

1 COUNSEL FOR THE PLAINTIFF: Mr. John Heller

2 THE WITNESS: Marie Brown

3 DEFENSE COUNSEL NO. 1: Ms. Susan Simms

4 DEFENSE COUNSEL NO. 2: Mr. Toby Bedford

5

6 WARMUP

7

EXAMINATION

8 Q BY MR. HELLER: Could you please state your entire
9 name for the record, spelling your last name.

10 A Marie Angela Brown, B-r-o-w-n.

11 Q I want to / talk about this collision a little bit.
12 Do you recall where the accident occurred?

13 A I do not know the exact street.

14 Q Do you have any / idea what the streets were?

15 A I do not remember the specific street.

16 Q Are you able to give me the name of either one of
17 the / streets that were at the intersection of this
18 collision?

19 A No, sorry. I do not recall.

20 Q All right. Had you been to that area before the //
21 collision?

22 A Many times, yes.

23 Q What was the objective for you going over there many
24 times?

25 A Going to the mall.

1 Q Which mall were you headed to? /
2 A University Town Mall.
3 Q And where would you be coming from?
4 A From Del Mar.
5 MS. SIMMS: Object. Vague and ambiguous.
6 Every time or at the time of this /// specific
7 accident?
8 Q BY MR. HELLER: Now, where do you normally come from
9 on your way to the mall?
10 A I usually come from San Diego.
11 Q Okay. Do you live / in San Diego?
12 A I work in San Diego.
13 Q Where do you work?
14 A The California West Institute. Well, I used to work
15 there. I have since /*(1) retired.
16 Q Wonderful. What did you do there?
17 A I was a research accountant.
18 MR. BEDFORD: You need to slow down a little bit.
19 THE WITNESS: Okay.
20 MS. SIMMS: Yes. We understand you / are a little
21 excited, but the court reporter has to take down
22 everything we say.
23 THE WITNESS: Okay.
24 MS. SIMMS: You are kind of jumping in on his
25 questions. /

1 THE WITNESS: All right. Yes. I am really sorry.
2 MS. SIMMS: Additionally, I might need to object.
3 Q BY MR. HELLER: Are you okay to continue?
4 A Yes.
5 Q All right. Do not be nervous. / I will not ask
6 anything that will get you upset.
7 A Thank you for that courtesy, sir.
8 Q When did you retire?
9 A I retired on May 1st // of this year.
10 Q And what did you do? I know you mentioned you were
11 a research accountant.
12 A Correct. I worked as a research accountant at / the
13 California West Institute.
14 Q And what did you do there? What were your job
15 duties in that position?
16 A Well, I really just tracked the expenses. ///
17 Q I understand. Do they spend a lot of money over
18 there?
19 A Yes, sir, they do. They spend millions of dollars.
20 Q Oh, really? Hopefully, it is / well spent.
21 A I think it is, definitely.
22 Q You say you recently retired. And what do you do
23 now to spend your time?
24 A I vacation.
25 Q Good /*2 for you.

1 A And I also babysit my grandchildren.

2 Q Good for you. That sounds like entertainment.

3 A Yes. It is a lot of fun.

4 Q Where have you / traveled lately?

5 A I just came back from Japan.

6 Q How was that?

7 A Very good. Very, very good.

8 Q Did you vacation by yourself or with someone else? /

9 A With some relatives.

10 MS. SIMMS: Objection. How is this relevant?

11 MR. BEDFORD: I will join in that objection.

12 And, John, can you please hurry this up? I have

13 some / other things that I need to deal with this

14 afternoon.

15 Q BY MR. HELLER: With some relatives? Do you travel

16 with these relatives often?

17 A No. It's just from time // to time.

18 Q Where else have you traveled?

19 A Before the trip to Japan, I went on a cruise to

20 Alaska.

21 Q I have heard that is beautiful. / Would you

22 recommend it?

23 A Yes. The scenery is awesome.

24 MS. SIMMS: Counsel, this is completely irrelevant.

25 I will object.

1 MR. BEDFORD: I join and urge you to move this ///

2 along.

