUCCI: Objection.

8 Q And after your bus struck Miss

9 Chambers, did your bus come to a stop?

10 A Yes. I stopped it.

11 Q And what did you do?

12 A Put it in neutral, set the
13 brake, took my seat belt off, I believe, and
14 I got off the bus to see what happened.

15 Q And what did you see?

16 A Miss Chambers laying to the
17 front left of the bus.

18 Q Did you observe anything about
19 her physical condition?

20 A I didn't go near her.

21 Q Why not?

22 A I am not touching something I
23 don't want -- there's enough problems as it
24 is.

25 Q By the way, did you have a cell

1 Harlan L. Alberts, Jr.

2 phone with you?

3 A Yes, I have a cell phone.

4 Q Did you have it with you?

5 A Yes.

6 Q Did you take any photographs of
7 the scene of the accident?

8 A No.

9 Q Do you know if Timi did?

10 A I don't know.

11 Q Do you know if any of the
12 passengers did?

13 A Could have.

14 Q Have you ever seen any
15 photographs that were taken by anyone's cell
16 phone, either a passenger or Timi?

17 A No.

18 Q Did you speak to any witnesses
19 at the time of the accident?

20 A I don't recall.

21 Q Did anyone approach you and say,
22 hey, I saw the accident?

23 A I didn't talk to anybody about
24 what happened.

25 Q Did the police come?

1 Harlan L. Alberts, Jr.

2 A The police came.

3 Q Did you speak to the police?

4 A Yes.

5 Q Did you tell them what happened?

6 A Yes.

7 MR. GAIR: We are going to mark
8 11 photographs, and some of them have
9 two photographs on each page.

10 (The above-mentioned photos were
11 marked as Plaintiff's Exhibits 4 through
12 14, respectively, for identification.)

13 EXAMINATION CONTINUED

14 BY MR. GAIR:

15 Q Mr. Alberts, I just want to show
16 you some photographs.

17 First of all, let me show you
18 photographs which I have marked as Plaintiff's
19 Exhibits 4, 5, 6 and 7.

20 A (Witness peruses photographs.)

21 Q Sir, looking at those
22 photographs, do any of those photographs --
23 withdrawn.

24 Do those photographs fairly
25 and accurately depict the West Side Highway

1 Harlan L. Alberts, Jr.

2 looking in a southerly direction towards the
3 intersection of 14th Street?

4 A Yes.

5 Q Taking a look at Plaintiff's
6 Exhibit 5, this photograph, does this
7 photograph show the lane you were traveling
8 in immediately prior to the accident?

9 A Yes.

10 Q And that is the lane to the far
11 right on the photograph; is that correct?

12 A Yes.

13 Q And you can observe it. Do you
14 see the traffic light?

15 A Yes.

16 Q In fact, there's two lights,
17 right?

18 I am sorry, there's one light,
19 right here? There's a light, correct, a
20 traffic light?

21 A Yes.

22 Q Do you see a white line in the
23 photograph?

24 A Yes.

25 Q Do you know what that line is

1 Harlan L. Alberts, Jr.

2 for?

3 A To stop behind the line.

4 Q That is where someone who is
5 driving south, such as you were, is to stop
6 if the traffic light is red, correct?

7 A Yes.

8 Q Do you see the white markings at
9 14th Street?

10 A Yes.

11 Q Is that the crosswalk that
12 Miss Chambers was on -- withdrawn.

13 Is that the crosswalk that Miss
14 Chambers was in at the time of the accident?

15 A I can't tell what street that is,
16 but it could be.

17 Q You can't tell if that is
18 14th Street?

19 A I can't see the numbers on there.

20 Q How about on Exhibit 6?

21 Does that show the West Side
22 Highway looking south in the direction you
23 were going at the intersection of 14th Street?

24 A Southbound, yes.

25 Q There's a sign there. Can you

1 Harlan L. Alberts, Jr.

2 see that, 14th Street?

3 A I really can't make it out.

4 MR. GAIR: Let's go off the
5 record.

6 (Discussion off the record.)

7 MR. VITUCCI: We will stipulate
8 that Exhibits 4, 5 and 6 show the
9 intersection of the accident.

10 MR. GAIR: Thank you.

11 EXAMINATION CONTINUED

12 BY MR. GAIR:

13 Q Getting back to Exhibit 5,
14 this shows the viewpoint you had as you were
15 driving south in the far right lane, correct?

16 A Yes.

17 Q And that is the lane to the
18 right on the photograph as you look at it; is
19 that correct?

20 A Yes.

21 Q And then it shows the white line
22 where one is supposed to stop if they are
23 going south for the red light, correct?

24 A Yes.

25 Q And then there's a crosswalk at

1 Harlan L. Alberts, Jr.

2 14th Street; is that right?

3 A Yes.

4 Q Was Miss Chambers on her bicycle
5 in that crosswalk coming from the left to the
6 right of the photograph?

7 MR. VITUCCI: Right to the left.

8 A Right to the left.

9 MR. GAIR: I am sorry, right to
10 left.

11 Q Correct?

12 A Yes.

13 Q Miss Chambers at the time of
14 the accident was coming on her bicycle from
15 the right to the left as you look at the
16 photograph?

17 Okay?

18 A Yes.

19 Q And you understand that as being
20 from the west to the east side?

21 A Yes.

22 Q In Exhibit 4, we stipulate it
23 shows the same thing; is that correct?

24 A Yes.

25 Q Do you see these crosswalk lines

1 Harlan L. Alberts, Jr.

2 in the foreground of the photograph?

3 A Yes.

4 Q Obviously, that is not
5 14th Street, that is a crosswalk to the
6 north, to the north of 14th Street?

7 A Yes.

8 Q If your bus was in the location
9 of these white lines, the crosswalk to the
10 north, you would have been able to see the
11 traffic light; is that correct?

12 MR. VITUCCI: Objection to the
13 form.

14 Q Would you have been able to see
15 the traffic light from those white lines in
16 the foreground of the photograph?

17 MR. VITUCCI: What he is
18 asking you is, could you see the traffic
19 light up ahead at 14th Street from that
20 location in the bottom of the picture,
21 in the crosswalk area?

22 THE WITNESS: Yes.

23 Q And I believe you stated you did
24 see it and it was green?

25 A Yes.

1 Harlan L. Alberts, Jr.

2 Q Showing you a photograph which
3 has been marked as Exhibit 10, does that
4 depict the southbound lanes for the West Side
5 Highway at the intersection of 14th Street
6 looking in a northerly direction?

7 MR. VITUCCI: In other words,
8 you would be coming this way.

9 A It looks like 14th Street there,
10 yes.

11 Q And in this photograph,
12 Exhibit 10, your bus would have been in the
13 lane to the far left as you look at the
14 photograph, correct?

15 A Yes, sir.

16 Q Do you see the very back portion
17 of the photograph, all the way down at the
18 end?

19 A Yes.

20 Q So, when your bus -- do you see
21 where there's a taxicab?

22 A Yes.

23 Q In the middle lane?

24 A Yes.

25 Q So, when your bus was in the

1 Harlan L. Alberts, Jr.

2 area where this taxicab is, would you have
3 been able to see the traffic light at the
4 intersection of 14th Street?

5 A Yes.

6 Q In fact, can you in this
7 photograph, Exhibit 10, see two vehicles, a
8 taxicab and a car to its right as you look at
9 the photograph stopped at the white line for
10 the traffic light?

11 A Yes.

12 Q Now, showing you what I have
13 had marked as Plaintiff's Exhibit 8, does
14 this also show the southbound lanes on the
15 West Side Highway looking in a northerly
16 direction?

17 A Yes.

18 Q And you can actually see in this
19 photograph the sign, 14th Street; is that
20 correct?

21 A Yes.

22 Q Do you see the white lines in
23 the photograph, the crosswalk lines?

24 A Yes.

25 Q And that is the crosswalk that

1 Harlan L. Alberts, Jr.

2 Miss Chambers was proceeding in on her
3 bicycle at the time of the accident, correct?

4 MR. VITUCCI: Objection to the
5 form.

6 Q Is that the crosswalk that Miss
7 Chambers was proceeding into at the time of
8 the accident?

9 A Yes.

10 Q And she was coming from, as you
11 look at this photograph, from the left to the
12 right, correct?

13 A Yes, sir.

14 Q Do you see in this photograph,
15 Exhibit 8, cars stopped at the white line for
16 the traffic light?

17 A Yes.

18 Q And was it your understanding
19 that that white line indicated the place that
20 southbound traffic should stop should the
21 light be red for traffic going in a southerly
22 direction?

23 A Yes.

24 Q Showing you what I have had
25 marked as Plaintiff's Exhibit 9, do you

1 Harlan L. Alberts, Jr.
2 recognize this photograph as depicting the
3 intersection of 14th Street and the West Side
4 Highway?

5 A Yes, sir.

6 Q And it is looking in a westerly
7 direction; is that correct?

8 A Yes.

9 Q Do you see where the bus is
10 positioned in this photograph?

11 A Yes.

12 Q Is that the lane your bus was in
13 immediately before striking Miss Chambers on
14 her bicycle?

15 A Yes.

16 Q And Miss Chambers, with reference
17 to Plaintiff's Exhibit 9, this photograph, was
18 coming from the left to the right on her
19 bicycle?

20 A Yes.

21 Q Correct?

22 A Yes.

23 Q Can you indicate on this
24 photograph, Plaintiff's Exhibit 9, where Miss
25 Chambers's bicycle was at the time that your

1 Harlan L. Alberts, Jr.

2 bus struck it?

3 A No.

4 Q You don't know?

5 A No. I don't remember.

6 Q Now, showing you what I have had
7 marked as Plaintiff's Exhibit 11, which
8 contains two photographs, are these also
9 taken of the southbound lanes on the West
10 Side Highway at the intersection of 14th
11 Street looking in a northerly direction?

12 A No.

13 Q I am sorry. Strike the question.

14 Are these photographs taken of
15 the southbound lanes on the West Side Highway
16 looking in a southerly direction?

17 A Yes.

18 Q And the lane to the very right
19 of the photograph is the lane your bus was
20 in, correct?

21 A Yes.

22 Q Do you see where, and it is not
23 Miss Chambers, but do you see where the
24 bicyclist is positioned in this photograph,
25 the bottom photograph of Exhibit 11?

1 Harlan L. Alberts, Jr.

2 A Yes.

3 Q And is that the area that Miss
4 Chambers was coming from immediately prior to
5 the accident?

6 A Yes.

7 Q Do you know, using this
8 photograph, the bottom photograph of
9 Plaintiff's Exhibit 11 as a reference, do you
10 know how far she got into the intersection
11 before your bus struck her?

12 A No.

13 Q Showing you what I have marked
14 as Plaintiff's Exhibit 13, and it has two
15 photographs on it; I am referring to the top
16 photograph.

17 Does the top photograph show the
18 southbound lanes or at least a portion of the
19 southbound lanes for the West Side Highway
20 looking in a northerly direction?

21 A Yes.

22 Q Does it show the crosswalk at
23 14th Street?

24 A Yes.

25 Q And there's a sign that says

1 Harlan L. Alberts, Jr.

2 14th Street?

3 A Yes.

4 Q There's a traffic light?

5 A Yes.

6 Q And, again, there's a white line
7 on this photograph, the top photograph, where
8 cars are supposed, cars going south are to
9 come to a stop if the traffic light is red?

10 A Yes.

11 Q This photograph shows, which was
12 taken in a northerly direction, shows that
13 the roadway for a number of blocks prior to
14 the intersection of 14th Street and the West
15 Side Highway was a straight roadway, correct?

16 A Yes.

17 Q So, do you see in this
18 photograph, the top photograph of Exhibit 13,
19 where there's cars in the photograph?

20 A Yes.

21 Q So, at the location where those
22 cars are located in the photograph, would you
23 have been able to see the traffic light at
24 the intersection of 14th Street and the West
25 Side Highway for southbound traffic?

1 Harlan L. Alberts, Jr.

2 A Yes.

3 Q Using this photograph, the top
4 photograph of Exhibit 13 as a reference,
5 would you have been able to see the traffic
6 light from the location where the cars are
7 shown in this photograph?

