

1 PLAINTIFF: Mr. Carter

2 WITNESS:

3 DEFENSE COUNSEL 1: Mr. Ward

4 DEFENSE COUNSEL 2: Ms. Wellington

5

6 WARM UP

7

DIRECT EXAMINATION

8 MR. CARTER: Welcome back. Hope everyone had a
9 nice weekend. The record should reflect that we are
10 resuming in the depo of Karen Baxter.

11 Since we have / a different court reporter today, I
12 think we should state our appearances again for the
13 record.

14 MR. WARD: Thank you. James Ward for the
15 defendant, Tonya Marshall. /

16 MS. WELLINGTON: Susan Wellington for the
17 defendant, Shuttle King.

18 MR. CARTER: And I am Michael Carter for the
19 plaintiff, Joseph Lewis.

20 Are we ready to resume?

21 MR. WARD: I want to / note for the record that my
22 client is not able to be here this morning due to a
23 prior conflict. She may be able to / join us later
24 this afternoon.

25 MR. CARTER: That shouldn't be a problem.

26

1 MS. WELLINGTON: No objection. She has a right to
2 be here, of course. I don't think it / is necessary to
3 wait for her. Are you requesting that we postpone
4 until the afternoon when she can be here?

5 MR. WARD: No, not at all. I / just wanted to
6 state that on the record. I am ready to proceed.
7 Let's go ahead and begin if we are all ready.

8 MS. WELLINGTON: Ma'am, are / you ready to begin?

9 THE WITNESS: Sure. I apologize for being a little
10 late.

11 MR. WARD: That's fine. We all just got here.
12 We can go ahead and start, */ then.

13 EXAMINATION

14 Q. BY MR. CARTER: I will remind you, Ms. Baxter,
15 that you are still under oath.

16 A. I understand.

17 Q. Thank you for returning today so we can
18 complete your / deposition.

19 A. No problem. I hope we will be finished today,
20 though. I have scheduled a flight out of town next
21 week.

22 Q. Then we better get / started right away.

23 A. Thank you.

24 Q. When we left off, I was inquiring about your
25 statements to the officer on the scene. Do you recall
26 that? /

1 A. Yes, I do.

2 Q. When you were giving your statement to the
3 responding officer, where did that initially occur?

4 A. It was just right there on the / corner near
5 where the accident happened.

6 Q. Do you remember that particular officer's
7 name?

8 A. That day I spoke to three different ones. The
9 first one was / a woman. I don't recall her name.

10 Q. Do you remember the name of the officer who
11 took your full statement?

12 A. Yes. The last name was / Rogers.

13 Q. Was that a man or a woman?

14 A. He was a man.

15 Q. And you said it was on the corner of Sycamore
16 and Greenfield Drive? /

17 MR. WARD: Sorry to interrupt. I believe you meant
18 Sycamore and Baker.

19 MR. CARTER: You are correct.

20 MR. WARD: I don't want there to be confusion later
21 between the two witnesses. */

22 MS. WELLINGTON: I think we should allow the
23 witness to answer the questions. She can correct any
24 counsel if they are confused.

25 THE WITNESS: I do recall that it / was Baker.

26 The officer interviewed me on the corner.

1 MS. WELLINGTON: Thank you.

2 Q. BY MR. CARTER: When the officer questioned
3 you about what you had seen that day, were you / being
4 truthful with him that morning?

5 A. Absolutely.

6 Q. That day did you feel confused about what you
7 had seen in any way?

8 A. I don't believe so, / no.

9 Q. How long after the accident did you speak to
10 Officer Rogers?

11 A. As I said earlier, I spoke to three different
12 ones. The first officer / just told me before I could
13 leave that I needed to wait until someone spoke to me
14 for my statement.

15 Q. Okay.

16 A. The second one took / my name and contact
17 information. She told me to wait for Officer Rogers.

18 Q. And that's why you waited on the corner?

19 A. That's right.

20 Q. You have / previously told us what you
21 observed that morning. I just have a couple more
22 questions about your conversation with my client after
23 the accident.

24 A. Okay. /

25 Q. Do you recall speaking to Joseph Lewis that
26 morning?

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A. Yes, I did.