3 Q BY MR. HELLER: Now, did any of your relatives join

4 you on the cruise to Alaska?

5 A Some of them did and some did not.

6 Q Can you identify / who accompanied you on that

7 trip?

8 A I apologize, sir, but I can't recall exactly who

9 went with me.

10 Q That's okay.

11 A It was some time ago. /*3

12

13

END OF WARMUP

1 **EXAM**

2 Q BY MR. HELLER: Ms. Brown, have you ever spoken to
3 any one of these relatives about this collision?

4 A Yes. I'm sure that I have at one point or /
5 another.

6 Q And when did you have this conversation with these
7 folks?

8 A I cannot remember.

9 Q Did you have it while you were on the vacation to /
10 Japan?

11 A No. I really don't believe so.

12 Q Did you have it before the vacation to Japan?

13 A No. I am positive I did not.

14 Q Did you / have it after the vacation to Japan?

15 A Yes. It would have been after we returned.

16 Q So when did you travel to Japan?

17 A It was on // June 15th.

18 Q Is that June 15th of this year?

19 A Yes, sir.

20 Q So sometime between June 15th and July 23rd, you
21 talked to your relatives / about this collision?

22 A No.

23 Q Okay. Explain to me about when you spoke with them
24 about this collision.

25 A I did not speak with them.

1 Q I thought /// you said that you had spoken with them
2 about this collision.

3 MS. SIMMS: Objection. Argumentative.

4 MR. BEDFORD: I will join.

5 Q BY MR. HELLER: You never spoke to your relatives
6 about / this collision; is that right?

7 A Not the ones that I travel with.

8 Q All right. Have you ever talked to anyone else
9 about this accident?

10 A Only /*1 my daughter.

11 Q The reporter is going to ask you to slow down again.
12 And may I have your daughter's name, please.

13 A Amanda.

14 Q And where does / your daughter live?

15 A Amanda lives in the San Diego area.

16 Q Can you be more specific for us.

17 A I guess I am not getting your question. / I am
18 confused.

19 Q Let me clarify.

20 A Yes, please.

21 Q Do you remember her address?

22 A You know what? I remember how to get there, but I
23 do / not remember her address off the top of my head.

24 Q Okay. Do you know the street she resides on?

25 A No, sir. I do not remember. // I am drawing a

1 complete blank at this moment.

2 Q That is all right.

3 A I just cannot seem to remember it right now.

4 Q Do you remember / anything regarding the route that
5 you usually take?

6 A You mean when I go to my daughter's house?

7 Q Yes. What is your normal route when you /// are
8 traveling to your daughter's house?

9 A The route?

10 MS. SIMMS: Counsel, why are you concerned about the
11 route she usually takes? You should be concerned only
12 about / the route that she took on the day of this
13 accident.

14 MR. BEDFORD: Excellent point, Susan.

15 MR. HELLER: Fair enough. Let me just go ahead and
16 rephrase the question. /*2

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18 **[Continue reading without pausing]**

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20 **[Readers re-set time]**

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START TYPING

Q BY MR. HELLER: On the day of this collision, were you going to your daughter's residence?

A Yes, I was.

Q And what route did you take to arrive there? /

A Broadway, I believe. Yes, it was Broadway.

Q When you left your home that day, was it your intention to drive directly to your daughter's house? /

A Yes, that was my plan for the day. We were going to go shopping together.

Q You had no additional stops planned along the way? For / example, did you need to stop for gasoline?

A No, I was intending to go directly to her house.

Q Now, Ms. Brown, where do you live? //

A I live in Ocean Beach.

Q Does anybody reside there with you?

A Not right now, no.

Q Was anybody residing there with you at the time of / this event?

A Well, no.

Q Okay. And what did you tell your daughter about what happened in this collision?

MS. SIMMS: Objection. Lacks foundation.

MR. BEDFORD: And assumes facts.

Q BY MR. HELLER: Did /// you tell your daughter about

1 the collision you were in?

