



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUSAN M. MAC DONALD

Plaintiff

vs.

CRAIG HOUCHINS and  
RICHARD FULLINGTON

Defendants

CIVIL DIVISION - LAW

No. 06-1431-CD

Type of Case - Motor Vehicle

**COMPLAINT IN CIVIL ACTION**

JURY TRIAL DEMANDED

Filed on behalf of SUSAN M.  
MacDONALD, Plaintiff

Counsel of Record for this Party:

**Robert C. Eddins, Esquire**

Pa. I. D. #25453

2770 South Park Road  
Bethel Park, PA 15102  
(412) 831-8799  
(412) 831-9440 - Fax

**Thomas J. Cordaro, Esquire**

Pa. I. D. # 39314

Suite 619 Corporate Center  
One Bigelow Square  
Pittsburgh, PA 15219  
(412) 391-1191  
(412) 391-5244 - Fax

SEP 05 2006  
m) 11:34 AM  
Att'y pd. 85.00  
2cc Shff  
(S)

William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUSAN M. MacDONALD,	]	CIVIL DIVISION - LAW
	]	
Plaintiff	]	No.
vs.	]	
	]	
CRAIG HOUCHINS and RICHARD	]	
FULLINGTON	]	
	]	
Defendants	]	

**COMPLAINT IN CIVIL ACTION**

AND NOW, come the Plaintiff, SUSAN M. MacDONALD, by and through her Attorneys, ROBERT C. EDDINS, ESQ. and THOMAS J. CORDARO, ESQ., and files a Complaint in Civil Action averring as follows:

1. The Plaintiff, SUSAN M. MacDONALD, is an adult individual and a resident of Allegheny County, who resides at 917 Chester Street, Springdale, Pennsylvania 15144.
2. The Defendant, CRAIG HOUCHINS, is an individual and resident Clearfield County who resides at 1622 Pifer Road, Clearfield, PA 16830.
3. The Defendant, RICHARD FULLINGTON, is an individual and a resident of Clearfield County who resides at 929 S. 6<sup>th</sup> Street, Clearfield, PA 16830, and was at all time hereto engaged in the conduct of business in Clearfield County, Pennsylvania.
4. At all relevant times hereto, the Defendant, Craig Houchins, was the operator of a 1998 GMC Truck bearing Pennsylvania Registration No. YDF3233 and owned by Defendant, Richard Fullington.

5. At all relevant times hereto, the Defendant, Craig Houchins, was acting as the agent, servant, fellow servant, co-employee, partner, contractor, driver and/or employee of the Defendant, Richard Fullington.

6. The events hereinafter complained of occurred on February 17, 2005 on SR 80 East near the DuBois Exit, Pine Township, Clearfield County, Pennsylvania. State Route 80 is a duly dedicated highway traversing in and about the County of Clearfield in an east-west direction.

7. The posted speed limit on SR 80 in the area of the collision was 65 mph with a minimum speed limit of 40 mph.

8. At about 1:50 P.M. on the aforesaid date, Plaintiff, Susan MacDonald, was driving a 2002 Suzuki Esteem, Pennsylvania Registration No. DZV8271, in an easterly direction on SR 80 in a careful, cautious and prudent manner.

9. At the same time and place, Defendant, Craig Houchins, was traveling in an easterly direction on SR 80 in the right-hand lane, ahead of Plaintiff, and was in the process of slowing and/or coming to a complete stop in this lane due to icy road conditions; however, he negligently failed to use his four-way flashers to alert approaching drivers of his slow rate of speed and/or his intention to stop.

10. As Plaintiff, Susan MacDonald, approached the 1998 GMC truck operated by the defendant, Craig Houchins, in the right-hand lane, she observed that vehicles ahead of her abruptly swerved around the aforementioned truck.

11. When Plaintiff, Susan MacDonald, attempted to apply her brakes as she approached the truck being driven by the Defendant, Craig Houchins, Plaintiff's vehicle slid out of control on ice.

12. As a result of the negligence of defendant, Craig Houchins, as set forth above, Plaintiff, Susan MacDonald, was unable to avoid a collision with the rear of the truck operated by defendant, Craig Houchins.

13. After the collision, the weather conditions deteriorated into blizzard conditions.

14. The accident resulted solely from the negligence and recklessness of the defendant, Craig Houchins, and was due in no manner whatsoever to any act or failure to act on the part of the Plaintiff.

15. The negligence and reckless of the Defendant, Craig Houchins, consisted of the following:

- a. In failing to properly operate and control his vehicle;
- b. In driving in a reckless manner;
- c. In failing to be properly attentive while operating said vehicle;
- d. In failing to take appropriate action to avoid a collision;
- e. In being inattentive to approaching traffic;
- f. In violating 75 Pa.C.S.A. § 4305, Vehicular Hazard Signal Lamps;
- g. In violating 75 Pa.C.S.A. § 3364, Minimum Speed Regulations;
- h. In failing to exercise the degree of care and caution required of a driver of a motor vehicle on public highways in the Commonwealth of Pennsylvania;
- i. In failing to drive his vehicle completely off the road so as not to unreasonably obstruct traffic.

16. Plaintiff is advised and therefore avers that the regulations of the Interstate Commerce Commission impose legal responsibility upon Defendant, Richard Fullington, for the carelessness, recklessness and negligence of Defendant, Craig Houchins, by virtue of his status as an employee of Defendant, Richard Fullington.

17. By reason of the aforesaid collision and the events hereinafter set forth, Plaintiff, Susan MacDonald, sustained the following serious and permanent injuries:

- a) Injuries to her knees
- b) Injuries to her hips
- c) Injuries to her back;
- d) Injuries to her neck;
- e) Injuries to her thoracic spine;
- f) Back and knee contusions;
- g) Injuries to her shoulder;
- h) Injuries to her arms;
- i) Aggravation of pre-existing torticollis;
- j) Aggravation of cervical syrxinx;
- k) Fear of driving.

18. As a direct and proximate result of the Defendant's negligence, as set forth above, Plaintiff, Susan MacDonald, has sustained the following damages:

- a) She has suffered and will continue to suffer great pain, suffering and inconvenience, embarrassment, mental anguish and loss of the enjoyment of life;

- b) Her health, strength and vitality have been impaired;
- c) Medical and hospital expenses, both past and future, and
- d) Loss of income and impairment of earning capacity.

WHEREFORE, Plaintiff, SUSAN MacDONALD, claims damages of the Defendants, CRAIG HOUCHINS and RICHARD FULLINGTON, for an amount in excess of Twenty Thousand Dollars (\$20,000.00).

A JURY TRIAL IS HEREBY DEMANDED.

Respectfully submitted,

  
Robert C. Eddins, Esq.

  
Thomas J. Cordaro, Esq.

Attorneys for the Plaintiff,  
Susan MacDonald

**VERIFICATION**

I, SUSAN MacDONALD, hereby verify that the facts contained in the foregoing COMPLAINT IN CIVIL ACTION are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities and is given pursuant to the provisions for verification of pleadings as defined and provided for in Rule 1024 of the Pennsylvania Rules of Civil Procedure.

  
\_\_\_\_\_  
Susan MacDonald

Date: 8-31-2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101892  
NO: 06-1431-CD  
SERVICE # 1 OF 2  
COMPLAINT

PLAINTIFF: SUSAN M. MACDONALD  
vs.  
DEFENDANT: CRAIG HOUCHINS and RICHARD FULLINGTON

**SHERIFF RETURN**

---

NOW, September 08, 2006 AT 3:04 PM SERVED THE WITHIN COMPLAINT ON CRAIG HOUCHINS DEFENDANT AT 1622 PIFER ROAD, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO CRAIG HOUCHINS, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: DEHAVEN /

**FILED**

9/16/15 LM  
OCT 05 2006

William A. Shaw  
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA**

DOCKET # 101892  
NO: 06-1431-CD  
SERVICE # 2 OF 2  
COMPLAINT

PLAINTIFF: SUSAN M. MACDONALD

vs.

DEFENDANT: CRAIG HOUCHINS and RICHARD FULLINGTON

**SHERIFF RETURN**

---

NOW, September 18, 2006 AT 1:00 PM SERVED THE WITHIN COMPLAINT ON RICHARD FULLINGTON DEFENDANT AT WORK: ARROWHEAD RESTAURANT, RT. 322, CLEARFIELD, CLEARFIELD COUNTY, PENNSYLVANIA, BY HANDING TO RICHARD FULLINGTON, DEFENDANT A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT AND MADE KNOWN THE CONTENTS THEREOF.

SERVED BY: HUNTER /

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

DOCKET # 101892  
NO: 06-1431-CD  
SERVICES 2  
COMPLAINT

PLAINTIFF: SUSAN M. MACDONALD  
vs.  
DEFENDANT: CRAIG HOUCHINS and RICHARD FULLINGTON

SHERIFF RETURN

---

RETURN COSTS

Description	Paid By	CHECK #	AMOUNT
SURCHARGE	EDDINS	8737	20.00
SHERIFF HAWKINS	EDDINS	8737	28.00

Sworn to Before Me This

\_\_\_\_\_ Day of \_\_\_\_\_ 2006  
\_\_\_\_\_

So Answers,



*Chester A. Hawkins*  
Chester A. Hawkins  
Sheriff

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,	)	CIVIL DIVISION - LAW
	)	
Plaintiff,	)	No. 06-1431-CD
	)	
v.	)	Type of Case - Motor Vehicle
	)	
CRAIG HOUCHINS and	)	Type of Pleading:
RICHARD FULLINGTON,	)	Entry of Appearance
	)	
Defendants.	)	Filed on Behalf of Defendants Craig Houchins and Richard Fullington

Counsel of Record for Parties:

Tracey G. Benson, Esquire  
Pa. I.D. 34984  
MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS  
& BENSON, INC.  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

**FILED** *ILL Atty Benson*  
*M/2:00 Lm*  
NOV - 2 2006 

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

**PRAECIPE FOR ENTRY OF APPEARANCE**

To the Prothonotary of Said Court:

Please enter my appearance on behalf of defendants Craig Houchins and Richard Fullington, in the above captioned matter. All papers may be served on the undersigned for purposes of this action.

  
Tracey G. Benson

MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS & BENSON, INC.  
124 North Allegheny Street  
Bellefonte, PA 16823  
Telephone No. (814) 355-5474

Counsel for Defendants  
Craig Houchins and Richard Fullington

Dated: November 1, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Entry of Appearance**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Robert C. Eddins, Esquire  
2770 South Park Road  
Bethel Park, PA 15102

Thomas J. Cordaro, Esquire  
Suite 619 Corporate Center  
One Bigelow Square  
Pittsburgh, PA 15219

MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson  
Tracey G. Benson

Dated: November 1, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,	)	CIVIL DIVISION - LAW
	)	
Plaintiff,	)	No. 06-1431-CD
	)	
v.	)	Type of Case - Motor Vehicle
	)	
CRAIG HOUCHINS and	)	Type of Pleading:
RICHARD FULLINGTON,	)	ANSWER AND NEW MATTER
	)	
Defendants.	)	Filed on Behalf of Defendants Craig Houchins and J. Richard Fullington, Jr.

Counsel of Record for Parties:

Tracey G. Benson, Esquire  
Pa. I.D. 34984  
MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS  
& BENSON, INC.  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

FILED

JAN 17 2007

m/12:10/0  
William A. Shaw

Prothonotary/Clerk of Courts

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**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

SUSAN M. MACDONALD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-1431-CD
	)	
CRAIG HOUCHINS and	)	
RICHARD FULLINGTON,	)	
	)	
Defendants.	)	

**ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT**

Defendants Craig Houchins ("Houchins") and J. Richard Fullington, Jr. ("Fullington") (collectively referred to as "the defendants"), by their counsel Tracey G. Benson, Esquire and Miller, Kistler, Campbell, Miller, Williams & Benson, Inc., respond to the Complaint of plaintiff Susan M. MacDonald, and state as follows:

**ANSWER**

1. The defendants admit only that plaintiff Susan M. MacDonald is an adult individual. The defendants are without knowledge or information sufficient to form a belief as to the truth of any remaining allegations contained in paragraph 1 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

2. The defendants admit that Craig Houchins is an adult individual residing at 1622 Pifer Road, Clearfield, PA 16830.

3. The defendants admit that J. Richard Fullington, Jr. is an adult individual. Defendants deny that Fullington currently resides at 929 S. 6<sup>th</sup> Street, Clearfield, PA 16830. To the contrary, Fullington avers that he currently resides at 504 Sabula Outing

Club Road, DuBois, Clearfield County, Pennsylvania 15801. Any remaining allegations contained in paragraph 3 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e).

4. The defendants admit only that on February 17, 2005, Craig Houchins was operating a 1998 GMC 7500 Series truck bearing Pennsylvania Registration No. YDF3233. It is admitted also that said vehicle was owned by defendant J. Richard Fullington, Jr., and was being driven by Houchins pursuant to a Consumer Rental Agreement lease between Fullington and Clearfield Powdered Metals, Inc..

5. The defendants deny that at any time relevant to the matters alleged in plaintiffs' Complaint that Craig Houchins was acting as an agent, servant, fellow servant, co-employee, partner, contractor, driver and/or employee of defendant J. Richard Fullington, Jr. To the contrary, on the date of the accident alleged in plaintiffs' Complaint, Houchins was driving said vehicle in the course and scope of his duties as an employee of Allegheny Clearfield, Inc.

6. The defendants admit only that on February 15, 2005, the 1998 GMC 7500 series truck being operated by Houchins was struck from behind by a motor vehicle that was owned and operated by plaintiff Susan M. MacDonald, and that said collision occurred on Interstate 80 near the DuBois exit in Pine Township, Clearfield County, Pennsylvania. Any remaining allegations contained in paragraph 6 of the Complaint are denied.

7. The defendants admit, on information and belief, that the posted speed limit on Interstate 80 near the area where the collision occurred is 65 mph. Any

remaining allegations contained in paragraph 7 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e).

8. The defendants deny each and every allegation contained in paragraph 8 of plaintiff's Complaint pursuant to Pa.R.Civ.P. 1029(e).

9. The defendants admit that prior to being struck from behind by plaintiff's vehicle, Houchins had been traveling in an easterly direction in the right hand lane of Interstate 80 in a position ahead of plaintiff's vehicle. Due to deteriorating winter weather conditions, Houchins, and certain vehicles driving in the right hand lane ahead of him, had slowed to a safe speed when plaintiff collided with the rear of the Houchins vehicle. Defendants deny each and every remaining allegations contained in paragraph 9 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

10. The defendants are without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 10 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

11. The defendants are without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 11 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

12. The defendants deny each and every allegation contained in paragraph 12 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

13. The defendants admit only that at the time and place of the collision alleged in plaintiff's Complaint, the winter weather conditions in that locality had deteriorated to the point where visibility was impaired and snow had begun to

accumulate on the highway. Any remaining allegations contained in paragraph 13 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e).

14. The defendants deny each and every allegation contained in paragraph 14 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

15. The defendants deny each and every allegation contained in paragraph 15, including subparagraphs (a) through (i) of plaintiff's Complaint pursuant to Pa.R.Civ.P. 1029(e).

16. The allegations contained in paragraph 16 of plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent that any response is deemed to be required, defendants deny each and every allegations contained in paragraph 16 of plaintiff's Complaint pursuant to Pa.R.Civ.P. 1029(e).

17. The defendants deny each and every allegation contained in paragraph 17, including subparagraphs (a) through (k) of plaintiff's Complaint pursuant to Pa.R.Civ.P. 1029(e).

18. The defendants deny each and every allegation contained in paragraph 18, including subparagraphs (a) through (d) of plaintiff's Complaint pursuant to Pa.R.Civ.P. 1029(e).

WHEREFORE, defendants Craig Houchins and J. Richard Fullington, Jr. pray that the claims asserted against them by plaintiff Susan M. MacDonald, be dismissed with prejudice, and that judgment be entered in favor of the defendants and against the plaintiff on all claims contained in the Complaint.

**NEW MATTER**

19. The defendants aver that the Complaint fails to state any claim upon which relief can be granted.

20. The defendants aver that plaintiff's claims are subject to, and limited by, the provisions of the Pennsylvania Comparative Negligence Act.

21. In order to preserve any defense of contributory negligence pending further investigation and discovery, defendants aver that plaintiff's claims are barred by the contributory negligence of plaintiff.

22. The defendants aver that the incident alleged in the Complaint was caused, in whole or in part, by the careless, negligent, and reckless conduct of plaintiff, as follows:

- a. In driving her vehicle at an unsafe speed at the time and place alleged in the Complaint, and in a manner that was too fast for the actual and/or potential hazards and conditions then and there prevailing;
- b. In failing to maintain the assured clear distance ahead;
- c. In failing to reduce her speed in response to deteriorating winter weather and visibility conditions then and there prevailing;
- d. In failing to leave sufficient distance between plaintiff's vehicle and vehicles traveling in an east bound direction on Interstate 80 directly ahead of plaintiff, including the truck being operated by Craig Houchins, such that plaintiff could slow, stop, or take any

necessary evasive action in order to avoid colliding into the rear of plaintiff's truck;

- e. In failing to slow her vehicle in response to visual cues that traffic ahead was moving at a slower rate of speed than plaintiff;
- f. In failing to observe, and to heed, visual cues which indicated that the defendant's truck had reduced speed while traveling eastbound into deteriorating weather conditions;
- g. In failing to observe, and to heed, any slippery conditions on the surface of the highway that plaintiff alleges existed at the date, time and place alleged in the Complaint;
- h. In failing to bring her vehicle to a complete and safe stop without colliding into the rear of defendant's truck;
- i. In failing to be continuously alert;
- j. In failing to take appropriate evasive action to avoid collision with any portion of defendant's vehicle;
- k. In failing to perceive any danger that plaintiff alleges existed by virtue of the operation of defendant's vehicle at the time and place alleged in the Complaint;
- l. In failing to yield the right-of-way to defendant's vehicle which was lawfully traveling in an eastbound direction in the right hand travel lane of Interstate 80 at the time and place of the collision;

m. In operating her vehicle in a manner which violated the statutes, laws and rules of the road applicable to motor vehicles traveling along the highways of Pennsylvania at the time, place, and under the circumstances then and there prevailing, including: 75 Pa.C.S.A. §§3310 and 3361.

23. The defendants aver that plaintiff's claims are subject to, and limited by, the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended.

24. The defendants aver that plaintiff's claims are subject to, and limited by, any insurance coverage elections, including but not limited to, elections for applicable tort coverage, arising under the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended.

25. The defendants aver that plaintiff has not sustained any serious injuries as required by the Pennsylvania Motor Vehicle Financial Responsibility Law, sufficient to give rise to the causes of action set forth in the Complaint.

26. The defendants aver that if plaintiff sustained any of the injuries, losses or damages alleged in the Complaint, which is denied, said injuries were caused or arose, in whole or in part, as a result of forces, actions, conduct and omissions of others over whom the defendants had neither the opportunity, nor duty, of control.

27. The defendants aver that to the extent plaintiff has sustained any of the

injuries, losses, or damages alleged in the Complaint, which is denied, some or all of said injuries, losses, or damages were not caused by any conduct on the part of the defendants.

28. The defendants aver that some or all of the injuries, losses, or damages alleged in the Complaint were the result of pre-existing or subsequent injuries, diseases, conditions, or processes that are unrelated to the accident alleged in the Complaint or any conduct on the part of defendants. .

29. The defendants aver that Craig Houchins acted at all times in a manner that was reasonable under the circumstances, and in compliance with all applicable laws, and rules of the road then and there prevailing.

30. The defendants aver that Craig Houchins operated his vehicle in a reasonable manner in response to deteriorating weather and visibility conditions that constituted a sudden emergency not of his making, sufficient to give rise to a defense under the Sudden Emergency Doctrine.

31. The defendants aver that some or all of plaintiff's claims are barred by any applicable statute of limitations.

31. The defendants aver that defendant J. Richard Fullington, Jr. is not vicariously or otherwise liable for any conduct of defendant Craig Houchins as alleged in plaintiff's Complaint.

WHEREFORE Defendants Craig Houchins and J. Richard Fullington, Jr. pray that the claims asserted against them by plaintiff, Susan M. MacDonald, be dismissed with prejudice, and that judgment be entered in favor of the defendants and against the plaintiff on all counts contained in the Complaint.

**A JURY TRIAL IS DEMANDED.**

  
Tracey G. Benson  
MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS & BENSON, INC.  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474  
Counsel for Defendants  
Craig Houchins and J. Richard Fullington, Jr.

Dated: January 16, 2007

## VERIFICATION

I, **J. Richard Fullington, Jr.**, state that the facts contained in the foregoing Answer and New Matter to Plaintiff's Complaint are true and correct to the best of my knowledge, information and belief.

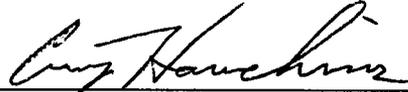
I make this Verification pursuant to 18 Pa.C.S.A., Section 4904 pertaining to unsworn falsification to authorities.

  
J. Richard Fullington, Jr.

## VERIFICATION

I, **Craig Houchins**, state that the facts contained in the foregoing **Answer and New Matter to Plaintiff's Complaint** are true and correct to the best of my knowledge, information and belief.

I make this Verification pursuant to 18 Pa.C.S.A., Section 4904 pertaining to unsworn falsification to authorities.

  
\_\_\_\_\_  
Craig Houchins

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
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 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 )  
 ) CRAIG HOUCHINS and )  
 ) RICHARD FULLINGTON, )  
 )  
 ) Defendants. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Answer and New Matter**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Robert C. Eddins, Esquire  
2770 South Park Road  
Bethel Park, PA 15102

Thomas J. Cordaro, Esquire  
Suite 619 Corporate Center  
One Bigelow Square  
Pittsburgh, PA 15219

MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson  
Tracey G. Benson

Dated: January 16, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

Civil Action No. 06-1431-CD

NOTICE OF SERVICE OF INTERROGATORIES

FILED ICC AH  
4/1:45cm Benson  
JAN 19 2007  
(SM)

TO: William Shaw, Prothonotary  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

William A. Shaw  
Prothonotary/Clerk of Courts

Please take notice that the undersigned has served the original and two copies of Defendants Craig Houchins and J. Richard Fullington, Jr. First Set of Interrogatories to Plaintiff by mailing them, first-class, postage prepaid, on this date to the following:

Robert C. Eddins, Esquire  
2770 South Park Road  
Bethel Park, PA 15102

Thomas J. Cordaro, Esquire  
Suite 619 Corporate Center  
One Bigelow Square  
Pittsburgh, PA 15219

  
Tracey G. Benson, Esquire

MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS & BENSON, INC.  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendants  
Craig Houchins and J. Richard Fullington, Jr.

Dated: January 16, 2007

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
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 Plaintiff, )  
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 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Notice of Service of Interrogatories**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Robert C. Eddins, Esquire  
2770 South Park Road  
Bethel Park, PA 15102

Thomas J. Cordaro, Esquire  
Suite 619 Corporate Center  
One Bigelow Square  
Pittsburgh, PA 15219

MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS & BENSON INC.

By: Tracey A. Benson  
Tracey G. Benson

Dated: January 16, 2007

LAW OFFICES OF  
MILLER, KISTLER, CAMPBELL, MILLER, WILLIAMS & BENSON, INC.  
A PROFESSIONAL CORPORATION

JOHN R. MILLER, JR.  
RICHARD L. CAMPBELL  
JOHN R. MILLER, III  
TERRY J. WILLIAMS  
TRACEY G. BENSON\*  
SCOTT C. ETTER, Ph.D.  
DAVID B. CONSIGLIO\*\*  
STACY PARKS MILLER  
JULIA R. CRONIN  
BRIAN K. MARSHALL

PLEASE REPLY TO:  
BELLEFONTE OFFICE

January 16, 2007

124 NORTH ALLEGHENY STREET  
BELLEFONTE, PA. 16823-1695  
(814) 355-5474  
GENERAL FAX (814) 355-5340  
REAL ESTATE FAX (814) 357-0264  
AND  
720 SOUTH ATHERTON STREET  
STATE COLLEGE, PA. 16801-4628  
(814) 234-1500  
FAX (814) 234-1549

COUNSEL TO THE FIRM  
ROBERT K. KISTLER

\*ALSO ADMITTED IN WEST VIRGINIA  
\*\*ALSO ADMITTED IN MARYLAND

William Shaw, Prothonotary  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

**Re: Susan MacDonald v. Craig Houchins and Richard Fullington**  
**Civil Action No. 06-1531-CD (Clearfield County, PA)**

Dear Mr. Shaw:

Enclosed for filing please find the original and one (1) copy of an Defendants' Notice of Service of Interrogatories in the above-captioned matter. Please time stamp and return one copy to me in the enclosed self-addressed stamped envelope provided. If you have any questions or need any additional information, please contact me in my Bellefonte office. Thank you.

Very truly yours,

MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS & BENSON, INC.

By:   
Tracey G. Benson

TGB/cfs  
Enclosures

cc: Robert C. Eddins, Esq. (w/enclosure)  
Thomas J. Cordaro, Esq. (w/enclosure)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUSAN M. MAC DONALD  
Plaintiff

vs.

CRAIG HOUCHINS and  
RICHARD FULLINGTON  
Defendants

CIVIL DIVISION - LAW

No. 06-1431-CD

Type of Case - Motor Vehicle

**REPLY TO NEW MATTER**

Filed on behalf of SUSAN M.  
MacDONALD, Plaintiff

Counsel of Record for this Party:

**Robert C. Eddins, Esquire**  
Pa. I. D. #25453

2770 South Park Road  
Bethel Park, PA 15102  
(412) 831-8799  
(412) 831-9440 - Fax

**Thomas J. Cordaro, Esquire**  
Pa. I. D. # 39314

Suite 619 Corporate Center  
One Bigelow Square  
Pittsburgh, PA 15219  
(412) 391-1191  
(412) 391-5244 - Fax

FILED  
M 19:00 06/11 No CC  
FEB 05 2007  
(11)

William A. Shaw  
Prothonotary/Clerk of Courts

REPLY TO NEW MATTER

AND NOW, comes the Plaintiff, SUSAN M. MacDONALD, by her attorney, Robert C. Eddins, Esquire, and files the following Reply to New Matter of Defendants:

1. In response to Paragraphs number 19, 20, and 21 of Defendants' New Matter, said paragraphs set forth legal conclusions to which no response is necessary; however, to the extent that a reply may be required, it is specifically denied that Plaintiff was comparatively or contributorily negligent. To the contrary, it is averred that Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto.

2. In response to Paragraph number 22 of Defendants' New Matter, said paragraph sets forth a legal conclusion to which no response is necessary, however, to the extent that a reply may be required, it is specifically denied that the incident set forth in Plaintiff's Complaint was caused, in whole or in part, by the careless, negligent, and reckless conduct of the Plaintiff. It is further specifically denied that Plaintiff:

a) drove her vehicle at an unsafe speed and in a manner that was too fast for the actual and/or potential hazards and conditions then and there prevailing. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto;

b) failed to maintain the assured clear distance ahead. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto;

c) failed to reduce her speed in response to deteriorating winter weather and visibility conditions then and there prevailing. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto;

d) failed to leave sufficient distance between Plaintiff's vehicle and vehicles traveling in an east bound direction on Interstate 80. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto.

e) failed to slow her vehicle in response to visual cues that traffic ahead was moving at a slower rate of speed than Plaintiff. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto;

f) failed to observe, and to heed, visual cues which indicated that the defendant's truck had reduced speed. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto as the Defendant failed to put his four way flashers on to alert Plaintiff of his slow rate of speed as set forth fully in Plaintiff's Complaint in Civil Action;

g) failed to observe, and to heed, any slippery conditions on the surface of the highway. To the contrary,

Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto;

h) failed to bring her vehicle to a complete and safe stop without colliding with the rear of Defendant's truck. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto;

i) failed to be continuously alert. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto;

j) failed to take appropriate evasive action to avoid collision with Defendant's vehicle. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto;

k) failed to perceive any danger that existed by virtue of the operation of Defendant's vehicle. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto as Defendant failed to take appropriate action to alert the Plaintiff that he was driving his vehicle in a dangerous manner;

l) failed to yield right of way to Defendant's which was lawfully traveling in an eastbound direction of Interstate 80. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto;

m) operated her vehicle in a manner which violated the statutes, laws and rules of the road. To the contrary, Plaintiff acted in a careful, cautious and prudent manner at all times relevant hereto.

3. In response to Paragraph number 23 of Defendants' New Matter, said paragraph sets forth a legal conclusion to which no response is necessary.

4. In response to Paragraph number 24 of Defendants' New Matter, said paragraph sets forth a legal conclusion to which no response is necessary, however, to the extent that a reply may be required, it is specifically averred that Plaintiff elected and is covered by the full tort option.

5. In response to Paragraph number 25 of Defendants' New Matter, said paragraph sets forth a legal conclusion which is not applicable to Plaintiff's claim and to which no response is necessary, however, to the extent that a reply may be required, it is specifically denied that Plaintiff has not sustained any serious injuries. To the contrary, Plaintiff has sustained serious injuries as set forth fully in Plaintiff's Complaint in Civil Action.

6. In response to Paragraph number 26 of Defendants' New Matter, it is specifically denied that Plaintiff's injuries, losses and damages were caused as a result of forces, actions, conduct and

omissions of others over whom the Defendants had neither the opportunity, nor duty, of control. To the contrary, it is specifically averred that Plaintiff's injuries, losses and damages were the direct and proximate result of the negligence of the Defendants as set forth fully in Plaintiff's Complaint in Civil Action.

7. In response to Paragraph number 27 of Defendants' New Matter, it is specifically denied that the injuries, losses and damages sustained by Plaintiff were not caused by any conduct on the part of the Defendants. To the contrary, it is specifically averred that Plaintiff's injuries, losses and damages were the direct and proximate result of the negligence of the Defendants as set forth fully in Plaintiff's Complaint in Civil Action.

8. In response to Paragraph number 28 of Defendants' New Matter, said paragraph is specifically denied. It is specifically denied that Plaintiff's injuries, losses and damages were the result of pre-existing or subsequent injuries, diseases that are unrelated to the accident or any conduct on the part of the Defendant. To the contrary, it is specifically averred that Plaintiff's injuries, losses and damages were the direct and proximate result of the negligence of the Defendants as set forth fully in Plaintiff's Complaint in Civil Action.

9. In response to Paragraph number 29 of Defendants' New Matter, said paragraph is specifically denied. It is specifically denied that Craig Houchins acted in a manner that was reasonable under the circumstances and in compliance with all applicable laws and rules of the road. To the contrary, it is specifically averred that Plaintiff's injuries, losses and damages were the direct and proximate result of the negligence of the Defendants as set forth fully in Plaintiff's Complaint in Civil Action.

10. In response to Paragraph number 30 of Defendants' New Matter, said paragraph sets forth a legal conclusion to which no response is necessary. To the extent that a reply is required, it is specifically averred that Plaintiff's injuries, losses and damages were the direct and proximate result of the negligence of the Defendants as set forth fully in Plaintiff's Complaint in Civil Action.

11. In response to Paragraph number 31 of Defendants' New Matter, said paragraph sets forth a legal conclusion to which no response is necessary. To the extent that a reply is required, it is specifically averred Plaintiff's claims were filed well within the applicable statute of limitations.

12. In response to Paragraph number 32 of Defendants' New Matter, said paragraph sets forth a legal conclusion to which no response is necessary.

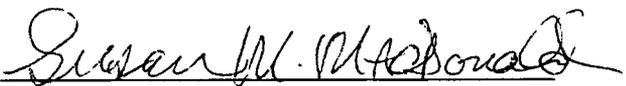
WHEREFORE, Plaintiff, SUSAN MacDONALD, demands that judgment be entered in her favor and against Defendants, CRAIG HOUCHINS and RICHARD FULLINGTON.

Respectfully submitted

  
Robert C. Eddins, Esquire  
Attorney for Plaintiff

**VERIFICATION**

I, SUSAN M. MacDONALD, hereby verify that the facts contained in the foregoing REPLY TO NEW MATTER are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities and is given pursuant to the provisions for verification of pleadings as defined and provided for in Rule 1024 of the Pennsylvania Rules of Civil Procedure.

  
Susan M. MacDonald  
Susan M. MacDonald

Date: 1/26/07

CERTIFICATE OF SERVICE

I, ROBERT C. EDDINS, ESQUIRE, do hereby certify that true and correct copy of the foregoing REPLY TO NEW MATTER was sent by first class mail, postage pre-paid, this 31<sup>st</sup> day of January 2007, to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell,  
Miller, Williams, & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

BY: Robert C Eddins  
Robert C. Eddins, Esq.  
Attorney for Plaintiff

FILED

M 2:16 P.M. GK

JAN 26 2009

No 22

William A. Shaw  
Prothonotary/Clerk of Courts

GW

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

**PRAECIPE FOR ENTRY OF  
APPEARANCE**

Defendant.

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

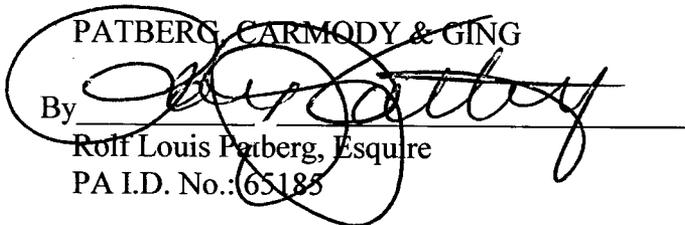
**PRAECIPE FOR ENTRY OF APPEARANCE**

TO: PROTHONOTARY

Please enter my appearance on behalf of Plaintiff, Susan M. MacDonald, in the above-captioned matter.

RESPECTFULLY SUBMITTED:

DATE: 1-23-09

PATBERG, CARMODY & GING  
By   
Rolf Louis Patberg, Esquire  
PA I.D. No.: 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

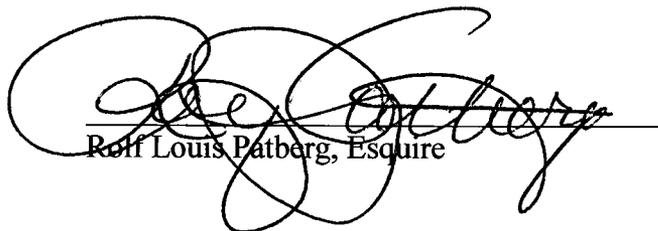
Attorney for Plaintiff

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Praeceptum for Entry of Appearance was forwarded this 23 day of January, 2009 via U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

  
Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

**NOTICE OF SERVICE OF FIRST SET OF  
INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO ALL DEFENDANTS**

Defendant.

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

<sup>S</sup>  
FILED *mc*  
m/1:08/31  
FEB 17 2009  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

**NOTICE OF SERVICE OF FIRST SET OF INTERROGATORIES AND REQUESTS  
FOR PRODUCTION OF DOCUMENTS DIRECTED TO ALL DEFENDANTS**

TO: PROTHONOTARY

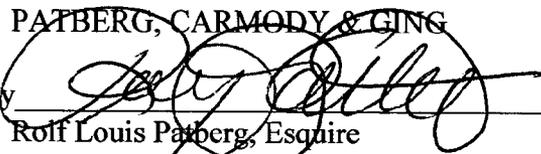
PLEASE TAKE NOTICE that the foregoing First Set of Interrogatories and Requests for Production of Documents Directed to All Defendant was forwarded this 12 day of February, 2009 via postage prepaid United States Mail to all counsel of record.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 2-12-09

By

  
Rolf Louis Patberg, Esquire  
PA I.D. No. 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

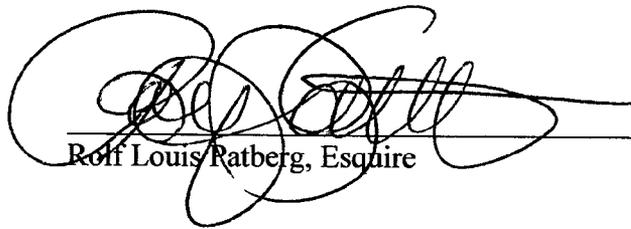
Attorney for Plaintiff

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of First Set of Interrogatories and Requests for Production of Documents Directed to All Defendants was forwarded this 12 day of February, 2009 via postage prepaid U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

  
Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

**PRAECIPE FOR WITHDRAWAL OF  
APPEARANCE**

Defendant.

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

THOMAS J. CORDARO, ESQUIRE  
PA I.D. NO.: 39314  
SUITE 619, CORPORATE CENTER  
ONE BIGELOW SQUARE  
PITTSBURGH, PA 15219  
(412) 391-1191

**JURY TRIAL DEMANDED**

S... No CC  
m/la:15Lm  
FEB 25 2009  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

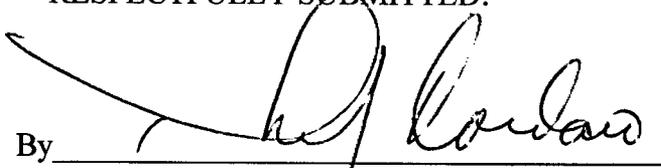
**PRAECIPE FOR WITHDRAWAL OF APPEARANCE**

TO: PROTHONOTARY

Please kindly withdraw my appearance on behalf of the Plaintiff in the above-captioned matter.