Q. Had you ever met him prior to that morning?

A. No, I did not. /

***END OF WARM UP**

1 EXAM

2 Q. BY MR. CARTER: Are you aware if he works in
3 the area?

4 A. I don't have any idea where he works.

5 Q. When did you first approach him that morning?/

6 MS. WELLINGTON: Objection. Assumes facts not in
7 evidence.

8 Q. BY MR. CARTER: Did you approach Mr. Lewis, or
9 did he approach you?

10 A. I was standing there after the accident, and
11 he / came up to me on the corner.

12 Q. Was that the only time you spoke to Mr. Lewis?

13 A. After the collision and once the cars were /
14 all settled, I looked over, and he was sitting in the
15 pickup truck looking around.

16 Q. Did you approach his pickup truck at that
17 time?

18 A. No. / I just hollered to him to ask if he was
19 okay.

20 Q. Was his window down?

21 A. Yes, it was.

22 Q. Did it appear that Mr. Lewis heard / your
23 comments to him?

24 A. He looked directly at me. He didn't say
25 anything.

26

1 Q. Did you have any further conversation with
2 him?

3 A. I asked again if / he was okay.

4 Q. Did he respond to you on that second attempt?

5 A. Correct. He nodded his head. I hollered that
6 I was going to call / 911.

7 Q. When Mr. Lewis later approached you on the
8 corner, do you recall what the conversation was at that
9 time?

10 A. I told him */ he should just sit down and wait
11 for the police to get there.

12 Q. I want to clarify. Did you have a
13 conversation with Joseph Lewis / on the corner?

14 A. Not really. He appeared to be pretty dazed
15 the whole time I saw him. That's why I wanted him to
16 sit down / and wait for the medical people.

17 Q. While you two were on the corner, did you
18 overhear any discussion Mr. Lewis had with anyone else?

19 A. Not / really. There was a woman who came over
20 and was talking to him. I didn't really hear what she
21 was saying.

22 Q. Did you see where / that woman came from?

23 A. I think she was in the van.

24 Q. Do you mean the shuttle van that was involved
25 in the accident?

26 A. Correct.

1 Q. Why / do you believe she was involved with the
2 shuttle?

3 A. I am pretty positive I saw her when I was
4 walking on the sidewalk.

5 Q. Where do / you believe you observed her?

6 A. She was sitting in the shuttle when it was
7 stopped at the signal.

8 Q. You believe she was a passenger in / the
9 shuttle?

10 A. Correct.

11 Q. Did you have a conversation with her that
12 morning?

13 A. No, I didn't.

14 Q. Is there any reason why you didn't ask if she
15 */ was okay if you thought she was in the van?

16 A. Not really. I guess I didn't think about it.
17 She came running over to the / corner and appeared
18 like she was fine.

19 Q. All right. Again, I appreciate your time
20 today. I believe the other parties have some questions
21 for you / as well.

22 A. Okay.

23 MR. CARTER: Counsel, did you have any further
24 questions for Ms. Baxter?

25 MR. WARD: I will defer to Ms. Wellington.

26 MS. WELLINGTON: All right. Thank you.

1 MR. WARD: I will / have some questions before the
2 witness leaves.

3 MR. CARTER: No problem. Thank you.

4 EXAMINATION

5 Q. BY MS. WELLINGTON: Ms. Baxter, let me ask you
6 about the woman that you just were speaking / about.

7 You said that she appeared to you to be fine; is
8 that correct?

9 A. Yes, she did.

10 Q. And what gave you that impression? Did you /
11 speak to her at all about that subject?

12 A. Not really. I just remember her running over
13 to the corner and getting out of the street. / After
14 she had been there for a minute, she then started
15 talking to Mr. Lewis.

16 Q. And do you recall what their conversation was?
17 Did you / overhear any of that?

18 A. She just was saying that accidents were always
19 scary. I really don't think that she knew who he was
20 at first. /*

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1 START TYPING

2 Q. BY MS. WELLINGTON: Why do you say that?

3 A. Because she asked him if he saw what happened.

4 Q. Did Mr. Lewis reply?

5 A. He said he didn't see anything and / only heard
6 the brakes.

7 Q. Okay.

8 A. I guess it would be the tires from the driver
9 trying to stop.

10 MR. WARD: Excuse me. I am going to object. /
11 Speculation.

12 THE WITNESS: Sorry.

13 MR. CARTER: That's okay. We just want your
14 observations from that morning.

15 MR. WARD: Ms. Baxter, let me just remind you of
16 something. As we instructed you / last time, you just
17 need to answer the question as it is posed to you.
18 Please don't offer anything or try to fill in any / gaps.