2 A Yes, of course I did.

3 Q And do you remember what you told her about what /
4 happened in the collision?

5 A I told her about how silly it was that I was being
6 talked to so shamefully. Mr. Gardner, the rider, was /*1
7 cussing. He was using very bad words.

8 Q Okay. Now, we will get to that, but first let me
9 make sure I understand your testimony. Did / you say how
10 ridiculous something was?

11 A Yes, I did. It was just unbelievable that he was
12 cussing at me when it certainly was his fault. /

13 Q All right. Okay.

14 A He was foulmouthed, I mean.

15 Q There you go. Okay. I understand.

16 A He was completely foulmouthed, from head to toe.

17 Q He got / all of you, then?

18 A Yes.

19 MR. BEDFORD: Did the cursing bother you?

20 THE WITNESS: Yes, it did irritate me.

21 Q BY MR. HELLER: Was Mr. Gardner pretty agitated that
22 this had happened?

23 A He // was extremely agitated.

24 Q Did he reference why?

25 A Yes.

1 Q And what did he tell you?

2 A Well, he crashed into me. It was his fault. I
3 do / not know why he was agitated.

4 Q Well, did he just swear at you, or did he tell you
5 why he was agitated?

6 A Yes, he really /// swore at me.

7 Q I understand it was upsetting to you.

8 A It certainly was.

9 Q Did he explain to you why he was so upset with
10 you? /

11 A I remember him saying that it was happening again.

12 Q What does that mean? Did he explain further?

13 A I was not positive what he meant by /*2 that, but he
14 told me that he had just been injured.

15 Q Had he been in an accident previously?

16 A I do not understand from what. He / did not really
17 explain.

18 Q Did you ask him how he had been injured?

19 A How could I ask him questions? He was so irritated.
20 MS. SIMMS: He only / asked you if you inquired.
21 THE WITNESS: No, I did not.
22 MS. SIMMS: Okay.
23 THE WITNESS: I apologize.
24 MR. BEDFORD: That is okay, ma'am. Just answer the
25 question as it is posed to / you.

1 Q BY MR. HELLER: And am I correct that you did not
2 ask Mr. Gardner any questions about his prior injuries?

3 A Yes, you are correct. I did not // ask him that.

4 Q Okay. And did the police arrive at the scene of the
5 accident?

6 A Subsequently, yes.

7 Q Was it a single officer?

8 A No, there were / two of them.

9 Q Did you tell the police officers that Mr. Gardner
10 was being disrespectful to you by swearing at you?

11 A Yes, I most certainly /// did.

12 Q Okay. And what officer did you share that with?

13 A I do not remember the names.

14 Q Have you ever seen the police report?

15 A No, sir. /

16 Q Did you ever read the police report?

17 A Well, I remember the police officer telling me not
18 to worry about the --

19 MR. HELLER: All right. I am going /*3 to move to
20 strike that answer. That was not my question.

21 MR. BEDFORD: Agreed, Counselor. That was not what
22 you had asked her.

23 MS. SIMMS: His question was if / you have ever seen
24 the police report.

25 THE WITNESS: I do not remember. I am sorry. I do

1 not remember.

2 Q BY MR. HELLER: Okay. Do you know if you have /
3 ever reviewed it or if you have ever seen it?

4 A I do not even remember if I saw it.

5 Q Okay. Did anyone other than Ms. / Simms tell you
6 what statements the police attributed to you in the
7 police report?

8 A Can you ask that question again, please? I don't
9 understand.

10 Q Yes, // of course.

11 Has anyone other than your lawyer shared with you
12 what statements the police officer said you made in the
13 police report?

14 A I do / not recall.

15 Q All right. Your answer is you do not recall if
16 someone has ever shared with you the statements that the
17 officer attributes to /// you in the police report. Is
18 that true?

19 A Yes.

20 Q And if I understand you correctly, you have never
21 reviewed it and you do not recall / if you have ever seen
22 it; correct?

23 MS. SIMMS: Counsel, I think you asked her that
24 question already. Objection. Asked and answered.

25 MR. BEDFORD: I agree. You asked her /*4 that one

1 earlier.