RESPECTFULLY SUBMITTED:

DATE: 3/9/09

By 

Thomas J. Cordaro, Esquire  
PA I.D. No.: 39314  
Suite 619, Corporate Center  
One Bigelow Square  
Pittsburgh, PA 15219  
(412) 391-1191

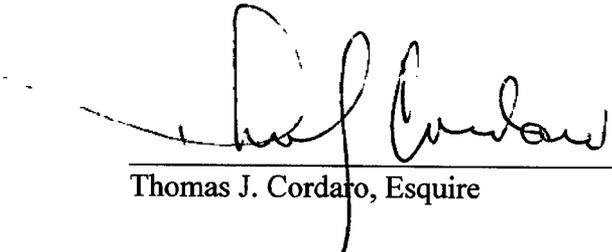
**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I, Thomas J. Cordaro, Esquire, hereby certify that a true and correct copy of the foregoing  
Pracipe for Withdrawal of Appearance was forwarded this 18 day of February, 2009 via U.S.  
Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

Rolf Louis Patberg, Esquire  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212

  
\_\_\_\_\_  
Thomas J. Cordaro, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

Defendant.

**NOTICE OF INTENT TO SERVE  
SUBPOENA AND TO PRODUCE  
DOCUMENTS AND THINGS FOR  
DISCOVERY PURSUANT TO RULE PA.  
R.C.P. 4009.21 UPON RECORDS  
CUSTODIAN - EL BRAID CLAIM  
SERVICE, INC.**

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

11/24/06  
No CC  
S  
William A. Sizemore  
County Clerk of Courts  
G.D.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

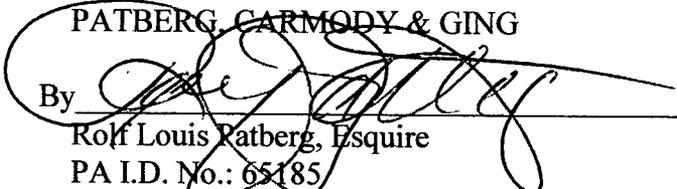
**NOTICE OF INTENT TO SERVE SUBPOENA AND TO PRODUCE DOCUMENTS  
AND THINGS FOR DISCOVERY PURSUANT TO RULE PA. R.C.P. 4009.21 UPON  
RECORDS CUSTODIAN - EL BRAID CLAIM SERVICE, INC.**

AND NOW, come the Plaintiffs, by and through their undersigned attorney, and file the within Notice of Intent to Serve Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - EL Braid Claim Service, Inc.

Plaintiffs intend to serve a Subpoena identical to the Subpoena which is attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to this Subpoena. If no objection is made, the Subpoena may be served.

RESPECTFULLY SUBMITTED:

DATE: 6-26-09

PATBERG, CARMODY & GING  
By   
Rolf Louis Patberg, Esquire  
PA I.D. No.: 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

Attorney for Plaintiff

**JURY TRIAL DEMANDED**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01431-CD

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Records Custodian - El Braid Claim Service, Inc.  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

See attached Exhibit A

(Address) 801 Vinial Street - 3rd Floor  
Pittsburgh, PA 15212

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Rolf Louis Patberg, Esquire

ADDRESS: 801 Vinial St. - 3rd Fl.  
Pittsburgh, PA 15212

TELEPHONE: (412) 232-3500

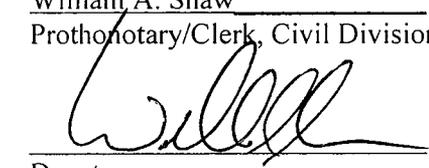
SUPREME COURT ID # 65185

ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Friday, June 19, 2009  
Seal of the Court

  
Deputy

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2010  
Clearfield Co., Clearfield, PA

**EXHIBIT A**

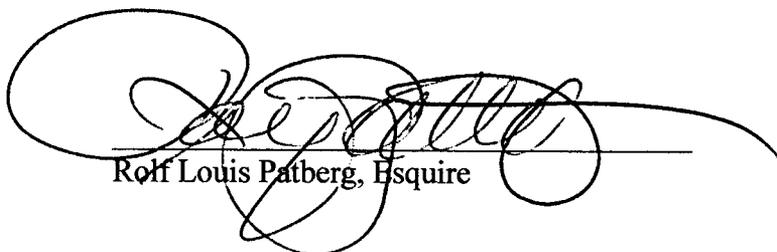
TO: EL CLAIM SERVICE, INC.  
P.O. BOX 946  
CLEARFIELD, PA 16830

Please produce any and all records in your care, custody and control regarding a certain loss on February 17, 2005 submitted by Susan MacDonald's insurance carrier, Your File Number: TB5202, Claim Number: L4U6442-002, with regard to the repair of a certain 1998 GMC Box Truck, 1GDM7H1J9WJ502250, including all repair orders, equipment orders, photographs, or any other such documents in your care, custody and control with regard to the same including, but not limited to, any documentation related to the attached documents as Exhibit A.

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - EL Claim Service, Inc. was forwarded this 26 day of June, 2009 via postage prepaid U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823



Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

Plaintiff,

v.

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

Defendant.

CIVIL DIVISION

NO.: 06-1431-CD

TYPE OF PLEADING:

**NOTICE OF INTENT TO SERVE  
SUBPOENA AND TO PRODUCE  
DOCUMENTS AND THINGS FOR  
DISCOVERY PURSUANT TO RULE PA.  
R.C.P. 4009.21 UPON RECORDS  
CUSTODIAN - HAWK PRECISION  
COMPONENTS**

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

FILED  
m110:548  
7/10/09  
NO CC  
(611)  
William A. Shaw  
Clerk of Court

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

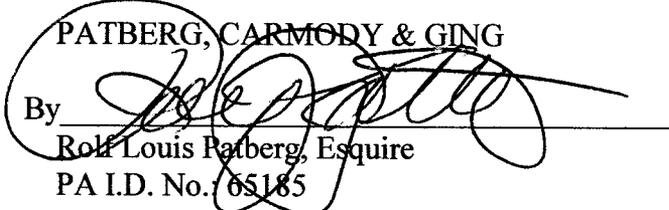
**NOTICE OF INTENT TO SERVE SUBPOENA AND TO PRODUCE DOCUMENTS  
AND THINGS FOR DISCOVERY PURSUANT TO RULE PA. R.C.P. 4009.21 UPON  
RECORDS CUSTODIAN - HAWK PRECISION COMPONENTS**

AND NOW, come the Plaintiffs, by and through their undersigned attorney, and file the within Notice of Intent to Serve Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - Hawk Precision Components.

Plaintiffs intend to serve a Subpoena identical to the Subpoena which is attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to this Subpoena. If no objection is made, the Subpoena may be served.

RESPECTFULLY SUBMITTED:

DATE: 6-30-09

PATBERG, CARMODY & GING  
By   
Rolf Louis Patberg, Esquire  
PA I.D. No. 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

Attorney for Plaintiff

**JURY TRIAL DEMANDED**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01431-CD

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Records Custodian - Hawk Precision Components

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

See attached Exhibit A

(Address) 801 Vinial St. - 3rd Floor  
Pittsburgh, PA 15212

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Rolf Louis Patberg, Esquire

ADDRESS: 801 Vinial St. -3rd Fl.  
Pittsburgh, PA 15212

TELEPHONE: (412) 232-3500

SUPREME COURT ID # 65185

ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division



Deputy

DATE: Friday, June 19, 2009  
Seal of the Court

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan. 2010  
Clearfield Co., Clearfield, PA

**EXHIBIT A**

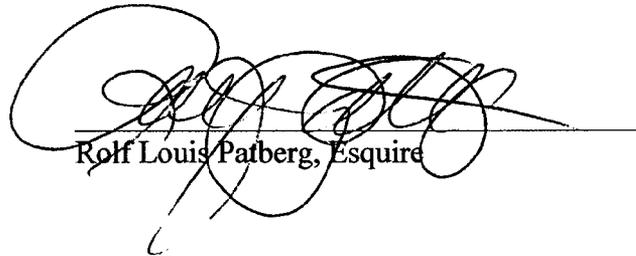
TO: HAWK PRECISION COMPONENTS  
115 APPALACHIAN  
CLEARFIELD, PA 16830

Please produce any and all records in your care, custody and control regarding the repair and service records for a certain 1998 GMC Box Truck, Vehicle Identification Number 1GDM7H1J9WJ502250 including, but not limited to, any and all repairs from January 1, 2005 through June 1, 2005 including, but not limited to, the equipment work orders attached hereto as Exhibit B. Please produce all invoices, maintenance records, mileage records, light repairs, service repairs, claims notes, claim submissions, and any other such items in your care, custody and control.

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - Hawk Precision Components was forwarded this 26 day of June, 2009 via postage prepaid U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823



Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

Defendant.

**NOTICE OF INTENT TO SERVE  
SUBPOENA AND TO PRODUCE  
DOCUMENTS AND THINGS FOR  
DISCOVERY PURSUANT TO RULE PA.  
R.C.P. 4009.21 UPON RECORDS  
CUSTODIAN - T&D FABRICATION**

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUTSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

**FILED**  
M/10:5830  
DEC 16 2009  
No PC  
S  
GID  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

**NOTICE OF INTENT TO SERVE SUBPOENA AND TO PRODUCE DOCUMENTS  
AND THINGS FOR DISCOVERY PURSUANT TO RULE PA. R.C.P. 4009.21 UPON  
RECORDS CUSTODIAN - T&D FABRICATION**

AND NOW, come the Plaintiffs, by and through their undersigned attorney, and file the within Notice of Intent to Serve Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - T&D Fabrication.

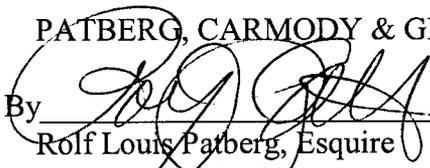
Plaintiffs intend to serve a Subpoena identical to the Subpoena which is attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to this Subpoena. If no objection is made, the Subpoena may be served.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 12-11-09

By

  
Rolf Louis Patberg, Esquire  
PA I.D. No.: 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

Attorney for Plaintiff

**JURY TRIAL DEMANDED**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01431-CD

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Records Custodian - T&D Fabrication  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

See attached Exhibit A

(Address) Patberg, Carmody & Ging  
801 Vinial Street-3rd Floor  
Pittsburgh, PA 15212

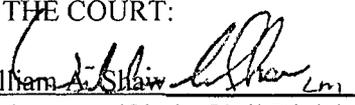
You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Rolf Louis Patberg, Esquire  
ADDRESS: 801 Vinial St. - 3rd Floor  
Pittsburgh, PA 15212  
TELEPHONE: 412-232-3500  
SUPREME COURT ID # 65185  
ATTORNEY FOR: Plaintiff

BY THE COURT:

  
William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Monday, November 30, 2009  
Seal of the Court

\_\_\_\_\_  
Deputy

**EXHIBIT A**

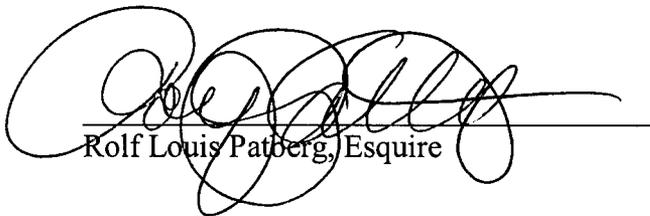
TO: RECORDS CUSTODIAN  
T&D FABRICATION

Please produce any and all documentation in your care, custody and control for the repair of a certain 1998 GMC Box Truck in 2005 including, but not limited to, estimates, invoices, checks, correspondences, letters, notations, e-mails, or any other such document in your care, custody and control regarding the repair or maintenance of said vehicle in 2004 or 2005 owned by the Hawk Corporation in Clearfield, Pennsylvania.

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - T&D Fabrication was forwarded this 11 day of December, 2009 via postage prepaid U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

  
Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

Defendant.

**NOTICE OF INTENT TO SERVE  
SUBPOENA AND TO PRODUCE  
DOCUMENTS AND THINGS FOR  
DISCOVERY PURSUANT TO RULE PA.  
R.C.P. 4009.21 UPON RECORDS  
CUSTODIAN - TRAVELERS INSURANCE  
COMPANY**

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUTSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

FILED

DEC 16 2009

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

**NOTICE OF INTENT TO SERVE SUBPOENA AND TO PRODUCE DOCUMENTS  
AND THINGS FOR DISCOVERY PURSUANT TO RULE PA. R.C.P. 4009.21 UPON  
RECORDS CUSTODIAN - TRAVELERS INSURANCE COMPANY**

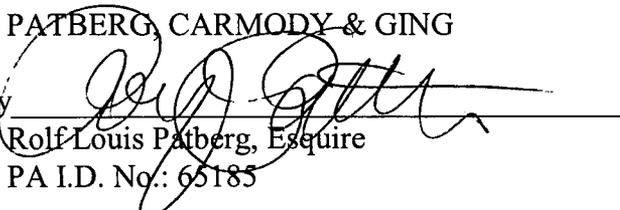
AND NOW, come the Plaintiffs, by and through their undersigned attorney, and file the within Notice of Intent to Serve Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - Travelers Insurance Company.

Plaintiffs intend to serve a Subpoena identical to the Subpoena which is attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to this Subpoena. If no objection is made, the Subpoena may be served.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 12-11-09

By 

Rolf Louis Patberg, Esquire  
PA I.D. No.: 65185

PATBERG, CARMODY & GING

Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

Attorney for Plaintiff

**JURY TRIAL DEMANDED**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

Vs.

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

\*

\*

No. 2006-01431-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Records Custodian - Travelers Insurance Company  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

See attached Exhibit A

(Address) 801 Vinial Street - 3rd Floor  
Pittsburgh, PA 15212

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Rolf Louis Patberg, Esquire  
ADDRESS: 801 Vinial Street-3rd Floor  
Pittsburgh, PA 15212  
TELEPHONE: 412-232-3500  
SUPREME COURT ID # 65185  
ATTORNEY FOR: Plaintiff

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Monday, November 30, 2009  
Seal of the Court

\_\_\_\_\_  
Deputy

**EXHIBIT A**

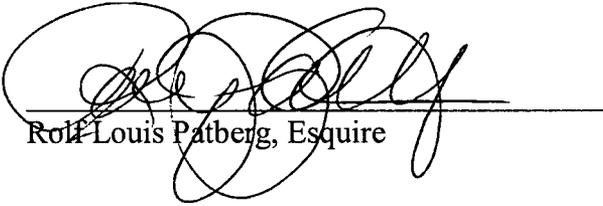
TO: RECORDS CUSTODIAN  
TRAVELERS INSURANCE COMPANY

Please produce any and all documents in your care, custody and control that refers or relates to a certain automobile accident that occurred on February 17, 2005 on Interstate 80 by your insured, Susan MacDonald, including, but not limited to, claims notes, checks, correspondences, vehicle inspections and evaluations, payments or liability payments for the repair of a certain 1998 GMC Box Truck with Vehicle Identification Number 1GDM7H1J9WJ502250, as well as invoices and any other such documentation in your care, custody and control that refers or relates to the repair of said vehicle.

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - Travelers Insurance Company was forwarded this 11 day of December, 2009 via postage prepaid U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

  
Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

Defendant.

**NOTICE OF INTENT TO SERVE  
SUBPOENA AND TO PRODUCE  
DOCUMENTS AND THINGS FOR  
DISCOVERY PURSUANT TO RULE PA.  
R.C.P. 4009.21 UPON RECORDS  
CUSTODIAN - WTAJ-TV**

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

FILED  
NO. CC  
MT10: 58671  
DEC 16 2009 @

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

**NOTICE OF INTENT TO SERVE SUBPOENA AND TO PRODUCE DOCUMENTS  
AND THINGS FOR DISCOVERY PURSUANT TO RULE PA. R.C.P. 4009.21 UPON  
RECORDS CUSTODIAN - WTAJ-TV**

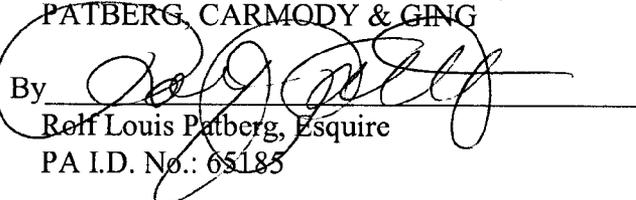
AND NOW, come the Plaintiffs, by and through their undersigned attorney, and file the within Notice of Intent to Serve Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - WTAJ-TV.

Plaintiffs intend to serve a Subpoena identical to the Subpoena which is attached to this Notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to this Subpoena. If no objection is made, the Subpoena may be served.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 12-11-09

By   
Rolf Louis Patberg, Esquire  
PA I.D. No.: 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

Attorney for Plaintiff

**JURY TRIAL DEMANDED**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

Vs.

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

\*

\*

No. 2006-01431-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Records Custodian - WTAJ-TV

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

See attached Exhibit A

(Address) Patberg, Carmody & Ging  
801 Vinial Street-Third Floor  
Pittsburgh, PA 15212

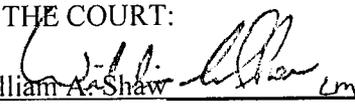
You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Rolf Louis Patberg, Esquire  
ADDRESS: 801 Vinial Street-Third Floor  
Pittsburgh, PA 15212  
TELEPHONE: 412-232-3500  
SUPREME COURT ID # 65185  
ATTORNEY FOR: Plaintiff

BY THE COURT:

  
William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Monday, November 30, 2009  
Seal of the Court

Deputy

**EXHIBIT A**

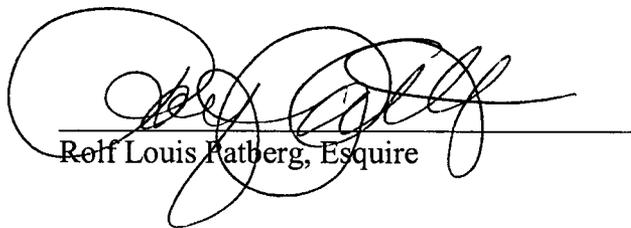
TO: WTAJ-TV

Please produce any and all videotapes, news reels, cd's, digital photographs, digital film, or any other such film or documentation in your care, custody and control from newscast programs of February 17, 2005 through February 19, 2005 that refer or relate to any motor vehicle collisions that occurred on Interstate 80 in Clearfield County, Pennsylvania.

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Intent to Serve Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - WTAJ-TV was forwarded this 11 day of December, 2009 via postage prepaid U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

  
Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,	)	CIVIL DIVISION - LAW
	)	
Plaintiff,	)	No. 06-1431-CD
	)	
v.	)	Type of Case - Motor Vehicle
	)	
CRAIG HOUCHINS and	)	Type of Filing
RICHARD FULLINGTON,	)	Notice of Service of
	)	Interrogatories
	)	
Defendants.	)	Filed on Behalf of Defendants Craig Houchins and J. Richard Fullington, Jr.

Counsel of Record for Parties:

Tracey G. Benson, Esquire  
Pa. I.D. 34984  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

FILE

JAN 1 2018

William A. Shaw  
Prothonotary/Clerk of Courts

FILED ICC Atty  
m/11.25cm Benson  
JAN 11 2018

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 ) CRAIG HOUCHINS and )  
 ) RICHARD FULLINGTON, )  
 )  
 ) Defendants. )

**NOTICE OF SERVICE OF INTERROGATORIES**

TO: William Shaw, Prothonotary  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

Please take notice that the undersigned has served the original and two copies of Defendants Craig Houchins and J. Richard Fullington, Jr.'s Second Set of Interrogatories to Plaintiff by mailing them, first-class, postage prepaid, on this date to the following:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

  
Tracey G. Benson, Esquire

MILLER KISTLER & CAMPBELL,  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendants  
Craig Houchins and J. Richard Fullington, Jr.

Dated: January 8, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Defendants Notice of Service of Interrogatories**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By: Tracey G. Benson  
Tracey G. Benson

Dated: January 8, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,	)	CIVIL DIVISION - LAW
	)	
Plaintiff,	)	No. 06-1431-CD
	)	
v.	)	Type of Case - Motor Vehicle
	)	
CRAIG HOUCHINS and	)	Type of Filing
RICHARD FULLINGTON,	)	Notice of Service of
	)	Interrogatories
	)	
Defendants.	)	Filed on Behalf of Defendants
	)	Craig Houchins and
	)	J. Richard Fullington, Jr.

Counsel of Record for Parties:

Tracey G. Benson, Esquire  
Pa. I.D. 34984  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

FILED ICC Atty  
m/11.252m Benson  
JAN 11 2010

William A. Shaw  
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

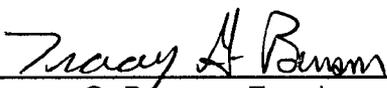
SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

**NOTICE OF SERVICE OF INTERROGATORIES**

TO: William Shaw, Prothonotary  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

Please take notice that the undersigned has served the original and two copies of Defendants' Craig Houchins and J. Richard Fullington, Jr.'s Second Supplemental Interrogatories and Request for Production of Documents Directed to Plaintiff Susan M. MacDonald by mailing them, first-class, postage prepaid, on this date to the following:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

  
\_\_\_\_\_  
Tracey G. Benson, Esquire

MILLER KISTLER & CAMPBELL,  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendants  
Craig Houchins and J. Richard Fullington, Jr.

Dated: January 8, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Defendants' Craig Houchins and J. Richard Fullington, Jr.'s Second Supplemental Interrogatories and Requested for Production of Documents Directed to Plaintiff Susan M. MacDonald**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By:   
Tracey G. Benson

Dated: January 8, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,	)	CIVIL DIVISION - LAW
	)	
Plaintiff,	)	No. 06-1431-CD
	)	
v.	)	Type of Case - Motor Vehicle
	)	
CRAIG HOUCHINS and	)	Type of Filing
RICHARD FULLINGTON,	)	Notice of Service of
	)	Interrogatories
	)	
Defendants.	)	Filed on Behalf of Defendants Craig Houchins and J. Richard Fullington, Jr.

Counsel of Record for Parties:

Tracey G. Benson, Esquire  
Pa. I.D. 34984  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

FILED *ICC Athy*  
*m/11:25m* Benson  
JAN 11 2010

William A. Shaw *WAS*  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

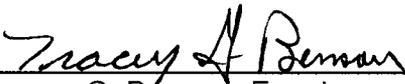
SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

**NOTICE OF SERVICE OF INTERROGATORIES**

TO: William Shaw, Prothonotary  
Clearfield County Courthouse  
230 E. Market Street  
Clearfield, PA 16830

Please take notice that the undersigned has served the original and two copies of Defendants' Second Set of Expert Interrogatories Directed to Plaintiff Susan M. MacDonald by mailing them, first-class, postage prepaid, on this date to the following:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

  
\_\_\_\_\_  
Tracey G. Benson, Esquire

MILLER KISTLER & CAMPBELL,  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendants  
Craig Houchins and J. Richard Fullington, Jr.

Dated: January 8, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Defendants' Second Set of Expert Interrogatories Directed to Plaintiff Susan M. MacDonald**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By: Tracey G. Benson  
Tracey G. Benson

Dated: January 8, 2010

FILED

JAN 27 2010  
M/11:35/C  
William A. Shaw  
Prothonotary/Clerk of Courts  
no 4/c

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

**RETURN OF SERVICE OF SUBPOENA  
TO PRODUCE DOCUMENTS AND  
THINGS FOR DISCOVERY PURSUANT  
TO RULE PA. R.C.P. 4009.21 UPON  
RECORDS CUSTODIAN - T&D  
FABRICATION**

Defendant.

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

**RETURN OF SERVICE OF SUBPOENA TO PRODUCE DOCUMENTS AND THINGS  
FOR DISCOVERY PURSUANT TO RULE PA. R.C.P. 4009.21 UPON RECORDS  
CUSTODIAN - T&D FABRICATION**

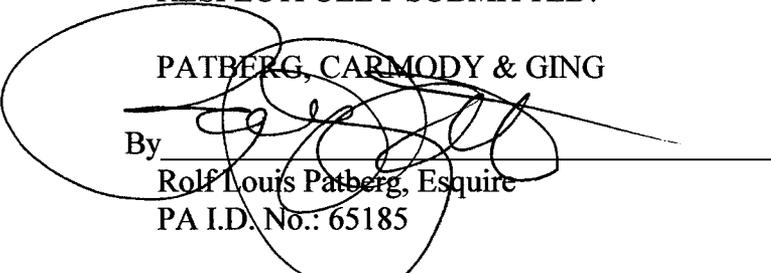
AND NOW, come the Plaintiff, by and through her attorney, Rolf Louis Patberg, Esquire, and the law firm of Patberg, Carmody & Ging, and files the attached Return of Service evidencing service of the Subpoena to Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 Upon Records Custodian - T&D Fabrication.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 1-25-10

By

  
Rolf Louis Patberg, Esquire  
PA I.D. No.: 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

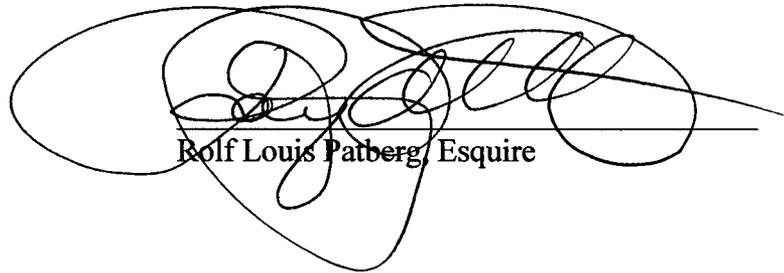
Attorney for Plaintiff

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Return of Service of Subpoena and To Produce Documents and Things for Discovery Pursuant to Rule Pa. R.C.P. 4009.21 upon Records Custodian - T&D Fabrication was forwarded this 25 day of January, 2010 via postage prepaid U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823



Rolf Louis Patberg, Esquire

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Records Custodian  
 WTAJ-TV  
 5000 - 6th Avenue  
 Altoona, PA 16602

2. Article Number  
 (Transfer from service label)

7009 0080 0000 5570 7882

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *Scuttia Hewitt*  Agent  Addressee

B. Received by (Printed Name) C. Date of Delivery  
 1-14

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

7009 0080 0000 5570 7882

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
 (Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
 Here  
 SUBPOENA  
 MacDonald

Sent To *Records Custodian - WTAJ-TV*  
 Street, Apt. No.;  
 or PO Box No. *5000 - 6th Avenue*  
 City, State, ZIP+4 *Altoona PA 16602*

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

**NOTICE OF SERVICE OF NOTICES OF  
DEPOSITION OF BILL CAMPBELL AND  
TOM IRELAND**

Defendant.

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

FILED  
m/12:25 am  
FEB - 1 2010  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

**NOTICE OF SERVICE OF NOTICES OF DEPOSITION OF BILL CAMPBELL  
AND TOM IRELAND**

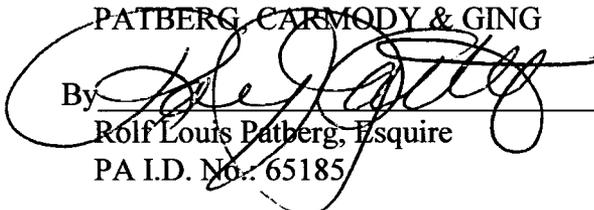
TO: PROTHONOTARY

PLEASE TAKE NOTICE that the foregoing Notices of Deposition of Bill Campbell and Tom Ireland were forwarded this 29<sup>th</sup> day of January, 2009 via postage prepaid United States Mail to all counsel of record.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 1-29-10

By   
Rolf Louis Patberg, Esquire  
PA I.D. No.: 65185

PATBERG, CARMODY & GING  
Deuschtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

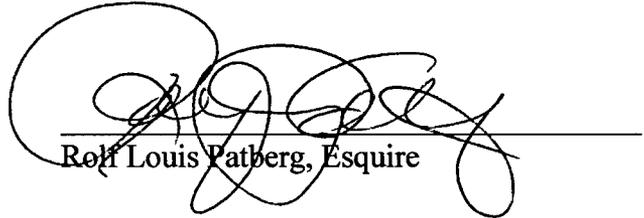
Attorney for Plaintiff

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Notices of Deposition of Bill Campbell and Tom Ireland was forwarded this 29 day of January, 2010 via postage prepaid U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

  
Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

**NOTICE OF SERVICE OF AMENDED  
NOTICES OF DEPOSITION OF BILL  
CAMPBELL AND TOM IRELAND**

Defendant.

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

FILED No CC  
m/11:23 am  
FEB 16 2016  
William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

**NOTICE OF SERVICE OF AMENDED NOTICES OF DEPOSITION OF BILL  
CAMPBELL AND TOM IRELAND**

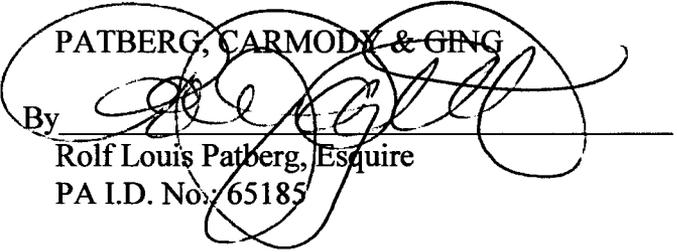
TO: PROTHONOTARY

PLEASE TAKE NOTICE that the foregoing Amended Notices of Deposition of Bill  
Campbell and Tom Ireland were forwarded this 10 day of February, 2010 via postage prepaid  
United States Mail to all counsel of record.

RESPECTFULLY SUBMITTED:

DATE: 2-10-10

PATBERG, CARMODY & GING

By 

Rolf Louis Patberg, Esquire  
PA I.D. No. 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

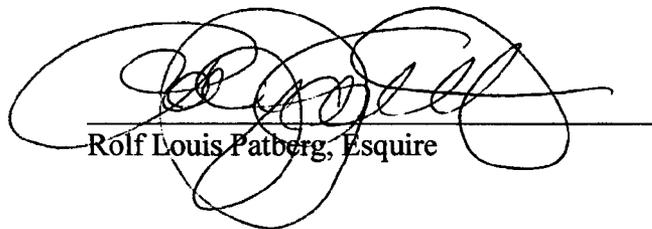
Attorney for Plaintiff

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Notice of Service of Amended Notices of Deposition of Bill Campbell and Tom Ireland was forwarded this 10 day of February, 2010 via postage prepaid U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

  
Rolf Louis Patberg, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,  
  
Plaintiff,  
  
v.  
  
CRAIG HOUCHINS and  
RICHARD FULLINGTON,  
  
Defendants.

Civil Action No. 06-1431-CD

FILED

FEB 22 2010

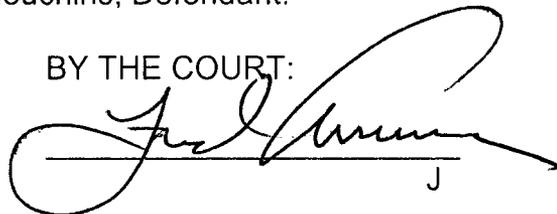
William A. Shaw  
Prothonotary/Clerk of Courts  
LCENT  
ATT

**ORDER APPROVING STIPULATION TO DISCONTINUE AS TO FEWER THAN ALL DEFENDANTS**

AND NOW, this 22nd day of February, 2010, pursuant to a Stipulation joined by all parties herein, a copy of which is attached hereto, the Court does hereby ORDER, DIRECT and DECREE as follows:

1. Defendant J. Richard Fullington, Jr. is hereby dismissed as a party to this action.
2. The case will proceed against defendant Craig Houchins.
3. The Prothonotary is directed to strike Richard Fullington from the caption herein.
4. The parties shall use the following caption on all further pleadings filed in connection with this matter: "Susan M. MacDonald, Plaintiff v. Craig Houchins, Defendant."

BY THE COURT:



**ATTACHMENT**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,

Plaintiff,

v.

CRAIG HOUCHINS and  
RICHARD FULLINGTON,

Defendants.

) CIVIL DIVISION - LAW  
)

) No. 06-1431-CD  
)

) Type of Case - Motor Vehicle  
)

) Type of Filing  
)

) Stipulation to Discontinue  
)

) as to Fewer Than  
)

) All Defendants  
)

) Filed on Behalf of Defendants  
)

) Craig Houchins and  
)

) J. Richard Fullington, Jr.  
)

Counsel of Record for Parties:

Tracey G. Benson, Esquire

Pa. I.D. 34984

MILLER KISTLER & CAMPBELL

124 North Allegheny Street

Bellefonte, PA 16823

(814) 355-5474

William A. Chen

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

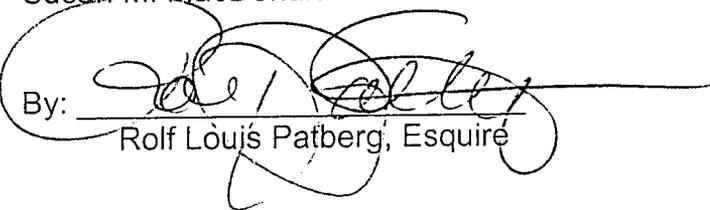
SUSAN M. MACDONALD, )  
)  
Plaintiff, )  
)  
v. ) Civil Action No. 06-1431-CD  
)  
CRAIG HOUCHINS and )  
RICHARD FULLINGTON, )  
)  
Defendants. )

STIPULATION TO DISCONTINUE AS TO FEWER THAN ALL DEFENDANTS

Plaintiff, Susan M. MacDonald, by her counsel Rolf Louis Patberg, Esquire and defendants Craig Houchins and J. Richard Fullington, Jr., by and through their counsel, Tracey G. Benson, Esquire hereby stipulate that defendant J. Richard Fullington, Jr. is dismissed from the case, with prejudice, and that the caption shall be amended as follows: "Susan M. MacDonald, Plaintiff v. Craig Houchins, Defendant."

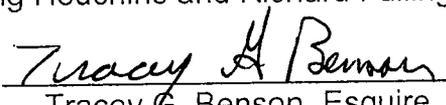
Dated: 2-11-10

Susan M. MacDonald

By:   
Rolf Louis Patberg, Esquire

Dated: February 16, 2010

Craig Houchins and Richard Fullington

By:   
Tracey G. Benson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

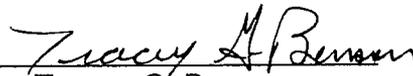
SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Stipulation to Discontinue as to Fewer than all Defendants**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By:   
Tracey G. Benson

Dated: February 18, 2010

DATE: 2-22-06

You are responsible for serving all appropriate parties.  
The Probationary's office has provided service to the following parties:  
Plaintiff(s) \_\_\_\_\_  
Defendant(s) \_\_\_\_\_  
Plaintiff(s) Attorney \_\_\_\_\_  
Defendant(s) Attorney \_\_\_\_\_  
Other \_\_\_\_\_

Special Instructions: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,	)	CIVIL DIVISION - LAW
	)	
Plaintiff,	)	No. 06-1431-CD
	)	
v.	)	Type of Case - Motor Vehicle
	)	
CRAIG HOUCHINS and	)	Type of Filing
RICHARD FULLINGTON,	)	Stipulation to Discontinue
	)	as to Fewer Than
	)	All Defendants
	)	
Defendants.	)	Filed on Behalf of Defendants
	)	Craig Houchins and
	)	J. Richard Fullington, Jr.

Counsel of Record for Parties:

Tracey G. Benson, Esquire  
Pa. I.D. 34984  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

**FILED**  
FEB 22 2010  
S 0/11:00/4  
William A. Shaw  
Prothonotary/Clerk of Court  
1 CRMS R RTD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

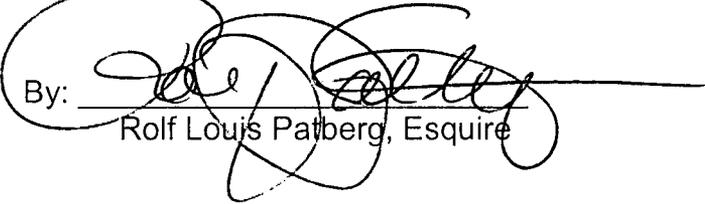
SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

**STIPULATION TO DISCONTINUE AS TO FEWER THAN ALL DEFENDANTS**

Plaintiff, Susan M. MacDonald, by her counsel Rolf Louis Patberg, Esquire and defendants Craig Houchins and J. Richard Fullington, Jr., by and through their counsel, Tracey G. Benson, Esquire hereby stipulate that defendant J. Richard Fullington, Jr. is dismissed from the case, with prejudice, and that the caption shall be amended as follows: "Susan M. MacDonald, Plaintiff v. Craig Houchins, Defendant."

