

1 Attorney for Plaintiff: Mr. Morton
2 Witness: Colleen Anne Nichols
3 Defense Attorney #1: Mr. Baxter
4 Defense Attorney #2: Ms. Stone
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7 WARM UP
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9 MR. BAXTER: I think the record should reflect that we are taking
10 the deposition of Colleen Nichols. She is represented by counsel; is that
11 right?

12 MS. STONE: Yes, the / witness has counsel, but he is not here
13 today. It is my belief that she is only here as a percipient witness, and not
14 a / party to the case at this time.

15 MR. MORTON: That's correct. I believe, however, that the witness
16 was served with a subpoena for the taking of her / deposition.

17 MR. BAXTER: My firm set the deposition. I don't think that
18 service was required because all the witnesses agreed to appear.

19 MS. STONE: Let me just inquire of / Ms. Nichols. Were you
20 served a subpoena to be present today?

21 THE WITNESS: I don't believe so. I just received a letter and a
22 phone call.

23 MR. BAXTER: Counsel, / I would like the record to reflect that my
24 office telephoned first, and then we sent a follow-up letter with a copy of
25 the notice / of deposition.

1 MR. MORTON: My mistake. I thought the witness was not
2 appearing voluntarily and required a subpoena. I apologize.

3 MR. BAXTER: That's fine. I would just like to / state for the
4 record that Ms. Nichols, although not a party to this present action, may at
5 some time in the future become a party / to a different action arising out
6 of the same incident, and that is why I told her to consider having counsel
7 present at her deposition. /

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1 EXAM

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3 MS. STONE: That is correct. She has retained an attorney to
4 protect her interests but has chosen not to have him here for this
5 proceeding.

6 Is that / your understanding also, Ms. Nichols?

7 THE WITNESS: Yes. I don't anticipate a suit against me because I
8 didn't hit anybody, but I did consult a lawyer to / advise me on this matter,
9 yes.

10 MS. STONE: But you chose not to have a lawyer here today;
11 right?

12 THE WITNESS: Yes, ma'am, since I am not a party / to this action.

13 MR. MORTON: Well, I know that I have some questions for you, as
14 I am sure other counsel do, as well. We will try / not to keep you here all
15 day.

16 MR. BAXTER: I guess we should begin by stating appearances for
17 the record.

18 MR. MORTON: Thank you. My name is Brian Morton, / and I
19 represent the plaintiff in this action, Cheri Hartford.

20 MR. BAXTER: I am Steven Baxter, and I am representing one of
21 the named defendants, Andrew Stanford.

22 MS. STONE: Yes. Just for the record, I am Deborah Stone
23 representing Bob Workman, a defendant.

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1 MR. BAXTER: Before I begin my questioning, let me just inquire,
2 Ms. Nichols, / have you had sufficient time to read and sign the deposition
3 preamble explaining the procedure we are going to follow today?

4 THE WITNESS: Yes, I believe so. / I have signed it and dated it, as
5 well.

6 MR. MORTON: Let's just have it marked as an exhibit to the
7 deposition, and then we will have / it attached to the original.

8 MR. BAXTER: Yes. That is usually my practice. Thank you. That
9 will be the first exhibit to the Nichols depo.

10 If there / is no objection, and since the witness has been
11 sworn, I would like to commence questioning.

12 MR. MORTON: No objection. Please proceed.

13 MS. STONE: Ms. Nichols, just relax and / try to answer the
14 questions posed to you. If you have any problems, just let us know and
15 we will allow you to take a / break. Let us know if you don't understand
16 any question.

17 THE WITNESS: All right. Thank you. I'm ready.

18 EXAMINATION

19 BY MR. BAXTER: Q. Ms. Nichols, let's begin by having you
20 state your / full name for the record.

21 A. My name is Colleen Anne Nichols.

22 Q. You have reviewed the preamble regarding the rules that we
23 follow during the deposition, / have you not?

24 A. Yes, I have.

25 Q. Do you have any questions about that?

1 A. No. I understand the process and I am ready to answer
2 questions. /

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1 BEGIN TYPING

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3 BY MR. BAXTER: Q. All right. Then I will get right to it.