2 THE WITNESS: And I answered it.

3 Q BY MR. HELLER: All right. Now, how long after this
4 collision did the police officers arrive on scene?

5 A I do not / recall.

6 Q What were you doing while waiting for the police to
7 arrive?

8 A I was upset about Mr. Gardner.

9 Q In what respect?

10 A Because I was mad. /

11 Q You were angry?

12 A Yes.

13 Q Okay. Why were you angry?

14 A Because he was the one who hit me.

15 Q Okay. And where did his bicycle contact you? /

16 A Approximately the tail end of my car.

17 Q Okay. Was that on the passenger side?

18 A Yes.

19 Q Okay. And before his bike hit the very tail end //
20 of the passenger side of your car, had you ever seen him
21 before?

22 A No.

23 Q Okay. So you never saw the bicycle before this
24 collision --

25 A No. /

1 Q -- occurred? You need to slow down; okay?

2 MS. SIMMS: I know it is hard, but you really need
3 to wait for the entire question before you answer. ///

4 Q BY MR. HELLER: You never saw the bicycle before
5 this collision occurred; is that true?

6 A No, I did not.

7 Q Very well. Very well.

8 And you do not remember / the name of the street
9 that you were on when this collision occurred; is that
10 correct?

11 A No, I do not remember.

12 MS. SIMMS: Objection. Asked and answered. /*5

13 You really must slow down to give me an opportunity
14 to object.

15 THE WITNESS: Okay. It just makes me mad.

16 MR. BEDFORD: That is understandable. Just take a
17 few / seconds before you answer.

18 THE WITNESS: Okay.

19 Q BY MR. HELLER: You said you were getting mad. Are
20 you getting mad now?

21 A No.

22 Q Very well.

23 Getting back to our accident, which / direction were
24 you traveling before the collision occurred?

25 A I am not good with north and south.

1 Q Please run through with me where you were coming /
2 from.

3 A I do not remember the avenue, but I came from San
4 Diego.

5 Q I understand. Give me the direction that you drove
6 from San Diego. //

7 A What is the street that I took? I do not remember
8 the name of the road.

9 Q Do you remember the name of any of the / streets?

10 A I recall it is close to Seventh Street.

11 MS. SIMMS: Isn't Seventh an avenue and not a
12 street? Seventh Avenue?

13 THE WITNESS: Well, I recall it as Seventh ///
14 Street.

15 Q BY MR. HELLER: Okay. Were you on Seventh Street?

16 A Jefferson Drive, I think, is the road that I came
17 from before I turned left.

18 Q So which direction / were you heading while
19 proceeding on Jefferson Drive?

20 A Do you mean the direction? I am not good with
21 directions like that. I am very /*6 sorry.

22 Q Well, give me the best estimate that you can.

23 A I will do my best, sir.

24 Q Which direction were you traveling on Jefferson
25 Drive before / the accident occurred?

1 A I can only tell you I was going in the direction of
2 the mall.

3 Q Okay.

4 A I really don't know which direction that / is.

5 Q Well, you were coming from San Diego; correct?

6 A Yes, that's correct.

7 Q Do you think you turned left off Jefferson Drive?

8 A Yes. I turned left. /

9 Q Were you going to the mall?

10 A No, I wasn't going to the mall. I was just going in
11 that general direction.

12 Q Okay. And you do // not remember the name of the
13 street you were traveling on; is that correct?

14 A Wait a second. Can we go back?

15 Q Okay. Did you need / to correct something?

16 A I turned left from Jefferson Drive. It was
17 definitely left.

18 Q Okay. You know you were on Jefferson Drive heading
19 towards the mall, /// but you do not know what direction
20 that is; correct?