19 THE WITNESS: I understand.

20 MR. WARD: Thank you.

21 Q. BY MS. WELLINGTON: You testified Mr. Lewis told
22 this woman that he heard brakes?

23 A. He said that he heard tires skidding.

24 Q. Are those / the specific words that he used?

25 A. That's just what I recall. I can't say that I
26 remember the exact words.

1 Q. Earlier you testified that you / didn't really
2 hear their conversation. Do you recall anything
3 specifically, or are you just guessing what their words
4 might have been?

5 A. I heard the comment / about the tires. I
6 overheard her ask him if he saw anything. That's about
7 it.

8 Q. What happened after that?

9 A. The police came over and took */ him away.

10 Q. Did they escort him somewhere?

11 A. The police officer came over and asked him to
12 follow him back to the police car.

13 Q. Did you / then have any conversation with the
14 woman you believed came from the shuttle?

15 A. Not that I remember. I think she left pretty
16 soon after that / happened.

17 Q. When you say that, do you mean she left the
18 scene?

19 A. I don't know where she went. She left the
20 corner area where I / was. She probably went back to the
21 van.

22 MR. WARD: Objection. Speculation.

23 THE WITNESS: Sorry.

24 MS. WELLINGTON: Nothing further at this time.

25 MR. WARD: I have a few more questions, please.

26 MR. CARTER: All right. /

1 EXAMINATION

2 Q. BY MR. WARD: Ms. Baxter, you testified you saw
3 the pickup truck sitting at the traffic signal; is that
4 correct?

5 A. Yes.

6 Q. What other automobiles do you remember at / the
7 light, if any?

8 A. The pickup was first at the crosswalk. There
9 was the shuttle van behind the pickup in the same lane.

10 Q. Okay. Do / you remember any other -- let me
11 strike that.

12 How many lanes of travel were there at the
13 intersection?

14 A. There were two on each side.

15 Q. Do / you recall if there were any automobiles or
16 trucks in the lane next to the van?

17 A. If there were, I couldn't see them. The van */
18 is pretty big, and I don't remember seeing any other cars
19 next to it.

20 Q. Now, I wanted to clear something up. Did you
21 actually see / the accident when it happened?

22 A. Definitely.

23 Q. Or did you just hear it?

24 A. I observed it. I was walking on the sidewalk
25 and was going to / cross the street at the corner.

26

1 Q. Had you come to a stop at the corner before the
2 accident happened? Were you still walking down the /
3 sidewalk?

4 A. I was standing at the corner when I heard the
5 collision.

6 Q. Did you initially hear the accident or see it
7 first?

8 A. It was at / the same moment. I heard the
9 screeching and then the crash. It was perfectly in front
10 of my line of vision.

11 Q. Now, tell us again / what you observed.

12 A. The shuttle collided into the back of the pickup
13 truck. There was a blue car behind the van. The blue
14 car crashed / into the shuttle.

15 Q. Did you draw a diagram for the police officer
16 that morning?

17 A. Oh, that's correct. I had forgotten that I did
18 that.

19 MR. CARTER: I / have a copy of a diagram. Did you
20 want to use that to refresh her recollection?

21 MR. WARD: That's great. Thank you. Do you have
22 extra copies? */ Is this your only one?

23 MR. CARTER: You are welcome to use that one. I
24 believe I have a couple more with me today if we need /
25 them.

26 MR. WARD: Thank you.

1 MR. CARTER: Why don't we mark that as an exhibit.

2 MS. WELLINGTON: I have no objection to that.

3 Maybe she can just identify the diagram, and / we can
4 go from there.

5 MR. CARTER: Let's mark it next in order.

6 MS. WELLINGTON: No objection. Thank you.

7 MR. CARTER: That would be 14.

8 Q. BY MR. WARD: Ms. Baxter, do you recognize the /
9 diagram marked as 14?

10 A. Yes.

11 Q. How do you recognize that?

12 A. This is what I drew that morning when I was
13 speaking to Officer Rogers.

14 Q. Does / this depict the position of the parties
15 that morning as you remember them?

16 A. Yes, it does.

17 Q. Do you see here you put -- well, strike that. /
18 Did you draw the diagram or did Officer Rogers?

19 A. I drew the boxes for the cars.

20 Q. All right. Now, do you see here --

21 A. Officer Rogers / drew the streets and the
22 sidewalks. He just asked me to put boxes where I
23 remembered the cars being stopped.