Dated: 2-11-10

Susan M. MacDonald

By:   
Rolf Louis Patberg, Esquire

Dated: February 16, 2010

Craig Houchins and Richard Fullington

By:   
Tracey G. Benson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

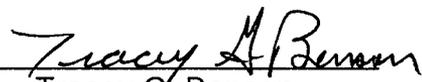
SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS and )  
 RICHARD FULLINGTON, )  
 )  
 Defendants. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Stipulation to Discontinue as to Fewer than all Defendants**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By:   
Tracey G. Benson

Dated: February 18, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 )  
 ) CRAIG HOUCHINS and )  
 ) RICHARD FULLINGTON, )  
 )  
 ) Defendants. )

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendants intend to serve a subpoena identical to the one attached to this notice on the Sam's Club. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

  
Tracey G. Benson, Esquire  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendants  
Craig Houchins and Richard Fullington

Dated: April 19, 2010

Enclosures: Copy of subpoena

FILED NO  
MILLER KISTLER & CAMPBELL CC  
APR 20 2010  
William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

Vs.

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

\*

\*

No. 2006-01431-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Sam's Club Pharmacy, 2000 Village Center Drive, Tarentum, PA 15804  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to  
produce the following documents or things:

See Attachment

(Address)

You may deliver or mail legible copies of the documents or produce things requested by  
this subpoena, together with the certificate of compliance, to the party making this request at the  
address listed above. You have the right to seek in advance the reasonable cost of preparing the  
copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty  
(20) days after its service, the party serving this subpoena may seek a court order compelling you  
to comply with it.

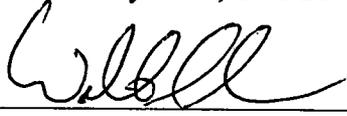
THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Tracey G Benson, Esq.  
ADDRESS: 124 N. Allegheny Street  
Bellefonte, PA 16823  
TELEPHONE: (814) 355-5474  
SUPREME COURT ID # 34984  
ATTORNEY FOR: Defendant Craig Houchins

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, March 24, 2010  
Seal of the Court

  
~~Deputy~~

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan, 2014  
Clearfield Co., Clearfield, PA

**ATTACHMENT**

Any and all documents pertaining to medication prescribed to Susan M. MacDonald (Social Security No. 181-36-4376, Date of Birth: 11/04/44) and filled by your pharmacy, including, but not limited to, prescription ledgers or records, billing records and copies of prescriptions, from 2004 to the present.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

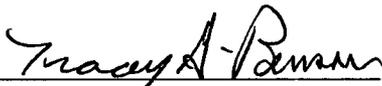
SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS )  
 )  
 Defendant. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Defendant's Notice of Intent to Serve Supboena**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By:   
Tracey G. Benson

Dated: April 19, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 )  
 ) CRAIG HOUCHINS and )  
 ) RICHARD FULLINGTON, )  
 )  
 ) Defendants. )

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendants intend to serve a subpoena identical to the one attached to this notice on the Rite Aid Eckerd Pharmacy. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.



Tracey G. Benson, Esquire  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendants  
Craig Houchins and Richard Fullington

Dated: April 19, 2010

Enclosures: Copy of subpoena

5  
FILED  
MJJ:05  
APR 20 2010  
William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01431-CD

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Rite Aid Eckerd Pharmacy, 1200 Pittsburgh St., Cheswick, PA 15204  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to  
produce the following documents or things:

See Attachment

(Address)

You may deliver or mail legible copies of the documents or produce things requested by  
this subpoena, together with the certificate of compliance, to the party making this request at the  
address listed above. You have the right to seek in advance the reasonable cost of preparing the  
copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty  
(20) days after its service, the party serving this subpoena may seek a court order compelling you  
to comply with it.

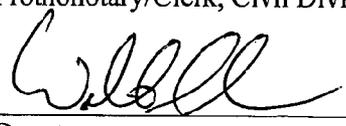
THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Tracey G. Benson, Esq.  
ADDRESS: 124 N. Allegheny St.  
Bellefonte, PA 16823  
TELEPHONE: (814) 355-5474  
SUPREME COURT ID # 34984  
ATTORNEY FOR: Defendant Craig Houchins

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, March 24, 2010  
Seal of the Court

  
Deputy

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan, 2014  
Clearfield Co., Clearfield, PA

**ATTACHMENT**

Any and all documents pertaining to medication prescribed to Susan M. MacDonald (Social Security No. 181-36-4376, Date of Birth: 11/04/44) and filled by your pharmacy, including, but not limited to, prescription ledgers or records, billing records and copies of prescriptions, from 1983 to the present.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

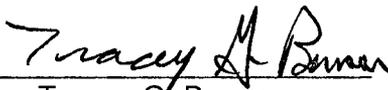
SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS )  
 )  
 Defendant. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Defendant's Notice of Intent to Serve Supboena**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By:   
Tracey G. Benson

Dated: April 19, 2010

ORIGINAL

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,

Plaintiff,

v.

CRAIG HOUCHINS

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

Civil Action No. 06-1431-CD

**CERTIFICATE PREREQUISITE TO SERVICE OF  
A SUBPOENA PURSUANT TO RULE 4009.22 DIRECTED TO RITE AID**

As a prerequisite to service of a subpoena for documents and things pursuant to Rule 4009.22,  
Tracey G. Benson, Esquire certifies that:

- (1) a notice of intent to serve the subpoena with a copy of the subpoena attached thereto was mailed or delivered to each party at least twenty days prior to the date on which the subpoena is sought to be served.
- (2) a copy of the notice of intent, including the proposed subpoena, is attached to this certificate,
- (3) no objection to the subpoena has been received, and a copy of the Waiver of Objection provided by plaintiff's counsel is attached hereto, and
- (4) the subpoena which will be served is identical to the subpoena which is attached to the notice of intent to serve the subpoena.

  
Tracey G. Benson

MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Attorney for Defendant  
Craig Houchins

Dated: April 26, 2010

FILED  
APR 27 2010  
NRC  
@

William A. Shaw  
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 )  
 ) CRAIG HOUCHINS and )  
 ) RICHARD FULLINGTON, )  
 )  
 ) Defendants. )

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendants intend to serve a subpoena identical to the one attached to this notice on the Rite Aid Eckerd Pharmacy. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

  
Tracey G. Benson, Esquire  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendants  
Craig Houchins and Richard Fullington

Dated: April 19, 2010

Enclosures: Copy of subpoena

**FILED**  
APR 20 2010  
William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01431-CD

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Rite Aid Eckerd Pharmacy, 1200 Pittsburgh St., Cheswick, PA 15204  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to  
produce the following documents or things:

See Attachment

(Address)

You may deliver or mail legible copies of the documents or produce things requested by  
this subpoena, together with the certificate of compliance, to the party making this request at the  
address listed above. You have the right to seek in advance the reasonable cost of preparing the  
copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty  
(20) days after its service, the party serving this subpoena may seek a court order compelling you  
to comply with it.

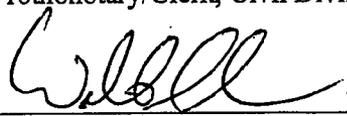
THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Tracey G. Benson, Esq.  
ADDRESS: 124 N. Allegheny St.  
Bellefonte, PA 16823  
TELEPHONE: (814) 355-5474  
SUPREME COURT ID # 34984  
ATTORNEY FOR: Defendant Craig Houchins

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, March 24, 2010  
Seal of the Court

  
~~Deputy~~

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday In Jan, 2014  
Clearfield Co., Clearfield, PA

## ATTACHMENT

Any and all documents pertaining to medication prescribed to Susan M. MacDonald (Social Security No. 181-36-4376, Date of Birth: 11/04/44) and filled by your pharmacy, including, but not limited to, prescription ledgers or records, billing records and copies of prescriptions, from 1983 to the present.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

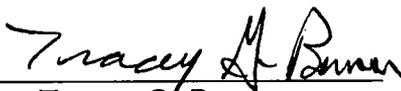
SUSAN M. MACDONALD, )  
)  
Plaintiff, )  
)  
v. ) Civil Action No. 06-1431-CD  
)  
CRAIG HOUCHINS )  
)  
Defendant. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Defendant's Notice of Intent to Serve Supboena**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By:   
Tracey G. Benson

Dated: April 19, 2010

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

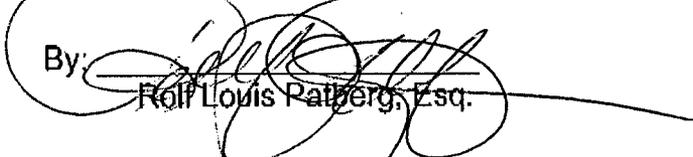
SUSAN M. MACDONALD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-1431-CD
	)	
CRAIG HOUCHINS,	)	
	)	
Defendant.	)	

**WAIVER OF OBJECTION TO NOTICE OF INTENT TO SERVE SUBPOENA  
AND TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY  
PURSUANT TO RULE P.A.R.C.P. 4009.21 UPON RITE AID ECKERD PHARMACY**

I, Rolf Louis Patberg, Esquire, counsel for the Plaintiff, hereby waive any objection to the certain subpoena to be served upon Rite Aid Eckerd Pharmacy, pursuant to the Notice of Intent served on or about April 19, 2010.

Respectfully Submitted,

Patberg, Carmody & Ging

By:   
Rolf Louis Patberg, Esq.

Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212

Dated: 4-20-10

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS )  
 )  
 Defendant. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Certificate Prerequisite to Service of A Subpoena Pursuant to Rule 4009.22 Directed to Rite Aid**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deuschtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By: Tracey G. Benson  
Tracey G. Benson

Dated: April 26, 2010



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 )  
 ) CRAIG HOUCHINS and )  
 ) RICHARD FULLINGTON, )  
 )  
 ) Defendants. )

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

Defendants intend to serve a subpoena identical to the one attached to this notice on the Sam's Club. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

  
Tracey G. Benson, Esquire  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendants  
Craig Houchins and Richard Fullington

Dated: April 19, 2010

Enclosures: Copy of subpoena

**FILED**  
APR 20 2010  
William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

Vs.

Craig Houchins  
Richard Fullington  
Defendant(s)

No. 2006-01431-CD

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Sam's Club Pharmacy, 2000 Village Center Drive, Tarentum, PA 15804  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

See Attachment

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

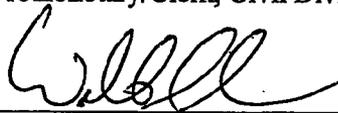
If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Tracey G Benson, Esq.  
ADDRESS: 124 N. Allegheny Street  
Bellefonte, PA 16823  
TELEPHONE: (814) 355-5474  
SUPREME COURT ID # 34984  
ATTORNEY FOR: Defendant Craig Houchins

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

  
Deputy

DATE: Wednesday, March 24, 2010  
Seal of the Court

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan, 2014  
Clearfield Co., Clearfield, PA

## **ATTACHMENT**

Any and all documents pertaining to medication prescribed to Susan M. MacDonald (Social Security No. 181-36-4376, Date of Birth: 11/04/44) and filled by your pharmacy, including, but not limited to, prescription ledgers or records, billing records and copies of prescriptions, from 2004 to the present.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

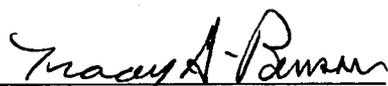
SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS )  
 )  
 Defendant. )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Defendant's Notice of Intent to Serve Supboena**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street -- Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By:   
Tracey G. Benson

Dated: April 19, 2010

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

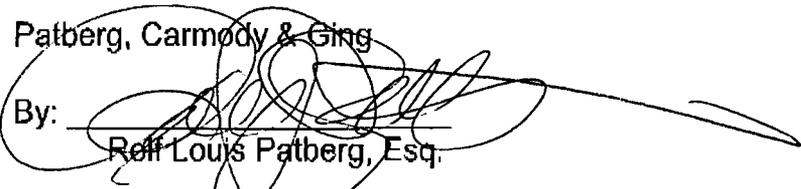
SUSAN M. MACDONALD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-1431-CD
	)	
CRAIG HOUCHINS,	)	
	)	
Defendant.	)	

**WAIVER OF OBJECTION TO NOTICE OF INTENT TO SERVE SUBPOENA  
AND TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY  
PURSUANT TO RULE P.A.R.C.P. 4009.21 UPON SAM'S CLUB PHARMACY**

I, Rolf Louis Patberg, Esquire, counsel for the Plaintiff, hereby waive any objection to the certain subpoena to be served upon Sam's Club Pharmacy, pursuant to the Notice of Intent served on or about April 19, 2010.

Respectfully Submitted,

Patberg, Carmody & Ging

By:   
Rolf Louis Patberg, Esq.

Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

Dated: 4-20-10

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
CRAIG HOUCHINS )  
 )  
 ) Defendant. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Certificate Prerequisite to Service of A Subpoena Pursuant to Rule 4009.22 Directed to Sam's Club**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By: Tracey G. Benson  
Tracey G. Benson

Dated: April 26, 2010

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 )  
 CRAIG HOUCHINS, )  
 )  
 ) Defendant. )

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

DEFENDANT intends to serve a subpoena identical to the one attached to this notice on Renaissance Family Practice, 5769 Saltsburg Road, Verona, PA 15147. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

  
Tracey G. Benson, Esquire  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendant  
Craig Houchins

Dated: July 26, 2010

Enclosures: Copy of subpoena

**FILED** No CC  
M10:43BH  
JUL 27 2010  
S  
William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01431-CD

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Renaissance Family Practice, 5769 Saltsburg Road, Verona, PA 15147

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to  
produce the following documents or things:

See Attached

(Address)

You may deliver or mail legible copies of the documents or produce things requested by  
this subpoena, together with the certificate of compliance, to the party making this request at the  
address listed above. You have the right to seek in advance the reasonable cost of preparing the  
copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty  
(20) days after its service, the party serving this subpoena may seek a court order compelling you  
to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Tracey G. Benson, Esq.  
ADDRESS: 124 N. Allegheny Street  
Bellefonte, PA 16823  
TELEPHONE: (814) 355-5474  
SUPREME COURT ID # 34984  
ATTORNEY FOR: Defendant Craig Houchins

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Thursday, January 15, 2009  
Seal of the Court

William A. Shaw  
Deputy

## ATTACHMENT

All documents, bills and medical records pertaining to the medical, psychiatric or psychological care of Susan M. MacDonald (Social Security No. XXX-XX-4376, Date of Birth: 11/04/44), from January 1, 2007 to the present, including but not limited to a full and complete copy of any and all records, office notes, admission summaries, discharge summaries, medical history and physical reports and notes, operative reports, lab reports, medication records, progress notes, treatment notes, correspondence, x-ray reports, radiology films, test results, consultations, progress notes or other material or information relating to any consultation, examination, medical history, diagnosis or treatment.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS )  
 )  
 Defendant. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL

By:   
Tracey G. Benson

Dated: July 26, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 )  
 ) CRAIG HOUCHINS, )  
 )  
 ) Defendant. )

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

DEFENDANT intends to serve a subpoena identical to the one attached to this notice on Three Rivers Orthopedics, 200 Delafield Road, Suite 1040, Pittsburgh, PA 15215. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

  
Tracey G. Benson, Esquire  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendant  
Craig Houchins

Dated: July 26, 2010

Enclosures: Copy of subpoena

FILED NO CC  
M 10:45 BT  
JUL 27 2010  
William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01431-CD

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

Three Rivers Orthopedics, 200 Delafield Road, Suite 1040  
TO: Pittsburgh, PA 15215

(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

SEE ATTACHMENT

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

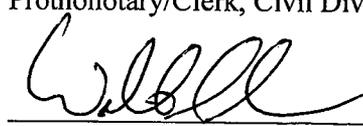
THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Tracey G. Benson, Esq.  
ADDRESS: 124 N. Allegheny Street  
Bellefonte, PA 16823  
TELEPHONE: (814) 355-5474  
SUPREME COURT ID # 34984  
ATTORNEY FOR: Defendant Craig Houchins

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, March 24, 2010  
Seal of the Court

  
~~Deputy~~

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan, 2014  
Clearfield Co., Clearfield, PA

## ATTACHMENT

All documents, bills and medical records pertaining to the medical, psychiatric or psychological care of Susan M. MacDonald (Social Security No. XXX-XX-4376, Date of Birth: 11/04/44), including but not limited to a full and complete copy of any and all records, office notes, admission summaries, discharge summaries, medical history and physical reports and notes, operative reports, lab reports, medication records, progress notes, treatment notes, correspondence, x-ray reports, radiology films, test results, consultations, progress notes or other material or information relating to any consultation, examination, medical history, diagnosis or treatment.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

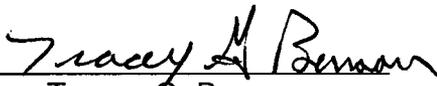
SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 )  
 ) CRAIG HOUCHINS )  
 )  
 ) Defendant. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL

By:   
Tracey G. Benson

Dated: July 26, 2010

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 )  
CRAIG HOUCHINS, )  
 )  
 ) Defendant. )

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

DEFENDANT intends to serve a subpoena identical to the one attached to this notice on James L. Petraitis, DMD, 5769 Saltsburg Road, Verona, PA 15147. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

  
Tracey G. Benson, Esquire  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendant  
Craig Houchins

Dated: July 26, 2010

Enclosures: Copy of subpoena

FILED NO  
110-4564 CC  
JUL 27 2010  
William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01431-CD

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: James L. Petraitis, DMD, 5769 Saltsburg Road, Verona, PA 15147  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

See Attached

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

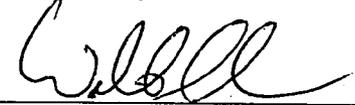
THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Tracey G. Benson, Esq.  
ADDRESS: 124 N. Allegheny Street  
Bellefonte, PA 16823  
TELEPHONE: (814) 355-5474  
SUPREME COURT ID# 34984  
ATTORNEY FOR: Defendant Craig Houchins

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, March 24, 2010  
Seal of the Court

  
~~Deputy~~

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan, 2014  
Clearfield Co., Clearfield, PA

## **ATTACHMENT**

All documents, bills and medical records pertaining to the medical, psychiatric or psychological or dental care of Susan M. MacDonald (Social Security No. XXX-XX-4376, Date of Birth: 11/04/44), including but not limited to a full and complete copy of any and all records, office notes, admission summaries, discharge summaries, medical history and physical reports and notes, operative reports, lab reports, medication records, progress notes, treatment notes, correspondence, x-ray reports, radiology films, test results, consultations, progress notes or other material or information relating to any consultation, examination, medical history, diagnosis or treatment.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

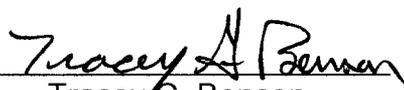
SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS )  
 )  
 Defendant. )

**CERTIFICATE OF SERVICE**

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Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL

By:   
Tracey G. Benson

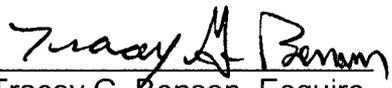
Dated: July 26, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 )  
CRAIG HOUCHINS, )  
 )  
 ) Defendant. )

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

DEFENDANT intends to serve a subpoena identical to the one attached to this notice on Cheryl Bernstein, M.D., 5750 Centre Avenue, Ste 400, Pittsburgh, PA 15206. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

  
Tracey G. Benson, Esquire  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendant  
Craig Houchins

Dated: July 26, 2010

Enclosures: Copy of subpoena

FILED No  
M) 10:45/6L CC  
JUL 27 2010 (64)  
S  
William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01431-CD

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Cheryl Bernstein, M.D., 5750 Centre Avenue, Ste 400,  
Pittsburgh, PA 15206  
(Name of Person or Entity)

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

See Attached

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

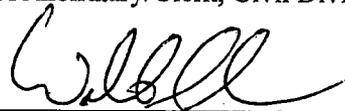
If you fail to produce the documents or things required by this subpoena within twenty (20) days after its service, the party serving this subpoena may seek a court order compelling you to comply with it.

THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Tracey G. Benson, Esq.  
ADDRESS: 124 N. Allegheny Street  
Bellefonte, PA 16823  
TELEPHONE: (814) 355-5474  
SUPREME COURT ID # 34984  
ATTORNEY FOR: Defendant Craig Houchins

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division



~~Deputy~~

DATE: Wednesday, March 24, 2010  
Seal of the Court

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan, 2014  
Clearfield Co., Clearfield, PA

## **ATTACHMENT**

All documents, bills and medical records pertaining to the medical, psychiatric or psychological care of Susan M. MacDonald (Social Security No. XXX-XX-4376, Date of Birth: 11/04/44), including but not limited to a full and complete copy of any and all records, office notes, admission summaries, discharge summaries, medical history and physical reports and notes, operative reports, lab reports, medication records, progress notes, treatment notes, correspondence, x-ray reports, radiology films, test results, consultations, progress notes or other material or information relating to any consultation, examination, medical history, diagnosis or treatment.

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW**

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS )  
 )  
 Defendant. )

**CERTIFICATE OF SERVICE**

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Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL

By: Tracey A Benson  
Tracey G. Benson

Dated: July 26, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
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 CRAIG HOUCHINS, )  
 Defendant. )

**NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE  
DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21**

DEFENDANT intends to serve a subpoena identical to the one attached to this notice on Josefina M. Candelaria, M.D., 303 Grant Avenue, Pittsburgh, PA 15209. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made the subpoena may be served.

  
Tracey G. Benson, Esquire  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendant  
Craig Houchins

Dated: July 26, 2010

Enclosures: Copy of subpoena

FILED NO CC  
M 110:45/01  
JUL 27 2010 (61)  
William A. Shaw  
Prothonotary/Clerk of Courts

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CLEARFIELD

Susan M. Mac Donald  
Plaintiff(s)

\*

Vs.

\*

No. 2006-01431-CD

Craig Houchins  
Richard Fullington  
Defendant(s)

\*

SUBPOENA TO PRODUCE DOCUMENTS OR THINGS FOR DISCOVERY PURSUANT TO  
RULE 4009.22

TO: Josefina M. Candelaria, M.D., 303 Grant Avenue, Pittsburgh, PA  
(Name of Person or Entity) 15209

Within twenty (20) days after service of this subpoena, you are ordered by the Court to produce the following documents or things:

See Attached

(Address)

You may deliver or mail legible copies of the documents or produce things requested by this subpoena, together with the certificate of compliance, to the party making this request at the address listed above. You have the right to seek in advance the reasonable cost of preparing the copies or producing the things sought.

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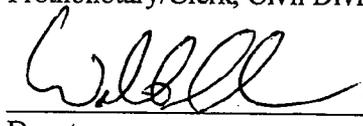
THIS SUBPOENA WAS ISSUED AT THE REQUEST OF THE FOLLOWING PERSON:

NAME: Tracey G. Benson, Esq.  
ADDRESS: 124 N. Allegheny Street  
Bellefonte, PA 16823  
TELEPHONE: 814-355-5474  
SUPREME COURT ID # 34984  
ATTORNEY FOR: Def. Craig Houchins

BY THE COURT:

William A. Shaw  
Prothonotary/Clerk, Civil Division

DATE: Wednesday, March 24, 2010  
Seal of the Court

  
~~Deputy~~

WILLIAM A. SHAW  
Prothonotary  
My Commission Expires  
1st Monday in Jan, 2014  
Clearfield Co., Clearfield, PA

## **ATTACHMENT**

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS )  
 )  
 Defendant. )

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Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL

By: Tracey G. Benson  
Tracey G. Benson

Dated: July 26, 2010

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CRAIG HOUCHINS, )  
 )  
 Defendant. )

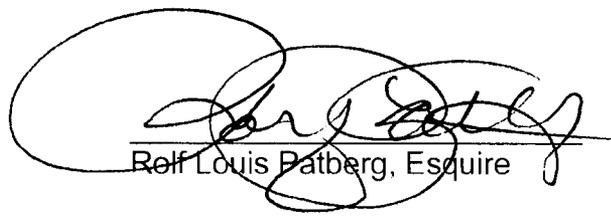
Civil Action No. 06-1431-CD

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William A. Shaw  
Prothonotary/Clerk of Courts  
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**STIPULATION WITHDRAWING INCOME LOSS  
AND IMPAIRMENT OF EARNING CAPACITY CLAIMS**

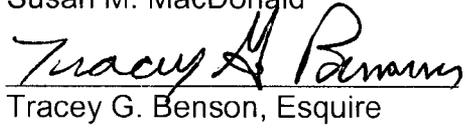
Plaintiff, Susan M. MacDonald, by her counsel Rolf Louis Patberg, Esquire, and with the consent of defendant Craig Houchins, by his counsel, Tracey G. Benson, Esquire, hereby withdraws, with prejudice, any and all claims for loss of income and impairment of earning capacity as alleged in paragraph 18(d) of the Complaint, and stipulates that plaintiff will not assert at trial any such claims against the defendant in this case.

Dated: 9-21-11

  
Rolf Louis Patberg, Esquire

Counsel for Plaintiff  
Susan M. MacDonald

Dated: Sept-21, 2011

  
Tracey G. Benson, Esquire

Counsel for Defendant  
Craig Houchins

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 06-1431-CD  
 )  
 CRAIG HOUCHINS )  
 )  
 Defendant. )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Stipulation Withdrawing Income Loss and Impairment of Earning Capacity Claims**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL

By:   
Tracey G. Benson

Dated: September 22, 2011

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

**PRAECIPE FOR TRIAL**

Defendant.

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS  
PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUTSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

5 FILED No. CC  
M 11:22 AM  
FEB 27 2012

William A. Shaw  
Prothonotary/Clerk of Courts

66

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

**PRAECIPE FOR TRIAL**

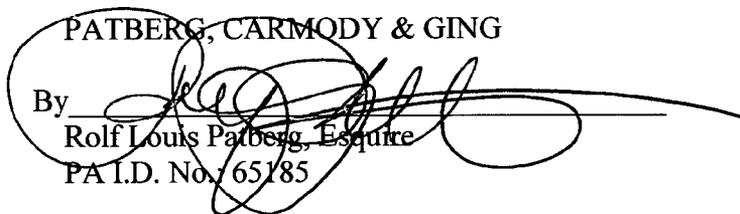
TO: PROTHONOTARY

Please kindly place this matter on the next available trial list. The undersigned hereby certifies as follows:

- a. There are no motions that are outstanding;
- b. Discovery has been completed and the case is ready for trial;
- c. Plaintiff requests a trial by jury.

RESPECTFULLY SUBMITTED:

DATE: 8-22-12

PATBERG, CARMODY & GING  
By   
Rolf Louis Patberg, Esquire  
PA I.D. No. 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

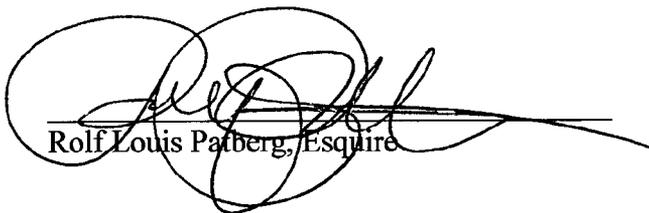
Attorney for Plaintiff

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Praecipe for Trial was forwarded this 22 day of February, 2012 via postage prepaid U.S. Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

  
Rolf Louis Patberg, Esquire



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

SUSAN M. MacDONALD,

Plaintiff,

vs.

CRAIG HOUCHINS and  
RICHARD FULLINGTON,

Defendants.

CIVIL DIVISION

No.: 2006-1431-CD

PRAECIPE TO WITHDRAW  
APPEARANCE

Filed on Behalf of Plaintiff,  
Susan M. MacDonald

Counsel of Record:

ROBERT C. EDDINS, ESQ.  
PA ID #25453

1097 Tall Trees Drive  
Pittsburgh, PA 15241

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William A. Shaw  
Prothonotary/Clerk of Courts  
no 46

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA

CIVIL DIVISION

SUSAN M. MacDONALD,	:	
Plaintiff,	:	
Vs.	:	No.: 2006-1431-CD
	:	
CRAIG HOUCHINS and	:	
RICHARD FULLINGTON,	:	
Defendants.	:	

PRAECIPE TO WITHDRAW APPEARANCE

To: Prothonotary, Clearfield County

Please withdraw my appearance on behalf of Plaintiff, Susan M. MacDonald.

Respectfully submitted:

  
Robert C. Eddins, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,	)	CIVIL DIVISION - LAW
	)	
Plaintiff,	)	No. 06-1431-CD
	)	
v.	)	Type of Case - Motor Vehicle
	)	
CRAIG HOUCHINS,	)	Type of Filing
	)	<b>Defendant Craig Houchins'</b>
Defendant.	)	<b>Motion for Summary Judgment</b>

Filed on Behalf of Defendant  
Craig Houchins

Counsel of Record for Parties:

Tracey G. Benson, Esquire  
Pa. I.D. 34984  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

FILED  
 01:30p.m. GK  
 APR 04 2012  
 ICC Atty  
 GK

William A. Shaw  
Prothonotary/Clerk of Courts

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW**

SUSAN M. MACDONALD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-1431-CD
	)	
CRAIG HOUCHINS	)	
	)	
Defendant.	)	

**DEFENDANT CRAIG HOUCHINS' MOTION FOR SUMMARY JUDGMENT**

Defendant, Craig Houchins, by his counsel Tracey G. Benson, Esquire and Miller, Kistler & Campbell files this Motion for Summary Judgment seeking dismissal of the claims asserted against him in the Complaint by plaintiff Susan M. MacDonald. In support of this Motion, Craig Houchins has filed an Appendix of Exhibits, the contents of which are incorporated herein. Craig Houchins states as follows in support of his Motion:

**I. ALLEGATIONS IN THE COMPLAINT**

1. This personal injury action was commenced with the filing of a Complaint on September 5, 2006. A copy of the Complaint is included in the supporting Appendix as Exhibit A.
2. Plaintiff, Susan M. MacDonald ("MacDonald"), alleges in her Complaint that she sustained personal injuries in connection with a motor vehicle accident occurring on February 17, 2005, on Interstate 80 in Pine Township, Clearfield County, Pennsylvania.
3. McDonald alleges that defendant Craig Houchins ("Houchins") was driving a large white box truck in an eastbound direction, "and was in the process of slowing and/or

coming to a complete stop in his lane due to icy road conditions,” without having his four-way flashers activated. (Complaint, ¶19).

4. Plaintiff further alleges that she observed vehicles ahead of her that “abruptly swerved around the aforementioned truck.” (Complaint, ¶110). Rather than moving into the left hand lane after MacDonald observed that she was closing in on the box truck from behind, plaintiff continued driving in the right hand lane at her cruising speed until she was following too closely for safety. When she attempted to apply her brakes to avoid crashing into the box truck, “plaintiff’s vehicle slid out of control on ice.” (Complaint, ¶111).

MacDonald collided into the rear-end of the box truck.

5. Plaintiff alleges the following acts of negligence on the part of Houchins in the Complaint:

15. The negligence and reckless of the Defendant, Craig Houchins, consisted of the following:

- a. In failing to properly operate and control his vehicle;
- b. In driving in a reckless manner;
- c. In failing to be property attentive while operating said vehicle;
- d. In failing to take appropriate action to avoid a collision;
- e. In being inattentive to approaching traffic;
- f. In violating 75 Pa.C.S.A. §4305, Vehicular Hazard Signal Lamps;
- g. In violating 75 Pa.C.S.A. §3364, Minimum Speed Regulations;
- h. In failing to exercise the degree of care and caution required of a driver of a motor vehicle on public highways in the Commonwealth of Pennsylvania;

- i. In failing to drive his vehicle completely off the road so as not to unreasonably obstruct traffic.

(Complaint, ¶15). Plaintiff conceded in her deposition that the negligence claims are based only upon Houchins speed and his alleged failure to have the four-way flashers on to warn motorists that he was traveling slowly. (Appendix, Exhibit I, MacDonald Depo. (09/21/11), pp. 48 – 48).

6. In his Answer and New Matter, Houchins alleged that the collision of the MacDonald vehicle into the rear-end of the box truck was caused by the negligence of MacDonald, as follows:

22. The defendants aver that the incident alleged in the Complaint was caused, in whole or in part, by the careless, negligent, and reckless conduct of plaintiff, as follows:

- a. In driving her vehicle at an unsafe speed at the time and place alleged in the Complaint, and in a manner that was too fast for the actual and/or potential hazards and conditions then and there prevailing;
- b. In failing to maintain the assured clear distance ahead;
- c. In failing to reduce her speed in response to deteriorating winter weather and visibility conditions then and there prevailing;
- d. In failing to leave sufficient distance between plaintiff's vehicle and vehicles traveling in an east bound direction on Interstate 80 directly ahead of plaintiff, including the truck being operated by Craig Houchins, such that plaintiff could slow, stop, or take any necessary evasive action in order to avoid colliding into the rear of plaintiff's truck;
- e. In failing to slow her vehicle in response to visual cues that traffic ahead was moving at a slower rate of speed than plaintiff;

- f. In failing to observe, and to heed, visual cues which indicated that the defendant's truck had reduced speed while traveling east bound into deteriorating weather conditions;
- g. In failing to observe, and to heed, any slippery conditions on the surface of the highway that plaintiff alleges existed at the date, time and place alleged in the Complaint;
- h. In failing to bring her vehicle to a complete and safe stop without colliding into the rear of defendants' truck;
- i. In failing to be continuously alert;
- j. In failing to take appropriate evasive action to avoid collision with any portion of defendant's vehicle;
- k. In failing to perceive any danger that plaintiff alleges existed by virtue of the operation of defendant's vehicle at the time and place alleged in the Complaint;
- l. In failing to yield the right-of-way to defendant's vehicle which was lawfully traveling in an eastbound direction in the right hand travel lane of Interstate 80 at the time and place of the collision;
- m. In operating her vehicle in a manner which violated the statutes, laws and rules of the road applicable to motor vehicles traveling along the highways of Pennsylvania at the time, place, and under the circumstances then and there prevailing, including: 75 Pa.C.S.A. §§3310 and 3361.

(Answer and New Matter, ¶22).

7. Counsel for plaintiff has filed a Praecipe to List for Trial (Appendix, Exhibit E), in which plaintiff certified that discovery is complete, and that the case is ready for trial. Accordingly, the factual record is now complete, and Craig Houchins' challenge to plaintiff's negligence claims on the ground of lack of causation, is ripe for decision.

## **II. STANDARD OF DECISION**

8. The standard to be used in determining whether to grant a motion for summary judgment is well-established. Rule 1035.2(2) provides that summary judgment shall be granted “if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.” Pa.R.Civ.P. 1035.2.

9. In determining whether to grant summary judgment, a trial court must resolve all doubts against the moving party and examine the record in light most favorable to the non-moving party. Kelly v. Ziolko, 705 A.2d 868, 870 (Pa.Super. 1997).

10. In order to survive summary judgment, a plaintiff must present evidence to create a question of material fact on each element of the claim. Barnish v. KWI Bldg. Co., 980 A.2d 535, 547 (Pa.2009).

11. An adverse party may not defeat a motion for summary judgment based upon the mere allegations or denials of the pleadings. Pa.R.Civ.P. 1035.3(a).

## **III. THE DEPOSITION TESTIMONY GIVEN BY SUSAN MACDONALD ESTABLISHES THAT THE MOTOR VEHICLE COLLISION WAS NOT PROXIMATELY CAUSED BY ANY CONDUCT ON THE PART OF DEFENDANT CRAIG HOUCHINS.**

12. Although plaintiff alleges in paragraph 15 of the Complaint that the subject collision was caused by the negligent conduct of defendant Houchins, plaintiff’s own deposition testimony, which constitutes admissions that are cognizable on a motion for summary judgment, establishes a lack of causation between any conduct or admissions on

the part of Houchins, and the action of MacDonald in colliding into the rear of the box truck.