8 A Yes.

9 Q And did you see it from the
10 location where the cars are shown in this
11 photograph, Exhibit 13?

12 A I don't remember.

13 Q Using this photograph, and when
14 I say this photograph, again, Exhibit 13, as
15 a reference, can you tell us on this
16 photograph where the front of your bus was
17 located when you first were able to observe
18 the traffic light at 14th Street?

19 A No.

20 Q I think we have agreed that you
21 were able to see for at least 200 feet before
22 the intersection, correct?

23 A Yes.

24 Q Could you see further than
25 that, when you were farther north of the

1 Harlan L. Alberts, Jr.

2 intersection of 14th Street?

3 A I don't remember.

4 Q Now, showing you very quickly
5 Exhibit 1, the MV-104 which we looked at
6 briefly before --

7 A Yes.

8 Q And you wrote in a description
9 of the accident, correct?

10 A Yes.

11 Q Read what you wrote.

12 A I was traveling south on 11th at
13 14th when a bicyclist was attempting to cross
14 the roadway in front of me.

15 Q Did you indicate in that
16 description the direction the bicyclist was
17 going?

18 A No, I didn't.

19 Q I am going to show you Exhibit
20 1-A, which is an overlay which you probably
21 used.

22 Do you remember using this when
23 you filled out the MV-104?

24 A Yes.

25 Q So, you filled out number one as

1 Harlan L. Alberts, Jr.

2 one, which says other pedestrian location,
3 other pedestrian location, and you put in
4 one, which is pedestrian/bicyclist, other
5 pedestrian at intersection, right?

6 A Yes.

7 Q And that indicates that Miss
8 Chambers was in the intersection at the time
9 you struck her, right?

10 A Yes.

11 Q And then under number two,
12 which is pedestrian/bicyclist, other pedestrian
13 action, you left that blank? You put a line
14 through it, right?

15 A Yes.

16 Q And under number three, it is
17 traffic control, you placed a two, correct?

18 A Yes.

19 Q Which means traffic signal?

20 A Yes.

21 Q I don't want to beat a dead
22 horse, but you don't remember what the color
23 of the traffic signal was when you passed
24 through it; is that right?

25 A No. I thought it was green.

1 Harlan L. Alberts, Jr.

2 Q But you don't remember; is that
3 right?

4 A That's right.

5 Q And the light conditions, that
6 is number four, it was daylight; is that
7 correct?

8 A Yes.

9 Q And the roadway character,
10 number five, was straight and level, number
11 one?

12 You put in a one, correct?

13 A Yes.

14 Q And the roadway, number six, was
15 dry.

16 That is a one, correct?

17 A Yes.

18 Q And number 23, you put in a
19 five, which indicates that you were traveling
20 southbound; is that correct?

21 A Yes.

22 Q And for pre-accident vehicle
23 action for you, you put in a one, which means
24 you were going straight ahead, correct?

25 A Yes.

1 Harlan L. Alberts, Jr.

2 Q For number 28, location of
3 first event, it was on the roadway; is that
4 correct? You put a number.

5 Actually, it was a bicyclist that
6 you had the accident with; type of accident,
7 you put bicyclist, right?

8 A Yes.

9 Q And you had the police report as
10 we went over when you filled this out, right?

11 A Yes.

12 Q Did anyone help you fill this
13 out?

14 A I don't remember.

15 Q What is the traffic safety guy's
16 name. I am sorry.

17 A Mark Sereg.

18 Q Was he there when you filled this
19 out?

20 A Yes, he was there, but it is
21 pretty self-explanatory.

22 Q So, he didn't give you any
23 assistance in filling it out?

24 MR. VITUCCI: Objection to the
25 form.

1 Harlan L. Alberts, Jr.

2 A I don't remember.

3 Q I want to show you the police
4 report which was marked as Plaintiff's
5 Exhibit 2 for identification.

6 A Okay.

7 Q And you spoke to the police at
8 the scene of the accident, correct?

9 A Yes.

10 Q And you stated at TPO, time,
11 place, occurrence, operator one states he
12 was traveling southbound on 11th Avenue and
13 14th Street when he hit a bicyclist who was
14 attempting to cross the roadway from the west
15 side of the street to the east side.

16 Is that right?

17 A Yes.

18 Q I want to show you Exhibit 2-A.
19 This is the police overlay.

20 A Okay.

21 Q Do you see at number 19, that
22 the police officer put in a number 17?

23 A I see a 17 there, yes.

24 Q So, if you line it up with 19
25 and you look at 17, it says traffic control

1 Harlan L. Alberts, Jr.

2 disregarded.

3 Do you see that?

4 A Yes.

5 Q So, you would agree that the
6 police officer indicated that you disregarded
7 a traffic control device, correct?

8 A Yes.

9 Q And then for number 20, which
10 also applies to vehicle one, the police
11 officer put in a number seven, correct?

12 A Yes.

13 Q And if you look at the overlay,
14 that is failure to yield right of way; is
15 that correct?

16 A Correct.

17 Q Were you aware that the police
18 officer filled the report out like that at
19 the time of the accident?

20 MR. VITUCCI: Objection to the
21 form.

22 Q Were you aware of that?

23 A No.

24 Q You were issued a summons,
25 weren't you, for this accident?

1 Harlan L. Alberts, Jr.

2 A I believe that is what it was
3 called.

4 Q And if you look at the police
5 report, it says AC, paren, 19-190?

6 A Yes.

7 Q Do you know what that is for?

8 A No.

9 Q Are you aware that is for
10 failure to yield right of way?

11 MR. VITUCCI: Objection to the
12 form. You can answer.

13 A No.

14 MR. GAIR: I am going to mark
15 as Plaintiff's Exhibit 15 a copy of the
16 New York City Administrative Code, Title
17 19, Section 19-190.

18 (The above-mentioned record
19 was marked as Plaintiff's Exhibit 15 for
20 identification.)

21 EXAMINATION CONTINUED

22 BY MR. GAIR:

23 Q I am just going to show you what
24 I have marked as Exhibit 15, the New York
25 City Administrative Code, Title 19, Section

1 Harlan L. Alberts, Jr.

2 19-190, right of way.

3 Okay?

4 A Yes.

5 Q So, does that refresh your
6 recollection that you got a summons for
7 failing to yield the right of way?

8 MR. VITUCCI: I will object.

9 I don't think he said anything
10 that needed his recollection to be
11 refreshed.

12 Q Does this indicate to you,
13 Exhibit 15, that you got a summons for
14 failure to yield the right of way to a
15 bicyclist?

16 MR. VITUCCI: Note my objection.
17 I don't know if the witness can answer
18 that question adequately, counsel.

19 MR. GAIR: All right. But we
20 are in federal court.

21 A Yes.

22 Q You got a ticket for failure to
23 yield the right of way to a bicyclist, didn't
24 you?

25 A Yes.

1 Harlan L. Alberts, Jr.

2 Q They gave it to you, didn't they,
3 at the scene?

4 A Yes.

5 Q And you pled guilty to that,
6 didn't you?

7 A No.

8 Q What did you plead?

9 A Not guilty.

10 Q And what was the outcome?

11 MR. VITUCCI: By counsel, the
12 tickets were dismissed.

13 MR. GAIR: I am going to mark as
14 Plaintiff's Exhibit 16 a video provided
15 to us yesterday from the video camera in
16 the bus by defense counsel, and I am
17 going to mark as Exhibit 17 another copy
18 of a video of the accident taken from
19 the bus camera at the time of the
20 accident.

21 Both of them are at the time of
22 the accident.

23 (The above-mentioned CDs were
24 marked as Plaintiff's Exhibits 16 and 17,
25 respectively, for identification.)

1 Harlan L. Alberts, Jr.

2 MR. GAIR: For the record, I
3 have placed in a laptop computer a CD
4 that was provided to us yesterday by
5 defense counsel as Exhibit F to the
6 notice to produce.

7 It is a video from the bus
8 camera.

9 EXAMINATION CONTINUED

10 BY MR. GAIR:

11 Q Now, Mr. Alberts, this is a
12 video that we have been provided and I
13 believe you testified that you saw yesterday
14 portions of this, correct?

15 A Yes.

16 Q Is this a video, before I go
17 through the whole thing, taken immediately or
18 prior to the accident with Miss Chambers?

19 A Yes.

20 Q Why don't I just show you the
21 whole thing first and then we will go
22 backwards.

23 Okay?

24 A Okay.

25 Q Now, the whole video is

1 Harlan L. Alberts, Jr.

2 approximately 22 seconds.

3 Does that video that I just
4 showed you fairly and accurately depict you
5 and your view southbound immediately prior to
6 the accident with Miss Chambers?

7 A Yes.

8 Q Now I am going to go backwards
9 and I will stop it at points.

10 I direct your attention to the
11 light at 14th Street. At eight seconds into
12 the video, do you see the light over here,
13 where I am pointing the cursor?

14 A Yes.

15 Q It starts to blink? Do you want
16 me to go back?

17 A Yes.

18 MR. VITUCCI: I am not so sure,
19 counsel, that is an effect of the camera
20 or the bus bouncing or the light.

21 I am not aware of any blinking
22 light signal.

23 Q Do you see it?

24 A (No response.)

25 Q At 13 seconds into the video, the

1 Harlan L. Alberts, Jr.

2 light is red, isn't it?

3 A Yes.

4 Q And you are looking to your right

5 as you are sitting in the bus, correct?

6 A Yes.

7 Q You are not looking at the

8 roadway, are you?

9 A No.

10 Q And the light is clearly red for

11 you; is that correct?

12 A Yes.

13 Q And, in fact, if we go back, it

14 turned red at 12 seconds into the video.

15 Did you observe that?

16 A Yes.

17 Q And you continued to drive your

18 bus in a southbound direction, correct?

19 A Yes.

20 Q And as you can see, I am starting

21 it again at 13 seconds.

22 You are now north of a red light

23 for you going southbound, correct?

24 A Yes.

25 Q And you go through the red light,

1 Harlan L. Alberts, Jr.

2 correct?

3 A Yes.

4 Q So, you didn't observe the

5 traffic control, did you?

6 A No.

7 MR. VITUCCI: Objection to the

8 form.

9 Q Did you observe the traffic

10 control?

11 A No.

12 MR. VITUCCI: Did he observe it

13 or did he observe it red?

14 Q Did you obey the traffic

15 control?

16 MR. VITUCCI: Objection to the

17 form.

18 Q Go ahead. You can answer it.

19 You went through a red light, didn't you?

20 A Yes.

21 Q I just want to go back for a

22 second.

23 I am starting off again at about

24 11 seconds. All right. Ten seconds.

25 Are you watching it, Mr. Alberts?

1 Harlan L. Alberts, Jr.

2 A Yes.

3 Q There it is, at 13 seconds, and
4 at 14 seconds you are sort of looking to the
5 side, aren't you?

6 A Yes.

7 Q You are not even looking at the
8 light, are you?

9 MR. VITUCCI: Objection.

10 Q Are you looking at the light?

11 MR. VITUCCI: Objection.

12 Asked and answered. Don't
13 answer the question.

14 Q Now, by looking at this video,
15 at the time your bus contacted Miss Chambers,
16 you weren't looking straight ahead, were you?

17 MR. VITUCCI: Objection. Asked
18 and answered.

19 MR. GAIR: I didn't ask this
20 one.

21 Q At the time your bus contacted
22 Miss Chambers, you weren't looking straight
23 ahead in front of you, were you?

24 A Yes.

25 MR. VITUCCI: Objection to the

1 Harlan L. Alberts, Jr.

2 form.

3 Q You were?

4 A When I struck her, I was looking
5 ahead.

6 Q Let's look at it again.

7 You are looking to your right?

8 A I was looking ahead.

9 Q You would agree that Miss
10 Chambers, since you went through a red light,
11 that Miss Chambers had the right of way?

12 MR. VITUCCI: Objection.

13 Argumentative. Objection to the form.

14 A No.

15 Q Why wouldn't you agree with that?

16 A Because I don't know what her
17 signal was.

18 Q But you know your signal was red?

19 A Yes.

20 Q And you disobeyed that signal?

21 MR. VITUCCI: Objection to the
22 form. Asked and answered.

23 Q Go ahead. You can answer.

24 A I refuse to answer. Harassment.

25 Q Because you have already

1 Harlan L. Alberts, Jr.

2 admitted you went through a red light?