24 Q. Okay. Do you see where / there are boxes
25 depicted in both lanes?

26

1 A. Yes. I don't remember doing that. Those are my
2 markings. I guess I forgot about those cars.

3 Q. As */ you sit here this morning, do you remember
4 there being cars in both lanes of travel?

5 A. I really don't. I just remember the pickup
6 truck / and the van. I also remember the blue car that
7 had the young girl in it.

8 Q. Did you have any conversations or dealings with
9 that / young girl?

10 A. No. She had lots of people in her car. I
11 didn't talk to her.

12 Q. Okay. Thank you, ma'am.

13 A. Thank you, sir.

14 MR. WARD. Nothing further. /

15 EXAMINATION

16 Q. BY MR. CARTER: Ms. Baxter, when you were
17 answering questions earlier, you said that you remembered
18 the pickup and the van being stopped at the light; is
19 that / correct?

20 A. That's right.

21 Q. Were they stopped at the light before you
22 observed the blue car driven by the girl?

23 A. I believe so. I know the / pickup was stopped
24 at the crosswalk and that the van was slowing to a stop.
25 That's when I heard the brakes and the crash.

26

1 Q. Did you / hear any loud music before the
2 collision?

3 A. I don't recall music.

4 Q. Do you recall when you initially observed the
5 automobile with the younger girl driving? /

6 A. They were all there together. It was the
7 pickup, the van, and then the blue car.

8 Q. Do you have an opinion on whether the van */ was
9 moving or stopped before the collision?

10 MS. WELLINGTON: Objection. Calls for speculation.
11 No foundation.

12 MR. WARD: She can give her opinion.

13 MS. WELLINGTON: The witness is here to testify as /
14 to what her observations and actions were that day.

15 She testified that the van was slowing to a stop.

16 MR. CARTER: I can rephrase the question.

17 MR. WARD: That's / fine.

18 Q. BY MR. CARTER: Ms. Baxter, as you are standing
19 at the corner and observing the pickup truck stopped at
20 the crosswalk, tell us what you saw happen / next.

21 A. The van was slowing down to stop behind the
22 pickup. The blue car was behind the shuttle. They all
23 crashed into each other.

24 Q. Do / you recall if the van had come to a
25 complete stop before the blue car drove within your view?

26 A. I don't believe so.

1 MS. WELLINGTON: Objection. Speculation. /
2 MR. WARD: If you are not sure, it is okay to say you
3 don't know. We only want what you observed, not what you
4 guess or think / might have happened.
5 THE WITNESS: Okay. The shuttle was slowing down. I
6 don't think it had completely stopped before the blue car
7 collided into it. The van / then hit the pickup.
8 Q. BY MR. CARTER: Ma'am, did you tell the officer
9 that you heard music before the collision?
10 A. I really don't remember that.
11 Q. Would it refresh */ your recollection if I
12 showed you a copy of the police report with your
13 statement in it?
14 A. I suppose it would, sir. I don't know. /
15 MR. CARTER: Is there any objection by anyone to my
16 showing her the police report?
17 MR. WARD: No objection.
18 MS. WELLINGTON: Let me ask you something first. Are
19 you planning to / mark that document as an exhibit?
20 MR. CARTER: I don't really believe we need to do
21 that. We already have the deposition of --
22 MR. WARD: Let's just mark it / as an exhibit, and
23 then we will have it if we need it.
24 MR. CARTER: All right. That's fine.
25 MS. WELLINGTON: No objection.

26

1 Q. BY MR. CARTER: Ma'am, let me show you this /
2 report and see if that refreshes your memory.

3 A. Okay.

4 Q. Just read the paragraph starting here. Let me
5 know when you are finished.

6 A. All right. I / read it.

7 Q. Does that refresh your memory that you told
8 Officer Rogers that you heard loud music before the
9 crash?

10 A. Well, I really don't remember / saying that.
11 Since it is written here, I must have said it.

12 MR. WARD: Objection.

13 MR. CARTER: I can rephrase the question.

14 MR. WARD: All right.

15 Q. BY MR. CARTER: Ma'am, it is okay if / you don't
16 remember this or it doesn't refresh your recollection.
17 That's all we want to know.