13. Although there are significant differences in the chronology of events as reflected in the deposition testimony given by Craig Houchins, and in the Crash Report, the version of events testified to by Susan MacDonald in her depositions constitute admissions that are binding on the plaintiff, as follows:

- a. That prior to the collision, Susan MacDonald was traveling in an eastbound direction on I-80 between the DuBois exit and Clearfield (MacDonald Depo. (11/20/09), pp. 124 - 125);
- b. That the weather was clear prior to the collision, and that there was no snow or other precipitation occurring anywhere between the DuBois exit and the site of the collision (MacDonald Depo. (11/20/09) p. 147);
- c. That the road conditions were dry on I-80 prior to the point where MacDonald alleges she slid on “black ice” causing her to collide into the rear of the box truck driven by Houchins (MacDonald Depo. (11/20/09), pp. 142 - 143);
- d. That MacDonald was traveling at a speed of 65 to 70 miles per hour (Macdonald Depo. (11/20/09), p. 149);
- e. That prior to the collision, and while MacDonald was approaching the box truck from a location at least one hundred yards behind the box truck, MacDonald observed three or four other vehicles traveling closely behind the box truck (MacDonald Depo. (11/20/09), pp. 124 – 127);
- f. That MacDonald believed the box truck was either stopped, or moving forward slowly in the right hand travel lane in an eastbound direction (MacDonald Depo. (11/20/09), pp. 126 - 127);
- g. That MacDonald realized that “something wasn’t right” when she observed the vehicles ahead swerve abruptly the box truck to pass it in the left-hand passing lane going eastbound on I-80

(MacDonald Depo. (11/20/09), pp. 126 - 127; MacDonald Depo. (09/21/11), p. 29);

- h. That even though MacDonald knew from watching the vehicles up ahead that she “needed to stay back,” she continued to approach the box truck from behind in the right hand travel lane without moving into the left-hand passing lane in order to get around the slower mover box truck (MacDonald Depo. (11/20/09), pp. 125 – 126);
- i. That when MacDonald got so close to the rear of the box truck that she applied her brakes, she slid on “black ice” on the surface of the highway (MacDonald Depo. (11/20/09), pp. 127);
- j. That MacDonald had not previously encountered, or otherwise been aware, that there was any ice on the driving lanes of the highway before she applied her brakes (MacDonald Depo. (11/20/09), pp. 166 - 169); and
- k. That upon applying her brakes, the MacDonald vehicle skidded into the rear of the box truck, colliding with the ICC under ride bumper and right rear corner of the box truck (MacDonald Depo. (11/20/09), pp. 127 – 128; MacDonald Depo. (09/21/11)pp. 31 – 32).

14. According to MacDonald’s deposition testimony, the only negligent conduct of its driver, Craig Houchins, was: 1) operating the box truck at a speed lower than the minimum speed on the highway; and 2) failing to have the four-way flashers activated (MacDonald Depo. (09/21/11), pp. 43 - 48).

15. Even if the Court accepts as true for purposes of this Motion for Summary Judgment, that Houchins was traveling at a slower speed requiring that he activate the four-way flashers on the box truck, Houchins conduct is not the proximate cause of the collision and any resulting injuries to MacDonald, for the simple reason that MacDonald had an

opportunity to observe, and in-fact did observe, the position and speed of the box truck in sufficient time to avoid colliding with it, and failed to do so.

16. MacDonald's testimony that she encountered a patch of "black ice" that caused her to lose control when she applied her brakes, and collide with the rear of the box truck, highlights the remoteness of any causal link between the alleged slow speed of Houchins and the collision for which MacDonald seeks recovery against Houchins.

17. It has long been recognized in Pennsylvania law that the mere existence of negligence and the occurrence of injury are insufficient to impose liability upon anyone. Cuthbert v. City of Philadelphia, 417 Pa. 610, 209 A.2d 261 (1965). A prima facie case of negligence includes the "vitally important link of causation." Flagiello v. Crilly, 409 Pa. 389, 187 A.2d 289 (1963). The plaintiff has the burden of proving that the defendant's negligence was the proximate cause of her injury. Cushey v. Plunkard, 413 Pa. 116, 196 A.2d 295 (1964).

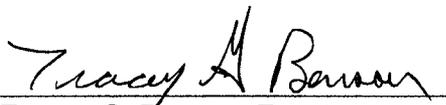
18. A plaintiff is not entitled to present her case to the jury based upon conjecture. The jury may not be permitted to reach its verdict on the basis of speculation or conjecture, and there must be evidence upon which its conclusion may be logically based. Cuthbert v. City of Philadelphia, 417 Pa. 610, 209 A.2d 261 (1965); Smith v. Bell Telephone Co. of Pa., 387 Pa. 134, 153 A.2d 477 (1959).

19. Where the relevant facts are not in dispute and the remoteness of the causal connection between the defendant's negligence and the plaintiff's injury clearly appears, the question becomes one of law for decision by the Court. See Liney v. Chestnut Motors, Inc.,

421 Pa. 26, 218 A.2d 336 (1966); Klimczak v. 7 Up Bottling Co. of Philadelphia, 385 Pa. 287, 122 A.2d 707 (1956).

20. Based upon the deposition testimony of Susan MacDonald, which is binding on her as admissions, plaintiff Susan M. MacDonald cannot establish a prima facie case of negligence against Craig Houchins at trial upon which a jury may award her recovery. See Asteew v. Zeller, 361 Pa.Super. 35, 521 A.2d 459 (1987)(deposition testimony of an adverse party may form basis for summary judgment).

WHEREFORE, defendant Craig Houchins moves for summary judgment in his favor, and against plaintiff Susan M. MacDonald, and prays that the Complaint be dismissed in its entirety, and with prejudice.

  
Tracey G. Benson, Esquire

MILLER, KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendant  
Craig Houchins

Dated: April 4, 2012

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW**

SUSAN M. MACDONALD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-1431-CD
	)	
CRAIG HOUCHINS	)	
	)	
Defendant.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Defendant Craig Houchins' Motion for Summary Judgment**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL

By:   
Tracey G. Benson, Esquire

Dated: April 4, 2012

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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,	)	CIVIL DIVISION - LAW
	)	
Plaintiff,	)	No. 06-1431-CD
	)	
v.	)	Type of Case - Motor Vehicle
	)	
CRAIG HOUCHINS,	)	Type of Filing
	)	<b>Appendix to Defendant</b>
Defendant.	)	<b>Craig Houchins' Motion for</b>
	)	<b>Summary Judgment</b>

Filed on Behalf of Defendant  
Craig Houchins

Counsel of Record for Parties:

Tracey G. Benson, Esquire  
Pa. I.D. 34984  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

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William A. Shaw  
Prothonotary/Clerk of Courts

ICC Atty  
GK

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW**

SUSAN M. MACDONALD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-1431-CD
	)	
CRAIG HOUCHINS	)	
	)	
Defendant.	)	

**APPENDIX TO DEFENDANT CRAIG HOUCHINS'  
MOTION FOR SUMMARY JUDGMENT**

Defendant Craig Houchins submits this Appendix of documents developed during discovery in this case in support of his Motion for Summary Judgment.



Tracey G. Benson, Esquire  
PA. I.D. 34984

MILLER, KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendant  
Craig Houchins

Dated: April 4, 2012

## TABLE OF CONTENTS

<u>Exhibit No.</u>	<u>Description</u>
A	Plaintiff's Complaint (filed September 5, 2006)
B	Defendant's Answer and New Matter (filed January 17, 2007)
C	Order Approving Stipulation to Discontinue as to Fewer Than All Defendants (dated February 22, 2010)
D	Stipulation Withdrawing Income Loss and Impairment of Earning Capacity Claims (filed September 23, 2011)
E	Praecipe for Trial (filed February 22, 2012)
F	Commonwealth of Pennsylvania Police Crash Reporting Form (Incident No. C04-0815077 – dated February 17, 2005)
G	Photographs of box truck (defendant's Document Numbers 136 – 145)
H	Deposition of Susan M. MacDonald (November 20, 2009)
I	Deposition of Susan M. MacDonald (September 21, 2011)
J	Deposition of Craig Houchins (November 20, 2009)

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW**

SUSAN M. MACDONALD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-1431-CD
	)	
CRAIG HOUCHINS	)	
	)	
Defendant.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Appendix to Defendant Craig Houchins' Motion for Summary Judgment**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deuschtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL

By:   
Tracey G. Benson

Dated: April 4, 2012

**EXHIBIT A**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUSAN M. MAC DONALD  
Plaintiff

vs.

CRAIG HOUCHINS and  
RICHARD FULLINGTON

Defendants

CIVIL DIVISION - LAW

No. 06-1431-CD

Type of Case - Motor Vehicle

COMPLAINT IN CIVIL ACTION

JURY TRIAL DEMANDED

Filed on behalf of SUSAN M.  
MacDONALD, Plaintiff

Counsel of Record for this Party:

**Robert C. Eddins, Esquire**

Pa. I. D. #25453

2770 South Park Road  
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(412) 831-9440 - Fax

**Thomas J. Cordaro, Esquire**

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(412) 391-5244 - Fax

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William A. Shaw  
Prothonotary/Clerk of Courts



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

SUSAN M. MacDONALD,	]	CIVIL DIVISION - LAW
	]	
Plaintiff	]	No.
vs.	]	
	]	
CRAIG HOUCHINS and RICHARD	]	
FULLINGTON	]	
	]	
Defendants	]	

**COMPLAINT IN CIVIL ACTION**

AND NOW, come the Plaintiff, SUSAN M. MacDONALD, by and through her Attorneys, ROBERT C. EDDINS, ESQ. and THOMAS J. CORDARO, ESQ., and files a Complaint in Civil Action averring as follows:

1. The Plaintiff, SUSAN M. MacDONALD, is an adult individual and a resident of Allegheny County, who resides at 917 Chester Street, Springdale, Pennsylvania 15144.
2. The Defendant, CRAIG HOUCHINS, is an individual and resident Clearfield County who resides at 1622 Pifer Road, Clearfield, PA 16830.
3. The Defendant, RICHARD FULLINGTON, is an individual and a resident of Clearfield County who resides at 929 S. 6<sup>th</sup> Street, Clearfield, PA 16830, and was at all time hereto engaged in the conduct of business in Clearfield County, Pennsylvania.
4. At all relevant times hereto, the Defendant, Craig Houchins, was the operator of a 1998 GMC Truck bearing Pennsylvania Registration No. YDF3233 and owned by Defendant, Richard Fullington.

5. At all relevant times hereto, the Defendant, Craig Houchins, was acting as the agent, servant, fellow servant, co-employee, partner, contractor, driver and/or employee of the Defendant, Richard Fullington.

6. The events hereinafter complained of occurred on February 17, 2005 on SR 80 East near the DuBois Exit, Pine Township, Clearfield County, Pennsylvania. State Route 80 is a duly dedicated highway traversing in and about the County of Clearfield in an east-west direction.

7. The posted speed limit on SR 80 in the area of the collision was 65 mph with a minimum speed limit of 40 mph.

8. At about 1:50 P.M. on the aforesaid date, Plaintiff, Susan MacDonald, was driving a 2002 Suzuki Esteem, Pennsylvania Registration No. DZV8271, in an easterly direction on SR 80 in a careful, cautious and prudent manner.

9. At the same time and place, Defendant, Craig Houchins, was traveling in an easterly direction on SR 80 in the right-hand lane, ahead of Plaintiff, and was in the process of slowing and/or coming to a complete stop in this lane due to icy road conditions; however, he negligently failed to use his four-way flashers to alert approaching drivers of his slow rate of speed and/or his intention to stop.

10. As Plaintiff, Susan MacDonald, approached the 1998 GMC truck operated by the defendant, Craig Houchins, in the right-hand lane, she observed that vehicles ahead of her abruptly swerved around the aforementioned truck.

11. When Plaintiff, Susan MacDonald, attempted to apply her brakes as she approached the truck being driven by the Defendant, Craig Houchins, Plaintiff's vehicle slid out of control on ice.

12. As a result of the negligence of defendant, Craig Houchins, as set forth above, Plaintiff, Susan MacDonald, was unable to avoid a collision with the rear of the truck operated by defendant, Craig Houchins.

13. After the collision, the weather conditions deteriorated into blizzard conditions.

14. The accident resulted solely from the negligence and recklessness of the defendant, Craig Houchins, and was due in no manner whatsoever to any act or failure to act on the part of the Plaintiff.

15. The negligence and reckless of the Defendant, Craig Houchins, consisted of the following:

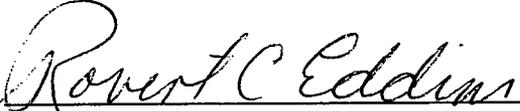
- a. In failing to properly operate and control his vehicle;
- b. In driving in a reckless manner;
- c. In failing to be properly attentive while operating said vehicle;
- d. In failing to take appropriate action to avoid a collision;
- e. In being inattentive to approaching traffic;
- f. In violating 75 Pa.C.S.A. § 4305, Vehicular Hazard Signal Lamps;
- g. In violating 75 Pa.C.S.A. § 3364, Minimum Speed Regulations;
- h. In failing to exercise the degree of care and caution required of a driver of a motor vehicle on public highways in the Commonwealth of Pennsylvania;
- i. In failing to drive his vehicle completely off the road so as not to unreasonably obstruct traffic.

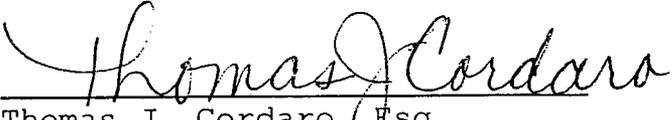
- b) Her health, strength and vitality have been impaired;
- c) Medical and hospital expenses, both past and future, and
- d) Loss of income and impairment of earning capacity.

WHEREFORE, Plaintiff, SUSAN MacDONALD, claims damages of the Defendants, CRAIG HOUCHINS and RICHARD FULLINGTON, for an amount in excess of Twenty Thousand Dollars (\$20,000.00).

A JURY TRIAL IS HEREBY DEMANDED.

Respectfully submitted,

  
Robert C. Eddins, Esq.

  
Thomas J. Cordaro, Esq.

Attorneys for the Plaintiff,  
Susan MacDonald

**VERIFICATION**

I, SUSAN MacDONALD, hereby verify that the facts contained in the foregoing COMPLAINT IN CIVIL ACTION are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities and is given pursuant to the provisions for verification of pleadings as defined and provided for in Rule 1024 of the Pennsylvania Rules of Civil Procedure.

  
\_\_\_\_\_  
Susan MacDonald

Date: 8-31-2006

**EXHIBIT B**



IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
)  
Plaintiff, )  
)  
v. ) Civil Action No. 06-1431-CD  
)  
CRAIG HOUCHINS and )  
RICHARD FULLINGTON, )  
)  
Defendants. )

**ANSWER AND NEW MATTER TO PLAINTIFF'S COMPLAINT**

Defendants Craig Houchins ("Houchins") and J. Richard Fullington, Jr. ("Fullington") (collectively referred to as "the defendants"), by their counsel Tracey G. Benson, Esquire and Miller, Kistler, Campbell, Miller, Williams & Benson, Inc., respond to the Complaint of plaintiff Susan M. MacDonald, and state as follows:

**ANSWER**

1. The defendants admit only that plaintiff Susan M. MacDonald is an adult individual. The defendants are without knowledge or information sufficient to form a belief as to the truth of any remaining allegations contained in paragraph 1 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

2. The defendants admit that Craig Houchins is an adult individual residing at 1622 Pifer Road, Clearfield, PA 16830.

3. The defendants admit that J. Richard Fullington, Jr. is an adult individual. Defendants deny that Fullington currently resides at 929 S. 6<sup>th</sup> Street, Clearfield, PA 16830. To the contrary, Fullington avers that he currently resides at 504 Sabula Outing

Club Road, DuBois, Clearfield County, Pennsylvania 15801. Any remaining allegations contained in paragraph 3 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e).

4. The defendants admit only that on February 17, 2005, Craig Houchins was operating a 1998 GMC 7500 Series truck bearing Pennsylvania Registration No. YDF3233. It is admitted also that said vehicle was owned by defendant J. Richard Fullington, Jr., and was being driven by Houchins pursuant to a Consumer Rental Agreement lease between Fullington and Clearfield Powdered Metals, Inc..

5. The defendants deny that at any time relevant to the matters alleged in plaintiffs' Complaint that Craig Houchins was acting as an agent, servant, fellow servant, co-employee, partner, contractor, driver and/or employee of defendant J. Richard Fullington, Jr. To the contrary, on the date of the accident alleged in plaintiffs' Complaint, Houchins was driving said vehicle in the course and scope of his duties as an employee of Allegheny Clearfield, Inc.

6. The defendants admit only that on February 15, 2005, the 1998 GMC 7500 series truck being operated by Houchins was struck from behind by a motor vehicle that was owned and operated by plaintiff Susan M. MacDonald, and that said collision occurred on Interstate 80 near the DuBois exit in Pine Township, Clearfield County, Pennsylvania. Any remaining allegations contained in paragraph 6 of the Complaint are denied.

7. The defendants admit, on information and belief, that the posted speed limit on Interstate 80 near the area where the collision occurred is 65 mph. Any

remaining allegations contained in paragraph 7 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e).

8. The defendants deny each and every allegation contained in paragraph 8 of plaintiff's Complaint pursuant to Pa.R.Civ.P. 1029(e).

9. The defendants admit that prior to being struck from behind by plaintiff's vehicle, Houchins had been traveling in an easterly direction in the right hand lane of Interstate 80 in a position ahead of plaintiff's vehicle. Due to deteriorating winter weather conditions, Houchins, and certain vehicles driving in the right hand lane ahead of him, had slowed to a safe speed when plaintiff collided with the rear of the Houchins vehicle. Defendants deny each and every remaining allegations contained in paragraph 9 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

10. The defendants are without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 10 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

11. The defendants are without knowledge or information sufficient to form a belief as to the truth of any allegations contained in paragraph 11 of the Complaint, said allegations are deemed to be denied, and proof thereof is demanded.

12. The defendants deny each and every allegation contained in paragraph 12 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

13. The defendants admit only that at the time and place of the collision alleged in plaintiff's Complaint, the winter weather conditions in that locality had deteriorated to the point where visibility was impaired and snow had begun to

accumulate on the highway. Any remaining allegations contained in paragraph 13 of the Complaint are denied pursuant to Pa.R.Civ.P. 1029(e).

14. The defendants deny each and every allegation contained in paragraph 14 of the Complaint pursuant to Pa.R.Civ.P. 1029(e).

15. The defendants deny each and every allegation contained in paragraph 15, including subparagraphs (a) through (i) of plaintiff's Complaint pursuant to Pa.R.Civ.P. 1029(e).

16. The allegations contained in paragraph 16 of plaintiff's Complaint constitute conclusions of law to which no response is required. To the extent that any response is deemed to be required, defendants deny each and every allegations contained in paragraph 16 of plaintiff's Complaint pursuant to Pa.R.Civ.P. 1029(e).

17. The defendants deny each and every allegation contained in paragraph 17, including subparagraphs (a) through (k) of plaintiff's Complaint pursuant to Pa.R.Civ.P. 1029(e).

18. The defendants deny each and every allegation contained in paragraph 18, including subparagraphs (a) through (d) of plaintiff's Complaint pursuant to Pa.R.Civ.P. 1029(e).

WHEREFORE, defendants Craig Houchins and J. Richard Fullington, Jr. pray that the claims asserted against them by plaintiff Susan M. MacDonald, be dismissed with prejudice, and that judgment be entered in favor of the defendants and against the plaintiff on all claims contained in the Complaint.

**NEW MATTER**

19. The defendants aver that the Complaint fails to state any claim upon which relief can be granted.

20. The defendants aver that plaintiff's claims are subject to, and limited by, the provisions of the Pennsylvania Comparative Negligence Act.

21. In order to preserve any defense of contributory negligence pending further investigation and discovery, defendants aver that plaintiff's claims are barred by the contributory negligence of plaintiff.

22. The defendants aver that the incident alleged in the Complaint was caused, in whole or in part, by the careless, negligent, and reckless conduct of plaintiff, as follows:

- a. In driving her vehicle at an unsafe speed at the time and place alleged in the Complaint, and in a manner that was too fast for the actual and/or potential hazards and conditions then and there prevailing;
- b. In failing to maintain the assured clear distance ahead;
- c. In failing to reduce her speed in response to deteriorating winter weather and visibility conditions then and there prevailing;
- d. In failing to leave sufficient distance between plaintiff's vehicle and vehicles traveling in an east bound direction on Interstate 80 directly ahead of plaintiff, including the truck being operated by Craig Houchins, such that plaintiff could slow, stop, or take any

necessary evasive action in order to avoid colliding into the rear of plaintiff's truck;

- e. In failing to slow her vehicle in response to visual cues that traffic ahead was moving at a slower rate of speed than plaintiff;
- f. In failing to observe, and to heed, visual cues which indicated that the defendant's truck had reduced speed while traveling eastbound into deteriorating weather conditions;
- g. In failing to observe, and to heed, any slippery conditions on the surface of the highway that plaintiff alleges existed at the date, time and place alleged in the Complaint;
- h. In failing to bring her vehicle to a complete and safe stop without colliding into the rear of defendant's truck;
- i. In failing to be continuously alert;
- j. In failing to take appropriate evasive action to avoid collision with any portion of defendant's vehicle;
- k. In failing to perceive any danger that plaintiff alleges existed by virtue of the operation of defendant's vehicle at the time and place alleged in the Complaint;
- l. In failing to yield the right-of-way to defendant's vehicle which was lawfully traveling in an eastbound direction in the right hand travel lane of Interstate 80 at the time and place of the collision;

m. In operating her vehicle in a manner which violated the statutes, laws and rules of the road applicable to motor vehicles traveling along the highways of Pennsylvania at the time, place, and under the circumstances then and there prevailing, including: 75 Pa.C.S.A. §§3310 and 3361.

23. The defendants aver that plaintiff's claims are subject to, and limited by, the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended.

24. The defendants aver that plaintiff's claims are subject to, and limited by, any insurance coverage elections, including but not limited to, elections for applicable tort coverage, arising under the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Law, as amended.

25. The defendants aver that plaintiff has not sustained any serious injuries as required by the Pennsylvania Motor Vehicle Financial Responsibility Law, sufficient to give rise to the causes of action set forth in the Complaint.

26. The defendants aver that if plaintiff sustained any of the injuries, losses or damages alleged in the Complaint, which is denied, said injuries were caused or arose, in whole or in part, as a result of forces, actions, conduct and omissions of others over whom the defendants had neither the opportunity, nor duty, of control.

27. The defendants aver that to the extent plaintiff has sustained any of the

injuries, losses, or damages alleged in the Complaint, which is denied, some or all of said injuries, losses, or damages were not caused by any conduct on the part of the defendants.

28. The defendants aver that some or all of the injuries, losses, or damages alleged in the Complaint were the result of pre-existing or subsequent injuries, diseases, conditions, or processes that are unrelated to the accident alleged in the Complaint or any conduct on the part of defendants.

29. The defendants aver that Craig Houchins acted at all times in a manner that was reasonable under the circumstances, and in compliance with all applicable laws, and rules of the road then and there prevailing.

30. The defendants aver that Craig Houchins operated his vehicle in a reasonable manner in response to deteriorating weather and visibility conditions that constituted a sudden emergency not of his making, sufficient to give rise to a defense under the Sudden Emergency Doctrine.

31. The defendants aver that some or all of plaintiff's claims are barred by any applicable statute of limitations.

31. The defendants aver that defendant J. Richard Fullington, Jr. is not vicariously or otherwise liable for any conduct of defendant Craig Houchins as alleged in plaintiff's Complaint.

WHEREFORE Defendants Craig Houchins and J. Richard Fullington, Jr. pray that the claims asserted against them by plaintiff, Susan M. MacDonald, be dismissed with prejudice, and that judgment be entered in favor of the defendants and against the plaintiff on all counts contained in the Complaint.

**A JURY TRIAL IS DEMANDED.**

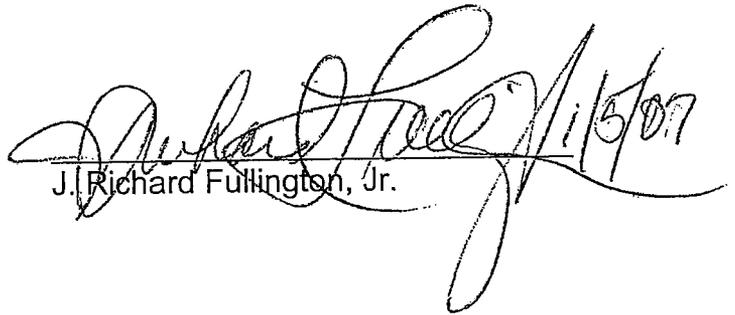
  
Tracey G. Benson  
MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS & BENSON, INC.  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474  
Counsel for Defendants  
Craig Houchins and J. Richard Fullington, Jr.

Dated: January 16, 2007

**VERIFICATION**

I, **J. Richard Fullington, Jr.**, state that the facts contained in the foregoing Answer and New Matter to Plaintiff's Complaint are true and correct to the best of my knowledge, information and belief.

I make this Verification pursuant to 18 Pa.C.S.A., Section 4904 pertaining to unsworn falsification to authorities.

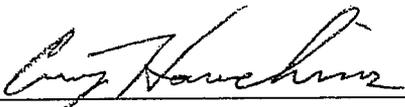


J. Richard Fullington, Jr.

**VERIFICATION**

I, **Craig Houchins**, state that the facts contained in the foregoing **Answer and New Matter to Plaintiff's Complaint** are true and correct to the best of my knowledge, information and belief.

I make this Verification pursuant to 18 Pa.C.S.A., Section 4904 pertaining to unsworn falsification to authorities.

  
\_\_\_\_\_  
Craig Houchins

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 ) Plaintiff, )  
 )  
 ) v. ) Civil Action No. 06-1431-CD  
 )  
 ) CRAIG HOUCHINS and )  
 ) RICHARD FULLINGTON, )  
 )  
 ) Defendants. )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Answer and New Matter**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Robert C. Eddins, Esquire  
2770 South Park Road  
Bethel Park, PA 15102

Thomas J. Cordaro, Esquire  
Suite 619 Corporate Center  
One Bigelow Square  
Pittsburgh, PA 15219

MILLER, KISTLER, CAMPBELL,  
MILLER, WILLIAMS & BENSON INC.

By: Tracey G. Benson  
Tracey G. Benson

Dated: January 16, 2007

# **EXHIBIT C**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,

Plaintiff,

v.

CRAIG HOUCHINS and  
RICHARD FULLINGTON,

Defendants.

Civil Action No. 06-1431-CD

ORDER APPROVING STIPULATION TO  
DISCONTINUE AS TO FEWER THAN ALL DEFENDANTS

AND NOW, this 22<sup>nd</sup> day of February, 2010, pursuant to a Stipulation  
joined by all parties herein, a copy of which is attached hereto, the Court does hereby  
ORDER, DIRECT and DECREE as follows:

1. Defendant J. Richard Fullington, Jr. is hereby dismissed as a party to this action.
2. The case will proceed against defendant Craig Houchins.
3. The Prothonotary is directed to strike Richard Fullington from the caption herein.

I hereby certify this to be a true  
and attested copy of the original  
statement filed in this case.

4. The parties shall use the following caption on all further pleadings filed in connection with this matter: "Susan M.

FEB 22 2010

MacDonald, Plaintiff v. Craig Houchins, Defendant."

Attest.

*William A. Shaw*  
Prothonotary/  
Clerk of Courts

BY THE COURT:  
/S/ Fredric J Ammerman

J

ATTACHMENT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,

Plaintiff,

v.

CRAIG HOUCHINS and  
RICHARD FULLINGTON,

Defendants.

) CIVIL DIVISION - LAW  
)

) No. 06-1431-CD  
)

) Type of Case - Motor Vehicle  
)

) Type of Filing  
) Stipulation to Discontinue  
) as to Fewer Than  
) All Defendants  
)

) Filed on Behalf of Defendants  
) Craig Houchins and  
) J. Richard Fullington, Jr.  
)

) Counsel of Record for Parties:  
)

) Tracey G. Benson, Esquire  
) Pa. I.D. 34984  
) MILLER KISTLER & CAMPBELL  
) 124 North Allegheny Street  
) Bellefonte, PA 16823  
) (814) 355-5474

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,

Plaintiff,

v.

CRAIG HOUCHINS and  
RICHARD FULLINGTON,

Defendants.

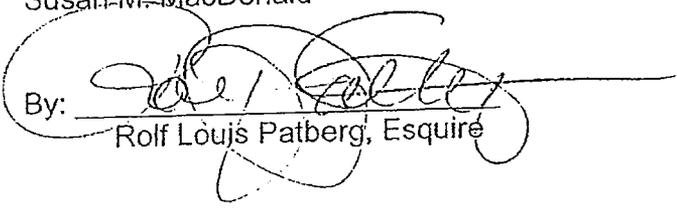
Civil Action No. 06-1431-CD

STIPULATION TO DISCONTINUE AS TO FEWER THAN ALL DEFENDANTS

Plaintiff, Susan M. MacDonald, by her counsel Rolf Louis Patberg, Esquire and defendants Craig Houchins and J. Richard Fullington, Jr., by and through their counsel, Tracey G. Benson, Esquire hereby stipulate that defendant J. Richard Fullington, Jr. is dismissed from the case, with prejudice, and that the caption shall be amended as follows: "Susan M. MacDonald, Plaintiff v. Craig Houchins, Defendant."

Susan M. MacDonald

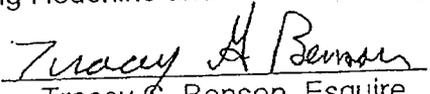
Dated: 2-11-10

By: 

Rolf Louis Patberg, Esquire

Craig Houchins and Richard Fullington

Dated: February 16, 2010

By: 

Tracey G. Benson, Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,

Plaintiff,

v.

CRAIG HOUCHINS and  
RICHARD FULLINGTON,

Defendants.

Civil Action No. 06-1431-CD

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Stipulation to Discontinue as to Fewer than all Defendants**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL,

By:   
Tracey G. Benson

Dated: February 18, 2010

# **EXHIBIT D**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 CRAIG HOUCHINS, )  
 )  
 Defendant. )

I hereby certify this to be a true and attested copy of the original statement filed in this case.

SEP 23 2011

Civil Action No. 06-1431-CD

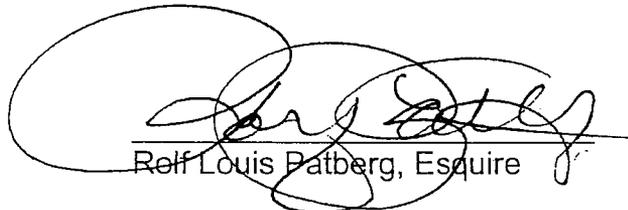
Attest.

*William L. ...*  
Prothonotary  
Clerk of Court

**STIPULATION WITHDRAWING INCOME LOSS  
AND IMPAIRMENT OF EARNING CAPACITY CLAIMS**

Plaintiff, Susan M. MacDonald, by her counsel Rolf Louis Patberg, Esquire, and with the consent of defendant Craig Houchins, by his counsel, Tracey G. Benson, Esquire, hereby withdraws, with prejudice, any and all claims for loss of income and impairment of earning capacity as alleged in paragraph 18(d) of the Complaint, and stipulates that plaintiff will not assert at trial any such claims against the defendant in this case.

Dated: 9-21-11

  
Rolf Louis Patberg, Esquire

Counsel for Plaintiff  
Susan M. MacDonald

Dated: Sept-21, 2011

  
Tracey G. Benson, Esquire

Counsel for Defendant  
Craig Houchins

**EXHIBIT E**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
)  
Plaintiff, ) NO.: 06-1431-CD  
)  
v. )  
)  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
)  
Defendant. ) **JURY TRIAL DEMANDED**

**PRAECIPE FOR TRIAL**

TO: PROTHONOTARY

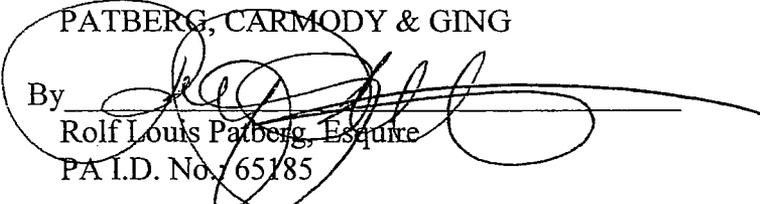
Please kindly place this matter on the next available trial list. The undersigned hereby certifies as follows:

- a. There are no motions that are outstanding;
- b. Discovery has been completed and the case is ready for trial;
- c. Plaintiff requests a trial by jury.