3 A I refuse to answer on the
4 grounds of harassment.

5 Q So, you refuse to answer my
6 question?

7 MR. VITUCCI: He has already
8 answered your question.

9 MR. GAIR: We can stipulate he
10 went through a red light, correct?

11 MR. VITUCCI: I don't think that
12 is necessary, is it?

13 MR. GAIR: I would like a
14 stipulation that Mr. Alberts went
15 through a red light.

16 MR. VITUCCI: The video depicts
17 him going through a red light, yes.

18 MR. GAIR: Thank you.

19 Q Now, you didn't even know it
20 happened, did you, by looking at that video?

21 MR. VITUCCI: Objection to the
22 form.

23 Q Did you know what happened by
24 looking at your face in that video, sir?

25 MR. VITUCCI: Objection to the

1 Harlan L. Alberts, Jr.

2 form.

3 Q Sir, did you?

4 A I know I almost killed somebody.

5 Q And you weren't looking to see
6 what was there to be seen, were you?

7 MR. VITUCCI: Objection to the
8 form.

9 Q Were you looking to see what was
10 there to be seen? Yes or no.

11 MR. VITUCCI: Objection to the
12 form.

13 MR. GAIR: I will risk the form.

14 Q Were you looking to see what was
15 there to be seen; yes or no?

16 MR. VITUCCI: Objection to the
17 form.

18 Q You can answer the question.

19 A I refuse to answer. Harassment.

20 Q Do you understand that we are in
21 Federal Court and we --

22 MR. VITUCCI: Counsel, can we
23 step outside for a second?

24 MR. GAIR: Sure.

25 (Short recess taken.)

1 Harlan L. Alberts, Jr.

2 MR. GAIR: For the record,
3 Exhibit 16 is showing the accident.

4 We have already deemed marked
5 Exhibit 17, the video from the bus
6 camera which was provided in defendant's
7 response to discovery to notice to
8 produce as Exhibit E, and we have
9 deemed that marked as Exhibit 17.

10 EXAMINATION CONTINUED

11 BY MR. GAIR:

12 Q Mr. Alberts, I have put in the
13 laptop a CD, which is a view from the camera
14 in your bus which we have marked as Exhibit 17
15 for identification.

16 Just tell me if this accurately
17 reflects what happened immediately after the
18 accident as far as what your actions were,
19 okay, and where Miss Chambers was.

20 MR. VITUCCI: To the extent that
21 it shows him performing actions, and I
22 exchanged this video or my office did,
23 we will stipulate that --

24 MR. GAIR: Okay. I just want to
25 show it to him and ask him if it shows

1 Harlan L. Alberts, Jr.

2 Miss Chambers, too.

3 MR. VITUCCI: By counsel, we
4 can stipulate that the woman on the
5 roadway being rubbed on her back is
6 Miss Chambers.

7 MR. GAIR: Okay.

8 MR. VITUCCI: And I think we
9 can also stipulate that is probably her
10 bike.

11 MR. GAIR: So, we have a
12 stipulation that the video which was
13 taken from the bus camera --

14 MR. VITUCCI: I am not aware
15 if it was taken from the bus camera.

16 I don't know who is taking it,
17 but that is showing close-ups and ins
18 and outs.

19 It looks like it was taken by
20 somebody who was a passenger, probably
21 with an i-Phone.

22 MR. GAIR: Fine. Then I will
23 take it out.

24 I have one question with the
25 other one and it has nothing to do with

1 Harlan L. Alberts, Jr.

2 the red light.

3 We will stipulate that it shows
4 Miss Chambers after the accident with
5 her bicycle, right?

6 MR. VITUCCI: It would be
7 foolish not to since she was hit with
8 the bus and that is her on the road.

9 MR. GAIR: I have just one other
10 question to ask and I have to put the
11 other CD back in.

12 EXAMINATION CONTINUED

13 BY MR. GAIR:

14 Q My question to you is, and I
15 have now the video, Exhibit 16, in the laptop.

16 Do you see this woman, where I
17 am putting the cursor, who is in orange, who
18 appears to be in orange, this woman here with
19 the microphone?

20 A Yes.

21 Q Do you know who that is?

22 A Timi.

23 Q Timi Kaufman?

24 A Yes.

25 Q Did you ever discuss this

1 Harlan L. Alberts, Jr.

2 accident with Timi Kaufman?

3 A No.

4 Q Do you know if Timi Kaufman
5 ever gave a written statement as to what she
6 observed as to the happening of the accident?

7 A I don't recall.

8 Q You have certainly never seen a
9 statement of hers, I guess?

10 A No.

11 MR. GAIR: Off the record.

12 (Discussion off the record.)

13 MR. GAIR: I have no further
14 questions. Thank you.

15 MR. VITUCCI: Thank you.

16 (Time noted: 3:30 p.m.)

17

18

19 HARLAN L. ALBERTS, JR.

20 Subscribed and sworn to before me
21 this day of , .

21

22 NOTARY PUBLIC

23

24

25

1 Harlan L. Alberts, Jr.

2 I N D E X

3 EXAMINATION BY: PAGE
 4 MR. GAIR: 4 through 117

5 INFORMATION AND/OR DOCUMENTS REQUESTED
 6 INFORMATION AND/OR DOCUMENTS PAGE
 7 REQUEST: Data from black box 20-20
 8 REQUEST: Log book 34-12
 9 REQUEST: Pre-inspection checklist 45-8
 10 REQUEST: Trip itinerary 51-10
 11 REQUEST: Copy of Federal accident
 report 58-23
 12
 13 REQUEST: All electronic data from bus
 for date of accident 70-4

14 E X H I B I T S
 15 PLAINTIFF'S
 EXHIBIT DESCRIPTION PAGE
 16 1 Copy of MV-104 26-7
 17 1-A Overlay for MV-104 26-7
 18 2 Copy of police report 26-7
 19 2-A Overlay for police report 26-7
 20 3 Log book for May of 2015 38-20
 21 4 to 14 Eleven photographs 82-10
 22 15 Copy of administrative code 102-18
 23 16 CD re bus 104-23
 24 17 CD re bus 104-23
 25

1 Harlan L. Alberts, Jr.

2 C E R T I F I C A T E

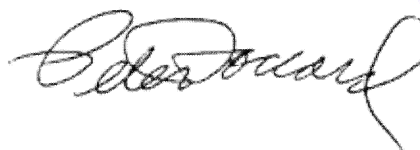
3
4 I, PETER BOCCARD, a Notary
5 Public within and for the State of New York,
6 do hereby certify the foregoing examination
7 of HARLAN L. ALBERTS, JR., was taken before
8 me the 29th day of March, 2016.

9 The said witness was by me
10 duly sworn before the commencement of their
11 testimony. The said testimony was taken
12 stenographically by myself and then
13 transcribed.

14 The within transcript is a true
15 record of the said testimony.

16 I am not connected by blood or
17 marriage with any of the said parties, nor
18 interested directly or indirectly in the
19 matter in controversy, nor am I in the employ
20 of any of the counsel.

21 IN WITNESS WHEREOF, I have hereunto
22 set my hand this 1st day of April, 2016.

23
24
25




A				
a.m 42:8,13 46:6 46:6 55:3	47:13 accurately 27:12 82:25 106:4 113:16	42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1,25 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 70:6 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1,15 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1,11 106:1 107:1 108:1,25 109:1 110:1 111:1,14 112:1 113:1,12 114:1 115:1 116:1,19 117:1 118:1,7	Anthony 2:6 4:15 anybody 61:5 72:23 81:23 anyone's 81:15 appears 115:18 applied 73:12 74:15,20 applies 101:10 applying 74:8 appreciate 59:10 approach 81:21 approached 63:14 approximate 17:12 52:13 55:7 approximately 6:25 9:14 16:4 38:3 42:15 67:23 106:2 approximation 64:12 April 118:22 area 19:25 53:5 53:12 60:9 71:5 87:21 89:2 93:3 Argumentative 110:13 arrive 41:23 arrived 49:10 51:14 asked 11:24 29:15 67:8 79:21 109:12 109:17 110:22 asking 4:21 20:8 28:15 37:4 46:14 72:19 74:6 78:22 87:18 assigned 15:16 15:22,24 32:4 44:23 47:6 assistance 99:23 assume 6:4 23:9	attained 7:14 attempting 96:13 100:14 attention 106:10 attorney 3:20 4:23 attorneys 2:5,8 3:5 authorized 3:16 automatic 16:23 16:24 68:3 automatically 68:4 available 15:21 51:12 70:15 Avenue 36:9 53:4 63:13,15 67:25 100:12 aware 56:11,17 56:18 57:20 58:4,5 101:17 101:22 102:9 106:21 114:14
able 70:9 87:10 87:14 89:3 94:23 95:5,17 95:21	action 4:18 97:13 98:23 actions 113:18 113:21 addition 44:12 address 4:9 36:7 adequately 103:18 administer 3:16 administration 33:24 57:4,21 57:25 59:2 administrative 102:16,25 117:22 admitted 111:2 afternoon 4:13 4:14 against- 1:6 agree 31:5 101:5 110:9,15 agreed 3:5,10,14 67:4 95:20 ahead 77:5,14 78:21 87:19 98:24 108:18 109:16,23 110:5,8,23 air 11:7 62:25 Alberts 1:9,20 4:11,13 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 24:22 25:1,2 26:1,13 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1,25 39:1 40:1 41:1	Alberts's 38:15 alcoholic 22:22 allowed 13:9 alternate 35:4 amend 25:20 AND/OR 117:5 117:6 answer 5:8 29:13 39:6 58:3 102:12 103:17 108:18 109:13 110:23 110:24 111:3,5 112:18,19 answered 67:9 79:21 109:12 109:18 110:22 111:8	attained 7:14 attempting 96:13 100:14 attention 106:10 attorney 3:20 4:23 attorneys 2:5,8 3:5 authorized 3:16 automatic 16:23 16:24 68:3 automatically 68:4 available 15:21 51:12 70:15 Avenue 36:9 53:4 63:13,15 67:25 100:12 aware 56:11,17 56:18 57:20 58:4,5 101:17 101:22 102:9 106:21 114:14	
AC 102:5				B
accept 29:22				B 4:2 10:25 11:2 12:19,20 117:14
accident 4:19 8:7,15,18,21 9:2 10:11,20 12:14 15:3 16:20 17:14 18:4 20:17,18 21:2 22:10,21 22:25 23:5,16 24:15,20 25:2 25:6,15 27:13 33:10 39:18,23 52:4 55:16,18 56:6,14,20,22 57:2,7,8,10,14 57:14,24 59:13 60:17 61:2,6 61:11 65:4 69:18 70:7,8 76:3 81:7,19 81:22 83:8 84:14 85:9 86:14 90:3,8 93:5 96:9 99:6 99:6 100:8 101:19,25 104:18,20,22 105:18 106:6 113:3,18 115:4 116:2,6 117:11 117:13			back 29:4 41:14 48:5 50:23 51:3,13 54:17 59:11 85:13 88:16 106:16 107:13 108:21 114:5 115:11	
accidents 21:19				backwards 18:24 105:22 106:8
accompanied 32:21				ballpark 46:15 basis 34:2 Battery 55:19 55:21
accompany				beat 97:21 becoming 6:14 beginning 72:9 believe 11:12 13:6,13 15:11 15:14 17:21