4 THE WITNESS: That's fine.

5 Q. We will be asking about an accident that occurred last year.

6 A. Okay.

7 Q. All right. / Let's get to the heart of my questions, then. Are
8 you familiar with the events leading up to the pending lawsuit?

9 A. I believe so.

10 Q. On / the date of September 3 last year, were you witness to an
11 automobile accident involving numerous vehicles?

12 A. Yes, I was.

13 Q. Do you remember approximately what / time the accident
14 occurred?

15 A. If I am not mistaken, it would be right before noon.

16 Q. Is there a special reason why you recall the time? /

17 A. Well, I know because I was on my way to an appointment and
18 the time was getting close for me. I was supposed to be / there at 12:30.
19 Had it not been for the accident, I would have made it.

20 Q. Okay. When you say approximately before noon, do you /
21 mean minutes before noon, or hours before?

22 A. I mean it was approximately 11:45 or 11:50.

23 Q. All right. Now, where were you traveling from / on that
24 particular date and that time?

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1 A. I had left my home in Fullerton and was heading down Harbor
2 Street towards the beach.

3 Q. What was / it that first attracted your attention to the fact that
4 -- well, strike that. Let me inquire about something else first. Were you
5 driving or walking / at the time of the accident?

6 A. I was inside my car. I was driving.

7 Q. What is the make and model of your automobile?

8 A. At the / time of the accident I drove a Chevrolet sedan.

9 Q. How long prior to the accident had you been driving that
10 vehicle?

11 MR. MORTON: Excuse me. Do you / mean that specific day, or
12 how long she had owned the sedan?

13 MR. BAXTER: I asked how long she had been driving the car. If it
14 wasn't / clear, I meant that day.

15 MR. MORTON: How long had she been driving that car that day?

16 MR. BAXTER: Yes.

17 MS. STONE: You can answer the question.

18 THE WITNESS: I had errands to / run and started doing that
19 around 9:00 in the morning. I had made a couple stops, but I would say
20 about two hours.

21 BY MR. BAXTER: Q. Is / that the vehicle that you normally or
22 regularly drive?

23 A. Yes.

24 Q. Would you say that you are very familiar with that vehicle?
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1 MS. STONE: Objection. Vague. If you / could be more specific
2 as to what you mean by "familiar."

3 BY MR. BAXTER: Q. Were you familiar with the way the car
4 handled when you drove it?

5 A. Yes, / I was.

6 Q. Had you, prior to the accident, ever had a problem in operating
7 your vehicle?

8 A. No, I had not. It really is a reliable / car.

9 Q. If you would, please describe what first attracted your attention
10 to the fact that an accident was happening.

11 A. Well, I was approaching the intersection / and I noticed that
12 the car was not slowing down, even though the light was red for our
13 direction.

14 Q. Which car are you speaking of? /

15 A. The defendant's car. I believe it is a Ford.

16 Q. Do you know the make of the car?

17 A. I am not sure what you mean by / that.

18 MR. MORTON: Counsel means what kind of vehicle it is, whether it
19 was a truck or sedan, you know.

20 THE WITNESS: Oh, I am sorry. The make. I / understand now. It
21 was a red truck.

22 BY MR. BAXTER: Q. Where was the car -- excuse me.
23 Where was the truck when you first noticed it?

24 A. I would estimate / about half a block behind me.

25 Q. All right. What directed your attention to the truck?

1 A. I just always look in my mirror when I begin / to slow down,
2 and that's how I saw it.

3 MS. STONE: Pardon me, Mr. Baxter. I don't usually interrupt,
4 but I would appreciate some clarification. I believe / the witness just
5 identified the vehicle as the defendant's truck, but we do have multiple
6 parties in this lawsuit.

7 MR. BAXTER: You are correct. I will clear / that up.

8 MS. STONE: Thank you.

9 MR. MORTON: The record would be more clear if we perhaps drew
10 a diagram.

11 MR. BAXTER: Well, I guess we can do that now, but -- /

12 MS. STONE: I don't need a diagram unless the witness can't
13 identify the different vehicles by their drivers.

14 MR. MORTON: It was just a suggestion.

15 MR. BAXTER: Let me try to / clear it up first.

16 MR. MORTON: All right.

17 BY MR. BAXTER: Q. Do you know who was driving that truck
18 that was behind you approaching the intersection?

19 A. I believe that was / Mr. Workman.

20 Q. All right. Was he directly behind you when you first noticed
21 him?

22 A. Correct.

23 Q. What did you proceed to do then?

24 A. Well, he wasn't / going to stop, so I changed lanes to get away
25 from a collision.

1 MS. STONE: Objection. Speculation as to whether he was going
2 to stop.

3 MR. MORTON: That's the / opinion of the witness. She can render
4 her opinion.

5 MS. STONE: The question was what happened next, not what
6 her opinion is of what my client was / or was not going to do.