RESPECTFULLY SUBMITTED:

DATE: 8-22-12

PATBERG, CARMODY & GING

By 

Rolf Louis Patberg, Esquire  
PA I.D. No. 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

Attorney for Plaintiff

**JURY TRIAL DEMANDED**

**EXHIBIT F**

COMMONWEALTH OF PENNSYLVANIA  
 NIA POLICE CRASH REPORTING FORM



Crash Number

AA 500 1

Case Closed  Yes  No  
 Reportable Crash  Yes  No

Page 01

P0536086

Police Agency Data	Incident Number	C04-0815077										Police Agency	68C04		Patrol Zone	071			
	Agency Name	PA STATE POLICE										Precinct	DUBOIS/1340		Investigation Date (MM-DD-YYYY)	02-17-2005			
	Dispatch Time (m)	1404		Arrival Time (m)	1428		Investigator	TPR ERIC C. MCKEE				Badge Number	06177						
Crash Data	Reviewer	CPL NE TANGHEM, JN										Badge Number	05578		Approval Date (MM-DD-YYYY)	02-18-2005			
	County	17 CLEARFIELD		Municipality	227 PINE TWP		Municipality Name					Day of Week	<input type="radio"/> Sun <input checked="" type="radio"/> Thu <input type="radio"/> Mon <input type="radio"/> Fri <input type="radio"/> Tue <input type="radio"/> Sat <input type="radio"/> Wed <input type="radio"/> Unk						
	Crash Date (MM-DD-YYYY)	02-17-2005		Crash Time (m)	1350		No of Units	02		People Injured	00		Killed*	00		*If > 00 complete Form F			
Loc Type	Workzone (If Yes, Complete Form M, Section 29)	<input type="radio"/> Yes <input checked="" type="radio"/> No		School Bus Related	<input type="radio"/> Yes <input checked="" type="radio"/> No		School Zone Related	<input type="radio"/> Yes <input checked="" type="radio"/> No		Notify PENNDOT Maintenance	<input type="radio"/> Yes <input checked="" type="radio"/> No		Special Location	00		* See Overlay			
	Intersection Type	<input checked="" type="radio"/> Midblock		<input type="radio"/> 4 Way Intersection	<input type="radio"/> "Y" Intersection		<input type="radio"/> Multi-Leg Intersection	<input type="radio"/> Off Ramp		<input type="radio"/> Railroad Crossing	<input type="radio"/> Other								
	Route Number	0080		Segment (Optional)			Travel Lanes	02		Speed Limit	65		House Number (if applicable)						
Principal Road	Street Name											Street Ending			Orientation	<input type="radio"/> North <input type="radio"/> South <input checked="" type="radio"/> East <input type="radio"/> West <input type="radio"/> Unknown			
	Route Signing	<input checked="" type="radio"/> Interstate (Not Turnpike)		<input type="radio"/> Turnpike (East/West)	<input type="radio"/> Turnpike Spur		<input type="radio"/> State Highway	<input type="radio"/> County Road		<input type="radio"/> Local Road or Street	<input type="radio"/> Private Road		<input type="radio"/> Other/Unknown						
	Route Number			Segment (Optional)			Travel Lanes			Speed Limit									
Intersecting Road	Street Name											Street Ending			Orientation	<input type="radio"/> North <input type="radio"/> South <input type="radio"/> East <input type="radio"/> West <input type="radio"/> Unknown			
	Route Signing	<input type="radio"/> Interstate (Not Turnpike)		<input type="radio"/> Turnpike (East/West)	<input type="radio"/> Turnpike Spur		<input type="radio"/> State Highway	<input type="radio"/> County Road		<input type="radio"/> Local Road or Street	<input type="radio"/> Private Road		<input type="radio"/> Other/Unknown						
	Route Number			Segment (Optional)			Travel Lanes			Speed Limit									
Distance From Landmark	Please Enter Information for BOTH Landmarks If Using This Option	Landmark 1	Intersecting Rt Num Or Mile Post		Or Segment Marker						Ramp Use Only		<input type="radio"/> North <input type="radio"/> South <input type="radio"/> East <input type="radio"/> West		Feet				
		Or Intersecting Street Name													Or Miles				
		Landmark 2	Intersecting Rt Num Or Mile Post		Or Segment Marker						Ramp Use Only		<input type="radio"/> North <input type="radio"/> South <input type="radio"/> East <input type="radio"/> West		Distance from Crash Scene to Landmark 1 (For Crash between Landmark 1 and Landmark 2).				
GPS	Degrees		Minutes	Seconds	Degrees		Minutes	Seconds	Latitude		Longitude								
	41		07	01	78		32	59	41		78								
TCD	Traffic Control Device		<input checked="" type="radio"/> Not Applicable		<input type="radio"/> Traffic Signal	<input type="radio"/> Active RR Crossing Controls		<input type="radio"/> Passive RR Crossing Controls		<input type="radio"/> Unknown		Police Officer or Flagman		<input type="radio"/> Other Type TCD		TCD Functioning		<input checked="" type="radio"/> No Controls <input type="radio"/> Device Not Functioning <input type="radio"/> Device Functioning Improperly <input type="radio"/> Device Functioning Properly	
	Emergency Preemptive Signal		<input type="radio"/> Unknown																
Lane Closure	Lane Closed (If "Not Applicable", skip rest of the Lane Closure section)		<input checked="" type="radio"/> Not Applicable		<input type="radio"/> Partially	<input type="radio"/> Fully		<input type="radio"/> Unknown		Lane Closure Direction		<input type="radio"/> North <input type="radio"/> South <input type="radio"/> East <input type="radio"/> West <input type="radio"/> North and South <input type="radio"/> East and West <input type="radio"/> All (N,S,E,W)							
	Traffic Retained		<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> Unknown		Est. Time Closed		<input type="radio"/> < 30 Min <input type="radio"/> 30-60 Min <input type="radio"/> 1-3 hrs <input type="radio"/> 3-6 hrs <input type="radio"/> 6-9 hrs <input type="radio"/> > 9 hours <input type="radio"/> Unknown												

COMMONWEALTH OF PENNSYLVANIA  
POLICE CRASH REPORTING FORM



Crash Number

AA 500 2

Police Use Only  
04-0815077

Page:  
02

P0536086

10 Unit Info	<input checked="" type="checkbox"/> Motor Vehicle In Transport <input type="checkbox"/> Pedestrian (If "Pedestrian" or "Pedestrian on Skates, in Wheelchair, etc", Complete Form M, Section 28)		<input type="checkbox"/> Hit & Run Vehicle <input type="checkbox"/> Pedestrian on Skates, in Wheelchair, etc (If "Pedestrian" or "Pedestrian on Skates, in Wheelchair, etc", Complete Form M, Section 28)		<input type="checkbox"/> Illegally Parked <input type="checkbox"/> Disabled From Previous Crash (If "Pedestrian" or "Pedestrian on Skates, in Wheelchair, etc", Complete Form M, Section 28)		<input type="checkbox"/> Legally Parked <input type="checkbox"/> Train (If "Pedestrian" or "Pedestrian on Skates, in Wheelchair, etc", Complete Form M, Section 28)		<input type="checkbox"/> Non - Motorized <input type="checkbox"/> Phantom Vehicle (If Yes, Complete Form C)		<input type="checkbox"/> Commercial Vehicle <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	Unit No		First Name		MI		Date of Birth (MM-DD-YYYY)		Telephone Number		Delete	
01		SUSAN		M		11 04 1944		724-274-8540		<input type="checkbox"/>		
		Last Name								Zip		
		MAGDONALD								15144		
		Address / City / State										
		917 CHESTER ST SPRINGDALE PA										
		Driver License Number		State		Class						
		18244204		PA		C						
11 Vehicle Driver / Pedestrian Information	Alcohol/Drugs Suspected <input checked="" type="checkbox"/> No <input type="checkbox"/> Alcohol <input type="checkbox"/> Alcohol and Drugs <input type="checkbox"/> Unknown				Driver or Pedestrian Physical Condition <input checked="" type="checkbox"/> Apparently Normal <input type="checkbox"/> Had Been Drinking <input type="checkbox"/> Sick <input type="checkbox"/> Asleep <input type="checkbox"/> Unknown				<input type="checkbox"/> Medication <input type="checkbox"/> Illegal Drug Use <input type="checkbox"/> Fatigue <input type="checkbox"/> Medication			
	Alcohol Test Type <input checked="" type="checkbox"/> Test Not Given <input type="checkbox"/> Breath <input type="checkbox"/> Other <input type="checkbox"/> Unknown If Test Given				Primary Vehicle Code Violation 3361				Charged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
	Alcohol Test Results <input type="checkbox"/> Test Refused <input type="checkbox"/> Test Given, Contaminated Results <input type="checkbox"/> Unknown Results				Driver Presence <input type="checkbox"/> 1=Driver Operated Vehicle <input type="checkbox"/> 2=No Driver <input type="checkbox"/> 3=Driver Fled Scene <input type="checkbox"/> 4=Hit and Run <input type="checkbox"/> 9=Unknown				<input type="checkbox"/> 1			
	Owner/Driver		00=Not Applicable		02=Private Vehicle Not Owned/Leased by Driver		04=State Police Vehicle		07=Municipal Police Veh		09=Federal Gov Veh	
01		01=Private Vehicle Owned/Leased by Driver		03=Rented Vehicle		05=PENNDOT Vehicle		08=Other Municipal Government Vehicle		98=Other 99=Unknown		
Santa as Driver		Owner First Name		Owner Last Name or Business Name (If Pedestrian, skip this Section)								
<input checked="" type="checkbox"/>												
		Address / City / State / Zip		Vehicle Make		*Make Code						
				SUZUKI		53						
VIN		Model Year		Vehicle Model		(see overlay)						
J52G841W225400124		2002		ESTEEM								
License Plate		Reg. State		Est. Speed		Vehicle Towed		Towed By				
DZV8271		PA		050		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		JMS ATLANTIC				
Insurance		Insurance Company		Policy No								
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		TRAVELERS		975015835								
Trailing Unit		No. of Trailing Units		Type Unit		1=Towing Pass. Veh		4=Mobile/Modular Home		7=Semi-Trailer		
<input type="checkbox"/>		0		<input type="checkbox"/>		2=Towing Truck		5=Camper		8=Other		
						3=Towing Utility Trailer		6=Full Trailer		9=Unknown		
Direction of Travel		*Vehicle Position		*Movement		*See Overlay		Special Usage				
E		01		01				00		12=Commercial Passenger Carrier		
Vehicle Color		Vehicle Type		05=Large Truck		20=Unicycle, Bicycle, Tricycle		00=Not Applicable		13=Taxi		
02		01		01=Automobile		21=Other Pedalcycle		01=Fire Veh		21=Tractor Trailer		
06=Yellow		02=Motorcycle		06=SUV		22=Horse & Buggy		02=Ambulance		22=Trailer		
07=Silver		03=Bus		07=Van		23=Horse & Rider		03=Police		23=Triple Trailer		
08=Gold		04=Small Truck		10=Snowmobile		24=Train		08=Other Emergency Vehicle		91=Modified Veh		
09=Brown		(If "02", Complete Form M, Section 26)		11=Farm Equip		25=Trolley		11=Pupil Transport		99=Unknown		
10=Orange		(If "20" or "21", Complete Form M, Section 27)		12=Construction Equip		98=Other						
11=Purple				13=ATV		99=Unknown						
12=Other				18=Other Type Spec Veh								
13=Top				19=Unk. Type Spec Veh								
Initial Impact Point		Damage Indicator		Gradient		3=Downhill		Road Alignment				
12		3		2		4=Bottom of Hill		1=Straight				
00=Non-Collision		0=None		1=Level		5=Top of Hill		2=Curved				
01=12-Clock Points		1=Minor		2=Uphill		9=Unknown		9=Unknown				
14=Undercarriage		2=Functional										
15=Towed Unit		3=Disabling										
99=Unknown		9=Unknown										

COMMONWEALTH OF PENNSYLVANIA  
POLICE CRASH REPORTING FORM



Crash Number

P0536086

AA 500 2

Police Use Only  
104-0815077

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03

10 Unit Info	<input checked="" type="checkbox"/> Motor Vehicle in Transport <input type="checkbox"/> Pedestrian (If "Pedestrian" or "Pedestrian on Skates, in Wheelchair, etc", Complete Form M, Section 28)		<input type="checkbox"/> Hit & Run Vehicle <input type="checkbox"/> Pedestrian on Skates, in Wheelchair, etc		<input type="checkbox"/> Illegally Parked <input type="checkbox"/> Disabled from Previous Crash (If "Pedestrian" or "Pedestrian on Skates, in Wheelchair, etc", Complete Form M, Section 28)		<input type="checkbox"/> Legally Parked <input type="checkbox"/> Train <input type="checkbox"/> Phantom Vehicle		<input type="checkbox"/> Non - Motorized <input type="checkbox"/> Commercial Vehicle <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (If Yes, Complete Form C)				
	Unit No: 02 First Name: CRAIG MI: [ ] Date of Birth (MM-DD-YYYY): 12/09/1976 Last Name: HOWCHINS Telephone Number: 814-768-7477 Address / City / State: 1622 PFER RD CLEARFIELD PA Zip: 16830		Driver License Number: 24206222 State: PA Class: A		Alcohol/Drugs Suspected: <input checked="" type="checkbox"/> No <input type="checkbox"/> Alcohol <input type="checkbox"/> Alcohol and Drugs <input type="checkbox"/> Unknown		Driver or Pedestrian Physical Condition: <input checked="" type="checkbox"/> Apparently Normal <input type="checkbox"/> Had Been Drinking <input type="checkbox"/> Illegal Drug Use <input type="checkbox"/> Sick <input type="checkbox"/> Fatigue <input type="checkbox"/> Asleep <input type="checkbox"/> Medication <input type="checkbox"/> Unknown		Alcohol Test Type: <input checked="" type="checkbox"/> Test Not Given <input type="checkbox"/> Blood <input type="checkbox"/> Breath <input type="checkbox"/> Urine <input type="checkbox"/> Other <input type="checkbox"/> Unknown if Test Given		Primary Vehicle Code Violation: NONE Charged? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
11 Vehicle Driver / Pedestrian Information	Alcohol Test Results: <input type="checkbox"/> Test Refused <input type="checkbox"/> Test Given, Contaminated Results		Driver Presence: <input checked="" type="checkbox"/> 1=Driver Operated Vehicle <input type="checkbox"/> 2=No Driver		<input type="checkbox"/> 3=Driver Flew Scene <input type="checkbox"/> 4=Hit and Run <input type="checkbox"/> 9=Unknown		Owner/Driver: <input checked="" type="checkbox"/> 02=Private Vehicle Not Owned/Leased by Driver <input type="checkbox"/> 01=Private Vehicle Owned/Leased by Driver <input type="checkbox"/> 03=Rented Vehicle <input type="checkbox"/> 04=State Police Vehicle <input type="checkbox"/> 05=PENNDOT Vehicle <input type="checkbox"/> 06=Other State Gov Veh <input type="checkbox"/> 07=Municipal Police Veh <input type="checkbox"/> 08=Other Municipal Government Vehicle <input type="checkbox"/> 09=Federal Gov Veh <input type="checkbox"/> 98=Other <input type="checkbox"/> 99=Unknown		Same as Driver? <input type="checkbox"/> Owner First Name: RICHARD Owner Last Name or Business Name (If Pedestrian, skip this Section): FULLINGTON Address / City / State / Zip: 929 S. 6TH ST CLEARFIELD PA 16830 Vehicle Make: GMC *Make Code: 23 VIN: 1GDM7H1J9WJ502250 Model Year: 1998 Vehicle Model: C-7500 License Plate: YDF3233 Reg. State: PA Est. Speed: 035 Vehicle Towed: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Towed By:		Insurance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Un-known Insurance Company: TRAVELERS Policy No: GJCAP290D6/2504		
	Trailing Unit: No. of Trailing Units: 0 Type Unit:		1=Towing Pass. Veh 2=Towing Truck 3=Towing Utility Trailer		4=Mobile/Modular Home 5=Camper 6=Full Trailer		7=Sam-Trailer 8=Other 9=Unknown		Tag No: [ ] Tag Year: [ ] Tag St: [ ]		Direction of Travel: E *Vehicle Position: 01 *Movement: 01 *Sec Overlay:		Special Usage: <input type="checkbox"/> 00=Not Applicable <input type="checkbox"/> 01=Fire Veh <input type="checkbox"/> 02=Ambulance <input type="checkbox"/> 03=Police <input type="checkbox"/> 08=Other Emergency Vehicle <input type="checkbox"/> 11=Pupil Transport <input type="checkbox"/> 12=Commercial Passenger Carrier <input type="checkbox"/> 13=Toxi <input type="checkbox"/> 21=Tractor Trailer <input type="checkbox"/> 22=Trailer <input type="checkbox"/> 23=Triple Trailer <input type="checkbox"/> 31=Modified Veh <input type="checkbox"/> 99=Unknown
Vehicle Color: 03 06=Yellow 07=Silver 08=Gold 09=Brown 10=Orange 11=Purple 12=Other 13=Black 01=Blue 02=Red 03=White 04=Green 05=Black 99=Unknown		Vehicle Type: 04 01=Automobile 02=Motorcycle 03=Bus 04=Small Truck (If "02", Complete Form M, Section 26) (If "20" or "21", Complete Form M, Section 27)		05=Large Truck 06=SUV 07=Van 10=Snowmobile 11=Farm Equip 12=Construction Equip 13=ATV 18=Other Type Spec Veh 19=Unk. Type Spec Veh		20=Unicycle, Bicycle, Tricycle 21=Other Pedalcycle 22=Horse & Buggy 23=Horse & Rider 24=Trailer 25=Trolley 98=Other 99=Unknown		Damage Indicator: 1 0=None 1=Minor 2=Functional 3=Disabling 9=Unknown		Gradient: 2 1=Level 2=Uphill		Road Alignment: 1 3=Downhill 4=Bottom of Hill 5=Top of Hill 9=Unknown 1=Straight 2=Curved 9=Unknown	

COMMONWEALTH OF PENNSYLVANIA  
POLICE CRASH REPORTING FORM

F 536086  
Crash Number  
P 1021332

AA 500 3

Police Use Only  
04-0815077

Page  
04

**People Information**

**A Person Type:**  
1=Driver  
2=Passenger  
7=Pedestrian  
8=Other  
9=Unknown

**B Sex:**  
F=Female  
M=Male  
U=Unknown

**C Injury Severity:**  
0=Not Injured  
1=Killed  
2=Major Injury  
3=Moderate Injury  
4=Minor Injury  
8=Injury, Unknown Severity  
9=Unknown If Injury

**D Seat Position:**  
00=Not A Passenger/Occupant  
01=Driver - All Vehicles  
02=Front Seat Middle Position  
03=Front Seat Right Side  
04=Second Row - Left Side Or Motorcycle Passenger  
05=Second Row - Middle Position  
06=Second Row - Right Side  
07=Third Row Or Greater - Left Side  
08=Third Row Or Greater - Middle Position  
09=Third Row Or Greater - Right Side  
10=Sleeper Section of Truckcab  
11=In Other Enclosed Passenger Or Cargo Area  
12=In Open Area (Back Of Pickup Etc.)  
13=Trailing Unit  
14=Riding On Vehicle Exterior  
15=Bus Passenger  
98=Other  
99=Unknown

**E Safety Equipment One:**  
00=None Used / Not Applicable  
01=Shoulder Belt Used  
02=Lap Belt Used  
03=Lap And Shoulder Belt Used  
04=Child Safety Seat Used  
05=Motorcycle Helmet Used  
06=Bicycle Helmet Used  
10=Safety Belt Used Improperly  
11=Child Safety Seat Used Improperly  
12=Helmet Used Improperly  
90=Restraint Used Type Unknown  
99=Unknown

**F Safety Equipment Two:**  
00=None Used / Not Applicable  
01=Front Air Bag Deployed (For This Seat)  
02=Side Air Bag Deployed (For This Seat)  
03=Other Type Air Bag Deployed  
04=Multiple Air Bags Deployed  
05=Motorcycle Eye Protection  
06=Bicyclist Wearing Elbow/Knee/Pads  
10=Air Bag Not Deployed Switch On  
11=Air Bag Not Deployed Switch Off  
12=Air Bag Not Deployed, Unk Switch Setting  
13=Air Bag Removed (Prior To Crash)  
19=Unknown If Air Bag Deployed  
99=Unknown

**G Ejection:**  
0=Not Applicable  
1=Not Ejected  
2=Totally Ejected  
3=Partially Ejected  
9=Unknown

**H Ejection Path:**  
0=Not Ejected / Not Applicable  
1=Through Side Door Opening  
2=Through Side Window  
3=Through Windshield  
4=Through Back Door  
5=Through Back Door Tailgate Opening  
6=Through Roof Opening (Sunroof/Convertible Top Down)  
7=Through Roof Opening (Convertible Top Up)  
9=Unknown

**I Exhalation:**  
0=Not Applicable  
1=Not Exhaled  
2=Exhaled By Mechanical Means  
3=Freud By Non - Mechanical Means  
8=Other  
9=Unknown

13 EMS Agency: NONE Medical Facility: NONE

14 Unit No: 01 Person No: 01 Delete?  Date of Birth (MM-DD-YYYY) 11-04-1944 A B C D E F G H I  
1 F 0 0 1 0 3 1 2 0 0 0

Name / Address / Phone \_\_\_\_\_ EMS Transport  Yes  No

Same as Operator

Unit No: 02 Person No: 01 Delete?  Date of Birth (MM-DD-YYYY) 12-09-1976 A B C D E F G H I  
1 M 0 0 1 0 3 0 0 0 0 0

Name / Address / Phone \_\_\_\_\_ EMS Transport  Yes  No

Same as Operator

Unit No:    Person No:    Delete?  Date of Birth (MM-DD-YYYY)   -  -   A B C D E F G H I

Name / Address / Phone \_\_\_\_\_ EMS Transport  Yes  No

Same as Operator

Unit No:    Person No:    Delete?  Date of Birth (MM-DD-YYYY)   -  -   A B C D E F G H I

Name / Address / Phone \_\_\_\_\_ EMS Transport  Yes  No

Same as Operator

Unit No:    Person No:    Delete?  Date of Birth (MM-DD-YYYY)   -  -   A B C D E F G H I

Name / Address / Phone \_\_\_\_\_ EMS Transport  Yes  No

Same as Operator

Unit No:    Person No:    Delete?  Date of Birth (MM-DD-YYYY)   -  -   A B C D E F G H I

Name / Address / Phone \_\_\_\_\_ EMS Transport  Yes  No

Same as Operator



COMMONWEALTH OF PENNSYLVANIA  
POLICE CRASH REPORTING FORM



Crash Number

AA 500 5

Police Use Only  
CO4-0815077

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P 0536086

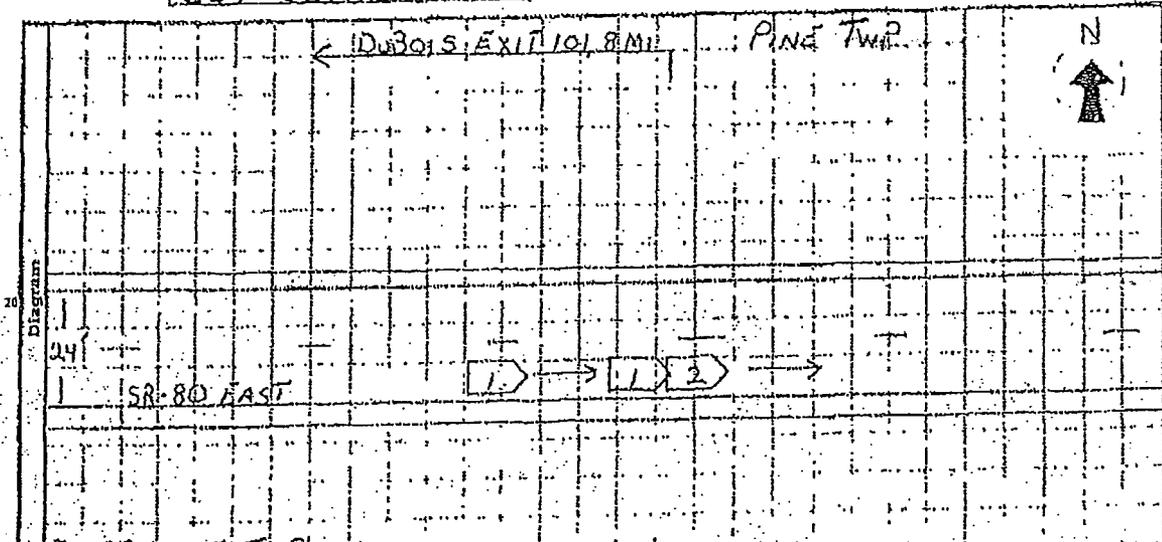


DIAGRAM NOT TO SCALE

Witness Name	Address	Phone
1 NONE KNOWN		
2		

Narrative and additional witnesses: Cell phones present, but not in use. Accident Investigation Notification Issued?  Property Damage

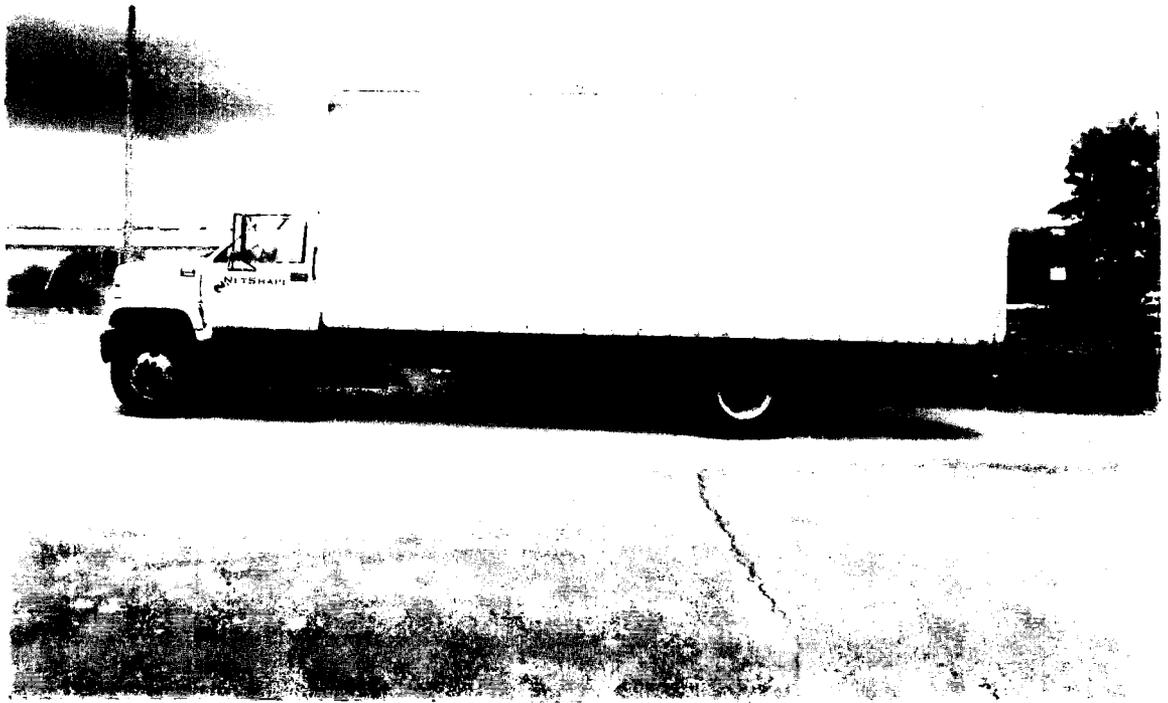
This crash occurred as both units were traveling east in the right lane of SR-80 east. With unit 1 traveling behind unit 2. Operator 2 began to slow unit 2 due to deteriorating weather and road conditions. Upon observing this action, operator 1 applied the brakes and unit 1 began to slide in a forward manner and at which time the front end section of unit 1 impacted with the rear of unit 2. Unit 1 came to final rest partially in the right lane of SR-80 east facing east. Unit 2 was maneuvered onto the right berm by operator 2 and stopped facing east.

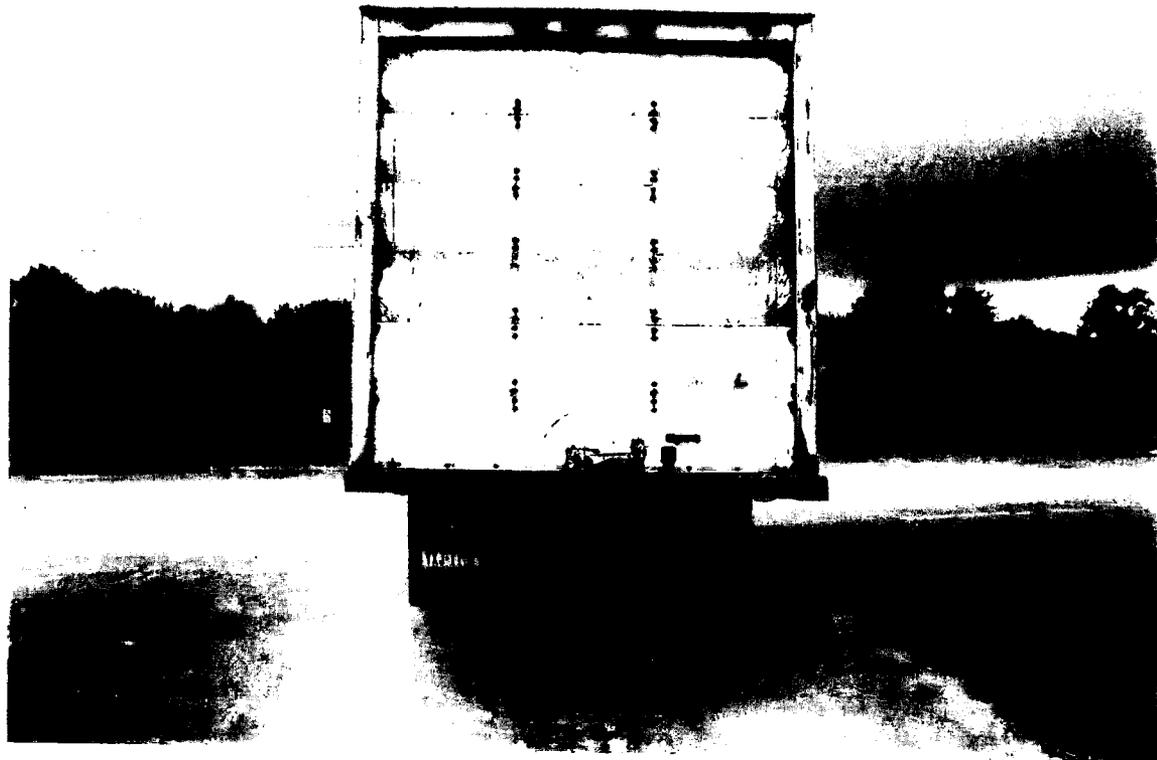
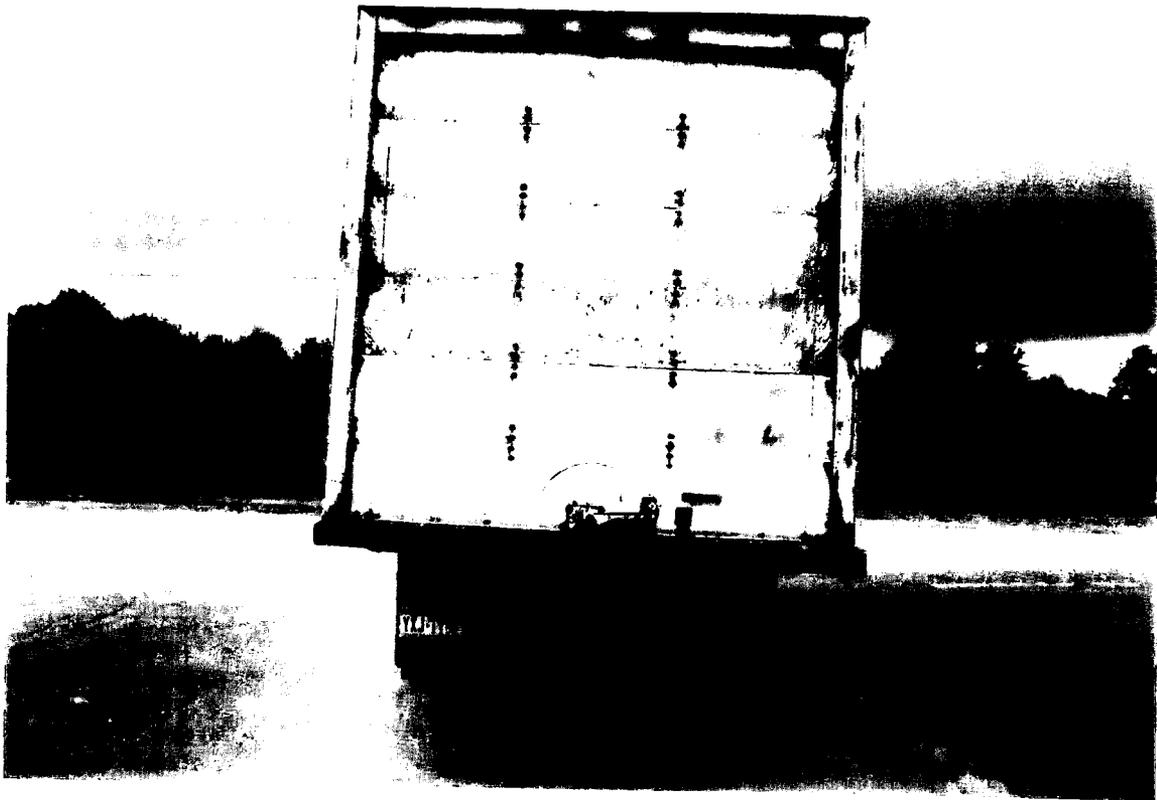
Physical evidence at the scene consisted of front end vehicle debris from unit 1 around the scene, and damage to both units which was consistent with this crash.

Operator 1 was interviewed on scene at 1500 hrs this date and related: I was coming along, the roads were icy. He was slowing down, I tried to slow down, I hit my brakes and just flew into him, all I could see was the back of the truck getting closer, and I did not see any brake lights or flashers.

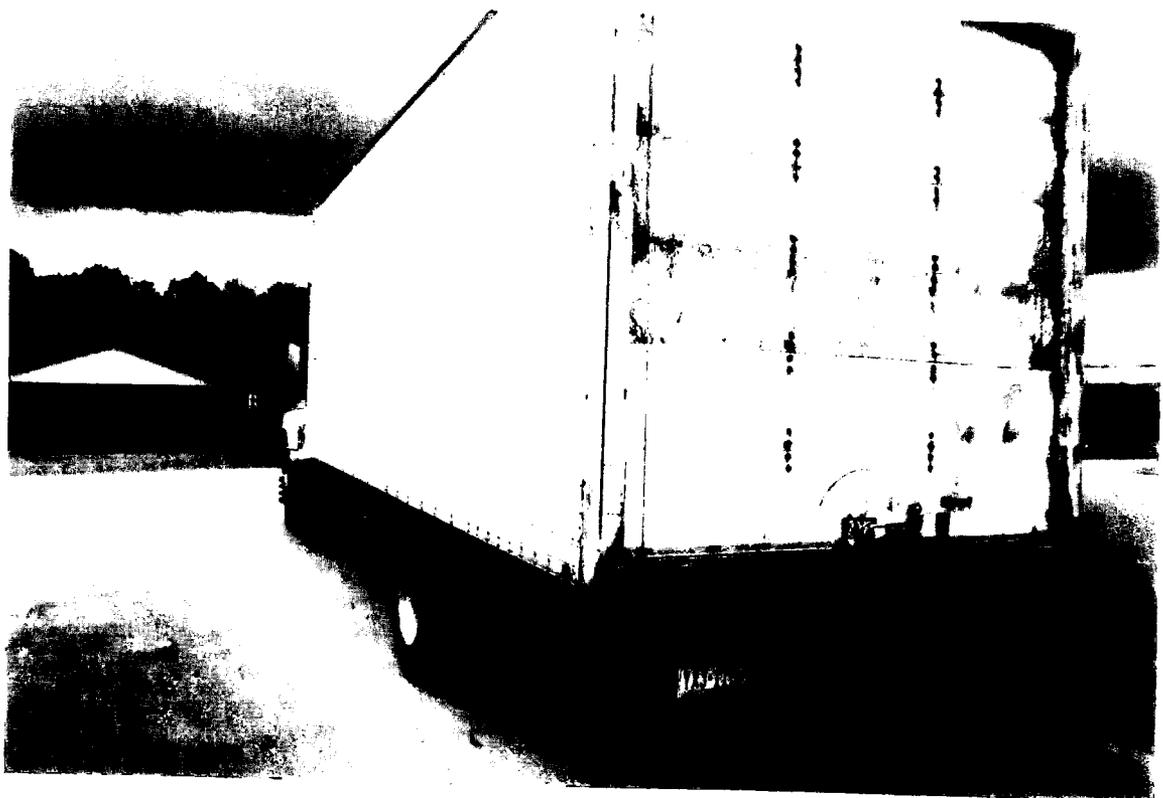
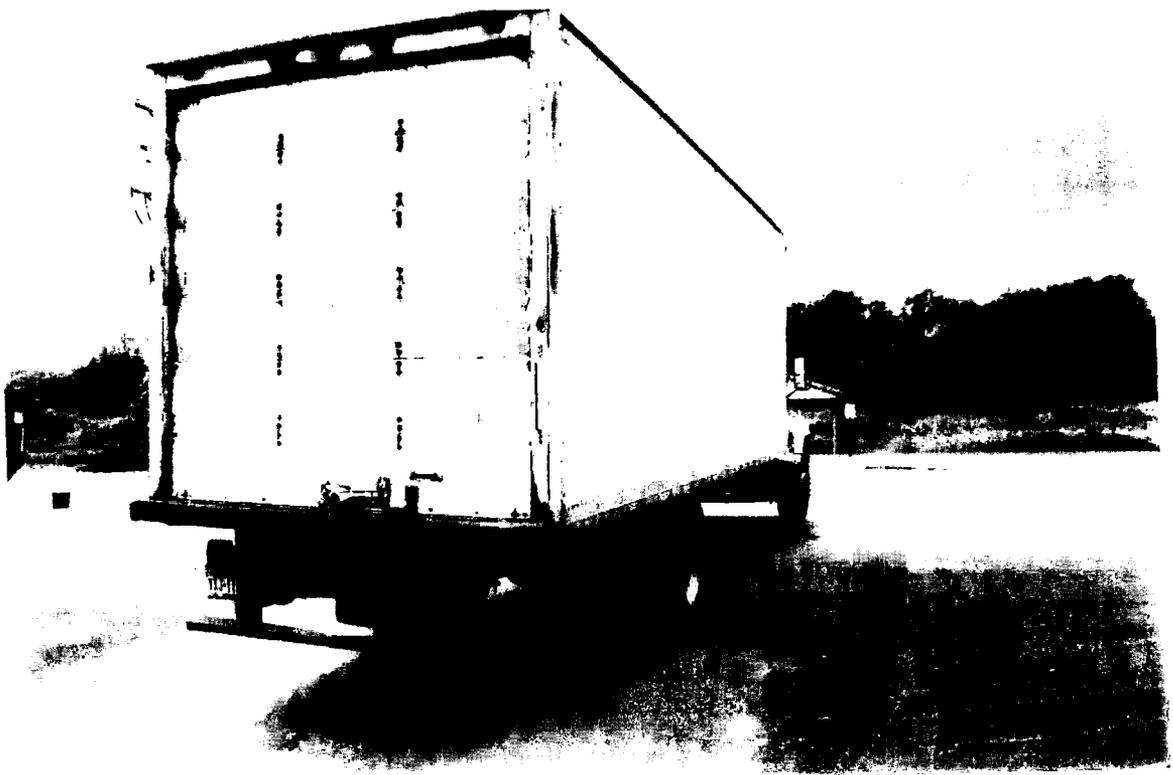
Operator 2 was interviewed on scene at 1503 hrs this date and related: I was slowing down, I put the four ways on because it got real bad. Then I felt her hit me, and go off the side.