18:6 23:22	33:25 34:6,9	39:7,25 40:4,5	105:8 106:19	71:14,18 73:2
24:5,20 28:4	34:13 36:20	40:17 43:11,12	113:6,13	73:4,11,21
31:11 32:13	37:6 38:16	43:13 44:4,16	114:13,15	74:8,18 75:21
33:14 35:12	39:2,5,21 40:8	44:24 45:3	cameras 19:19	76:18,21 77:2
37:21 41:20,25	44:13,14 48:10	46:23 47:2,10	19:21,22	77:12 78:2
43:5 44:7	48:12 49:24	47:13,20,22	capacity 16:18	79:23 80:9,16
46:17 47:15	50:15,24 54:17	50:8 51:8	car 9:17 61:7,11	84:12,14 86:4
49:8 52:14	117:8,20	52:25 56:23	89:8	86:13 90:2,7
57:12 60:6,11	born 5:19	57:7 61:16	Carrier 33:24	91:13,16 92:23
60:14 68:11	bottom 87:20	63:2,25 64:2	57:3,21 59:2	93:4 97:8
71:16,21 74:19	92:25 93:8	64:24 65:20	carry 57:8	105:18 106:6
75:4 80:13	bouncing 106:20	67:2 69:4,12	cars 62:17 67:15	109:15,22
87:23 102:2	box 20:4,5,12,15	69:25 70:5,13	90:15 94:8,8	110:10,11
105:13	20:23 70:3	71:10,15 72:18	94:19,22 95:6	113:19 114:2,6
belt 80:13	117:7	72:25 73:3,4	95:10	115:4
best 62:24	brake 80:13	73:14,20 74:4	case 50:13 51:7	Chambers's
better 37:7	brakes 11:7	74:9,17,23	Caseyville 6:23	4:17 75:15
bicycle 71:20	73:12 74:9,13	75:20 76:4,5,6	Cavallo 1:9 5:24	91:25
75:5,21 76:22	74:15,21 80:2	76:12,16,22	6:2,8,11,15,19	change 65:3,21
86:4,14 90:3	briefcase 57:9	77:2,11 78:2	12:24 13:14,17	68:9 78:14
91:14,19,25	briefly 96:6	79:12,22,24	13:19,21,22,24	changed 66:2
115:5	Broad 2:9	80:8,9,14,17	13:25 14:13,20	changes 68:4
bicyclist 27:14	Bronx 46:11,14	87:8 88:12,20	15:16,20 16:4	character 98:9
30:19 71:10,14	48:14 49:6	88:25 91:9,12	19:9 22:12,13	charge 3:19
92:24 96:13,16	brought 12:3	92:2,19 93:11	28:4 31:15,23	charter 10:6
99:5,7 100:13	48:4	95:16 104:16	32:15 35:22	23:17
103:15,23	bus 1:9 5:24 6:2	104:19 105:7	45:4 50:8 51:8	checked 43:22
big 4:22	6:8,11,12,15	106:20 107:5	52:24 56:23	43:22
bike 75:15	6:16,20,21 7:3	107:18 109:15	58:11 69:7,15	checklist 44:17
114:10	7:6,11,12,24	109:21 113:5	CD 17:24 105:3	45:9 117:9
birth 5:17	9:4,8,10 10:2,4	113:14 114:13	113:13 115:11	cholesterol 23:7
black 20:4,5,12	10:6,10 11:19	114:15 115:8	117:23,24	city 24:2,13
20:15,23 70:2	11:20,22 12:4	117:12,23,24	CDL 11:10	32:19 46:10
117:7	12:6,23 13:25	buses 6:5 9:9	CDs 104:23	47:9,10,14
blades 43:23	15:2,16,20,23	13:9 15:22	cell 80:25 81:3	48:15,21 49:10
blank 97:13	16:19,22 17:13	16:3 36:13	81:15	49:14 52:5,11
blink 106:15	17:22 18:14	67:16 68:13	center 55:24	52:18 55:12
blinking 106:21	19:15,22 20:5	69:16	61:7,11	59:19 102:16
blocks 60:25	20:12,16,25	business 56:23	Central 45:20	102:25
94:13	21:13 22:10,12	<hr/>	45:21 48:8,16	class 10:23 11:2
blood 23:6	22:18 24:16	C	49:11 51:15	12:18,19,20
118:16	26:15,21 27:5	C 2:2 118:2,2	54:24 59:17	clear 8:16 62:22
BLOOM 2:4	28:5,9 29:2,20	call 9:8,9 34:12	certainly 50:17	79:13
boat 56:2,3	30:13 31:6,15	36:12 58:23	70:2 116:8	clearly 107:10
Boccard 1:23	31:23,24 32:2	called 7:19 20:4	certification 3:7	close 35:18,20
118:4	32:9,16 33:9	102:3	certify 118:6	close-ups 114:17
body 75:15	35:3,4,22	camera 26:14,21	Chambers 1:3	closed 63:4,6
book 33:15,21	36:17 37:23	104:15,19	4:18 30:18	closest 18:23

60:22	118:16	94:15 95:22	D 117:2	designation
clothes 75:9	consent 22:18	96:9 97:17	daily 33:25	23:24
coach 6:3,11 9:7	consumed 22:21	98:7,12,16,20	38:16 39:2,21	destination
9:23 10:8,18	contacted	98:24 99:4	40:8 42:19	55:15
15:7,10,13,20	109:15,21	100:8 101:7,11	44:13,14 59:12	device 101:7
19:14 52:3,10	contained 69:2	101:15,16	data 19:18 20:4	different 16:15
52:18 54:4	contains 92:8	105:14 107:5	20:22 69:3,3	31:13,18 43:13
57:22	continued 10:16	107:11,18,23	69:11,23 70:5	65:3
coaches 9:9 13:2	26:11 34:25	108:2 111:10	70:15 117:7,12	diploma 7:20
14:23 16:17	38:23 66:19	Cottage 4:12	date 5:17 8:14	direct 106:10
code 102:16,25	82:13 85:11	counsel 59:3	9:25 32:6,8	direction 19:23
117:22	102:21 105:9	103:18 104:11	52:12 117:13	53:12,16 54:5
color 64:25 65:4	107:17 113:10	104:16 105:5	dated 27:25	60:5 61:18
65:22 75:8	115:12	106:19 112:22	day 31:21 32:12	63:16 67:14
97:22	control 97:17	114:3 118:20	33:9,10 35:13	71:3 75:16,22
column 17:5	100:25 101:7	count 29:11	37:4 38:5,6	76:2 77:19
come 31:14	108:5,10,15	counted 29:8,9	39:13 40:4,10	83:2 84:22
63:17 66:10	controlled 68:15	country 11:22	40:21,24 41:2	88:6 89:16
80:9 81:25	controversy	couple 7:25	42:18,21 43:24	90:22 91:7
94:9	118:19	11:23 39:5	44:19 45:18	92:11,16 93:20
comfortable	copy 3:18 50:7	52:6 63:19	47:20 52:15	94:12 96:16
11:24,25 14:25	50:18,21 51:11	76:24	56:4 62:21	107:18
coming 8:4	102:15 104:17	course 14:15	116:20 118:8	directly 118:18
61:11 86:5,14	117:11,16,18	21:6 22:2,7,11	118:22	director 58:9,10
88:8 90:10	117:22	33:19 50:9	daylight 98:6	discovery 113:7
91:18 93:4	corporation	56:22 58:19	days 11:23	discuss 115:25
commencement	14:6	69:14	35:14	discussed 26:23
118:10	correct 6:5 9:3	courses 11:17	dead 97:21	Discussion
commercial 9:22	10:21 12:16,18	21:17,21,24	Decatur 37:20	10:15 25:13
10:20 11:2,11	14:10 15:4,7	court 1:2,21	deemed 113:4,9	34:24 38:13
11:16 12:5,15	15:25 17:10	3:18 5:5	Defendant 1:20	66:18 85:6
company 6:18	18:12,24 19:25	103:20 112:21	defendant's	116:12
11:19 12:24	22:18 26:15,21	cross 72:9 96:13	113:6	dismissed
14:10 19:6	27:3,7 28:21	100:14	Defendants 1:10	104:12
50:23 51:2,5	30:15 32:14,16	crossing 70:22	2:8	disobeyed
complete 36:24	32:23 35:23	70:22 71:23,25	defense 104:16	110:20
66:10	38:18 39:8,19	72:4,21 76:14	105:5	dispatched 32:7
completed 25:2	41:2,5 42:19	crosswalk 67:6	depend 15:21	disregarded
computer 68:5	44:24 45:15,19	71:22 76:13,17	depending 68:16	101:2,6
68:15 69:24	46:6 48:6,9,11	84:11,13 85:25	depict 82:25	DISTRICT 1:2
105:3	48:13,17 50:3	86:5,25 87:5,9	88:4 106:4	1:2
CONASON 2:4	51:15 64:17	87:21 89:23,25	depicting 91:2	doctor- 23:2
condition 80:19	65:8 83:11,19	90:6 93:22	depicts 111:16	documents 8:7
conditioner	84:6 85:15,19	currently 5:21	deposition 3:14	8:13 49:22
62:25	85:23 86:11,23	cursor 106:13	4:17 8:5	117:5,6
conditions 98:5	87:11 88:14	115:17	depress 68:16	doing 11:24
confusing 5:13	89:20 90:3,12	D	description 96:8	34:14
connected	91:7,21 92:20		96:16 117:15	door 18:18

doubtful 70:14	earlier 25:20	establish 29:5	extracted 20:22	80:6 95:21
downloaded	east 70:23,24	estimate 73:19	69:12	felt 11:23,25
20:15	72:2 86:20	74:3	eyes 77:21,24	FILE 2:11
drink 22:22	100:15	evening 42:4	78:18,25 79:4	filed 56:12 57:2
drive 6:5 9:23	Eastern 1:2 48:7	event 19:18 20:3	79:17	filing 3:6
10:6,18 11:5,7	51:15 54:25	69:3,11 99:3		fill 33:25 44:18
11:21,22 13:9	ECM 69:25	events 8:6 27:13	F	56:21 57:13,24
14:23 16:9,11	EDR 19:17 70:2	everybody 48:4	F 105:5 118:2	58:7 99:12
16:16 32:9	education 7:14	exact 14:7 52:12	face 77:12	filled 28:3,12
35:16 36:24	21:17,21	59:14	111:24	58:6,20,24
107:17	effect 3:17	Exactly 37:5	facility 31:15	96:23,25 99:10
driven 39:10	106:19	examination	36:5	99:18 101:18
52:2,17	eight 30:23	1:19 3:19 4:7	fact 32:25 40:3	filling 56:25
driver 6:12,16	54:24 71:19	10:16 26:11	51:6 83:16	58:13 99:23
7:4,7,24 21:17	72:14 74:17	34:25 38:23	89:6 107:13	find 5:13 59:8
21:21 35:6	80:6 106:11	66:19 82:13	faculty 31:24	Fine 59:5 67:10
driver's 9:15,18	either 35:21	85:11 102:21	failing 103:7	114:22
9:22 10:21	67:6 70:23	105:9 113:10	failure 101:14	finish 5:4
11:11,16 12:15	77:19 79:18	115:12 117:3	102:10 103:14	first 4:3 7:3 9:13
19:24 26:24	81:16	118:6	103:22	11:10 23:22
33:20 38:16	ejection 30:8	examined 4:5	fair 19:13 26:6	31:22 32:4,9
44:13,14	elapsed 76:23	exchanged	28:11,14 37:25	33:8 35:11
drivers 9:8	electronic 70:5	113:22	54:3 77:21	37:12 44:16
driving 7:11 9:3	117:12	Exhibit 24:19	fairly 27:12	46:8 64:3,14
10:2,4,10,19	Eleven 117:21	25:3,7,16,18	82:24 106:4	64:23 65:19
12:4 16:10,12	employ 118:19	27:19 29:8	familiar 19:13	71:17 73:10,20
16:13,19 18:15	employed 5:21	30:3 38:15,21	20:9 53:3,18	74:8,18 76:20
33:8 37:3	5:23 6:7,10,14	39:3 54:18	53:19 54:6,12	82:17 95:17
40:10,12 60:15	6:19,24 7:24	59:11 83:6	far 60:20 61:19	99:3 105:21
60:19 63:16	19:9	84:20 85:13	63:17,25 64:3	five 30:22 98:10
65:7 67:13	employment	86:22 88:3,12	66:24 68:16	98:19
70:18 84:5	6:16 22:11	89:7,13 90:15	70:19 76:6	fleet 16:3
85:15	69:15	90:25 91:17,24	83:10 85:15	floor 2:9 17:4
dropped 41:12	enabled 11:8	92:7,25 93:9	88:13 93:10	follow-up 34:16
56:5	ended 40:24	93:14 94:18	113:18	following 70:13
drove 7:10 12:8	41:4 43:6	95:4,11,14	farther 95:25	follows 4:6
38:2 40:25	endorsement	96:5,19 100:5	fast 8:2	food 8:2
42:15,21 45:11	11:8	100:18 102:15	faster 68:22	foolish 115:7
49:9 52:10	engaged 57:23	102:19,24	federal 33:23	force 3:17
54:4	entire 27:2	103:13 104:14	57:3,11,13,21	foregoing 118:6
drugs 22:24	entitle 11:4	104:17 105:5	58:25 103:20	foreground 87:2
dry 62:23 98:15	entitled 11:6	113:3,5,8,9,14	112:21 117:11	87:16
duly 4:3 118:10	entry 39:13	115:15 117:15	feet 17:18 64:7,7	forgot 26:4 69:8
	envelope 57:9,11	Exhibits 26:8	64:9,9,13,24	80:5
E	equivalency	82:11,19 85:8	65:7,20 66:22	form 3:11 27:20
E 2:2,2 4:2	7:19	104:24	67:13,23 70:20	54:9,10,16
113:8 117:2,14	ESQ 2:6,10	extent 59:7	71:19 72:14	56:17 57:14,19
118:2,2	ESQS 2:4	70:16 113:20	74:17 77:8	57:25 58:3