18 A. Okay.

19 Q. Does this refresh your recollection of that
20 statement */ that you gave to Officer Rogers?

21 A. It really doesn't. I don't recall saying
22 anything about music. That seems like something I would
23 recall if I / had said it.

24 MS. WELLINGTON: Objection. Nonresponsive.

25 Q. BY MR. CARTER: Ma'am, did you ever speak to an
26 Officer Porter that day?

1 A. Not unless that was the name of the second / one
2 who got my name and contact info.

3 Q. Do you recall if that was a man or a woman?

4 A. I believe that was a woman. / I know I talked
5 to three different ones. I believe Officer Rogers was
6 the only man.

7 MR. CARTER: Nothing further. Thank you.

8 MS. WELLINGTON: I just have a couple / questions.

9 MR. WARD: That's fine. Go ahead.

10 EXAMINATION

11 Q. BY MS. WELLINGTON: Ms. Baxter, I neglected to
12 ask you if you had any contact with the shuttle driver
13 that morning. Do you / remember ever talking to that
14 person?

15 A. Yes, I do.

16 Q. Do you remember that person's name?

17 A. No, I don't. She was very nice. I don't
18 remember / asking her for a name or anything personal
19 like that.

20 Q. How did you come in contact with the driver of
21 the van?

22 A. She came out / of the shuttle and was walking
23 around the street. She came over and sat on the curb
24 after the police officer spoke to her.

25 Q. Did */ you observe if the officer directed her
26 to the curb?

1 A. I believe he did. I couldn't hear anything that
2 they said to each other.

3 Q. Is / that when you approached her?

4 A. I didn't go up to her or anything like that.
5 She was sitting on the curb right next to me. / I just
6 asked her if she was okay or needed anything.

7 Q. Was there anyone else around when you were
8 having that conversation with her?

9 A. There / were always people around me. It is a
10 busy intersection, and there were a lot of people there
11 that morning.

12 Q. Just so we understand the / area where this
13 happened --

14 A. It is a business complex, and there are lots of
15 offices around there.

16 Q. What time did this occur?

17 A. It had to / be before 9:00 o'clock because I
18 start work at 9:00. I was heading into my building when
19 it all happened.

20 Q. What time do you usually / arrive at work?

21 A. 9:00 o'clock is my start time. I usually try to
22 get there a little bit before that every morning.

23 Q. Do you remember / what day of the week this was?

24 A. Friday.

25 Q. You testified that there were lots of people
26 around. Could you estimate for us how many people */ saw

1 the accident?

2 MR. CARTER: Objection. Calls for speculation.

3 She can't testify to how many people witnessed the
4 accident.

5 MR. WARD: Maybe you can rephrase the question.

6 MS. WELLINGTON: That's fine. /

7 MR. CARTER: Okay.

8 Q. BY MS. WELLINGTON: Do you recall how many
9 people were at the corner waiting for the light at the
10 same time you were?

11 A. There were at least / five other people waiting
12 to cross the street with me. I don't know if they saw
13 what happened or not, but it was right in / front of us.

14 MS. WELLINGTON: Thank you. Nothing further.

15 MR. CARTER: I would like to mark this photograph as
16 15. I have another one that will be 16.

17 MR. WARD: No / objection.

18 MS. WELLINGTON: No objection.

19 EXAMINATION

20 Q. BY MR. CARTER: Ma'am, do you recognize what
21 these photos are?

22 A. Yes. That's the crosswalk where the accident
23 happened.

24 Q. Do you know when these were / taken?

25 A. Well, it wasn't that morning because there are
26 no cars there. I don't know when they were taken.

1 Q. But you do recognize this as / the street where
2 the accident occurred?

3 A. It is the crosswalk directly outside my building
4 where I work. I cross that street right there every
5 morning. /

6 Q. So then you are very familiar with this area?

7 A. I am afraid so.

8 MR. CARTER: Nothing further.

9 MR. WARD: Nothing further.

10 MS. WELLINGTON: Thank you for your time.

11 THE WITNESS: Okay. Thank you. /*

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15 ******EACH EXAM VARIES. THE ACTUAL TEST GIVEN MAY BE***
16 ***SLIGHTLY DIFFERENT******
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