**EXHIBIT G**

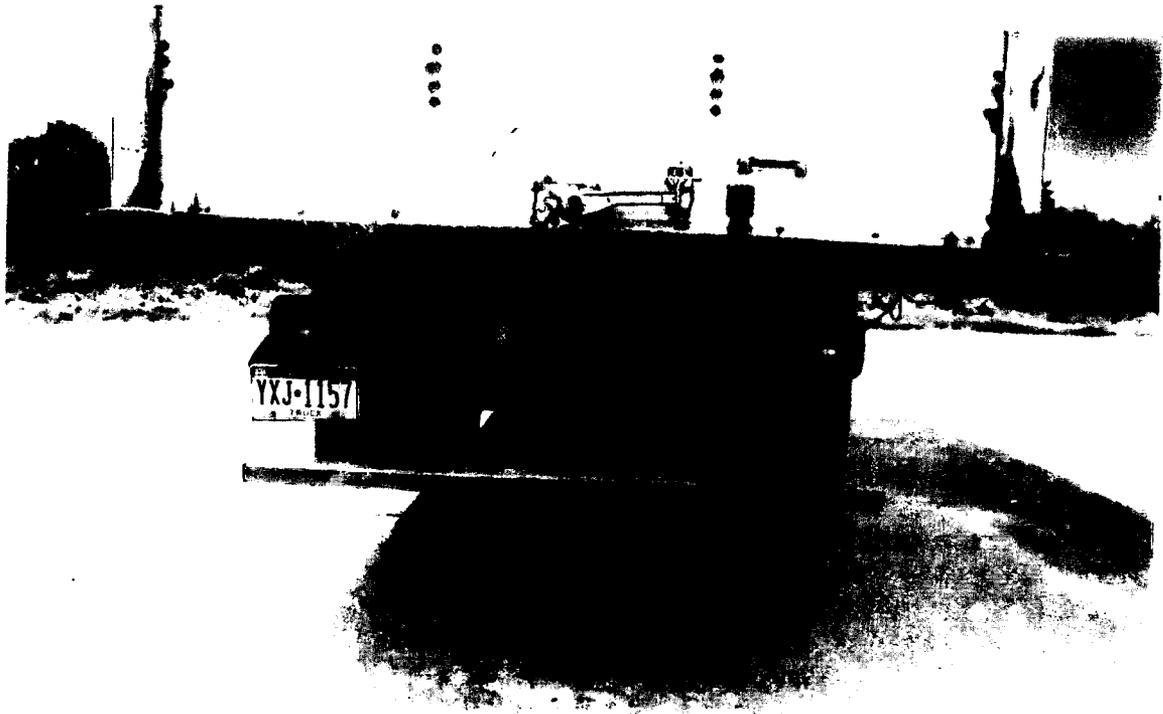


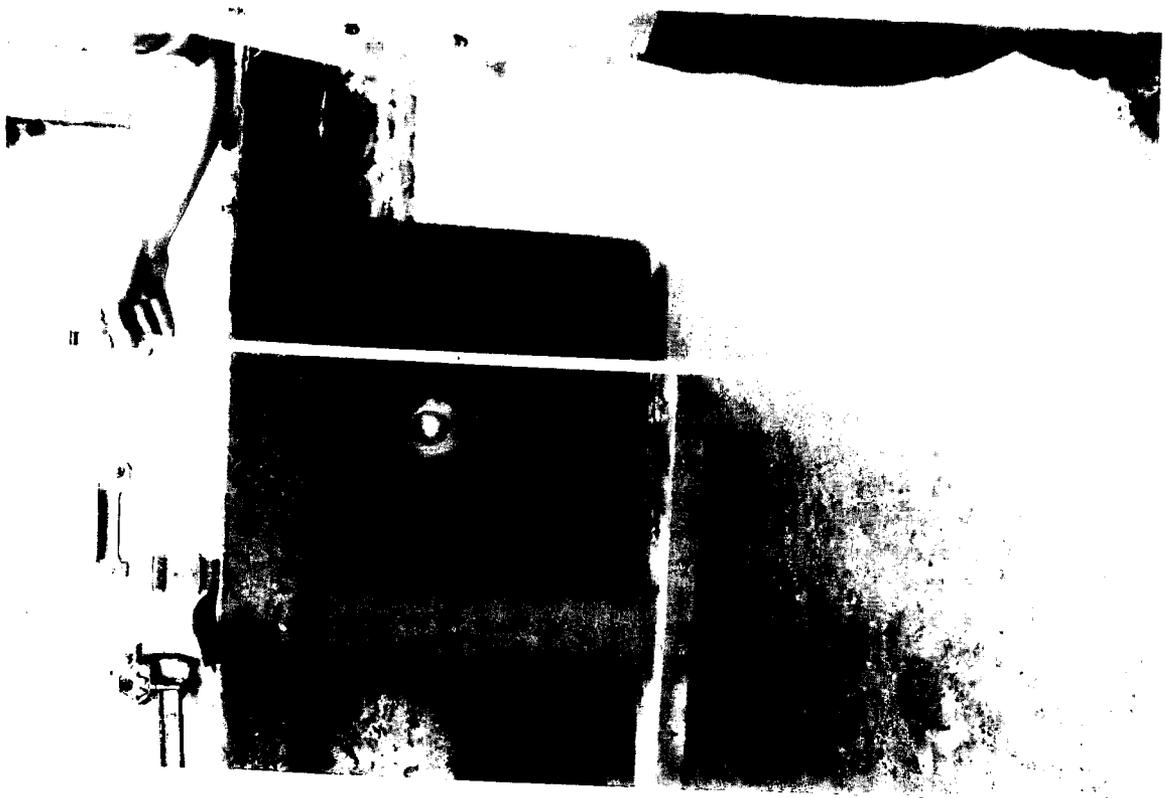
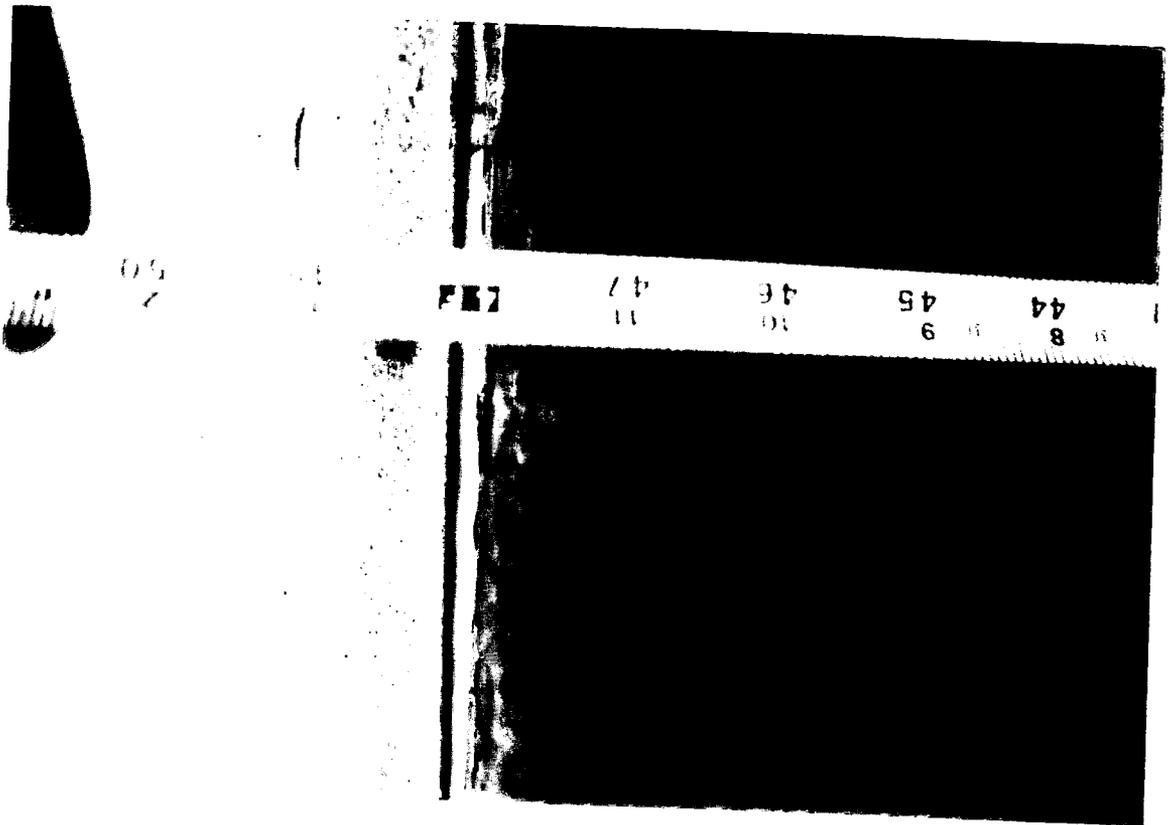


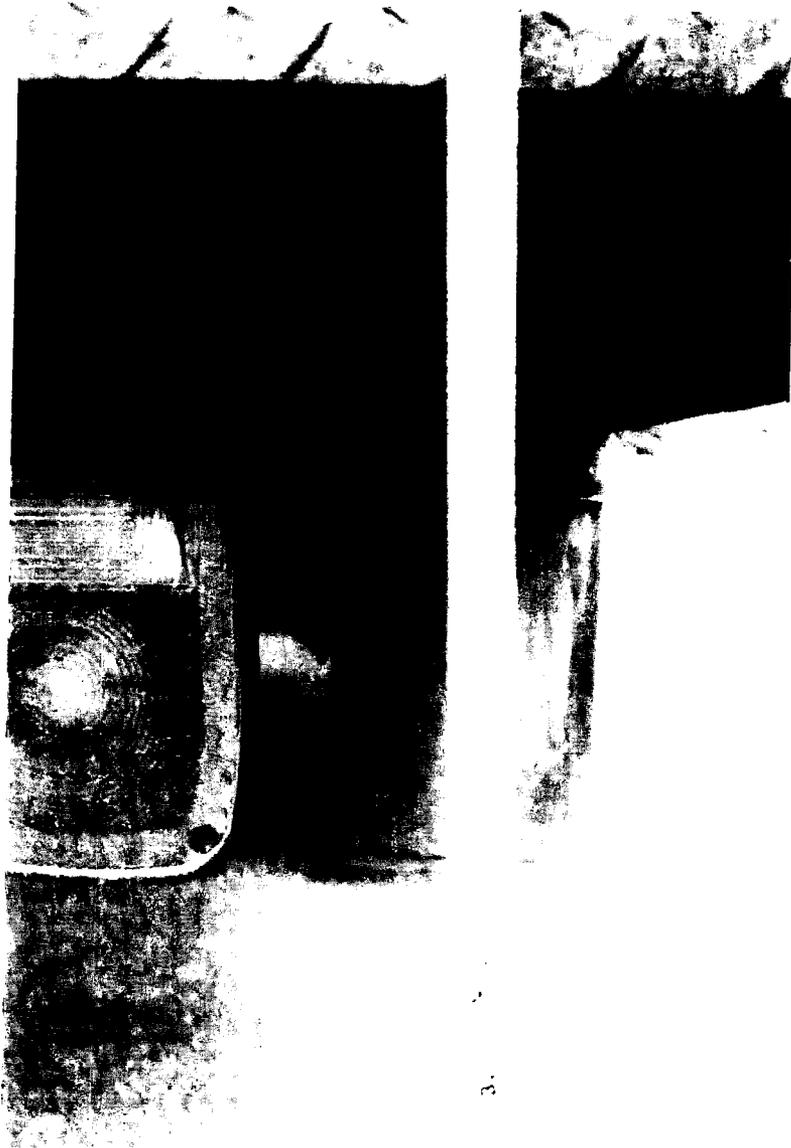


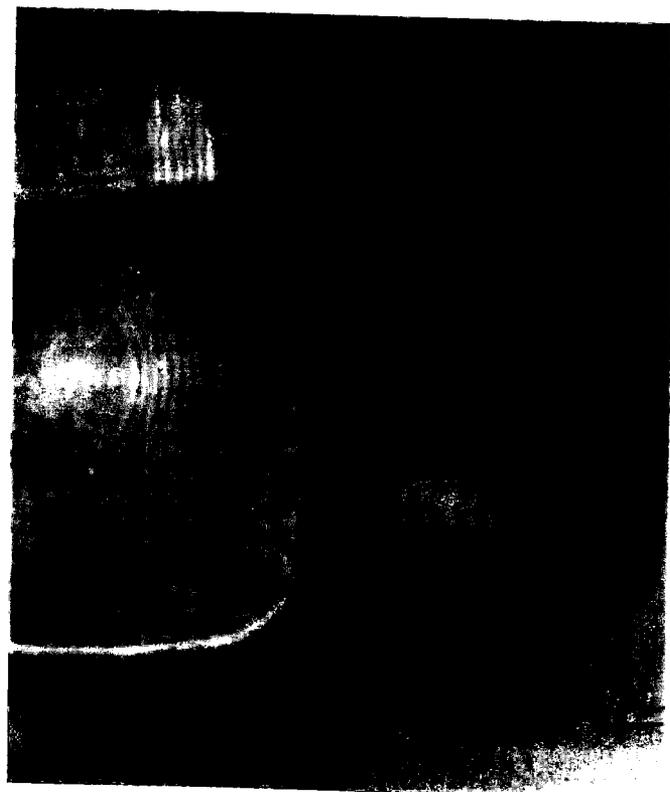
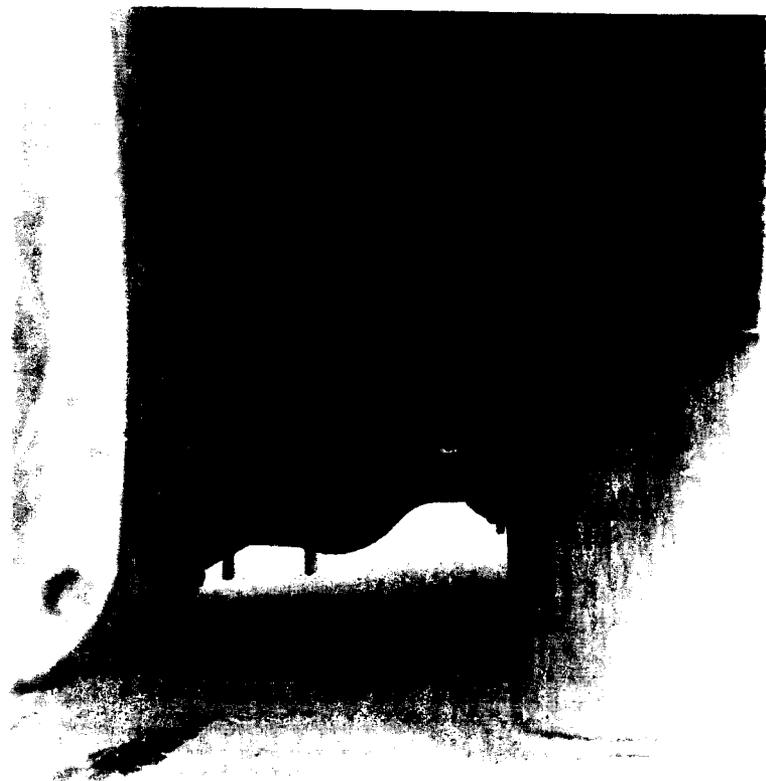


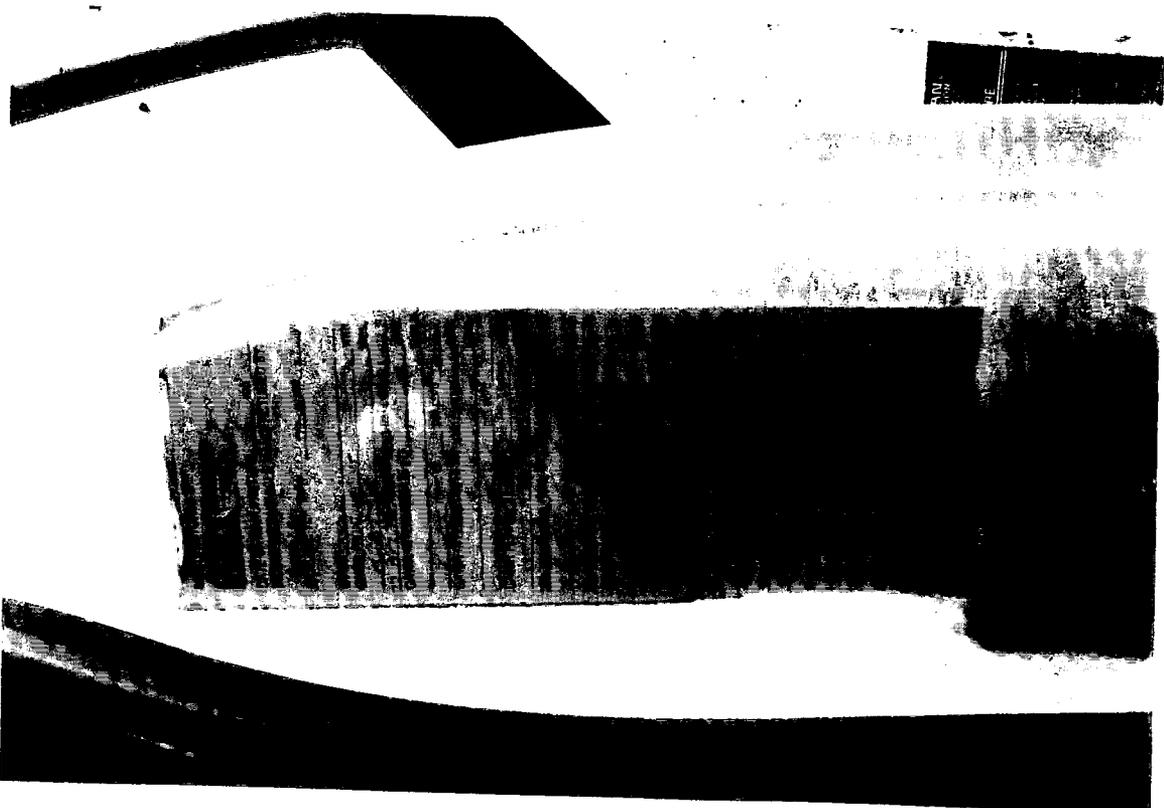
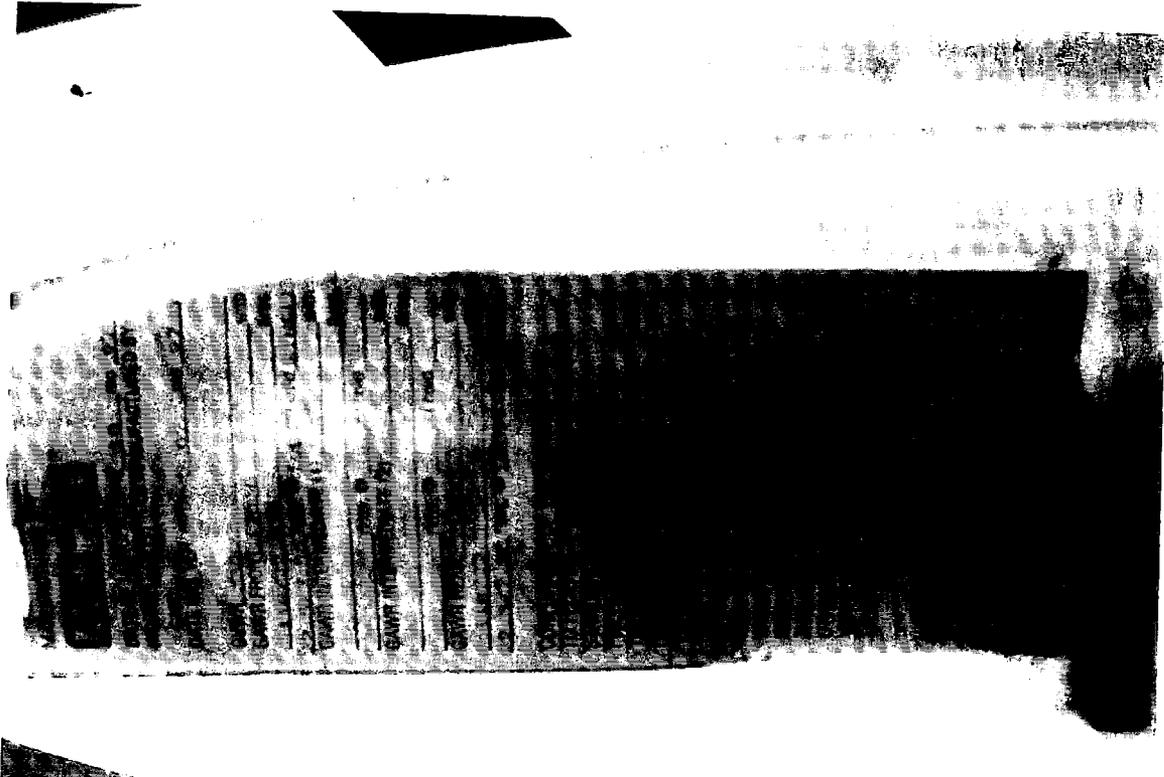












**EXHIBIT H**



**SARGENT'S  
COURT  
REPORTING**

**Quality Work. Quality People.**

**Transcript of the Testimony of Susan Macdonald**

**Date:** November 20, 2009

**Case:** Macdonald v. Houchins

**Printed On:** December 10, 2009

Sargent's Court Reporting Services, Inc.

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SCRS

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PA  
CIVIL DIVISION

\* \* \* \* \*

SUSAN MACDONALD, \*  
Plaintiff \* Case No.  
vs. \* 06-1431-CD  
CRAIG HOUCHINS and \*  
RICHARD FULLINGTON, \*  
Defendants \*

\* \* \* \* \*

DEPOSITION OF  
SUSAN MACDONALD  
November 20, 2009

Any reproduction of this transcript  
is prohibited without authorization  
by the certifying agency.

Page 2

1 DEPOSITION  
 2 OF  
 3 SUSAN MACDONALD, taken on behalf of the  
 4 Defendants herein, pursuant to the  
 5 Rules of Civil Procedure, taken before  
 6 me, the undersigned, Rhonda K. Thorpe,  
 7 a Court Reporter and Notary Public in  
 8 and for the Commonwealth of  
 9 Pennsylvania, at the offices of  
 10 Sargent's Court Reporting Services,  
 11 Incorporated, 106 North Second Street,  
 12 Clearfield, Pennsylvania, on Friday,  
 13 November 20, 2009, beginning at 12:50  
 14 p.m.  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
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1 APPEARANCES  
 2  
 3 ROLF LOUIS PATBERG, ESQUIRE  
 4 Patberg, Carmody & Ging, P.C.  
 5 Deutschtown Center  
 6 801 Vinial Street  
 7 Pittsburgh, PA 15212  
 8 COUNSEL FOR PLAINTIFF  
 9  
 10 TRACEY BENSON, ESQUIRE  
 11 Miller, Kistler & Campbell  
 12 124 North Allegheny Street  
 13 Bellefonte, PA 16823  
 14 COUNSEL FOR DEFENDANTS  
 15  
 16  
 17  
 18  
 19  
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1 EXHIBIT PAGE  
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2 (Pages 2 to 5)

1 OBJECTION PAGE

2  
3 ATTORNEY PAGE  
4 NONE MADE  
5

1 anything like that.

2 A. Good.

3 Q. I'm not trying to be tricky.

4 But what I'm going to try and do is  
5 ask ---.

6 ATTORNEY PATBERG:

7 Don't let your guard  
8 down.

9 A Yeah, I know and I won't.

10 BY ATTORNEY BENSON:

11 Q. I'm going to ask you questions  
12 and ask for your best recollection as  
13 that exists today, ---

14 A. Right.

15 Q. --- recognizing that this event  
16 occurred more than four years ago. So  
17 just a few ground rules. First of all,  
18 have you ever given a deposition  
19 before?

20 A. Once a long time ago, yeah. For  
21 someone else. I was doing a deposition  
22 for somebody else.

23 Q. Basically the rules are pretty  
24 straightforward. I'll ask questions,  
25 you listen to the question, and when

1 PROCEEDINGS

2 -----  
3 SUSAN MACDONALD, HAVING FIRST BEEN DULY  
4 SWORN, TESTIFIED AS FOLLOWS:  
5 -----

6 EXAMINATION

7 BY ATTORNEY BENSON:

8 Q. Would you state your name,  
9 please?

10 A. Susan MacDonald, M-A-C, capital  
11 D-O-N-A-L-D.

12 Q. Ms. McDonald, I'm Tracey Benson  
13 and I represent the Defendants, Craig  
14 Houchins and Richard Fullington, in a  
15 lawsuit that you brought claiming  
16 damages arising out of a motor-vehicle  
17 accident on February 17, 2005 up on  
18 Interstate 80. I'm sure Mr. Patberg  
19 has told you we're here today to take  
20 your deposition, which is really just a  
21 legal name for my ability to ask you  
22 questions; okay?

23 A. Okay.

24 Q. So what we're going to do here,  
25 I'm not going to try and fight or

1 I'm finished asking the question, you  
2 can give me your answer; okay?

3 A. Okay.

4 Q. It's not like Jeopardy when you  
5 want to ring in before I finish asking  
6 the question because you might give an  
7 answer that really isn't responsive to  
8 what I'm going to ask you; okay?

9 A. Okay.

10 Q. And number two, I'm going to ask  
11 you to verbalize your responses with  
12 words rather than frowns, smile, head  
13 shake, something like that; okay?

14 A. That will be hard for me.

15 Q. Well, I'll remind you because  
16 the court reporter here is going to try  
17 and take down the questions and your  
18 answers so that Mr. Patberg and I will  
19 have that available to us in a written  
20 transcript later on; okay?

21 A. Okay.

22 Q. If you don't understand my  
23 question, you can do a couple of  
24 things. You can ask me to rephrase it.  
25 If you're not sure how to answer a

1 question you do understand, you can ask  
 2 for an opportunity to speak to Mr.  
 3 Patberg and we'll take a little break  
 4 and you can go out in the hall and  
 5 huddle and decide how to answer that;  
 6 okay?  
 7 A. Okay.  
 8 Q. But if you give me an answer,  
 9 I'm going to expect that that was your  
 10 testimony in response to a particular  
 11 question?  
 12 A. Okay.  
 13 Q. All right. Good. MacDonald is  
 14 your married name?  
 15 A. Yes.  
 16 Q. What was your maiden name?  
 17 A. Kennedy.  
 18 Q. Have you gone by any other names  
 19 besides Susan Kennedy or Susan  
 20 MacDonald in your lifetime?  
 21 A. Yes, Susan Greenawalt,  
 22 G-R-E-E-N-A-W-A-L-T.  
 23 Q. When did you go by Greenawalt?  
 24 A. I got married in 1965 and  
 25 divorced probably somewhere around '68

1 A. Right.  
 2 Q. And Susan Greenawalt until 1968  
 3 or 1969?  
 4 A. Uh-huh (yes).  
 5 Q. Right?  
 6 A. Uh-huh (yes). Oh, correct.  
 7 Yes.  
 8 Q. And at what point in time did  
 9 your name become Susan MacDonald?  
 10 A. Oh, my. This is what I like to  
 11 forget, 1969 at some point. Towards  
 12 the end it must have been, August.  
 13 August of 1969.  
 14 Q. Okay.  
 15 A. Yeah.  
 16 Q. And you got remarried?  
 17 A. Yes.  
 18 Q. Susan MacDonald. And how long  
 19 did that marriage last?  
 20 A. About four --- approximately  
 21 four years.  
 22 Q. So somewhere around 1973 or 1974  
 23 you were divorced?  
 24 A. The divorce wasn't then, but I  
 25 left in '73. I moved back to Erie. I

1 or '69.  
 2 Q. Okay.  
 3 A. '68, I believe.  
 4 Q. Have you been married once?  
 5 A. Twice.  
 6 Q. Twice. So you were ---?  
 7 A. Greenawalt and MacDonald.  
 8 Q. You were Susan Kennedy; right?  
 9 A. Uh-huh (yes).  
 10 Q. And when were you born, ma'am?  
 11 A. 11/4/44.  
 12 Q. That makes you 65 today?  
 13 A. Uh-huh (yes).  
 14 Q. Yes?  
 15 A. Yes.  
 16 Q. Good. And you would have been  
 17 61 years old at the time of this  
 18 accident on February 17, 2005, if my  
 19 math is correct?  
 20 A. You're probably right.  
 21 Q. Okay. Now, what's your Social  
 22 Security number?  
 23 A. 181-36-4376.  
 24 Q. So you were Susan Kennedy from  
 25 1944 until 1965?

1 believe it was in '73 that I moved back  
 2 to Erie, '73 or '74 from Connecticut.  
 3 Q. And when were you finally  
 4 divorced or were you?  
 5 A. Yeah, I was, but I don't quite  
 6 remember that.  
 7 Q. Were you still married at the  
 8 time of the accident ---  
 9 A. No.  
 10 Q. --- in February of 2005?  
 11 A. No, I would have been divorced  
 12 sometime in the '70s.  
 13 ATTORNEY PATBERG:  
 14 I know we can anticipate  
 15 what he's going to say, you're  
 16 going to drive her batty.  
 17 A. Oh, what am I doing to you?  
 18 ATTORNEY PATBERG:  
 19 We got to let him finish.  
 20 Let's take our time and ---.  
 21 A. Okay. All right.  
 22 ATTORNEY PATBERG:  
 23 I know we can anticipate  
 24 what he's going to say, but I'll  
 25 slow her down a bit.

1 A. Okay. Just go like this  
 2 (indicating) to me. Sorry.  
 3 BY ATTORNEY BENSON:  
 4 **Q. Ms. MacDonald, where do you live**  
 5 **today?**  
 6 A. I live in Springdale,  
 7 Pennsylvania, about 13 miles northeast  
 8 of downtown Pittsburgh.  
 9 **Q. Is that 917 Chester Street**  
 10 **address?**  
 11 A. That's correct.  
 12 **Q. And how long have you lived at**  
 13 **that address?**  
 14 A. Sixteen (16) years.  
 15 **Q. So that would be about 1993?**  
 16 A. '93 or '94, yeah.  
 17 **Q. Would you take me through where**  
 18 **you lived? Where did you grow up?**  
 19 A. Erie. Erie, Pennsylvania.  
 20 **Q. When did you move away from**  
 21 **Erie?**  
 22 A. When I got married the first  
 23 time.  
 24 **Q. 1965, where did you go?**  
 25 A. To East Hartford, Connecticut.

1 A. Yes.  
 2 **Q. When did you live in Penn Hills?**  
 3 A. I lived in Penn Hills for ten  
 4 years. I lived there from '83 to '93  
 5 when I moved to Springdale.  
 6 **Q. Do you have any children?**  
 7 A. Yes, three.  
 8 **Q. Give me their names and ages**  
 9 **please?**  
 10 A. James Greenawalt, Jr. He is 40  
 11 --- he was born in '66, so he's 43.  
 12 **Q. Okay.**  
 13 A. Scott MacDonald, he's four years  
 14 younger, he's about 39. And  
 15 Christopher, and he is 37  
 16 approximately.  
 17 **Q. Where does James Greenawalt**  
 18 **live?**  
 19 A. Deep River, Connecticut.  
 20 **Q. How about ---**  
 21 **A. Scott?**  
 22 **Q. --- Scott? Yeah, Scott.**  
 23 A. Scott is in Suffield,  
 24 Connecticut. And Christopher is in  
 25 Pleasantville, PA. That's near

1 **Q. And did you live there until the**  
 2 **time of your divorce?**  
 3 A. No, I lived in East --- yeah, I  
 4 did. Yes.  
 5 **Q. And then where did you go?**  
 6 A. Then when I remarried, I moved  
 7 to Manchester.  
 8 **Q. Manchester what?**  
 9 A. Connecticut.  
 10 **Q. Okay.**  
 11 A. And lived there until I moved  
 12 back to Erie.  
 13 **Q. Well, did you move back to Erie**  
 14 **when you left that marriage even though**  
 15 **it wasn't when the divorce was? So did**  
 16 **you move back to Erie around 1973 or**  
 17 **1974?**  
 18 A. Yes.  
 19 **Q. When did you --- did you live in**  
 20 **Erie or move into the Springdale**  
 21 **address?**  
 22 A. No, I moved from Erie in 1983 or  
 23 '84 to Penn Hills, which is an eastern  
 24 suburb of Pittsburgh.  
 25 **Q. Outside of Monroeville?**

1 Titusville.  
 2 **Q. Is one of your children a**  
 3 **physician?**  
 4 A. Yes, the youngest.  
 5 **Q. Is that Christopher?**  
 6 A. Yes.  
 7 **Q. What type of --- does he have**  
 8 **any type of specialty? What does he**  
 9 **practice?**  
 10 A. No, he's in family practice. He  
 11 works for the VA in Warren,  
 12 Pennsylvania.  
 13 **Q. Does he ever treat you?**  
 14 A. No. He will not treat anybody  
 15 in his family.  
 16 **Q. Did he ever provide you with any**  
 17 **kind of devices or anything? Did I**  
 18 **read somewhere that he gave you a TENS**  
 19 **unit at some point?**  
 20 A. He did give me a TENS unit, yes.  
 21 **Q. When did that happen?**  
 22 A. Oh, I don't know how long ago  
 23 that was.  
 24 **Q. Was that before the February 17,**  
 25 **2005 motor-vehicle accident?**

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1 A. No, I believe it would have been  
 2 after that, but I can't give you an  
 3 exact ---. I'd have to ask him.  
 4 **Q. You can't remember --- do you  
 5 still use the TENS unit?**  
 6 A. I do periodically, yes.  
 7 **Q. How often do you use it?**  
 8 A. When it gets really bad and I  
 9 can't stand it another minute.  
 10 Generally, I don't take the time to do  
 11 it.  
 12 **Q. Where do you put it on your  
 13 body?**  
 14 A. I will put it back here.  
 15 **Q. You're showing me behind your  
 16 right shoulder blades?**  
 17 A. Down here.  
 18 **Q. Okay.**  
 19 A. I'll put it right about in here.  
 20 **Q. Kind of in the right side of  
 21 your neck?**  
 22 A. Here, whatever you call that.  
 23 **Q. Kind of the small of your back,  
 24 below your neck maybe?**  
 25 A. Yeah.

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1 **Q. Okay.**  
 2 A. Over in here.  
 3 **Q. Right shoulder blade?**  
 4 A. Uh-huh (yes). I will put it  
 5 here.  
 6 **Q. Sort of behind your right  
 7 armpit?**  
 8 A. Yeah. I will put it here.  
 9 **Q. And I'd say right over your  
 10 right collarbone. Is that about right?**  
 11 A. Basically, yes. I have used it  
 12 other places also, but that's where I  
 13 do it when the shoulders kick in.  
 14 **Q. Where else do you use it on your  
 15 body?**  
 16 A. If my low back gets tight, I'll  
 17 put it, you know, like about here. Oh,  
 18 got to show you again. I'll put it  
 19 about here.  
 20 **Q. Okay. Kind of mid back?**  
 21 A. Here.  
 22 **Q. Around where your kidneys would  
 23 be more or less?**  
 24 A. I don't know where my kidneys  
 25 are.

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1 **Q. Okay. You're showing me the  
 2 middle of your back?**  
 3 A. I don't know where my kidneys  
 4 are.  
 5 ATTORNEY PATBERG:  
 6 That's okay.  
 7 BY ATTORNEY BENSON:  
 8 **Q. Okay.**  
 9 A. Okay.  
 10 **Q. And how often do you --- I mean  
 11 when's the last time you used the TENS  
 12 unit anywhere on your body?**  
 13 A. Probably a couple weeks ago.  
 14 **Q. When you use it, how long is  
 15 that treatment?**  
 16 A. It runs a cycle. I'm usually  
 17 watching TV when I do it or reading or  
 18 something. And I can't swear to how  
 19 long it goes. I have a second TENS  
 20 unit, which is a much better one than  
 21 the one my son gave me, and I got that  
 22 after the accident for sure. I got  
 23 that in June or July of '06, it's a  
 24 much better unit. And that one does  
 25 have a cycle where I think it goes like

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1 15 minutes doing one thing, you know  
 2 like --- I don't know what order it  
 3 goes in, but it will be more like that,  
 4 whatever you call that kind of  
 5 movement. And then a rolling movement  
 6 will go for X number of minutes. It's  
 7 like 10 or 15 minutes for each  
 8 different part. It's much better.  
 9 **Q. Okay.**  
 10 A. It's much better.  
 11 **Q. So the one your son gave you, it  
 12 runs for a set amount of time almost  
 13 like a timer and then it shuts off?**  
 14 A. Yeah, I think so.  
 15 **Q. And you're not sure if you got  
 16 that one before the accident or after?**  
 17 A. That one I can't swear to.  
 18 **Q. And why did he give you the TENS  
 19 unit?**  
 20 A. Well, I've always had, you know,  
 21 like low back tension from sitting,  
 22 because I sit at a computer all the  
 23 time. That through the years has  
 24 usually been the type of job I had. I  
 25 know now to get up and down more than I

1 did. But I really like I said, I can't  
 2 tell you exactly when I got that. I am  
 3 not sure when I got that, the first  
 4 one.  
 5 **Q. Do both of these units use some**  
 6 **kind of a pad that you stick on your**  
 7 **body?**  
 8 A. Yeah.  
 9 **Q. And you put the pad where you**  
 10 **want the heat?**  
 11 A. Yes.  
 12 **Q. And then you get whatever type**  
 13 **of activity that unit provides relief?**  
 14 A. Yes.  
 15 **Q. And the one you have now that**  
 16 **you got in 2006, you say it provides**  
 17 **some kind of almost like a massage type**  
 18 **sensation?**  
 19 A. Oh, yeah. Yeah, it's much more  
 20 expensive unit, and it's much better.  
 21 **Q. Now, was that unit you got in**  
 22 **2006 prescribed by somebody?**  
 23 A. Yes.  
 24 **Q. Who was that?**  
 25 A. Doctor Cicuto.

1 **Q. Have you ever been a party to a**  
 2 **lawsuit before you filed this lawsuit?**  
 3 A. No.  
 4 **Q. I'm not counting your divorces**  
 5 **there. I'm talking about making a**  
 6 **claim and filing a case in court**  
 7 **seeking some kind of damages from**  
 8 **somebody.**  
 9 A. No.  
 10 **Q. Have you received any kind of**  
 11 **public assistance since February of**  
 12 **2005?**  
 13 A. Well, I periodically was on  
 14 Unemployment.  
 15 **Q. Other than that?**  
 16 A. I tried to get Medicaid to pay  
 17 for the bills and they denied me.  
 18 **Q. Okay. Where did you apply for**  
 19 **Medicaid? How did you do that?**  
 20 A. In New Kensington.  
 21 **Q. Was through Social Security?**  
 22 A. I don't know what they call the  
 23 building that it was in. I guess it  
 24 would --- I don't know. Where people  
 25 go to apply for welfare and Medicaid.