68:19 75:18,24 77:23 78:9 79:3,10,21 87:13 90:5 99:25 101:21 102:12 108:8 108:17 110:2 110:13,22 111:22 112:2,8 112:12,13,17 formal 7:17 forms 57:11 Fort 5:20 forward 16:25 19:22 68:13 found 46:24 four 30:22 35:14 43:3 52:8 98:6 front 27:2,4 64:2 65:20 67:2 74:16 76:5,6 76:12,16 78:18 79:5,17 80:17 95:16 96:14 109:23 fuel 41:14 full-time 7:8 furnished 3:19 further 3:9,13 95:24 116:13	85:10,12 86:9 102:14,22 103:19 104:13 105:2,10 109:19 111:9 111:13,18 112:13,24 113:2,11,24 114:7,11,22 115:9,13 116:11,13 117:4 GALLO 2:8 game 46:18 garage 37:23 gas 68:16 gauges 16:14 78:21 gear 17:4 68:2 68:14,25 gears 16:25 68:23 69:2 GED 7:15 general 7:19 getting 21:18 22:5 85:13 Gillespie 36:2,6 36:8,11 give 50:24 59:8 99:22 given 50:8,18 giving 4:22 go 7:17 14:16 22:6 27:16 39:4,20 44:18 55:4 68:22 80:20 85:4 105:16,21 106:8,16 107:13,25 108:18,21 110:23 goes 50:25 going 4:21 5:2,2 5:3 7:8 19:23 20:21 24:18,24 25:4,5,14,16 27:11 33:17	37:7 38:14 39:3 46:18 54:17 55:17 56:2 59:11 60:4 61:3 66:9 74:9 75:2 82:7 84:23 85:23 90:21 94:8 96:17,19 98:24 102:14,23 104:13,17 106:8 107:23 111:17 good 4:13,14 55:9 gotten 10:6 36:16 grade 7:16,18 graduated 7:22 green 63:24 65:2 65:21 87:24 97:25 grounds 111:4 guess 29:24 73:25 74:2 76:10 116:9 guessing 38:8 64:10 73:22 76:7 guide 46:25 47:5 47:9,12 guide's 47:16 guilty 104:5,9 guy's 99:15	harassment 110:24 111:4 112:19 Harlan 1:9,20 4:11 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1,19 117:1 118:1,7 haul 11:9 head 5:10 77:13	heard 20:6 69:17 height 17:16 held 1:22 helmet 75:12 help 29:10 99:12 hereunto 118:21 HERSHENH... 2:4 hey 81:22 high 7:19,23 highest 7:13 Highway 53:4 53:17 54:5 59:24 60:2,3,9 60:12 61:17 63:13 66:9,24 67:14,25 70:7 70:19,23 71:4 72:2 73:6 82:25 84:22 88:5 89:15 91:4 92:10,15 93:19 94:15,25 hired 32:15 47:8 hit 72:14 74:13 79:25 100:13 115:7 home 32:2 35:22 36:17,18 37:24 40:18 45:22 horse 97:22 hotel 51:17 59:18 hour 14:21,22 45:24 49:20 73:23,24 75:2 hours 22:20,25 37:8,9 38:3 42:16 49:18 house 8:3 40:14 Hudson 60:22 Hung 48:2	
<hr/> G <hr/> Gail 14:3 Gair 2:4,4,6 4:8 4:15 10:13,17 20:20 21:6 24:18,24 25:9 25:12,14,23 26:6,12 34:12 34:19,23 35:2 38:11,14,24 45:8 51:10 54:10 58:23 59:5,10 66:16 66:20 67:10 69:22 70:17 71:7 75:19 82:7,14 85:4					
			<hr/> H <hr/> H 2:6 4:2 117:14 hand 33:3 118:22 happen 17:16 happened 8:15 61:7 80:14 81:24 82:5 111:20,23 113:17 happening 116:6 happens 34:10		
				<hr/> I <hr/> i-Phone 114:21 idea 64:8 identification	

26:10 27:19	4:23	30:1 31:1 32:1	know 4:16 5:2	76:1 77:1 78:1
38:22 82:12	instructs 14:18	33:1 34:1 35:1	5:14 9:10 14:3	79:1 80:1 81:1
100:5 102:20	intended 24:12	36:1 37:1 38:1	14:4,7,17	82:1 83:1 84:1
104:25 113:15	intention 78:14	39:1 40:1 41:1	17:12,16,20	85:1 86:1 87:1
Illinois 4:12 6:23	interested	42:1 43:1 44:1	19:17 20:7,11	88:1 89:1 90:1
12:11,15 23:20	118:18	45:1 46:1 47:1	20:24 21:25	91:1 92:1 93:1
23:21 28:6,7	intersection	48:1 49:1 50:1	34:9 38:8	94:1 95:1 96:1
31:10,14,18	63:12,15 65:8	51:1 52:1 53:1	43:14 47:16	97:1 98:1 99:1
33:13 35:17	65:15 66:23	54:1 55:1 56:1	48:22 51:6	100:1 101:1
36:6,9,24	67:24 70:21	57:1 58:1 59:1	52:16 60:7	102:1 103:1
37:10,13	71:6,11 72:17	60:1 61:1 62:1	68:20,24 69:5	104:1 105:1
Illinos 36:2	72:21,24 73:6	63:1 64:1 65:1	69:10 70:11	106:1 107:1
immediately	73:8,9 83:3	66:1 67:1 68:1	73:16 75:25	108:1 109:1
27:13 66:25	84:23 85:9	69:1 70:1 71:1	76:11 81:9,10	110:1 111:1
83:8 91:13	88:5 89:4 91:3	72:1 73:1 74:1	81:11 83:25	112:1 113:1
93:4 105:17	92:10 93:10	75:1 76:1 77:1	92:4 93:7,10	114:1 115:1
106:5 113:17	94:14,24 95:22	78:1 79:1 80:1	102:7 103:17	116:1,19 117:1
impact 75:14	96:2 97:5,8	81:1 82:1 83:1	110:16,18	118:1,7
inches 17:18,21	interstate 57:23	84:1 85:1 86:1	111:19,23	LA-2012-6 2:11
incident 70:14	involved 15:3	87:1 88:1 89:1	112:4 114:16	lane 60:16,20,22
included 37:2	56:13 57:24	90:1 91:1 92:1	115:21 116:4	61:8,11,19
independent	61:2	93:1 94:1 95:1		63:17 66:24
53:25 61:22	issued 101:24	96:1 97:1 98:1	L	70:19 83:7,10
66:13	itinerary 50:2,4	99:1 100:1	L 1:20 3:2 4:2,2	85:15,17 88:13
Indiana 36:3	50:7,15,18,22	101:1 102:1	4:2,11 5:1 6:1	88:23 91:12
Indianapolis	51:11,24	103:1 104:1	7:1 8:1 9:1	92:18,19
36:3	117:10	105:1 106:1	10:1 11:1 12:1	lanes 60:7,11
indicate 40:9,16	J	107:1 108:1	13:1 14:1 15:1	71:4 78:15
40:20 54:19	J 2:10 4:2	109:1 110:1	16:1 17:1 18:1	88:4 89:14
59:12 91:23	January 5:18	111:1 112:1	19:1 20:1 21:1	92:9,15 93:18
96:15 103:12	7:12 9:25	113:1 114:1	22:1 23:1 24:1	93:19
indicated 90:19	11:12	115:1 116:1,19	25:1 26:1 27:1	laptop 105:3
101:6	Jersey 43:7 46:3	117:1 118:1,7	28:1 29:1 30:1	113:13 115:15
indicates 31:5	48:5 54:20	K	31:1 32:1 33:1	larger 16:16
42:24 97:7	job 7:3,6 23:17	Kaufman 18:10	34:1 35:1 36:1	Larry 13:22,24
98:19	29:11 32:10	18:11 19:8,10	37:1 38:1 39:1	14:13
indirectly	39:14 44:17	23:12 32:21	40:1 41:1 42:1	late 55:6
118:18	50:20	37:2,15 115:23	43:1 44:1 45:1	laying 80:16
information 8:9	Jr 1:9,20 4:11	116:2,4	46:1 47:1 48:1	left 17:6 18:15
8:10,12 20:15	5:1 6:1 7:1 8:1	keep 36:13	49:1 50:1 51:1	37:22 39:14
68:25 69:11	9:1 10:1 11:1	44:20	52:1 53:1 54:1	54:19 59:25
117:5,6	12:1 13:1 14:1	kept 40:16	55:1 56:1 57:1	60:2 62:12
infractions	15:1 16:1 17:1	key 17:6,7 30:5	58:1 59:1 60:1	72:5,6,22
21:20 22:6	18:1 19:1 20:1	kids 11:20,21	61:1 62:1 63:1	77:17 79:19
ins 114:17	21:1 22:1 23:1	killed 112:4	64:1 65:1 66:1	80:17 86:5,7,8
inspection 43:16	24:1 25:1 26:1	KLAR 2:8	67:1 68:1 69:1	86:10,15 88:13
43:19 44:14	27:1 28:1 29:1	knew 28:23	70:1 71:1 72:1	90:11 91:18
instructions			73:1 74:1 75:1	97:13