21 A That is correct.

22 MR. HELLER: Mr. Bedford, do you have any questions?
23 I need to look for / an exhibit.

24 MR. BEDFORD: Yes, I do.

25 MR. HELLER: Please go ahead.

1 EXAMINATION BY MR. BEDFORD

2 Q Okay. At some point in time, you turned left off of
3 Jefferson Drive heading toward the mall; /*7 correct?

4 A Yes. No, wait. I was going in that direction, but
5 I wasn't going to the mall.

6 Q That's right. You were going to your daughter's /
7 house first; is that correct?

8 A Yes, that's correct.

9 Q What street did you turn onto from Jefferson?

10 A I can't remember the name of it, but it / is where
11 the bicycle ran into me.

12 Q All right. And did you ever attempt a right-hand
13 turn to head back towards the mall?

14 MS. SIMMS: Objection. / Vague and ambiguous.

15 THE WITNESS: What do you mean?

16 MS. SIMMS: Hold on.

17 Vague and ambiguous as to time.

18 Q BY MR. BEDFORD: At any point in time before the
19 collision occurred, did // you attempt a right-hand turn?

20 A Well, it wasn't before the collision. It was right
21 when it happened.

22 Q Let me step back.

23 After you turned / left off of Jefferson Drive, what
24 subsequently happened?

25 A Well, I was traveling towards the right because I

1 have to turn right to get to my /// daughter's house.

2 Q So you have to turn right off of whatever street you
3 are on in order to get to your daughter's residence; is
4 that / correct?

5 A Yes, it is.

6 Q Why not just go straight on Jefferson Drive and just
7 turn right?

8 MS. SIMMS: Objection. Argumentative.

9 Go ahead and answer.

10 THE WITNESS: I am used /*8 to that. I always take
11 the same route.

12 Q BY MR. BEDFORD: Is there a particular reason why
13 you do that?

14 A No. It's only habit.

15 Q All right. You just / prefer that route; is that
16 your testimony?

17 A I just want to avoid the traffic.

18 Q All right. And can you characterize the roadway
19 that you turned / left onto?

20 A What do you mean, sir? I don't understand.

21 Q How many lanes are on that roadway?

22 A Two.

23 Q And which lane did you occupy?

24 A I / was in the right lane.

25 Q Okay. And how about the traffic around you? Was

1 there any traffic around you?

2 A No.

3 Q Okay. You were the only // vehicle on that roadway
4 at that moment in time; is that correct?

5 MS. SIMMS: Objection. What point in time?

6 MR. BEDFORD: At the time she turned onto the
7 roadway. /

8 MR. HELLER: Maybe you could just rephrase the
9 question.

10 Q BY MR. BEDFORD: Immediately after you made your
11 turn, is it true that you saw no other traffic on the
12 road /// around you?

13 A Yes, that's correct. I was the only car there.

14 Q How long were you in the right-hand lane before the
15 collision happened?

16 A It / was almost at the same time. It happened so
17 fast.

18 Q Did you have an opportunity to see the bicycle at
19 any point before the collision? /*9

20 A No. I had no idea where the bicycle came from.

21 Q What was the first thing that made you aware that
22 an accident had happened?

23 A Well, / when he actually hit the side of my
24 vehicle. He ran right into it.

25 Q And did you hear anything?

1 A Yes. I heard an awful noise / from the side.

2 Q And you said earlier it was the passenger side of
3 your vehicle; is that right?

4 A Yes.

5 Q Was it near the rear passenger / door?

6 A No, sir. It was even back farther. It was the
7 very tail end of my vehicle.

8 Q At the time of the collision, what kind // of car
9 were you driving?

10 A I have a Ford Escort.

11 Q Do you still have that same vehicle?

12 A Yes, I do.

13 Q Am I correct in assuming / you had the damage
14 repaired?

15 MR. HELLER: Objection. Assumes facts not in
16 evidence.

17 MR. BEDFORD: I am getting ahead of myself. I will
18 go back and clean it up. ///

19 MR. HELLER: Thank you, Counsel.

20 Q BY MR. BEDFORD: What year is your Ford Escort,
21 Ms. Brown?

22 A It's a 2013.

23 Q Did your vehicle sustain any damage as a result /
24 of the collision with the bicycle?

25 A Oh, yes, sir. The back end was all messed up.

1 Q Do you mean it was badly dented?

2 A Yes. Exactly. /*10

3

4 **END**

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