1 **Q. And you just keep getting new**  
 2 **electro pads and you put them on as you**  
 3 **need them?**  
 4 A. Yeah.  
 5 **Q. Do you have any relatives that**  
 6 **live in Clearfield County?**  
 7 A. No.  
 8 **Q. Have you ever had any criminal**  
 9 **charges brought against you or any**  
 10 **convictions or guilty pleas?**  
 11 A. No.  
 12 **Q. I just have to ask you a bunch**  
 13 **of things.**  
 14 A. Well, when you say criminal  
 15 charges like, you know, no, I haven't  
 16 robbed anybody, murdered anybody if  
 17 this is what you're talking about. No.  
 18 **Q. Speeding tickets?**  
 19 A. Oh, long ago. Long ago.  
 20 **Q. When's the last time?**  
 21 A. Couldn't even tell you.  
 22 **Q. You don't even know the last**  
 23 **time you had a speeding ticket?**  
 24 A. No, couldn't tell you. Way, way  
 25 back.

1 **Q. Okay. Do you get any kind of**  
 2 **food stamps or any kind of public**  
 3 **assistance?**  
 4 A. No, I didn't go for that. I was  
 5 trying to get the medical bills handled  
 6 because they were hanging over my head.  
 7 **Q. What medical bills were those?**  
 8 A. From the accident.  
 9 **Q. With any particular providers?**  
 10 A. What do you mean?  
 11 **Q. Well, were some of your medical**  
 12 **bills paid by your own automobile**  
 13 **insurance?**  
 14 A. Initially, yes.  
 15 **Q. Was that with Travelers?**  
 16 A. Yes.  
 17 **Q. And at what point in time did**  
 18 **they stop paying medical bills?**  
 19 A. They sent me for the IME,  
 20 whatever you call that, their doctor or  
 21 contracted to them. I don't know the  
 22 exact date of that. It is --- I'm not  
 23 sure of the date of that.  
 24 **Q. Was that Doctor Raidy,**  
 25 **R-A-I-D-Y? I think I've seen something**

1 about that.  
 2 A. That doesn't sound right.  
 3 Q. Okay. That's fine.  
 4 A. That doesn't sound right. I  
 5 know that it's in my ---.  
 6 ATTORNEY PATBERG:  
 7 Well, if you don't  
 8 remember, you don't remember.  
 9 ATTORNEY BENSON:  
 10 That's okay.  
 11 A. It's in a calendar and his name  
 12 is in one of the blocks.  
 13 BY ATTORNEY BENSON:  
 14 Q. We'll get to that.  
 15 A. Okay.  
 16 Q. So from the time of the accident  
 17 until you had this IME examination, was  
 18 your automobile insurance company  
 19 paying your medical bills?  
 20 A. Yes.  
 21 Q. And then you were examined by a  
 22 physician that they arranged for;  
 23 right?  
 24 A. Yes.  
 25 Q. And after that, did your

1 accident?  
 2 A. I don't remember ---. I won't  
 3 swear this, I believe that Attorney  
 4 Evans did something at them trying to  
 5 get these handled.  
 6 Q. Okay.  
 7 A. But at any rate they kept  
 8 denying, so ---.  
 9 Q. While we're on that subject let  
 10 me just ask you a few questions?  
 11 A. Uh-huh (yes).  
 12 Q. Ma'am, I'm going to show you a  
 13 document we've marked here as MacDonald  
 14 Exhibit Number One.  
 15 (MacDonald Deposition  
 16 Exhibit One marked for  
 17 identification.)  
 18 BY ATTORNEY BENSON:  
 19 Q. And this was produced by your  
 20 attorney at some point in time here and  
 21 I just want to ask you if you recognize  
 22 this as the automobile insurance  
 23 coverages that you had in effect at the  
 24 time of the accident in February 2005?  
 25 A. Well, this says that the policy

1 automobile insurance stop paying your  
 2 medical bills?  
 3 A. They said they would stop as of  
 4 --- I believe it was February of '06.  
 5 Q. Okay. And did they?  
 6 A. Yes. Well --- okay, there were  
 7 bills incurred after February of '06,  
 8 and they paid some of them. Doctor  
 9 Cicuto being one of the things that  
 10 occurred after that, and an MRI that I  
 11 had done that occurred after that date.  
 12 They paid two of Doctor Cicuto's three  
 13 bills, all of them dated after  
 14 February, but not the first of his  
 15 bills, the first one.  
 16 They paid the readers or the  
 17 reader whatever you call them of the  
 18 MRI, but not the MRI. They would not  
 19 pay for the MRI, so I have this, you  
 20 know, hanging over me.  
 21 Q. Did you file any kind of an  
 22 appeal or challenge your automobile  
 23 insurance company's denial of any  
 24 medical bills that you thought were  
 25 related to the February 17, 2005

1 period is from March 19th of 2005.  
 2 Q. Right, it does.  
 3 A. That's a month later ---  
 4 Q. It is.  
 5 A. --- to March 19th, 2006.  
 6 Q. And this is what was produced in  
 7 response to my request for coverage  
 8 information that was in effect at the  
 9 time of this accident on February 17,  
 10 2005. So I guess my question is, if  
 11 you know, did you have insurance  
 12 through Traveler's at the time of the  
 13 accident up on I-80?  
 14 A. Oh, yes.  
 15 Q. And do you know whether your  
 16 coverages changed at all from 2005  
 17 until the time the policy renewed  
 18 starting on March 19, 2005?  
 19 A. I don't believe that there was  
 20 any change between February and March  
 21 when the new policy started or the new  
 22 policy period started. There shouldn't  
 23 have been.  
 24 Q. Okay. I'm going to show you on  
 25 the second page here of Exhibit One,

1 the first party benefits coverage that  
2 you had with your policy indicated that  
3 you had medical expense coverage up to  
4 \$10,000?

5 A. Okay.

6 **Q. Do you know whether you**  
7 **exhausted the \$10,000 medical expense**  
8 **coverage before Traveler's stopped**  
9 **paying medical bills following the**  
10 **February 17, 2005 accident?**

11 A. I was never quite sure of that.

12 I believe I added things up at one  
13 point that I could remember, but I  
14 can't answer that totally for sure.

15 **Q. Let me ask you another question**  
16 **here before I move on to something**  
17 **else, also you had coverage under your**  
18 **first party benefits of income loss of**  
19 **\$25,000 total or \$1,500 per month. Did**  
20 **you ever submit a claim for wage loss**  
21 **or income loss to your automobile**  
22 **insurance carrier as a result of the**  
23 **February 17, 2005 motor-vehicle**  
24 **accident?**

25 A. I don't believe so. Again, I

1 that point.

2 **Q. Let me ask you about that. Was**  
3 **the problem that you couldn't**  
4 **physically drive or you just**  
5 **emotionally you didn't want to do it?**

6 A. I couldn't --- I walked out on  
7 my front porch one morning --- and I  
8 did it two days in a row. It was two  
9 days in the beginning of the next month  
10 of March. I had my coat on. I had my  
11 bag. I had everything. I stepped out  
12 onto my porch. There was snow on my  
13 car. I couldn't go to work. I  
14 couldn't even walk down the steps. I  
15 went back into the house. I couldn't  
16 do it. I was terrified. I had a  
17 friend I worked with and her husband  
18 did the roadwork up around Grove City  
19 and all that, and she would call me at  
20 5:30 in the morning and tell me whether  
21 to get on the road or not because I  
22 couldn't do it.

23 **Q. So when did you leave that job?**

24 A. I left there in the beginning of  
25 April, around April 6th.

1 can't swear to that because I did keep  
2 working. I didn't skip work a lot  
3 because of this.

4 **Q. Okay.**

5 A. I did leave a job because of it  
6 because I was not able emotionally to  
7 drive that far anymore, but I did keep  
8 working for the majority of the time.  
9 I had Unemployment here and there in  
10 between job jumping after the accident.

11 **Q. So you didn't make a claim for**  
12 **wage loss to your own automobile**  
13 **insurance is that ---?**

14 A. Not that I can remember.

15 **Q. Are you claiming in this lawsuit**  
16 **that you lost wages as a result of this**  
17 **accident?**

18 A. I bounced from job to job for a  
19 while, I had a couple, you know, jobs  
20 through agencies, you know, like  
21 temporary type jobs because I did leave  
22 a job that was very good. It was in  
23 Grove City, but I couldn't handle the  
24 driving one hour to and an hour or more  
25 back in the winter. I was terrified at

1 **Q. Okay. And was it still snowy at**  
2 **that time of year when you left?**

3 A. Probably not. If it was, it  
4 would have been mild. But I couldn't  
5 do it. I couldn't drive that distance  
6 anymore to go to work. I had to be  
7 there at 7:00. I didn't want to be out  
8 on the road in the dark in the morning.  
9 I had to drive home in the dark at  
10 night, and I would always come up Route  
11 8 coming home and take 79 going to  
12 work, but take Route 8 because I wanted  
13 slower traffic and less speeds.

14 **Q. And you're telling me that was**  
15 **as a result of this accident?**

16 A. Oh, yeah. Oh, absolutely. I'm  
17 still a mess on that. I'm still a mess  
18 on that.

19 **Q. Well, I'll ask you a little more**  
20 **about that later.**

21 A. Uh-huh (yes).

22 **Q. Are you retired now?**

23 A. Partially.

24 **Q. What does that mean?**

25 A. Partially. After a couple of

1 the temporary jobs that I had in that  
 2 year after the accident, I finally went  
 3 to work for Wal-Mart. But it was too  
 4 much of a physical job. It was  
 5 overnight. I took what I could get.  
 6 It was overnight and I couldn't --- it  
 7 was, you know, just making everything  
 8 worse. And so I started with them ---  
 9 I was hired the end of December of '05.  
 10 I started with them in January of '06.  
 11 In November of '06, I went part time  
 12 with them. I went from five nights to  
 13 three because I couldn't handle it.

14 **Q. What couldn't you handle about  
 15 the job?**

16 A. I couldn't handle the job. I  
 17 was on my feet all night. I wasn't at  
 18 a computer job at a desk anymore.

19 **Q. What was your job at Wal-Mart?  
 20 Were you a checkout clerk?**

21 A. Well, it was cashier, but when  
 22 you were overnight, they made you do a  
 23 lot of other things. You were pushing  
 24 shopping carts, putting stuff back,  
 25 physical things that I couldn't --- I

1 '07. So that enabled me to not have to  
 2 work 40 hours a week.

3 **Q. How much do you get?**

4 A. When I worked at Wal-Mart?

5 **Q. No, what do you get for Social  
 6 Security?**

7 A. Well, that keeps changing. I  
 8 don't know, it probably started out at  
 9 high \$800 something or low \$900.  
 10 Probably low \$900 something.

11 **Q. What are you getting now?**

12 A. Well, now that I've hit the  
 13 wonderful age of 65, they take \$96.40  
 14 out for Medicare. So it went from like  
 15 \$967 approximately to \$867 or so.

16 **Q. So you get about \$967 and they  
 17 take out the money for Medicare?**

18 A. Yeah, they take out \$96.40 for  
 19 Medicare.

20 **Q. Okay.**

21 A. Which I'm grateful I have now.

22 **Q. Now, I think I saw that you had  
 23 had a prior motor-vehicle accident?**

24 A. Uh-huh (yes).

25 **Q. When did that happen?**

1 just couldn't keep it up. So I went to  
 2 three nights, so I went from 40 hours  
 3 to 24 hours. That was somewhere close  
 4 around Thanksgiving of November of '06.  
 5 And I did that because I had decided to  
 6 take early Social Security. It was my  
 7 only way out.

8 **Q. How old were you when you ---**

9 A. Sixty-two (62).

10 **Q. --- applied for Social Security?**

11 A. Oh. Well ---.

12 **Q. Well, when you got it?**

13 A. In November of '06 I turned 62.

14 **Q. Okay.**

15 A. So I applied then and I think  
 16 you actually have to --- I'm trying to  
 17 remember the chain of events there. I  
 18 was eligible for it as of November  
 19 of '06.

20 **Q. Uh-huh (yes).**

21 A. Your month that they watch what  
 22 you've earned is December. I guess  
 23 they call it a waiting month or  
 24 something, and then you get your first  
 25 check. I got my first check January of

1 A. That was --- I was headed for  
 2 Connecticut to go to my son's 30th  
 3 birthday party. Let me think. When  
 4 was he 30? I'm trying to think of what  
 5 year that was. It was in the '90s  
 6 somewhere.

7 **Q. Somewhere I saw a date of March  
 8 30, 1996 ---**

9 A. Okay.

10 **Q. --- does that ring a bell?**

11 A. Yes. Yes, because his birthday  
 12 was March 21st.

13 **Q. And tell me about that accident,  
 14 what happened?**

15 A. I was going to go to  
 16 Philadelphia to meet two of my sons and  
 17 then go on to Connecticut, and I  
 18 decided to stop at McDonald's to get  
 19 something to eat to take up on the ---  
 20 before I got on the turnpike to go to  
 21 Philly. And I was going along, the  
 22 light changed, I stopped, the van  
 23 behind me got hit by the bus behind  
 24 him, a PAT bus, commercial --- you  
 25 know, a passenger bus. Hit the van

1 behind me. I heard them hit, I looked  
2 up in my mirror just as the van slammed  
3 into me.

4 **Q. Were you in Allegheny County  
5 when that happened?**

6 A. Yes.

7 **Q. I used to ride the PAT bus.**

8 A. Did you?

9 **Q. You bet. Okay.**

10 A. This was in Harmorville where  
11 this happened.

12 **Q. All right. Now, did you walk  
13 away from that accident or were you  
14 taken for care in an ambulance or what  
15 happened?**

16 A. I drove to Philly.

17 **Q. Okay. And you mean your car was  
18 still drivable?**

19 A. Yeah. It was a 1984 Tercel  
20 Station Wagon. It had a rubber bumper  
21 on the back. Fantastic thing, honest  
22 to God, because he got hit by a bus and  
23 then he hit me and he was a van.

24 Fantastic bumper on that car. When  
25 they looked underneath later, they saw

1 really stiff and hurting at that point.

2 **Q. Did you seek any medical  
3 treatment in the Philadelphia area when  
4 were there?**

5 A. No.

6 **Q. Did you go on to Connecticut for  
7 the party?**

8 A. Yeah.

9 **Q. When did you first seek  
10 treatment following the March 1996  
11 accident?**

12 A. I don't remember that. I'd have  
13 to look back in my records. I know I'm  
14 sure I have it in my records somewhere,  
15 but I don't remember. That's way too  
16 far back.

17 **Q. What kind of injury did you  
18 sustain?**

19 A. My neck. It was my neck. I  
20 would be at work and somebody would  
21 say, Susan, why is your head lopped  
22 over? My head just sort of went this  
23 way.

24 **Q. Your head would ---?**

25 A. My head go to the left.

1 that it had like a dent like this  
2 (indicating).

3 **Q. I'm not sure ---.**

4 A. I got hit hard, but I got hit by  
5 something from the front end of the  
6 van, but I mean there was just like a  
7 dent in my bumper. The bumper wasn't  
8 ruined or anything.

9 **Q. So the bumper didn't look  
10 injured, but underneath the bumper  
11 there was a dent?**

12 A. Yeah. There was a little  
13 indentation on the rubber of the bumper  
14 I remember. I mean, it looked like  
15 nothing. It looked like nothing. I  
16 didn't have it checked until I came  
17 back.

18 **Q. At what point in time after that  
19 March 30, 1996 rear end collision did  
20 you realize you were injured?**

21 A. By the time I got to Philly  
22 because I had been sitting in the car  
23 driving for like three and a half, four  
24 hours. And the kids had to come out  
25 and get me out of the car. I was just

1 **Q. Tip to the left?**

2 A. Tip to the left. Yeah, it was  
3 tipping to the left.

4 **Q. Okay.**

5 A. And at some point down the road  
6 I did have treatment and I had  
7 absolutely fantastic treatment when I  
8 finally did get --- you know, really go  
9 for a long time. I went to Debbie  
10 Dudas who works for OVR, which is  
11 Occupational and Vocational Rehab. She  
12 came out to my house and assessed me  
13 because I didn't know how I was going  
14 to keep working. Now, I don't know  
15 what year this was. I'd have to look  
16 at my records at home, but I have them.  
17 She came to my house, assessed  
18 me, and qualified me for a program at  
19 Harmorville Rehab now called  
20 HealthSouth. It was a five day a week,  
21 eight hour a day for a month program.  
22 You had everything, psychological,  
23 occupational therapy, physical therapy,  
24 water therapy, stretching. Whatever  
25 they call it --- just you know

1 everything, everything from eight  
 2 o'clock in the morning until 5:00 at  
 3 night.  
 4 **Q. When did you have that program**  
 5 **at Harmorville?**  
 6 A. That was --- give me a minute  
 7 because I got to back up. That was ---  
 8 I was working at Dynavox Systems in the  
 9 South Side. It would have been  
 10 October, the month of October of 2002  
 11 because I left Dynavox in February of  
 12 2003.  
 13 **Q. So where were you treating from**  
 14 **the time of the accident in March 1996**  
 15 **until the time you went to the month**  
 16 **long program at Harmorville,**  
 17 **HealthSouth?**  
 18 A. Can't tell you until I, you  
 19 know, would look at my records at home.  
 20 **Q. What kind of records do you have**  
 21 **at home?**  
 22 A. Well, at home I would have every  
 23 medical bill, I'm sure, or hopefully.  
 24 I will look. I will find anything I  
 25 can find. I again would have stuff

1 Yeah, you jumped.  
 2 A. Okay.  
 3 BY ATTORNEY BENSON:  
 4 **Q. All right. I think you went to**  
 5 **Harmorville in October of 2002?**  
 6 A. That's correct.  
 7 **Q. Does that sound right?**  
 8 A. That is correct. That's what I  
 9 just said.  
 10 **Q. And were the injuries that they**  
 11 **were treating at Harmorville caused by**  
 12 **the 1996 rear end ---**  
 13 A. Yes.  
 14 **Q. --- collision that you told me**  
 15 **about?**  
 16 A. Yes, they were.  
 17 **Q. And so you can't tell me where**  
 18 **you sought treatment for that five year**  
 19 **period from the time of the accident in**  
 20 **1996 until the time you went to**  
 21 **Harmorville for the month long program**  
 22 **in October of 2002?**  
 23 A. Not until I look at my records  
 24 at home. I definitely had treatment  
 25 during that period of time; however, I

1 written on my calendar, as you already  
 2 know that I write everything on my  
 3 calendar. So probably my calendar  
 4 would be the best, and I save every  
 5 calendar.  
 6 **Q. All right. So you also keep**  
 7 **medical bills?**  
 8 A. I would say that I should have  
 9 them somewhere, but I'd have to search  
 10 for them.  
 11 **Q. Do you keep any medical records**  
 12 **from prior treatments? Some**  
 13 **people ---.**  
 14 A. I know I have reports from  
 15 Harmorville Rehab for that stint. I  
 16 can guarantee you that.  
 17 **Q. How about from before there,**  
 18 **before you went to Harmorville ---?**  
 19 A. I don't remember what the time  
 20 frame was.  
 21 ATTORNEY PATBERG:  
 22 We're getting caught up  
 23 again.  
 24 A. Did I jump?  
 25 ATTORNEY PATBERG:

1 cannot tell you exactly where and when.  
 2 **Q. Okay.**  
 3 A. It wasn't like a four year  
 4 period and then all of a sudden I got  
 5 treatment for the 1996 accident.  
 6 **Q. Well, that's what I'm trying to**  
 7 **find out.**  
 8 A. But I was getting worse and  
 9 worse, which is why --- and actually my  
 10 family practice doctor, Doctor  
 11 Balestrino, told me about this program  
 12 and said he wanted to try to get me  
 13 into it.  
 14 **Q. Okay.**  
 15 A. Because I was getting worse and  
 16 worse.  
 17 **Q. And he did that and that was a**  
 18 **successful program?**  
 19 A. He called whoever he knew over  
 20 at Harmorville that was involved in the  
 21 program, which was Doctor Cicuto.  
 22 That's actually who he knew. And then  
 23 we went through --- they told us how to  
 24 do it, to go through OVR and that's  
 25 when Debra Dudas came to my house,

1 evaluated me, and approved me for the  
2 program.

3 **Q. What office of vocational  
4 rehabilitation did you go to?**

5 A. It's downtown in the state  
6 building. I didn't go there, she came  
7 to my house.

8 **Q. Okay. So you really can't tell  
9 me anything sitting here today about  
10 your treatment prior to October 2002  
11 for your neck injuries?**

12 A. I know that I had treatments. I  
13 cannot give you dates. I know that I  
14 went to the chiropractor. I know that  
15 I probably had other stints of physical  
16 therapy, but until I can give you the  
17 correct information I don't want to  
18 give you any information. I don't want  
19 to give you the wrong information.

20 **Q. So sitting here today, though,  
21 you can't give me the names or the  
22 locations of any chiropractors you saw  
23 before October 2002?**

24 A. I'd rather look at my records  
25 first so that I give you the correct

1 information.

2 ATTORNEY PATBERG:

3 Just so we're clear on  
4 this, Susan, this isn't a memory  
5 quiz. You're not required to  
6 know month, date, and time and  
7 all that. If you have a general  
8 recollection, which I think is  
9 what Mr. Benson is asking for,  
10 he's entitled to it. So if you  
11 have a general recollection  
12 --- I think you're getting  
13 caught up on something that  
14 really I mean isn't --- so if  
15 you remember generally, tell Mr.  
16 Benson.

17 A. Okay. But I don't want to have  
18 you say to me you know a month from now  
19 well, but this is what you said.

20 ATTORNEY PATBERG:

21 Don't worry about that.

22 A. I don't want to do that.

23 ATTORNEY PATBERG:

24 Don't worry about that.

25 A. I don't want to give you the

1 wrong information.

2 ATTORNEY PATBERG:

3 Subject to her impaired  
4 memory --- I don't want to say  
5 it that way, but subject to your  
6 inability to recall specifics,  
7 please tell Mr. Benson --- which  
8 is generally what you're asking.

9 BY ATTORNEY BENSON:

10 **Q. Yeah, I understand you've told  
11 me that you have records at home ---**

12 A. Yes.

13 **Q. --- in which you can consult and  
14 probably give me specific information  
15 of where you received treatment and  
16 when; correct?**

17 A. Yes.

18 **Q. Okay. And I'm going to ask you  
19 for that, and then you'll have a chance  
20 to do that.**

21 A. Okay.

22 **Q. But for our purposes today, can  
23 you give me the names of any doctors  
24 who treated you for your neck injuries  
25 between 1996 and 2002?**

1 A. Well, my family practice doctor  
2 is Doctor Balestrino, so I'll start  
3 with him.

4 **Q. Okay. Where is he located?**

5 A. He is located in Penn Hills.

6 ATTORNEY PATBERG:

7 Can you spell that for  
8 the court reporter, if you can?

9 A. Balestrino?

10 ATTORNEY PATBERG:

11 Uh-huh (yes).

12 A. B-A-L-E-S-T-R-I-N-O. Vincent.

13 BY ATTORNEY BENSON:

14 **Q. Vincent?**

15 A. Vincent.

16 **Q. What is the name of his  
17 practice?**

18 A. Renaissance Family Practice.

19 **Q. How long have you been treating  
20 with Doctor Balestrino as your family  
21 doctor?**

22 A. Ever since I moved to Penn Hills  
23 in '83 or '84.

24 **Q. So to go see him you cut across  
25 town now from where you live to go to**

1 Penn Hills?  
 2 A. I go up through Oakmont and up  
 3 over the hill, yeah.  
 4 Q. So Doctor Balestrino, he would  
 5 be your family practice doctor from  
 6 1983 to the present?  
 7 A. Yes, always him.  
 8 Q. Now, were you treated any  
 9 hospitals for anything between 1996 and  
 10 February 2005 other than the  
 11 Harmorville program you've told me  
 12 about?  
 13 A. I don't know whether I had any  
 14 physical therapy at St. Margaret's. I  
 15 believe that during that period of time  
 16 I had physical therapy through PT  
 17 Group.  
 18 Q. Well, let's talk about hospitals  
 19 first?  
 20 A. Oh.  
 21 Q. Now, you've said you might have  
 22 had physical therapy at St. Margaret's  
 23 Hospital. Where is that located?  
 24 A. In Aspinwall, Pennsylvania, near  
 25 Fox Chapel.

1 thinking it a little bit. So  
 2 it's just ---.  
 3 A. But I don't want to give false  
 4 information and then ---.  
 5 BY ATTORNEY BENSON:  
 6 Q. I understand.  
 7 A. I'm trying to remember.  
 8 Q. Okay. So x-rays. Does Doctor  
 9 Balestrino have admitting privileges  
 10 and hospital privileges at St.  
 11 Margaret's Hospital?  
 12 A. Yes.  
 13 Q. Have you been admitted, an  
 14 inpatient at St. Margaret's at anytime  
 15 from 1996 until today?  
 16 A. No.  
 17 Q. So Doctor Balestrino, if he  
 18 orders blood work, do you get that done  
 19 at St. Margaret's?  
 20 A. Yes.  
 21 Q. And if he orders some kind of  
 22 imaging, x-rays, or ---  
 23 A. Yes.  
 24 Q. --- MRIs, you get that done  
 25 there?

1 Q. Now, have you ever --- strike  
 2 that.  
 3 So you may have had physical  
 4 therapy at St. Margaret's Hospital?  
 5 A. Possibly. I am not sure.  
 6 Q. What other care have you had at  
 7 St. Margaret's Hospital since 1983?  
 8 A. Related to a car accident?  
 9 Q. Well, we'll start with that.  
 10 Did you get any care at St. Margaret's  
 11 Hospital between 1996 and February of  
 12 2005?  
 13 A. I possibly had x-rays or MRI's  
 14 done.  
 15 Q. Okay.  
 16 A. I'm saying possibly until I can  
 17 look at everything at home.  
 18 Q. I understand.  
 19 A. I don't want to tell you the  
 20 wrong information.  
 21 Q. That's okay.  
 22 ATTORNEY PATBERG:  
 23 It's just your best  
 24 recollection. In all  
 25 truthfulness, you're over

1 A. Yes.  
 2 Q. Okay. Have you had care at any  
 3 other hospitals other than St.  
 4 Margaret's in Aspinwall from 1996 to  
 5 the present?  
 6 A. No. And the only doctor that I  
 7 have that doesn't go through St.  
 8 Margaret's is Doctor Cicuto, who is  
 9 through UPMC Shadyside.  
 10 Q. That was going to be my next  
 11 category here.  
 12 A. Okay.  
 13 Q. Your doctors, we have ---  
 14 obviously we have Doctor Balestrino,  
 15 and I'm looking for people you've seen  
 16 since March of 1996. Doctor Balestrino  
 17 and then we have Doctor Cicuto?  
 18 A. Yeah.  
 19 Q. And you're saying he's at UPMC  
 20 Shadyside Hospital?  
 21 A. Last time I knew, yes.  
 22 Q. Have you had anything done at  
 23 Shadyside Hospital other than seeing  
 24 Doctor Cicuto in the clinic?  
 25 A. No.

1 Q. Okay. What other physicians  
2 have you seen since March of 1996,  
3 other than Doctor Balestrino and Doctor  
4 Cicuto? We know about that MRI that  
5 your automobile insurance company  
6 scheduled for you.

7 A. Okay. There would be Doctor  
8 Balestrino, there would be Doctor  
9 Cicuto. There were doctors at 40th and  
10 Butler Street that I went to see, can't  
11 remember their names. One was Johnson.

12 Q. 40th and Butler Street in  
13 Pittsburgh?

14 A. Yeah.

15 ATTORNEY PATBERG:

16 That's in Lawrenceville;  
17 right?

18 A. Yeah, I think it's connected  
19 with --- I'm not sure.

20 BY ATTORNEY BENSON:

21 Q. That's in Lawrenceville?

22 A. Yeah, Lawrenceville.

23 Q. All right.

24 A. Up to 2005?

25 Q. Actually up to the present.

1 Harmorville Rehab.

2 Q. Okay. But can you think of  
3 anyone else? If I wanted to go, you  
4 know, find all your doctors other than  
5 Doctor Balestrino, Doctor Cicuto, and  
6 Doctor Johnson?

7 A. Well, they're on the calendar.

8 Q. Okay.

9 A. They're on the calendar.

10 Q. Let's talk about chiropractors.

11 A. Now, when you see on the  
12 calendar a Doctor P. that's my dentist.

13 Q. Okay. We're going to get to  
14 that.

15 A. Okay. I didn't know --- all  
16 right.

17 ATTORNEY PATBERG:

18 She's running this  
19 deposition, not you, Tracey.

20 A. I apologize.

21 BY ATTORNEY BENSON:

22 Q. Let's talk about chiropractors.

23 Did you see any chiropractors for  
24 treatment of any part of your back or  
25 neck or shoulders prior to

1 A. Oh, up to --- okay. So  
2 including --- from the 1996 accident  
3 through the 2005 accident?

4 Q. Right. Yeah, I was going to try  
5 and segregate those, but we can just  
6 get a list. It doesn't really matter.

7 A. Okay. Because Cicuto and  
8 Johnson are after the 2005 accident.  
9 Well, Cicuto was up at Harmorville  
10 Rehab, though, too.

11 Q. Okay. Anybody else ---

12 A. That's when I met him.

13 Q. --- you can think of?

14 A. I went to a couple different  
15 chiropractors.

16 Q. We're going to get to that next.  
17 That's my next category. We're still  
18 on doctors?

19 A. Okay. I count them as doctors.

20 Q. Okay.

21 A. Let me think. Well, Balestrino  
22 is the primary one. Cicuto was  
23 involved before and after the 2005  
24 accident. He's actually the best one  
25 to say what shape I was in when I left

1 February 2005?

2 A. Yes.

3 Q. Who were they?

4 A. That would be Doctor Flynn,  
5 Oakmont.

6 Q. He's in Oakmont?

7 A. Yeah.

8 Q. What's his first name, do you  
9 know?

10 A. Right now I'm blank.

11 Q. How long did you treat with  
12 Doctor Flynn?

13 A. The older doctor --- well, wait  
14 a minute. I went to both he and his  
15 son. There's two of them there.

16 Q. How long had you been receiving  
17 --- how far back would you go to  
18 receive chiropractic from the Doctors  
19 Flynn, either father or son? When did  
20 you start going to them for  
21 chiropractic?

22 A. Oh, I can't tell you when, but I  
23 mean I've gone to them many, many times  
24 even prior to car accidents, again,  
25 just for back tension.

1 Q. Before 1996?  
 2 A. Yeah.  
 3 Q. Do you still go ---?  
 4 A. Low back.  
 5 Q. Do you still go there?  
 6 A. I went --- I don't know, maybe a  
 7 month ago. I go when I can't take it  
 8 anymore. I have to pay for it because  
 9 he doesn't take insurance, and up until  
 10 November 1st, I didn't have insurance  
 11 for the last year and a half.  
 12 Q. Okay. I understand that. We're  
 13 going to get to that.  
 14 A. Okay.  
 15 Q. So the Flynn Chiropractic Group,  
 16 they've been treating you since before  
 17 1996 to the present time?  
 18 A. Uh-huh (yes).  
 19 Q. Correct?  
 20 A. Anytime I go to the chiropractor  
 21 there's where I go to.  
 22 Q. Have you been to any other  
 23 chiropractor besides the Flynn's in  
 24 Oakmont?  
 25 A. Not in Oakmont.

1 A. Somewhere ---.  
 2 Q. --- and February 2005. Is she  
 3 still in practice?  
 4 A. I couldn't tell you. The last  
 5 time I saw her she was on Babcock  
 6 Boulevard, way out.  
 7 Q. And any other chiropractors that  
 8 you saw?  
 9 A. No, just Flynn and Novak,  
 10 chiropractors.  
 11 Q. Let's talk about physical  
 12 therapy.  
 13 A. Okay. I'm just going to tell  
 14 you all of the places that I've had  
 15 physical therapy, but not when because  
 16 I'd have to look in my records again to  
 17 tell you when.  
 18 Q. Okay.  
 19 A. But I can tell you who.  
 20 Q. All right. Let's do it.  
 21 A. Okay. PT Group.  
 22 Q. Where are they located?  
 23 A. They are out in Lower Burrell.  
 24 Q. Lower Burrell?  
 25 A. Uh-huh (yes).

1 Q. I mean anywhere.  
 2 A. Okay. I went to a Debra  
 3 somebody. I would have to look back to  
 4 remember her last name.  
 5 Q. Where was she located?  
 6 A. She was somewhere off of Route 8  
 7 near the Eat 'N Park and K-Mart. When  
 8 you would come off of 28 to go on to  
 9 Route 8 and there's a point you come to  
 10 where the K-Mart's on the right and the  
 11 Eat 'N Park was on the right, she was  
 12 up just a little ways on the left in a  
 13 building. And last time I saw her she  
 14 was on Babcock Boulevard, and that's  
 15 way back.  
 16 Q. How often did you treat with  
 17 Debra the chiropractor?  
 18 A. I did do a stint with her not  
 19 after the 2005, but after the 1996 I  
 20 did. Novak was her last name, Debra  
 21 Novak.  
 22 Q. Debra Novak?  
 23 A. Right. Things pop in your head  
 24 as you're going along. Boing.  
 25 Q. March 1996 between and that ---

1 Q. Okay.  
 2 A. And the guy who did my physical  
 3 therapy, his first name was Dennis. I  
 4 can't remember his last name.  
 5 Q. Okay.  
 6 A. I might have --- this is where  
 7 I'm saying might have had some at St.  
 8 Margaret's, but don't remember. I  
 9 can't ---  
 10 Q. Okay.  
 11 A. --- be definite there. PT  
 12 Group, I think ---.  
 13 Q. In Aspinwall?  
 14 A. Right. Yeah, if I went there  
 15 for it, yeah.  
 16 Q. All right. Anyone else?  
 17 A. Harmorville Rehab.  
 18 Q. Harmorville?  
 19 A. And now that I know Harmorville  
 20 Rehab, I absolutely will not go  
 21 anywhere but there.  
 22 Q. Okay. Now, did you receive  
 23 physical therapy prior to February of  
 24 2005? We know you did at Harmorville,  
 25 right, because you had that program in

1 **October 2006?**  
 2 A. Right. And I think the PT Group  
 3 prior to 2005. Somewhere in there  
 4 between '96 and 2005, PT Group.  
 5 **Q. Have you received physical**  
 6 **therapy since February of 2005?**  
 7 A. Yes, at Harmorville Rehab.  
 8 **Q. Harmorville, okay. Are you**  
 9 **taking any medication today?**  
 10 A. Right today I've taken nothing.  
 11 On occasion I take ibuprofen only  
 12 absolutely when I have to. If I'm at  
 13 work, that's the only time I'll take  
 14 it. If I cannot function for one more  
 15 minute I will take an ibuprofen.  
 16 **Q. Since February 2005, did you**  
 17 **take any medications for pain or any of**  
 18 **the conditions involving --- any**  
 19 **conditions that were involved in this**  
 20 **accident?**  
 21 A. Ibuprofen, yeah. Motrin.  
 22 **Q. Is that a prescription?**  
 23 A. Yeah.  
 24 **Q. Or over the counter?**  
 25 A. 800.