legal 57:16	56:23 86:25	84:22 88:6	16:13 19:14	motel 41:16,19
length 17:13	87:9,15 89:22	89:15 91:6	69:16	41:20 51:17
Leonard 5:20	89:23	92:11,16 93:20	MCI s 16:6	motion 68:14
Let's 39:4 85:4	list 28:9 29:24	107:4,7 109:4	mean 6:4 9:15	motor 6:3,11
110:6	44:19	109:7,10,14,16	12:25 21:19	8:20 9:7,9,14
level 7:13 98:10	lists 29:23 30:9	109:22 110:4,7	24:11 53:8	9:16,23 10:7
license 9:15,18	44:22 45:3	110:8 111:20	62:15 72:11	10:18 13:2
9:22 10:6,21	live 40:15	111:24 112:5,9	means 78:5	14:23 15:6,9
10:23 11:11,16	LLP 2:8	112:14	97:19 98:23	15:13,20 16:16
12:5,16 21:12	located 6:22	looks 27:22 42:8	medication 23:3	19:14 21:13
21:18	26:15 94:22	43:3 88:9	23:4	24:19,25 33:23
licensed 9:13	95:17	114:19	medicine 23:6	52:3,10,18
light 64:17,20,25	location 49:10	lot 4:25 8:10	meet 47:10	54:4 56:14
65:11,19 66:22	49:17 87:8,20		mentioned	57:3,21,22
67:7,13,24	94:21 95:6,10	M	23:11 26:13	59:2
73:5 83:14,18	97:2,3 99:2	MACKAUF 2:4	microphone	moved 75:15,21
83:19,20 84:6	locations 31:13	maintain 33:20	18:7 33:3	moving 71:2
85:23 87:11,15	31:18	maintained 45:2	61:20 115:19	MV-104 8:21
87:19 89:3,10	log 33:15,20,25	50:4	middle 88:23	24:25 25:5
90:16,21 94:4	34:6,9,13,17	Management	miles 39:10 41:2	27:18 28:12
94:9,23 95:6	36:20 37:6	7:10	42:21 45:12	56:8,20 96:5
95:18 98:5	38:16 39:2,5	manager 18:6,9	73:23,24 75:2	96:23 117:16
106:11,12,20	39:21 40:8	19:5,9 69:7	mine 27:22	117:17
106:22 107:2	42:19 44:13	March 1:15	minute 21:2	
107:10,22,25	48:10,12 49:20	118:8	27:17	N
108:19 109:8	49:24 54:17	mark 24:18,24	minutes 49:21	N 2:2 3:2 4:2
109:10 110:10	59:12,15 117:8	25:4,6,14,17	mirrors 62:14	117:2
111:2,10,15,17	117:20	38:14 58:7,8,9	78:10,12,21,24	name 4:9,15
115:2	long 6:7,24	58:10 69:9,10	79:6,16	47:17 51:20
lights 66:11	14:19 36:23	82:7 99:17	misread 54:22	69:6 99:16
83:16	37:17 49:16	102:14 104:13	Missouri 5:20	nature 22:22
limit 61:5	look 30:2,7	104:17	36:3	near 80:20
limited 37:9	34:20 78:23	marked 26:8	mistake 25:10	necessary
Lincoln 59:20	79:5,15,18	27:18 38:21,25	mmhmm 5:9	111:12
59:23	83:5 85:18	56:8 76:13,17	models 69:17	need 34:20
line 55:14 83:22	86:15 88:13	82:11,18 88:3	modern 69:16	needed 103:10
83:25 84:3	89:8 90:11	89:13 90:25	module 70:2	neutral 80:12
85:21 89:9	100:25 101:13	92:7 93:13	modules 69:24	never 20:14
90:15,19 94:6	102:4 110:6	100:4 102:19	Monday 35:15	34:19 63:7
97:13 100:24	looked 8:10,23	102:24 104:24	month 34:18	116:8
lines 1:9 5:24	43:23 62:9,11	113:4,9,14	38:16 39:2	New 1:2,14,14
6:2,8,11,15,20	62:11,13 96:5	markings 84:8	monument	1:24 2:6,6,9,9
6:21 12:23	looking 33:15	marriage 118:17	55:24	4:5 24:2,13
13:25 15:16	37:6 40:7 44:8	matter 45:23	morning 32:3	32:18 43:7
22:12 28:5	62:7 77:3,5,14	118:19	33:15 36:11,16	45:25 46:3,9
31:15,24 32:16	77:16,18 78:10	MATTHEW	36:18 37:23	46:10,10,11
35:23 50:8	78:11,20,21	2:10	40:10 43:25	47:14 48:5,14
51:8 52:25	82:21 83:2	MCI 9:3 15:9,13	55:2	48:15,16,19,21

48:21 49:10,11 49:14 52:5,11 52:18 54:20 55:12 56:13 102:16,24 118:5 night 24:6 32:2 41:15 44:2 55:5,9 nine 30:23 37:8 37:9 38:3 42:15 55:8 nods 5:9 normal 33:19 50:9 58:19 normally 62:2 north 4:11 64:24 65:21 67:13,23 87:6,6,10 95:25 107:22 northbound 71:3 northerly 71:3 88:6 89:15 92:11 93:20 94:12 Notary 1:23 4:4 116:22 118:4 notations 44:9 Note 103:16 noted 116:16 notice 72:8,23 105:6 113:7 noticed 72:15 number 15:15 29:5,19 30:7 30:21 39:7 43:10,12,12,13 43:15 94:13 96:25 97:11,16 98:6,10,10,14 98:18 99:2,4 100:21,22 101:9,11 numbers 30:4 30:10 43:9 84:19	O	O 3:2 o'clock 33:14 54:24,25 55:8 o0o- 2:15 oath 3:16 obey 108:14 object 103:8 objection 54:8 54:15 56:16 57:18 58:2 67:8 68:18 75:17,23 77:22 78:8 79:2,9,20 80:7 87:12 90:4 99:24 101:20 102:11 103:16 108:7 108:16 109:9 109:11,17,25 110:12,13,21 111:21,25 112:7,11,16 objections 3:10 observe 71:17 80:18 83:13 95:17 107:15 108:4,9,12,13 observed 63:18 63:19 64:3,14 64:23 65:19 73:11 76:21 116:6 obstructed 65:11,15 67:5 obviously 30:17 87:4 occasions 52:21 occurred 4:19 59:13 occurrence 100:11 October 6:9 13:14 office 21:10 26:3 28:4 50:25 113:22	officer 3:15 100:22 101:6 101:11,18 offices 35:22,25 okay 5:6 30:13 30:14 43:17 44:3 70:17 86:17 100:6,20 103:3 105:23 105:24 113:19 113:24 114:7 ones 15:21 30:22 oOo- 3:23 open 63:5,7,11 operate 9:14 12:25 15:19 21:12 22:18 operated 14:24 15:2 17:7 operating 15:6 17:13 20:16 22:10 52:4 operation 19:14 operator 6:3,11 14:2 35:3,5 57:22 100:11 orange 115:17 115:18 order 1:22 8:5 9:22 10:18 11:15 31:22 78:23 79:5,18 originate 23:19 outcome 104:10 outfit 33:2 outs 114:18 outside 112:23 overhead 64:19 overlay 25:4,17 30:3 96:20 100:19 101:13 117:17,19 overnight 24:8 40:17 overwritten 70:12 owner 11:18 13:11 14:2	19:10 23:12 owns 16:4	P	P 2:2,2 3:2 p.m 1:16 42:2 45:18,25 48:5 48:8,16,16 116:16 pad 17:6,7 page 82:9 117:3 117:6,15 paren 102:5 park 46:24 55:19,21 parked 47:2 part 26:16,18,21 46:21 part-time 7:9 particular 15:24 16:22 20:12,25 36:4 53:21 57:14 particularly 69:15 parties 3:6 118:17 pass 61:7 passed 12:3 73:4 97:23 passenger 11:8 28:9 81:16 114:20 passengers 11:9 13:2 16:21 19:4 24:16 28:24,25 29:6 29:9,12,19,23 29:25 30:12 31:5,9,13 32:22 35:8,17 36:25,25 37:13 40:23 41:12,18 57:23 81:12 passing 61:5,12 67:15,20 pedal 68:17 pedestrian 97:2	97:3,5,12 pedestrian/bic... 97:4 pedestrian/bic... 97:12 people 46:14 72:8,16,20 percent 38:9 performing 113:21 permission 22:17 person 47:6,8 peruses 82:20 Peter 1:23 118:4 phone 81:2,3,16 photograph 83:6,7,11,23 85:18 86:6,16 87:2,16 88:2 88:11,14,17 89:7,9,19,23 90:11,14 91:2 91:10,17,24 92:19,24,25 93:8,8,16,17 94:7,7,11,18 94:18,19,22 95:3,4,7,11,13 95:14,16 photographs 81:6,15 82:8,9 82:16,18,20,22 82:22,24 92:8 92:14 93:15 117:21 photos 8:8 82:10 physical 80:19 pick 31:12,23 35:8,11,17 37:12 pick-up 23:22 picked 31:17 32:3 37:19 40:22 picking 36:24 picture 87:20 Pine 1:14 2:5
--	----------	---	---	---------------------------------	----------	--	--

pink 33:2	portions 105:14	proper 14:18	really 20:10,13 54:11,12 64:6 85:3	red 66:6 84:6 85:23 90:21 94:9 107:2,10 107:14,22,25 108:13,19 110:10,18 111:2,10,15,17 115:2
place 1:23 90:19 100:11	portray 27:12	provided 27:9 104:14 105:4 105:12 113:6	rearview 78:24 79:6,16	reduction 21:24 22:2
placed 97:17 105:3	position 5:25	PTI 43:16	reason 21:14 78:17	refer 9:6 43:10
Plaintiff 1:4,21 2:5	positioned 91:10 92:24	Public 1:23 4:4 116:22 118:5	reasonable 64:11	reference 91:16 93:9 95:4,15
Plaintiff's 24:19 25:3,16,18 26:8 27:18 29:7 38:15,21 82:11,18 83:5 89:13 90:25 91:17,24 92:7 93:9,14 100:4 102:15,19 104:14,24 117:15	possible 66:5,7	pursuant 1:21	recall 32:6,8 33:4,16 36:10 36:15 37:18 38:10 46:18 48:23 49:3,15 49:16 51:9 52:12,15,23 53:14,23 56:24 56:25 57:5,15 58:13,15,16 61:2,9,10,13 61:15 62:24 64:6 67:3,15 70:25 71:8 75:8,11 76:7 77:4 78:3 79:16 81:20 116:7	referred 10:7
plate 43:10,12 43:14	post-trip 43:16	push 67:11	referring 20:3 51:3 53:5 63:14 93:15	refers 30:12 39:7
player 17:24	pre-accident 98:22	put 20:20 21:4 34:15 45:9 50:24 51:12 59:15,16 80:12 97:3,13 98:12 98:18,23 99:4 99:7 100:22 101:11 113:12 115:10	reflects 113:17	refresh 8:5 29:10,15 103:5
pled 104:8	pre-inspection 44:17,22 45:3 45:9 117:9	putting 21:7 115:17	refreshed 103:11	refuse 110:24 111:3,5 112:19
please 4:10 10:14 28:8 34:22 38:12 66:17	prescribed 23:3	<hr/> Q <hr/>	regard 20:17 25:22 45:3 69:16	regarding 8:17 56:22
pled 104:5	prescription 23:4	qualified 14:23	regular 56:22	remember 13:11 15:17 21:8 23:13 29:19 31:25 37:19,22 47:4 50:12,14 51:20 53:10 58:18 61:24 63:23 65:5,23 67:18,20 68:7 73:7 75:13 76:19 77:15 92:5 95:12 96:3,22 97:22 98:2 99:14 100:2
point 9:21 11:6 12:5 21:24,25 61:6 62:4 66:21 71:9	president 13:25	question 3:11 5:15 28:15 29:14 65:18 77:9,10 92:13 103:18 109:13 111:6,8 112:18 114:24 115:10 115:14	record 4:10 10:13,15 25:12 25:13 34:15,21 34:24 38:11,13 38:20 66:16,18 85:5,6 102:18 105:2 113:2 116:11,12 118:15	regard 20:17 25:22 45:3 69:16
pointed 77:12	pressure 23:6	questions 4:22 4:25 5:13 25:21 39:6 116:14	received 8:9 recess 112:25	regard 20:17 25:22 45:3 69:16
pointing 106:13	pretty 99:21	quick 39:5	recognize 91:2	regarding 8:17 56:22
points 106:9	previous 6:15	quickly 96:4	recollection 8:6 29:10,16 53:25 61:23 66:14 103:6,10	regular 56:22
pole 64:20	prior 6:14,19 7:6,11 8:4 21:2 21:18 22:20,25 27:13 39:16 50:8 52:9,19 52:22 53:6 60:25 61:10 65:4,7 71:18 72:19 73:3 77:2,11,25 83:8 93:4 94:13 105:18 106:5	<hr/> R <hr/>	record 4:10 10:13,15 25:12 25:13 34:15,21 34:24 38:11,13 38:20 66:16,18 85:5,6 102:18 105:2 113:2 116:11,12 118:15	remember 13:11 15:17 21:8 23:13 29:19 31:25 37:19,22 47:4 50:12,14 51:20 53:10 58:18 61:24 63:23 65:5,23 67:18,20 68:7 73:7 75:13 76:19 77:15 92:5 95:12 96:3,22 97:22 98:2 99:14 100:2
police 8:17 25:6 25:15,17 28:8 28:13,18,25 29:8,18,22 30:6 31:4 81:25 82:2,3 99:9 100:3,7 100:19,22 101:6,10,17 102:4 117:18 117:19	problems 80:23	radio 17:22 18:2 18:5,7	recorder 19:18 20:4 69:3,12	rephrase 5:14
pointed 77:12	procedure 78:13	Ragone 21:10	records 26:7	
pointing 106:13	proceeded 61:18	react 73:13,14		
points 106:9	proceeding 53:16 90:2,7	read 42:7 96:11 42:9,11		
pole 64:20	produce 70:10 70:16 105:6 113:8			
police 8:17 25:6 25:15,17 28:8 28:13,18,25 29:8,18,22 30:6 31:4 81:25 82:2,3 99:9 100:3,7 100:19,22 101:6,10,17 102:4 117:18 117:19	produced 70:9			
portion 88:16 93:18	production 20:22 34:13 58:24			
	propelled 75:25			