7 MR. BAXTER: Your objection is noted for the record.

8 BY MR. BAXTER: Q. Ms. Nichols, what did you do at that
9 time when you saw / that Mr. Workman was not going to stop for the red
10 light?

11 MS. STONE: Objection. Leading and calling for a conclusion.

12 MR. MORTON: You can answer the question.

13 THE WITNESS: I / changed lanes because, in my opinion, I didn't
14 think he was going to stop and I didn't want to be involved.

15 BY MR. BAXTER: Q. Then what happened next / that you
16 recall?

17 A. I was proceeding to stop, and I heard and saw the truck crash
18 into the car that had been directly ahead of / me before I switched lanes.

19 Q. Would that be the Chevrolet automobile that Mr. Stanford was
20 driving?

21 A. If Mr. Stanford was driving the blue car, yes, / that would be
22 the one.

23 MR. MORTON: Perhaps the record could reflect which automobile
24 the parties were driving, and that way it would be clear.

25

1 MS. STONE: I would / prefer that we test the recollection of the
2 witness as to that subject.

3 MR. MORTON: Very well. I will cover that in my examination of
4 the witness, / then.

5 BY MR. BAXTER: Q. Did you actually see the impact between
6 the red truck and the blue car?

7 A. Yes, I did.

8 Q. Did you observe anything after that initial / impact?

9 A. Yes, I did.

10 Q. What was that?

11 A. I saw the blue Chevrolet being pushed into the car in front of it.

12 Q. Do you recall the / make or model of that third automobile?

13 A. I cannot be positive whether I recognized it at the time of the
14 impact or thereafter, but it / was a dark brown old car.

15 Q. Had you observed that big brown car prior to the accident?

16 A. Well, I obviously knew there was a car / there, but I couldn't
17 tell you if I noticed what model of car it was.

18 Q. Okay. That's fair enough.

19 A. There was traffic that day, and / I couldn't begin to remember
20 all the different types of cars that were on the road with me.

21 MR. BAXTER: Nothing further at this time.

22 MS. STONE: Counsel, why / don't you go ahead with your
23 questions.

24 MR. MORTON: All right. Thank you.
25

1 EXAMINATION

2 BY MR. MORTON: Q. Ms. Nichols, I represent the plaintiff in
3 this action, Cheri Hartford. Do you know / Ms. Hartford?

4 A. Not really. I mean, I believe I know who she is from the
5 accident.

6 Q. You didn't know her previous to the accident, did / you?

7 A. I never met her.

8 Q. Did you converse with Ms. Hartford at the scene of the
9 accident?

10 A. She was taken away from the crash in / an ambulance.

11 MS. STONE: Objection. Nonresponsive.

12 BY MR. MORTON: Q. Did you speak to Ms. Hartford after the
13 crash?

14 A. No, I did not. I didn't want to approach her alone because / I
15 wasn't sure what I would discover.

16 Q. What do you mean when you say that?

17 A. You should realize the impact was significant. I was not /
18 trained in any type of emergency first aid or anything like that. I didn't
19 wish to get into something that -- well, I saw it happen, / and there was
20 nothing I could do except telephone 911.

21 Q. Did you fear that possibly a death had resulted?

22 A. I could not testify / whether that particular thought ever
23 crossed my mind, but I know that I was very thankful that I had changed
24 lanes.