report 8:17,21 24:19,25 25:6 25:15,17 28:8 28:13,18,25 29:8,18,23 30:6 31:4 56:21 57:2,8 57:10 58:21,24 99:9 100:4 101:18 102:5 117:11,18,19	reviewed 28:21 revoked 21:14 ride 56:2,4 right 8:24 13:15 14:6 18:16,18 18:21,24 19:2 19:3 27:3 28:9 29:2 31:24 33:3 35:9 36:13,18 39:17 40:5 42:12,22 44:4,10,11 45:12 48:25 50:5,18 54:2 55:12 57:11 60:20,23 61:15 61:19 62:11 63:8,10,17 64:20 66:24 67:10 70:19 72:4,6,22 74:14 79:19 80:2 83:11,17 83:19 85:15,18 86:2,6,7,8,9,15 89:8 90:12 91:18 92:18 97:5,9,14,24 98:3,4 99:7,10 100:16 101:14 102:10 103:2,7 103:14,19,23 107:4 108:24 110:7,11 115:5	114:5 rode 11:19 Roughly 13:7 16:5 route 37:18 38:10 rubbed 114:5 RUBINOWITZ 2:4 Rules 33:24	108:22 112:23 seconds 76:24 76:25 77:11,25 80:5 106:2,11 106:25 107:14 107:21 108:24 108:24 109:3,4 secretary 14:5 Section 102:17 102:25 see 26:2 28:8,25 30:9 33:2 55:23 62:17 70:21 71:2 72:13 80:14,15 83:14,22 84:8 84:19 85:2 86:25 87:10,14 87:18,24 88:16 88:20 89:3,7 89:18,22 90:14 91:9 92:22,23 94:17,23 95:5 95:9,21,24 100:21,23 101:3 106:12 106:23 107:20 112:5,9,14 115:16 seeing 26:5 29:17 58:16 seen 20:14 77:7 81:14 112:6,10 112:15 116:8 self-explanatory 99:21 send 21:9 separate 34:6 44:13 separately 44:20 Sereg 58:9,10 69:9,10 99:17 Service 7:12 set 16:15 80:12 118:22 sets 19:6 seven 30:23 54:24 76:25	77:7,11,25 101:11 sheet 49:20 59:15 shift 17:4 shifted 69:2 shifts 68:23 short 40:4 112:25 shortcuts 59:5 show 19:22 27:17 49:23 82:15,17 83:7 84:21 85:8 89:14 93:17,22 96:19 100:3,18 102:23 105:20 113:25 showed 106:4 showing 19:24 26:25 29:7 30:2 88:2 89:12 90:24 92:6 93:13 96:4 113:3 114:17 shown 95:7,10 shows 26:23,25 27:4 85:14,21 86:23 94:11,12 113:21,25 115:3 side 17:6 30:4 53:4,17 54:5 59:24 60:2,3,8 60:12 61:17 63:13 66:9,23 67:14,25 70:6 70:19,23 71:4 71:12 72:2,2,3 72:18 73:6 79:11 82:25 84:21 86:20 88:4 89:15 91:3 92:10,15 93:19 94:15,25 100:15,15 109:5
reporter 5:5 reports 56:21 represent 4:18 representing 3:20 request 69:21 70:4 117:7,8,9 117:10,11,12 REQUESTED 117:5 requesting 69:23 required 22:5 33:25 requirement 57:16 requires 57:22 reserved 3:11 residents 31:10 respective 3:6 respectively 82:12 104:25 respetively 26:9 response 25:20 106:24 113:7 responses 25:11 rest 40:23 42:24 43:4 restaurants 8:2 result 21:19 75:14,20 76:2 results 4:19 returned 45:17 reverse 17:9 19:24 26:25 review 8:7,13,17 8:20 26:14	risk 54:10 112:13 River 60:23 road 12:8 13:20 14:15 53:9,21 53:21 115:8 roadway 53:12 53:18 54:7 62:23 77:6,21 77:25 78:18,25 79:5,17 94:13 94:15 96:14 98:9,14 99:3 100:14 107:8	S S 2:2 3:2,2 4:2 117:14 safety 33:24 57:3,21 58:9 58:10 59:2 69:6 99:15 satisfied 14:22 saw 34:19 56:9 73:21 74:8,18 81:22 105:13 saying 43:14 74:7,16 says 28:8 30:8,9 39:10 42:6 93:25 97:2 100:25 102:5 scene 81:7 100:8 104:3 school 7:17,19 7:23 10:2,4,5 12:6 22:6 scope 22:11 58:19 69:14 sealing 3:7 seat 18:20,23 26:25 80:13 seated 18:14,15 seating 16:18 seats 18:25 19:2 19:3 Secaucus 24:7,9 43:6 45:15,17 48:5 51:14,14 51:18 54:19 59:19 second 55:14	see 26:2 28:8,25 30:9 33:2 55:23 62:17 70:21 71:2 72:13 80:14,15 83:14,22 84:8 84:19 85:2 86:25 87:10,14 87:18,24 88:16 88:20 89:3,7 89:18,22 90:14 91:9 92:22,23 94:17,23 95:5 95:9,21,24 100:21,23 101:3 106:12 106:23 107:20 112:5,9,14 115:16 seeing 26:5 29:17 58:16 seen 20:14 77:7 81:14 112:6,10 112:15 116:8 self-explanatory 99:21 send 21:9 separate 34:6 44:13 separately 44:20 Sereg 58:9,10 69:9,10 99:17 Service 7:12 set 16:15 80:12 118:22 sets 19:6 seven 30:23 54:24 76:25	

sideviews 62:15	33:14 71:19	25:21 44:23	86:22 111:9	strike 71:10
sign 84:25 89:19	72:14 74:17	63:21,23	113:23 114:4,9	92:13
93:25	76:25 77:7,10	speed 61:3,4	115:3	striking 71:18
signal 63:18	77:25 80:6	68:10,14 73:16	STIPULATED	72:20 73:3
64:3,15 97:19	98:14	73:20 74:3,9	3:4,9,13	75:20 76:18
97:23 106:22	slaughter 8:3	spoke 100:7	stipulation	77:2,11 78:2
110:17,18,20	sleep 47:22 55:4	spot 46:24	111:14 114:12	91:13
signature 24:21	55:9	Springfield 36:2	stop 14:16 38:4	struck 71:15
27:23	slow 74:23	37:20	46:8 48:22,24	72:25 74:4
signed 3:15,17	slowed 73:15,16	stadium 46:16	49:6 55:11	75:2,6 76:22
24:20	Smith 7:12	46:20 49:7	61:12 66:10	77:8 79:22
signs 14:16	solely 24:12	standard 16:23	76:18 80:9	80:8 92:2
sir 5:7,11,16,17	somebody 112:4	78:13	84:3,5 85:22	93:11 97:9
5:22 6:13,17	114:20	standing 33:2	90:20 94:9	110:4
7:5,21 8:19,22	sorry 23:15 69:8	start 31:22 33:6	106:9	submit 57:25
8:25 9:5,12	83:18 86:9	33:8 36:17	stopped 49:17	submitted 58:25
10:22 12:10,13	92:13 99:16	40:12	49:23 72:10,12	Subscribed
12:17,20 13:4	sort 33:2 64:11	started 7:11	72:15 76:4	116:20
13:7,16,23	109:4	9:25 10:4 12:7	79:24 80:10	summons
14:2 15:2,5,8	south 60:15 66:9	13:14,17 32:9	89:9 90:15	101:24 103:6
16:2 17:8,19	75:22 76:17	33:13 35:7,19	stopping 66:14	103:13
18:3,17,22	84:5,22 85:15	35:21 39:17	stops 24:3 40:22	supposed 85:22
20:2 22:3	85:23 94:8	40:10,17 42:6	40:23 42:25	94:8
23:18 26:22	96:12	42:8 45:14	43:4 48:14,18	sure 4:23 24:17
27:15 31:2,7	southbound	46:5 50:16	straight 77:5,14	25:23 34:11,23
33:22 34:3,5,8	53:12 60:5,8	starting 107:20	94:15 98:10,24	37:7 38:9
36:14,22 37:11	61:18 66:24	108:23	109:16,22	53:23,24 55:6
39:9 42:14,20	70:20 73:5	starts 106:15	straight-aways	55:25 61:21
43:2 44:11,15	84:24 88:4	state 1:24 4:4,9	14:17	62:9 63:3,19
44:21,25 45:13	89:14 90:20	12:9 31:14,19	straightaway	64:5 67:17
45:16 46:2,4,7	92:9,15 93:18	35:17 56:12	65:6	69:13 73:18
46:12,19,22	93:19 94:25	118:5	street 1:14 2:5,9	74:12 106:18
47:11 49:5,13	98:20 100:12	stated 13:6,13	53:6,13,17	112:24
50:6 51:19,25	106:5 107:18	87:23 100:10	54:6 59:25	surrounding 8:6
55:22 56:7,10	107:23	statement 116:5	60:9,10,13	suspended 21:14
60:18,21,24	southerly 54:4	116:9	61:17 63:12,16	Suzanne 1:3
62:16,19 64:18	63:16 67:14	states 1:2 100:11	63:22 65:8	71:13
68:6,8 69:19	75:16 83:2	stay 47:19 60:16	66:9,23 67:24	sworn 3:15,17
74:22,24 77:10	90:21 92:16	stayed 24:5,8	70:21,22 83:3	4:3 116:20
82:21 88:15	southern 53:16	41:16,18,21	84:9,15,18,23	118:10
90:13 91:5	speak 81:18 82:3	51:17	85:2 86:2 87:5	
111:24 112:3	speaking 5:6	STEIGMAN 2:4	87:6,19 88:5,9	T
sites 62:4,8	61:19	stenographica...	89:4,19 91:3	T 3:2,2 4:2
79:18	special 13:8	118:12	92:11 93:23	117:14 118:2,2
sitting 26:24	specific 11:17	step 112:23	94:2,14,24	take 5:5 11:17
27:2 107:5	13:18 15:15	step-on 46:25	95:18 96:2	13:8 21:16,21
six 7:2 13:6 17:3	32:16 44:23	47:4,9,12,16	100:13,15	21:23 22:6
17:18 30:23	specifically	stipulate 85:7	106:11	36:23 37:17

44:16 46:13,21 56:3 77:24 78:18,24 79:4 81:6 114:23 taken 1:21 22:24 26:20 36:17 77:20 81:15 92:9,14 94:12 104:18 105:17 112:25 114:13 114:15,19 118:7,11 talk 81:23 talking 63:21 Tammy's 23:12 taxicab 88:21 89:2,8 Taylorville 4:12 23:23 40:13 tell 14:12 49:19 54:23 82:5 84:15,17 95:15 113:16 TEMSA 16:14 TEMSAs 16:8,9 ten 30:23 42:16 108:24 term 20:9 test 11:25 12:3,4 12:9 13:20 testified 4:6 71:14 105:13 testify 8:4 testifying 3:21 testimony 118:11,11,15 Thank 29:4 31:8 85:10 111:18 116:14,15 thereto 21:3 thing 4:24 13:3 57:6 86:23 105:17,21 things 50:9 55:24 58:20 59:6 think 28:19 46:15 55:25	59:4 67:4 95:20 103:9 111:11 114:8 thought 74:5 97:25 three 30:18,22 43:4,5 48:18 52:8 60:11 97:16 ticket 103:22 tickets 104:12 time 1:22 3:12 7:22 9:2 10:11 10:19 12:14 15:7 16:19 17:14 18:4 20:16,17,25 22:9,14 23:5,9 23:16 24:15 28:12 33:6 37:3 39:18,23 41:23 45:14,20 45:21,22 48:6 48:7,8,16,17 49:12 52:4,9 54:19 55:4,7 55:18 59:13,14 59:16 60:17,17 61:16 62:10,10 63:17 65:19 66:8 67:12,22 70:6,7 71:9 72:25 73:20 74:4,7,18 75:2 75:6 76:20,21 76:22 81:19 84:14 86:13 90:3,7 91:25 97:8 100:10 101:19 104:19 104:21 109:15 109:21 116:16 times 52:6,7,8 Timi 18:10,11 19:8,10 23:11 30:25 32:21 35:11 37:2,15 47:9 50:15	61:19 81:9,16 115:22,23 116:2,4 Timi's 19:11 23:14,15,17 32:15 39:22 50:4 51:3,7 tires 43:22 title 14:7 102:16 102:25 today 39:10 told 4:24 46:25 top 93:15,17 94:7,18 95:3 total 39:10 40:25 45:12 totally 68:15 touching 80:22 tour 9:10 18:6,9 19:4,6,8 23:18 23:19,25 24:12 31:23 32:5,10 32:16 33:12 35:4 39:21 40:18 46:20,21 47:7 49:7 50:8 50:21 51:5 tourists 32:22 55:20 61:20 tours 13:3 19:11 23:12,14,15,17 32:15 33:20 39:22 50:4 51:4,7 town 40:15 TPO 100:10 Trade 55:23 traffic 21:20 22:6 60:8 63:18 64:2,15 64:16,19 65:11 65:19 66:11,22 66:25 67:6,13 67:23 70:20 71:2 73:5,5 83:14,20 84:6 87:11,15,18 89:3,10 90:16	90:20,21 94:4 94:9,23,25 95:5,18 97:17 97:19,23 99:15 100:25 101:7 108:5,9,14 training 11:17 13:9,18 14:13 14:19 transcribed 118:13 transcript 118:14 transfer 57:23 transmission 16:23 transport 13:2 trash 7:10 traveling 83:7 96:12 98:19 100:12 trial 1:19 3:12 trip 15:24 24:11 24:12 32:18,22 33:7 34:4,7,10 34:14 39:15,16 40:4,5,21 44:22 45:3,4 47:14 49:25 50:16 51:11,24 117:10 truck 7:10,24 trucks 67:16 true 67:7 118:14 try 5:8 Tuesday 35:15 Tunnel 59:21,23 turned 59:25 60:2 107:14 turns 14:16 two 16:7 18:25 19:2,3 30:22 48:13 49:18 60:25 82:9 83:16 89:7 92:8 93:14 97:11,17 two-way 18:2	type 10:10,19 11:17 12:24 13:3,18 19:14 21:13 99:6 <hr/> U <hr/> U 3:2 ultimate 23:24 underneath 43:9 understand 5:12 19:21 32:15 68:12 79:25 86:19 112:20 understanding 90:18 UNITED 1:2 upside 42:7 use 34:6 45:22 usual 57:6 usually 16:16 <hr/> V <hr/> vaguely 53:7,8 Vandalia 6:20 6:21 7:9 12:23 13:5,10 various 31:12 62:4,8 vehicle 8:21 9:14 9:16 21:13 24:20,25 30:8 56:14 73:13 98:22 101:10 vehicles 66:25 67:16 89:7 verbally 5:8 vicinity 35:18,20 video 25:22 26:2 26:5,14,20 27:12 32:25 104:14,15,18 105:7,12,16,25 106:3,12,25 107:14 109:14 111:16,20,24 113:5,22 114:12 115:15 videos 8:8,23
--	--	---	---	--

view 19:23,24 26:24 106:5 113:13	82:15 97:21 100:3,18 106:15 108:21 113:24	63:13 66:9,23 67:14,25 70:6 70:19,22,23,24 71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	worked 7:9,25 8:2 13:5	102:16,24 118:5
viewpoint 85:14		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	working 22:13	<hr/> Z <hr/>
Virginia 24:6 38:7 41:5,7,11 41:13,14,15,24	wanted 25:19 29:5	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	World 55:23	Zoo 46:14
vision 65:11,15 67:6	wants 50:23 51:3 76:9	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	wouldn't 18:7 110:15	<hr/> 0 <hr/>
visit 24:12 55:21	wasn't 44:6 55:6 61:5 64:21 76:14	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	writing 20:21 21:5 27:20 28:24 34:16 41:8 45:10 51:12	<hr/> 1 <hr/>
VITUCCI 2:8 2:10 9:16 20:8 21:4,9 25:8,10 25:19,24 28:14 28:17 29:13 30:5 33:12 34:17,21 53:20 54:8,15 56:16 57:18 58:2 59:3,7 64:10 67:8 68:18 69:20 70:8 71:5 75:17,23 76:9 77:22 78:8 79:2,9,20 80:7 85:7 86:7 87:12,17 88:7 90:4 99:24 101:20 102:11 103:8,16 104:11 106:18 108:7,12,16 109:9,11,17,25 110:12,21 111:7,11,16,21 111:25 112:7 112:11,16,22 113:20 114:3,8 114:14 115:6 116:15	Waste 7:10	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	written 12:3 51:22,23 116:5	1 24:19 25:3 26:8 27:19 96:5 117:16
	watch 26:17	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	wrong 9:24 32:14 42:9,11 44:10 48:11,13 50:3	1-A 25:5 26:9 96:20 117:17
	watched 26:16 26:18	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	wrote 96:8,11	10 88:3,12 89:7
	watching 108:25	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	<hr/> X <hr/>	10:00 48:25
	way 14:18,25 24:4 42:25 44:12 52:2,17 61:14 64:16 73:19 80:25 88:8,17 101:14 102:10 103:2,7 103:14,23 110:11	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	X 1:3,11 117:2 117:14	10:15 49:2
	ways 64:5	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	<hr/> Y <hr/>	100 38:9 64:7,9
	wearing 75:9,12	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	Yankee 46:16 49:7	10004 2:9
	weather 62:20	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	yard 36:12,12 36:16	10005 2:6
	week 35:13	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	year 11:13 52:16 52:18,22	102 17:21
	went 11:18 12:2 12:21 13:12 31:23 32:2 36:11,15 37:20 41:14 46:15,19 51:7,7,13 59:25 66:3,6 99:10 108:19 110:10 111:2 111:10,14	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	years 7:2 8:3 13:6	102-18 117:22
	weren't 101:25 109:16,22 112:5	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	yesterday 26:3 104:15 105:4 105:13	104-23 117:23 117:24
<hr/> W <hr/>	west 24:6 38:7 41:5,7,11,13 41:13,15,24 53:4,17 54:5 59:23 60:2,3,8 60:12 61:17	71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	yield 101:14 102:10 103:7 103:14,23	11 17:18 30:7,23 82:8 92:7,25 93:9 108:24
Wait 5:4		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14	York 1:2,14,14 1:24 2:6,6,9,9 4:5 24:2,13 32:18 45:25 46:9,10,10,11 47:14 48:14,15 48:16,19,21,21 49:10,11,14 52:5,11,18 55:12 56:13	11-6 17:17
waited 46:23		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14		117 117:4
waived 3:8		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14		11th 7:15,18 32:13 33:7,11 35:7,14 38:3 39:3,4 40:5 53:3 63:13,15 67:25 96:12 100:12
walked 43:21		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14		12 30:23 107:14
want 27:17 69:20 80:23		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14		12:40 1:16
		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14		120 16:5
		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14		12th 39:20 40:8 41:24
		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14		13 30:23 93:14 94:18 95:4,11 95:14 106:25 107:21 109:3
		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14		13th 42:19
		71:4,12,25 72:2 73:6 82:25 84:21 86:20 88:4 89:15 91:3 92:9,15 93:19 94:14,24 100:14		14 30:23 82:12 109:4 117:21

14th 45:11 46:5 53:5,13,17 54:6 60:10 63:12,16,20,22 65:8 66:23 67:24 70:21 71:11 83:3 84:9,18,23 85:2 86:2 87:5 87:6,19 88:5,9 89:4,19 91:3 92:10 93:23 94:2,14,24 95:18 96:2,13 100:13 106:11	29:8 100:5 117:18 2-A 25:18 26:9 30:3,3 100:18 117:19 2:30 48:16 49:11 20 30:24 101:9 20-20 117:7 200 64:9,13,24 65:7,20 66:21 67:12,23 70:20 95:21 2001 6:9 13:14 2014 9:3 15:9,13 69:17 2015 4:20 10:24 15:4 19:12 27:25 33:7 35:8 39:2,4 40:9 42:19 45:11 52:10,19 53:6,15 54:18 117:20 2016 1:15 118:8 118:22 21 30:24 22 30:24 106:2 23 30:24 98:18 239 39:7,25 40:5 43:17,18 45:4 23rd 60:9 24 22:20,25 31:3 25 31:3 25th 27:25 26 31:3 26-7 117:16,17 117:18,19 27 31:3 28 24:16 29:9,23 31:3,5 36:25 99:2 29 1:15 29th 118:8	3:30 48:16 49:11 116:16 30 74:10 33 45:12 34-12 117:8 35-passenger 16:8 38-20 117:20 3rd 2:9 5:18	8 8 89:13 90:15 8:15 59:17 8:30 48:25 80 1:14 2:5 82-10 117:21 8th 11:12
15 30:24 73:22 73:23,24 75:2 102:15,19,24 103:13 117:22	2001 6:9 13:14 2014 9:3 15:9,13 69:17 2015 4:20 10:24 15:4 19:12 27:25 33:7 35:8 39:2,4 40:9 42:19 45:11 52:10,19 53:6,15 54:18 117:20 2016 1:15 118:8 118:22 21 30:24 22 30:24 106:2 23 30:24 98:18 239 39:7,25 40:5 43:17,18 45:4 23rd 60:9 24 22:20,25 31:3 25 31:3 25th 27:25 26 31:3 26-7 117:16,17 117:18,19 27 31:3 28 24:16 29:9,23 31:3,5 36:25 99:2 29 1:15 29th 118:8	4 4 82:11,19 85:8 86:22 117:4,21 405 42:21 41st 59:25 60:13 61:17 66:9 45 49:21 45-8 117:9 45-foot 17:15	9 9 90:25 91:17,24 9:15 59:17 9:30 49:2 90 2:9 95 7:12 10:2
15th 4:20 10:24 15:4 19:12 52:10,19 53:6 53:15 54:18 59:12	2016 1:15 118:8 118:22 21 30:24 22 30:24 106:2 23 30:24 98:18 239 39:7,25 40:5 43:17,18 45:4 23rd 60:9 24 22:20,25 31:3 25 31:3 25th 27:25 26 31:3 26-7 117:16,17 117:18,19 27 31:3 28 24:16 29:9,23 31:3,5 36:25 99:2 29 1:15 29th 118:8	5 5 82:19 83:6 85:8,13 5-B 12:16,18 5:00 42:8,12,13 5:45 41:25 42:2 50 64:7 509 36:9 51-10 117:10 538 4:11 56 16:21 58-23 117:11 587 40:25 5th 7:12	
16 30:24 104:14 104:24 113:3 115:15 117:23	2016 1:15 118:8 118:22 21 30:24 22 30:24 106:2 23 30:24 98:18 239 39:7,25 40:5 43:17,18 45:4 23rd 60:9 24 22:20,25 31:3 25 31:3 25th 27:25 26 31:3 26-7 117:16,17 117:18,19 27 31:3 28 24:16 29:9,23 31:3,5 36:25 99:2 29 1:15 29th 118:8	6 6 82:19 84:20 85:8 6:00 45:18 48:8 51:14 62568 4:12	
17 30:24 100:22 100:23,25 104:17,24 113:5,9,14 117:24	29 1:15 29th 118:8	7 7 82:19 7:00 45:25 46:6 48:5 51:15 7:30 46:6 70-4 117:13	
172 39:11	3 3 38:15,21 39:3 54:18 59:11 117:20		
18 30:24			
19 30:24 100:21 100:24 102:17 102:25			
19-190 102:5,17 103:2			
1960 5:18			
1976 9:20			
1990 9:25 10:3 11:14			
1st 6:9 13:14 118:22			
2 2 25:7,16 26:9			