25

1 Q. Do you recall talking / to either Mr. Workman or Mr. Stanford at
2 the scene of the accident?

3 A. I believe it was the driver of the old brown car that / I spoke
4 to.

5 Q. That would be Mr. Stanford?

6 A. Yes, that's correct.

7 Q. Did you speak to Mr. Workman at all, the driver of the truck?

8 A. Nobody / could speak to him. They detained him in the back of
9 the police cruiser.

10 Q. So the police promptly responded to the scene?

11 A. Yes. I dialed / 911 from my cellular phone and reported the
12 accident.

13 Q. Did you also call the police department?

14 A. No. They are sent automatically when you / call 911.

15 MS. STONE: Objection. Speculation and conjecture.

16 THE WITNESS: It's not a guess. That is what 911 is. It is the
17 police department and / the paramedics.

18 MS. STONE: Objection. No question pending.

19 MR. BAXTER: Ms. Nichols, the objections are just our way to
20 protect the record for trial. They pertain to legal issues / to be decided
21 later by a judge.

22 THE WITNESS: Well, that's fine, but I know how the 911 system
23 works.

24 MS. STONE: My objection is made for / the record as speculation
25 and lack of foundation.

1 MR. BAXTER: That's fine. Thank you.

2 MR. MORTON: So may I proceed?

3 MS. STONE: Yes, sir.

4 BY MR. MORTON: Q. I was asking you about your
5 conversations / with either Mr. Workman or Mr. Stanford at the scene. Do
6 you recall any of the specifics of those conversations?

7 A. I know that I did / not talk to Mr. Workman, the one in the
8 police car. I spoke to the driver of the big brown car when the tow truck /
9 people were there.

10 Q. Was your automobile towed?

11 A. No. I was not in the accident.

12 Q. What did Mr. Stanford say to you as the area was / being
13 processed?

14 A. I told him he was lucky to be alive considering all the wreckage
15 that we were seeing.

16 MS. STONE: Objection. Nonresponsive.

17 BY MR. MORTON: Q. What did Mr. Stanford say to you at that
18 time?

19 A. He agreed with me that someone was watching out for him,
20 and then he asked to borrow my cell / phone to call his mother.

21 Q. Did you loan him your telephone?

22 A. Yes, sir, absolutely.

23 MR. MORTON: Ms. Stone, I want to review the police report before
24 I / continue questioning, so why don't you proceed.

25 MS. STONE: That's fine. I can wait.

1 MR. MORTON: I cannot find it right offhand, so go ahead.

2 MS. STONE: All right. Thank you. /

3 EXAMINATION

4 BY MS. STONE: Q. Ms. Nichols, I represent Mr. Workman, the
5 driver of the truck.

6 A. Hello.

7 Q. When you changed lanes just prior to the collision, at
8 approximately what speed / were you traveling?

9 A. I don't know exactly. That would be hard to estimate.

10 Q. What is the speed limit on that street, the posted speed?

11 A. It / varies depending on where you are.

12 Q. Within two or three miles of the collision what is the posted
13 speed?

14 A. I believe it is about 35. /

15 Q. Were you traveling faster or slower than that?

16 A. When I started to slow down, I would estimate my speed at
17 about 35.

18 Q. Okay. At that / moment how far were you behind the
19 Chevrolet?

20 A. I guess about half a block.

21 Q. Well, try not to guess. Can you approximate the distance you /
22 were from that car?

23 MR. BAXTER: If you don't know, just say so. That is a perfectly
24 valid answer.

25

1 MR. MORTON: Or, if you have an approximation, you can / testify
2 to that. It is just your best estimate.

3 THE WITNESS: Not being really confident with that, I would prefer
4 not to estimate the distance.

5 BY MS. STONE: Q. Did you / signal for your lane change prior to
6 making that lane change?

7 A. Absolutely. I always do.

8 Q. Subsequent to that movement, how much time elapsed before
9 the / collision?

10 A. Just a short time.

11 Q. Do you recall the duration of time?

12 A. Not exactly. I would say about a minute or so.

13 Q. Very well. Now, / immediately following --

14 A. Wait a minute. It was probably shorter than a minute, now
15 that I am reflecting on it. I remember thinking that it was / a close call for
16 me to avoid being involved.

17 Q. How many total impacts did you observe or hear?

18 A. I saw the truck crash into the / car, and then it just kept
19 moving. It was similar to a chain of cars. The truck was pushing them all
20 down the road.

21 Q. How / many cars were involved in this accident, if you know?

22 A. I believe there were five altogether.

23 Q. Are you positive of that?

24 A. No, not for sure. /
25