1 A. Yeah, and Sam's Club.  
 2 **Q. Which Sam's Club?**  
 3 A. Frazier Township, Pittsburgh  
 4 Mills. And when I didn't have  
 5 insurance, I actually --- before I knew  
 6 how cheap it was getting it through  
 7 Sam's Club, ---.  
 8 **Q. Does Sam's have a pharmacy?**  
 9 A. Yeah, they do. Oh, yeah. I  
 10 think generics are like \$4 for a month  
 11 supply or something.  
 12 **Q. Sam's Club Wal-Mart.**  
 13 A. Sam's Club.  
 14 **Q. I didn't know they had a**  
 15 **pharmacy?**  
 16 A. Yes, they do. I mean, now I'm  
 17 trying to like switch to get everything  
 18 there because it's so much more  
 19 affordable.  
 20 **Q. So Sam's Club is where you get**  
 21 **you get your medicine?**  
 22 A. Now. I get my ibuprofen there.  
 23 **Q. Before Rite-Aid, you used CVS,**  
 24 **did you say?**  
 25 A. No, it's Eckerd's before it went

1 **Q. 800 milligrams?**  
 2 A. Yeah.  
 3 **Q. How many did you take?**  
 4 A. He wanted me to take three a  
 5 day. That was when he gave me 600  
 6 milligrams initially, Doctor  
 7 Balestrino. And then I wasn't going to  
 8 take three a day and he pretty much  
 9 knew that. So I took three a day for a  
 10 while, but not for long, cut it back to  
 11 one a day and then I just start --- and  
 12 he knows that I do this. When I can't  
 13 go one more minute, when it's really  
 14 screaming and ripping right up through  
 15 my head, then I take an ibuprofen and  
 16 it's 800 milligrams. I carry it with  
 17 me always, but hardly ever take it.  
 18 **Q. And that's prescribed by Doctor**  
 19 **Balestrino. Where do you get those**  
 20 **filled?**  
 21 A. Well, it used to be Eckerd's,  
 22 now it's Rite-Aid in Cheswick. And now  
 23 I get it at Sam's Club.  
 24 **Q. So we have the Rite-Aid in**  
 25 **Cheswick?**

1 to Rite-Aid.  
 2 **Q. In Cheswick. How long had you**  
 3 **been getting your medicines there?**  
 4 A. Since I moved to Springdale.  
 5 **Q. So that would have been 1983?**  
 6 A. '83, '84.  
 7 **Q. So when did you start going to**  
 8 **Sam's Club?**  
 9 A. After they built it, four years  
 10 ago.  
 11 **Q. What's the name of the plaza**  
 12 **where Sam's Club is located?**  
 13 A. Pittsburgh Mills.  
 14 **Q. Pittsburgh Mills.**  
 15 A. It's right up behind Springdale.  
 16 **Q. We've covered the --- what**  
 17 **you've told me is car accident care.**  
 18 A. Yes.  
 19 **Q. What other kind of care have you**  
 20 **had since 1996?**  
 21 A. I had foot surgery.  
 22 **Q. When did you have that?**  
 23 A. My doctor was in Springsdale.  
 24 **Q. Was it before March of 1996,**  
 25 **before the first auto accident?**

1 A. Oh, no. No. Let me think. I  
 2 have to picture what went on then. I  
 3 had that foot surgery at St.  
 4 Margaret's. I'm not sure what year.  
 5 **Q. Okay. What other kind of care**  
 6 **have you had other than that was**  
 7 **related to things other than auto**  
 8 **accidents?**  
 9 A. I have high cholesterol.  
 10 **Q. Don't we all? Do you treat with**  
 11 **Doctor Balestrino for that?**  
 12 A. Yes, I get Simvastatin. I get  
 13 that up at Sam's Club, too.  
 14 **Q. Anywhere else where you've had**  
 15 **treatment?**  
 16 A. Without looking at my calendars,  
 17 this is difficult.  
 18 **Q. Okay.**  
 19 A. Prior to going to Harmorville  
 20 Rehab in 2002 and related to my neck  
 21 falling over on me all the time after  
 22 this 1996 accident, I did go to two  
 23 other doctors. I can't remember their  
 24 names, one was a Doctor Josephine  
 25 Jozefczyk.

1 affiliated also with Harmorville Rehab.  
 2 But his office was down by the Bob  
 3 Evans in Harmorville.  
 4 **Q. Is he still there?**  
 5 A. I don't know where he is now. I  
 6 don't remember his name right now  
 7 either, I'd have to look in my records.  
 8 **Q. Okay.**  
 9 A. But he was the first one to give  
 10 me Botox. They were trying to get my  
 11 neck under control because I couldn't  
 12 balance my head. And then I went to  
 13 her, and she ruined my neck as far as  
 14 I'm concerned. She gave me the shots  
 15 up the back muscle and Botox weakens  
 16 your muscles and they can atrophy,  
 17 that's why people like it for wrinkles  
 18 because it relaxes.  
 19 **Q. Okay.**  
 20 A. It's a deadly thing, nobody  
 21 should ever take it.  
 22 **Q. When did you get Botox shots in**  
 23 **the neck muscle?**  
 24 A. I'd have to look at my records.  
 25 It was after the 1996 accident.

1 **Q. Josephine Jozefczyk?**  
 2 A. Don't ask me to spell it.  
 3 **Q. And where is she located?**  
 4 A. She was I believe at Presby, but  
 5 then left there very abruptly and was  
 6 at Allegheny General.  
 7 **Q. Allegheny General or Presby in**  
 8 **Oakland?**  
 9 A. Yes.  
 10 **Q. What kind of doctor is Doctor**  
 11 **Jozefczyk?**  
 12 A. I don't know what she was  
 13 called. I should have sued her.  
 14 **Q. Why?**  
 15 A. Because she gave me Botox shots  
 16 for my neck, and the first doctor that  
 17 gave me Botox shots for my neck gave  
 18 them to me up these muscles.  
 19 **Q. Kind of below your ears?**  
 20 A. This muscle that goes up.  
 21 **Q. Okay.**  
 22 A. Okay. And he did it on this  
 23 side, and you can see I don't have one  
 24 over here anymore. And I don't  
 25 remember his name right now, but he was

1 **Q. Was it before the February 2005**  
 2 **accident?**  
 3 A. Absolutely, because Harmorville  
 4 Rehab had made me 70 to 80 percent  
 5 better neck wise prior to the 2005  
 6 accident. They had me in such good  
 7 shape it was phenomenal.  
 8 **Q. Let's talk about that a minute.**  
 9 A. Okay.  
 10 **Q. I've seen in some of your**  
 11 **medical records, a term referring to**  
 12 **your condition as torticollis?**  
 13 A. Torticollis, yeah.  
 14 **Q. And that is a --- how would you**  
 15 **describe torticollis?**  
 16 ATTORNEY PATBERG:  
 17 Her lay understanding?  
 18 ATTORNEY BENSON:  
 19 Her lay understanding.  
 20 ATTORNEY PATBERG:  
 21 Okay.  
 22 BY ATTORNEY BENSON:  
 23 **Q. Describe your torticollis, what**  
 24 **has it done to you?**  
 25 A. Well, I don't know what the word

1 torticollis means specifically,  
2 however, my neck --- my muscles spasm  
3 so badly that even a neck brace doesn't  
4 help. My muscles would pull my head to  
5 the left, so I was using my peripheral  
6 vision to do my work, to talk to you,  
7 you know ---.

8 **Q. Your head was always twisted?**

9 A. Yeah, it would yank. It would  
10 just yank. I could be looking at you  
11 and it would go. I couldn't control  
12 it.

13 **Q. Would it be --- how far over ---  
14 if looking straight is zero and looking  
15 straight over your left shoulder is 90  
16 degrees, where would you fall in there,  
17 where did it twist your ---?**

18 A. Back then it was real, real bad  
19 prior to going to Harmorville Rehab. It  
20 pulls to the left and upward, my head  
21 wants to be here basically, is where my  
22 head wants to be.

23 **Q. So your head wants to look to  
24 the left and ---**

25 A. And go upward.

1 we could come up with.

2 **Q. Okay.**

3 A. Because it was getting worse and  
4 worse.

5 **Q. And that eventually culminated  
6 in your going to Harmorville for the  
7 month in October 2002?**

8 A. Yes.

9 **Q. And did they correct the  
10 torticollis completely or just made it  
11 somewhat better?**

12 A. I could drive down the road  
13 looking forward without having to try  
14 to control my head.

15 **Q. How about if you were sitting,  
16 you know, at a desk or somewhere would  
17 your head still want to be turned to  
18 the left?**

19 A. Hardly at all. Hardly at all.  
20 They were thrilled when I walked back  
21 in to Dynavox. They all said oh, my  
22 God you're looking at us. You're  
23 talking to us and looking at us at the  
24 same time. Yeah, it was wonderful.  
25 And I had a headset laying on my desk

1 **Q. --- sort of at the ceiling?**

2 A. Yeah.

3 **Q. And when did that first come on?**

4 A. That was after the 1996  
5 accident. That is not my complaint  
6 with this.

7 **Q. Okay. We're going to get to  
8 that. But how long after the March  
9 1996 accident did your head want to  
10 start turning to the left and  
11 looking ---?**

12 A. Well, it was pulling. It  
13 started pulling over. It would sort of  
14 like --- I don't know how to describe  
15 it, sort of drop down, you know. And  
16 it just had all sorts of stuff going.  
17 It was progressive.

18 **Q. Did that happen in 1996 or 1998  
19 or 2000?**

20 A. That started happening, the neck  
21 problem, after the 1996 accident. It  
22 progressed and kept getting worse and  
23 worse, which is why we were trying  
24 everything from chiropractic to  
25 physical therapy to Botox to whatever

1 when I got back, because I told them  
2 that my doctor said I could not make  
3 phone calls all day long anymore  
4 holding the phone up.

5 I was not to raise my shoulder,  
6 you know, and keep pulling like that.  
7 And you know how you hold the phone and  
8 you hold it this way (indicating), well  
9 that's the last thing I should ever do.

10 **Q. Okay. In other words, hold ---  
11 cradle the phone in between your left  
12 cheek and you shoulder?**

13 A. Yeah, I use my headset at home.  
14 I use it ---.

15 **Q. Let me ask you a question. Did  
16 you ever file any kind of a claim or  
17 lawsuit against anybody as a result of  
18 the March 1996 motor-vehicle accident?**

19 A. No.

20 **Q. Did you ever file any kind of a  
21 Social Security Disability claim?**

22 A. No.

23 **Q. Did you file any kind of  
24 disability insurance claim?**

25 A. Whatever got handled, got

1 handled by my insurance company. I  
 2 don't know if they ever went after the  
 3 other company for anything or not. I  
 4 have no clue. It was a PAT bus and  
 5 everybody just said oh, don't even try  
 6 it.  
 7 **Q. Who was your insurance company**  
 8 **back in 1996?**  
 9 A. I don't remember. I would have  
 10 to look.  
 11 ATTORNEY PATBERG:  
 12 Medical coverage, is that  
 13 what you're asking, Tracey?  
 14 ATTORNEY BENSON:  
 15 Well, her automobile  
 16 insurance or whatever.  
 17 A. I honestly don't remember. I  
 18 don't remember how long I was with  
 19 Traveler's.  
 20 BY ATTORNEY BENSON:  
 21 **Q. Did your automobile insurance**  
 22 **pay for any of this care that you**  
 23 **received as a result of your neck**  
 24 **pulling to the left?**  
 25 A. I don't know if my insurance

1 yes.  
 2 **Q. Did you ever file any claim**  
 3 **against them?**  
 4 A. No, I did not. Well, I filled  
 5 out all the state papers because yes, I  
 6 was going to file a claim against them.  
 7 I filled out all the --- I don't know  
 8 what you call all of that, but it's  
 9 through the state when you're going to  
 10 file against a company that you work  
 11 for. I don't know what ---.  
 12 **Q. A discrimination claim?**  
 13 A. Oh, yeah.  
 14 **Q. Okay.**  
 15 A. And I was told if I got it in on  
 16 this lady's desk by X date, which I did  
 17 --- I have the receipts and everything  
 18 from when I faxed 19 pages worth over  
 19 to this lady wherever at the state.  
 20 And then maybe a month later I get a  
 21 call from some guy telling me it was  
 22 untimely filing. I could have  
 23 proceeded on at the federal level, but  
 24 I didn't, which was a major blunder.  
 25 **Q. Was that the Pennsylvania Human**

1 from the auto or if my insurance from  
 2 the --- you know, any job that I had.  
 3 I did have insurance when I was at  
 4 Dynavox.  
 5 **Q. Okay.**  
 6 A. But my insurance at Dynavox  
 7 didn't have to pay for Harmorville  
 8 Rehab because I was put into that  
 9 program and the state paid for that  
 10 program.  
 11 **Q. Who did you have insurance**  
 12 **through with Dynavox, health insurance?**  
 13 A. Don't remember, probably have  
 14 some record at home that I could tell  
 15 you that because I still have all of my  
 16 paperwork.  
 17 **Q. Okay. So I had seen a letter**  
 18 **indicating that when you came back from**  
 19 **--- strike that.**  
 20 **Your job at Dynavox were you**  
 21 **terminated from that job?**  
 22 A. Uh-huh (yes).  
 23 **Q. Yes?**  
 24 A. I called it that. They wanted  
 25 it to look like I was laid off, but

1 **Relations Commission, does that ring a**  
 2 **bell?**  
 3 A. Maybe.  
 4 **Q. Now, do you have copies of the**  
 5 **claim documents that you filed?**  
 6 A. I don't know. I did at that  
 7 time. I don't know if I do now.  
 8 **Q. Okay. So you filed a**  
 9 **discrimination claim, and what was the**  
 10 **basis for your claim?**  
 11 A. That they --- well, number one,  
 12 I had been harassed at work like crazy  
 13 by one sales rep, and every time I went  
 14 to my boss, my boss would do nothing.  
 15 They didn't want it to look like I was  
 16 fired. They didn't want anybody to  
 17 know that they fired me. They told me  
 18 in December that my last day would be  
 19 February.  
 20 **Q. December of when?**  
 21 A. December of '02, shortly after I  
 22 came back from Harmorville, yes.  
 23 **Q. Okay.**  
 24 A. And another lady that I worked  
 25 with did have a case against them for

1 the same thing and won, and that was  
 2 --- and you asked me if I ever did a  
 3 deposition, that was my deposition.  
 4 That's when I did.  
 5 **Q. A discrimination case?**  
 6 A. Uh-huh (yes). They did the same  
 7 thing to her that they did to me, but  
 8 they didn't try to cover it with her.  
 9 They tried to cover it with me. They  
 10 said as long as I didn't tell a soul  
 11 that my last day was in February. And  
 12 they wanted to give me time to look for  
 13 another job. They did not want anybody  
 14 to know what went on in that  
 15 conversation that day or they would  
 16 have let me go immediately.  
 17 **Q. Did you ever file any kind of**  
 18 **Workmen's Compensation claims? Have**  
 19 **you ever had one of those, a work**  
 20 **injury?**  
 21 A. Yes. I couldn't even tell you  
 22 what year. I still worked downtown for  
 23 American Thermoplastic. That's got to  
 24 --- let me think a minute. I worked  
 25 for American Thermoplastic until April

1 it happened at work. So I went, but I  
 2 don't remember what all was involved  
 3 with that.  
 4 **Q. Let me ask you a little bit**  
 5 **about your educational background.**  
 6 A. Uh-huh (yes).  
 7 **Q. Where did you go to high school?**  
 8 A. Academy High School.  
 9 **Q. Academy?**  
 10 A. Erie, Pennsylvania, State  
 11 Street.  
 12 **Q. Okay.**  
 13 A. Now, it's not called Academy  
 14 anymore. It's called --- I just past  
 15 it. It's something Academy, but it's  
 16 not Academy High School anymore. It is  
 17 a school.  
 18 **Q. Is it a private school or a**  
 19 **Catholic School?**  
 20 A. I don't know now what you would  
 21 call it. It was a public school when I  
 22 went, a public high school.  
 23 **Q. And when did you graduate,**  
 24 **ma'am?**  
 25 A. 1962.

1 of 2000. We were out at the new  
 2 building for six years, 1994. We were  
 3 downtown --- I was downtown for ten  
 4 years. Somewhere in that ten years  
 5 from '84 to '94 somewhere, I got hit  
 6 when I was over on the loading dock. I  
 7 went over to pick up shipping papers,  
 8 and John was pushing the, whatever you  
 9 call it, electronic thing with skids  
 10 and cartons on it and didn't see me.  
 11 And I was turned talking to somebody  
 12 and I got nailed. And I did use  
 13 Workmen's Comp on that, I believe.  
 14 **Q. What type of injuries did you**  
 15 **sustain?**  
 16 A. I don't even remember where I  
 17 got hit. I mean, I got hit and I went  
 18 flying and one of the truckers caught  
 19 me as I was flying towards him, but I  
 20 don't remember. That is so far ---  
 21 that's back in the '80s or early '90s  
 22 somewhere. I truly don't remember.  
 23 **Q. All right. Fair enough.**  
 24 A. I mean, they wanted me to go to  
 25 somebody right away, you know, because

1 **Q. And did you have any other**  
 2 **education after high school?**  
 3 A. I went to Gannon up in Erie for  
 4 a year.  
 5 **Q. I take it you did not graduate?**  
 6 A. No, I went for one year. I went  
 7 back and forth and took classes at Pitt  
 8 when I still was in Penn Hills, just a  
 9 few classes and not because I wanted  
 10 any --- I just wanted the classes. I  
 11 took writing and psychology.  
 12 **Q. Let me ask a question here. Are**  
 13 **you making a claim --- is there going**  
 14 **to be a claim for wage loss in this**  
 15 **case? Because if there is, then I have**  
 16 **a whole lot of material that I need to**  
 17 **cover.**  
 18 ATTORNEY PATBERG:  
 19 Give me two minutes with  
 20 her.  
 21 ATTORNEY BENSON:  
 22 If there's not, I mean if  
 23 you say on the record this is  
 24 not a wage loss claim ---  
 25 ATTORNEY PATBERG:

1 I want to talk to her  
2 first.  
3 ATTORNEY BENSON:  
4 --- we'll move on.  
5 ATTORNEY PATBERG:  
6 I want to talk to her  
7 first just to make sure.  
8 ATTORNEY BENSON:  
9 That's fine. Let's take  
10 a little break so you can speak  
11 to Mr. Patberg.  
12 SHORT BREAK TAKEN  
13 ATTORNEY PATBERG:  
14 Mr. Benson, Ms. MacDonald  
15 is not making a wage claim.  
16 BY ATTORNEY BENSON:  
17 Q. Okay.  
18 A. No, I tried to keep working as  
19 much as I could, I didn't try to  
20 not ---.  
21 ATTORNEY PATBERG:  
22 Okay. There's no  
23 question on the table.  
24 A. Okay.  
25 ATTORNEY BENSON:

1 Let's not testify in a  
2 narrative.  
3 ATTORNEY BENSON:  
4 On the basis of Mr.  
5 Patberg's stipulation that we're  
6 not --- this case does not  
7 include any claim for lost  
8 wages, I can forego an extensive  
9 line of questioning in that  
10 regard.  
11 ATTORNEY PATBERG:  
12 That's fine.  
13 ATTORNEY BENSON:  
14 So let me ask you. This  
15 claim is I assume limited to ---  
16 well, let me ask you, ---  
17 ATTORNEY PATBERG:  
18 Sure.  
19 ATTORNEY BENSON:  
20 --- what is the scope of  
21 this claim, so I can sort of  
22 target for the rest of the  
23 deposition? That's what I'm  
24 trying to figure out.  
25 ATTORNEY PATBERG:

1 She has unpaid medical  
2 bills and non-economic damages.  
3 ATTORNEY BENSON:  
4 Okay.  
5 ATTORNEY PATBERG:  
6 I mean, there's no  
7 property damage; right? You're  
8 car got fixed? I don't want to  
9 put this on the record --- I  
10 will put a stipulation on the  
11 record.  
12 OFF RECORD DISCUSSION  
13 ATTORNEY PATBERG:  
14 The current claim on the  
15 table is for the degree that  
16 medical bills are admissible,  
17 which I believe under  
18 Pennsylvania Law would be those  
19 that are outstanding related ---  
20 reasonably related, care was  
21 reasonable and related and non-  
22 economic damages. Good?  
23 BY ATTORNEY BENSON:  
24 Q. Okay. So we're not having a  
25 wage loss claim here and your car was

1 repaired or resolved. The damage to  
2 your car was resolved through your own  
3 insurance carrier following the  
4 accident?  
5 A. They totaled my car and gave me  
6 some money towards the new one.  
7 Q. Let me ask you while we're  
8 talking about this ---.  
9 A. I've been wanting to turn that  
10 over the whole time. I hate looking at  
11 that thing.  
12 ATTORNEY BENSON:  
13 Can you leave those out  
14 in case I need them?  
15 ATTORNEY PATBERG:  
16 I'll just put them in the  
17 envelope so they didn't get  
18 mixed in with the paperwork. I  
19 wasn't trying --- I wasn't  
20 grabbing them off of you.  
21 ATTORNEY BENSON:  
22 I'll forget if you ---.  
23 A. I've been wanting to go like  
24 this the whole time I was sitting here  
25 because I could see it out of the

1 corner of my eye.  
 2 **Q. Mrs. MacDonald, I have marked as**  
 3 **MacDonald Exhibit Number Two a one-page**  
 4 **document that was produced by your**  
 5 **prior attorney in this case and then**  
 6 **titled unpaid medical bills.**  
 7 **(MacDonald Deposition**  
 8 **Exhibit Two marked for**  
 9 **identification.)**  
 10 A. Uh-huh (yes).  
 11 BY ATTORNEY BENSON:  
 12 **Q. I want you to take a look at**  
 13 **that for a minute and let me know if**  
 14 **this is the complete listing of the**  
 15 **medical bills that you are contending**  
 16 **were related to the February 17, 2005**  
 17 **accident, but were not paid?**  
 18 A. Okay. All right. Here we go.  
 19 All right. On this ---.  
 20 **Q. I tell you what, let's just go**  
 21 **down through the top.**  
 22 A. Okay.  
 23 **Q. Maybe that will be an easier way**  
 24 **to go. The first list you had**  
 25 **Renaissance Family Practice for a visit**

1 something on the side because I  
 2 wouldn't have had Wal-Mart insurance  
 3 yet.  
 4 **Q. So you can tell me what the**  
 5 **January 17, 2006 visit was for at this**  
 6 **point?**  
 7 A. No, not without looking at  
 8 something.  
 9 **Q. Then you have a whole list of**  
 10 **bills that were denied by Traveler's.**  
 11 **Were all of those bills submitted to**  
 12 **your automobile insurance company to be**  
 13 **paid because you contended they were**  
 14 **related to the February 2005 accident?**  
 15 A. Yes.  
 16 **Q. And they did pay some bills I**  
 17 **take it?**  
 18 A. Yes.  
 19 **Q. But these are bills they did not**  
 20 **pay?**  
 21 A. Yes.  
 22 **Q. Now, where you say auto RX, I**  
 23 **assume RX means prescriptions?**  
 24 A. Yes.  
 25 **Q. You have Amitriptylin in October**

1 **on January 17, 2006. I take it that**  
 2 **was not paid. It says denied by**  
 3 **Highmark?**  
 4 A. Okay. I don't know if that was  
 5 later paid or not. I didn't have this  
 6 one in my mind.  
 7 **Q. And who was Highmark, was that**  
 8 **your ---?**  
 9 A. That would have been my  
 10 insurance, I guess.  
 11 **Q. And were you working in January**  
 12 **of 2006?**  
 13 A. I went to work for Wal-Mart in  
 14 January of 2006.  
 15 **Q. Did you have health insurance**  
 16 **through Highmark? Was it Highmark Blue**  
 17 **Cross or Blue Shield, or do you know?**  
 18 A. I don't remember.  
 19 **Q. Okay.**  
 20 A. I don't remember. And I went to  
 21 work for Wal-Mart in January of --- let  
 22 me back up. I believe I went to work  
 23 for Wal-Mart in January of '06, and I  
 24 don't believe I would have had medical  
 25 coverage unless I was paid for

1 **2005. What did you take that for?**  
 2 A. I couldn't tell you because I  
 3 don't know what it is. I don't  
 4 remember.  
 5 **Q. And ibuprofen, you did tell me**  
 6 **you take ibuprofen?**  
 7 A. That would have been for pain.  
 8 **Q. Freeport Hometown Pharmacy,**  
 9 **where is that located?**  
 10 A. In Freeport.  
 11 **Q. Okay. Did you get anything**  
 12 **there other than Neurogel Plus on**  
 13 **June 5, 2006?**  
 14 A. That's the only thing I ever got  
 15 from them, and that was not paid.  
 16 That's where they compound their own  
 17 little mix. They do their own  
 18 compounding.  
 19 **Q. Okay. I got it.**  
 20 A. I never knew about that stuff.  
 21 **Q. Who prescribed Neurogel for you?**  
 22 A. That would have been --- I  
 23 believe that would have been Doctor  
 24 Cicuto.  
 25 **Q. And what did you do with it?**

1 A. You had to apply it to wherever  
 2 the pain was.  
 3 **Q. It was topical application?**  
 4 A. Uh-huh (yes).  
 5 **Q. All right. And then St.**  
 6 **Margaret Family Health Center you had**  
 7 **some osteopathic manipulation there in**  
 8 **the spring of 2006?**  
 9 A. Okay. When I had told you about  
 10 Doctor Johnson and 40th and Butler  
 11 Street, okay, Doctor Boyd was also ---  
 12 it was St. Margaret's Family Health  
 13 Center, but Doctor Boyd and Doctor  
 14 Johnson were both at that one at 40th  
 15 and Butler.  
 16 **Q. Okay.**  
 17 A. And I started going to them. I  
 18 just was at my wits end. I didn't  
 19 quite know what to do because I still  
 20 was a mess, and so I went down there.  
 21 Doctor Balestrino had recommended that  
 22 I go there and see if they could do  
 23 more for me. And that was prior to  
 24 going to Doctor Cicuto in '06.  
 25 **Q. And then you have some charges**

1 home that would tell me where they are,  
 2 bills because they were billing me like  
 3 crazy.  
 4 **Q. These were supplies for a TENS**  
 5 **unit?**  
 6 A. Yes.  
 7 **Q. And then you have Flynn**  
 8 **Chiropractic Services, and there's a**  
 9 **bill on that.**  
 10 A. Uh-huh (yes).  
 11 **Q. Are there any other bills**  
 12 **outstanding that you're claiming as**  
 13 **compensation in this case?**  
 14 A. Well, as medical already done,  
 15 this is, what, about \$9,000? That was  
 16 approximately what it was. And now  
 17 there is a doctor that I forgot to tell  
 18 you about, I saw him right before my  
 19 Wal-Mart insurance ran out, right  
 20 before I started working up at the  
 21 track in Erie. So that was in June of  
 22 '08. I wanted to get in while I still  
 23 had insurance because Traveler's wasn't  
 24 coming through and stuff.  
 25 I went to a Doctor Passarelli at

1 **here for St. Margaret's Hospital and**  
 2 **under UPMC Physician Services, there's**  
 3 **a Doctor Prasad, P-R-A-S-A-D. Who is**  
 4 **he?**  
 5 A. I don't remember. That name I'd  
 6 have to look back in my records. I  
 7 don't remember Prasad. He might have  
 8 been --- let me see, where were my  
 9 MRI's? I don't know who he is. I  
 10 don't remember that.  
 11 **Q. RS Medical, where is that**  
 12 **located?**  
 13 A. RS Medical is the one's that had  
 14 the --- what did you call the thing I  
 15 have?  
 16 **Q. The TENS unit?**  
 17 A. Yeah.  
 18 ATTORNEY PATBERG:  
 19 I think it's a medical  
 20 supply.  
 21 A. Yeah.  
 22 BY ATTORNEY BENSON:  
 23 **Q. Where is it located, do you**  
 24 **know?**  
 25 A. I don't know. I have things at

1 Three Rivers Orthopedics at St.  
 2 Margaret's Hospital because all through  
 3 this, I kept telling everybody it's my  
 4 shoulder. Nobody's looking at my  
 5 shoulder. It's my shoulder that's  
 6 pushing my physical --- it was just  
 7 pushing me backwards. And I kept  
 8 saying it was the shoulder. And they  
 9 did these MRIs, but they never did an  
 10 MRI of my shoulder.  
 11 And Doctor Cicuto had suggested  
 12 when I saw him in '06 that I go to a  
 13 shoulder guy. Well, my insurance ran  
 14 out so I couldn't do that and  
 15 Traveler's wasn't paying. And I  
 16 thought I've already racked up a lot  
 17 here, they're going to take my house.  
 18 So I did not go to the shoulder guy,  
 19 but in June of '08 I went to Doctor  
 20 Passarelli while I still had my Wal-  
 21 Mart insurance. And he's a shoulder  
 22 guy.  
 23 **Q. Okay.**  
 24 A. He had two MRIs done, they're  
 25 not on this billing because my Wal-Mart

1 insurance paid for them. He did two,  
 2 he did a regular back one like  
 3 everybody else had done. And then he  
 4 said, okay, I'm going to send you back  
 5 for one more. We got it in right  
 6 before my insurance was done, and he  
 7 did a shoulder one. And there it was.  
 8 **Q. What was there?**  
 9 A. A torn rotator cuff. I told  
 10 everybody --- I kept telling everybody  
 11 my arm, my hand, going down my arm,  
 12 it's out towards the end. I don't know  
 13 how to describe that because I don't  
 14 know exactly what's what up here. But  
 15 what he said to me was it's out towards  
 16 the end, whatever that means. I'm  
 17 assuming out here somewhere.  
 18 **Q. Are you claiming that you tore**  
 19 **your left rotator cuff ---**  
 20 A. Yes.  
 21 **Q. --- in this accident ---**  
 22 A. Oh, yeah.  
 23 **Q. --- in February of 2005?**  
 24 A. Oh, yeah. Because that's when I  
 25 went to Harmorville Rehab, when I was

1 go into a whole lot of employment  
 2 things, but I just want to know what  
 3 you've been doing in terms of  
 4 employment. Dynavox?  
 5 A. Yes.  
 6 **Q. In fact, let me just do this,**  
 7 **this might be a little quicker.**  
 8 ATTORNEY PATBERG:  
 9 Okay.  
 10 A. Do you have my résumé?  
 11 BY ATTORNEY BENSON:  
 12 **Q. I have it, I do.**  
 13 A. Okay. All right.  
 14 **Q. I'm going to show you a document**  
 15 **that was in some of the records we**  
 16 **obtained in this case and I've labeled**  
 17 **it as MacDonald Exhibit Number Three,**  
 18 **and it has your name at the top.**  
 19 **(MacDonald Deposition**  
 20 **Exhibit Three marked for**  
 21 **identification.)**  
 22 A. Yes.  
 23 BY ATTORNEY BENSON:  
 24 **Q. Do you recognize it?**  
 25 A. That's me.

1 having anything done, I kept telling  
 2 everybody my arm and my hand, up in  
 3 here, you know, and they just ---  
 4 nobody ever spotted the torn rotator  
 5 cuff.  
 6 **Q. Have you received any treatment**  
 7 **for that condition?**  
 8 A. I will be now.  
 9 **Q. What's going to happen?**  
 10 A. I will be now. December 8th, I  
 11 go to Doctor Passarelli. I just called  
 12 yesterday and made an appointment  
 13 because now I have insurance again. A  
 14 lot of these gaps are because I had no  
 15 way to pay for this and I already had  
 16 \$9,000 hanging out there.  
 17 **Q. Why do you have insurance now,**  
 18 **but you didn't in 2008?**  
 19 A. Because I turned 65 and I have  
 20 Medicare A and B, and I picked up the  
 21 supplemental at a very low cost.  
 22 **Q. Okay.**  
 23 A. Just now as of this month.  
 24 **Q. Let me ask you some questions**  
 25 **here. At the time --- I'm not going to**

1 **Q. What is Exhibit Number Three?**  
 2 A. It is my résumé.  
 3 **Q. And looks like it brings us up**  
 4 **to about 2005?**  
 5 A. Uh-huh (yes).  
 6 **Q. And without going through all of**  
 7 **this, at the time you prepared it, it**  
 8 **was an accurate listing of your prior**  
 9 **employments?**  
 10 A. Uh-huh (yes).  
 11 **Q. Correct?**  
 12 A. Uh-huh (yes).  
 13 ATTORNEY PATBERG:  
 14 You have to say ---.  
 15 A. Yes. Oh, yes.  
 16 BY ATTORNEY BENSON:  
 17 **Q. Yes. So let me ask you, when**  
 18 **you worked for --- let's go back to**  
 19 **American Thermoplastic a minute. Was**  
 20 **that an office job or was that a plant**  
 21 **job?**  
 22 A. That was an office job.  
 23 **Q. And Dynavox Systems was an**  
 24 **office job?**  
 25 A. Everything on here was data

1 entry sitting at a desk, other than  
 2 Wal-Mart.  
 3 **Q. And tell me about your Wal-Mart**  
 4 **job, what did you have to do?**  
 5 A. More than I could handle  
 6 physically. When I was being a cashier  
 7 and just standing there and waiting on  
 8 people, that was one thing. Although  
 9 it was very, very difficult because of  
 10 my shoulder because you had to take the  
 11 groceries, scan them and get them over  
 12 to here.  
 13 **Q. And get them bagged?**  
 14 A. And that was hard. Some of the  
 15 stuff was heavy. You know, I mean,  
 16 some of the groceries were heavy.  
 17 **Q. Let me ask you. Were you just a**  
 18 **cashier at Wal-Mart for groceries or**  
 19 **did you also check out other things?**  
 20 A. Everything, anything, yeah.  
 21 **Q. So if somebody had a box or an**  
 22 **appliance or whatever, whatever it was,**  
 23 **that they took through checkout from**  
 24 **Wal-Mart, you might have had to ring**  
 25 **up?**

1 A. Uh-huh (yes).  
 2 **Q. Correct?**  
 3 A. Yes.  
 4 **Q. So 10:00 p.m. until when?**  
 5 A. Until 6:30 in the morning.  
 6 **Q. And when you didn't have people**  
 7 **wanting to checkout, I assume you**  
 8 **couldn't just stand at the cash**  
 9 **register and ---?**  
 10 A. Right.  
 11 **Q. What kind of jobs did they have**  
 12 **you doing?**  
 13 A. They made us clean the  
 14 registers, push shopping carts loaded  
 15 all night to put the go backs back.  
 16 **Q. Did you restock shelves?**  
 17 A. Yeah.  
 18 **Q. Okay.**  
 19 A. As long as I didn't have to go  
 20 too high, yeah. Yes.  
 21 **Q. Anything else that they had you**  
 22 **doing?**  
 23 A. Just a lot of grunt work, that  
 24 was it. We pushed shopping --- I hated  
 25 it. Oh, how I hated it. It's nothing

1 A. Yeah, anything. Anything that  
 2 they were buying because it's a full  
 3 fledged grocery area also, so it was  
 4 groceries plus everything else that  
 5 Wal-Mart has.  
 6 **Q. And so you started a Wal-Mart in**  
 7 **2005, and when did you end that job?**  
 8 A. I was hired in December of '05  
 9 and I believe my beginning of working  
 10 was the very beginning of January  
 11 of '06.  
 12 **Q. My question was how long did you**  
 13 **do the job as a Wal-Mart cashier?**  
 14 A. I did that for approximately two  
 15 and a half years.  
 16 **Q. How many hours a week did you**  
 17 **work?**  
 18 A. For the first 11 months, 40  
 19 hours a week. And then I took my early  
 20 Social Security and cut it back to  
 21 three nights rather than five nights a  
 22 week, so it was 24 hours.  
 23 **Q. And when you were working**  
 24 **overnight, did you always work the**  
 25 **nightshift?**

1 like what I ever did. But that's what  
 2 we did all night long. We were either  
 3 on the register or we were cleaning or  
 4 we were doing go backs.  
 5 **Q. Has anyone told you that your**  
 6 **torn rotator cuff in the left shoulder**  
 7 **was caused by the February 17, 2005**  
 8 **motor-vehicle accident?**  
 9 A. It's in my right shoulder  
 10 and ---.  
 11 **Q. Sorry, your right shoulder.**  
 12 A. Yes. And I only went to Doctor  
 13 Passarelli in June of '08 right before  
 14 my Wal-Mart insurance ran out. And so  
 15 at least I got it identified now  
 16 December 8th --- starting December 8th,  
 17 I'm going to start getting it taken  
 18 care of.  
 19 **Q. So December 8th, you have**  
 20 **surgery scheduled?**  
 21 A. No. I have an appointment with  
 22 Doctor Passarelli and he had made three  
 23 suggestions. First being physical  
 24 therapy, second being a shot, third  
 25 being surgery. This is what he told me

1 in June of '08. I want him to go to  
 2 the second thing, the shots, because I  
 3 do exercising like you wouldn't believe  
 4 at home. I know them all by heart. I  
 5 don't want to go through a long stint  
 6 of physical therapy again unless he  
 7 makes me. I will do it if he says so,  
 8 but I would rather go do the shot and  
 9 see what happens, because I really  
 10 would like to be rid of the pain and  
 11 discomfort and my shoulder yanking up  
 12 into my head. And it has caused so  
 13 much trouble now going backwards with  
 14 my neck, but it's because of this.  
 15 It's all this yanking here.

16 **Q. Yanking on the top of your right  
 17 shoulder?**

18 A. My shoulders pull up. I can be  
 19 normal like this, and after several  
 20 hours I end up like this.

21 **Q. Your shoulders go up towards  
 22 your ears?**

23 A. Yeah, and I can't get them down.  
 24 I'll go in the ladies room and I'll  
 25 pull and pull and stretch. I know all

1 the stretches. I know every stretch  
 2 known to man.

3 **Q. Let me ask you a question. Did  
 4 that ever happen prior to February  
 5 2005?**

6 A. Absolutely not, no.

7 **Q. And when did it start coming on  
 8 after February of 2005?**

9 A. I went --- I know I was going to  
 10 the chiropractor and then I was going  
 11 to physical therapy. The chiropractor  
 12 is the one that told me you're going to  
 13 have to go to physical therapy because  
 14 there was one thing right back in here  
 15 somewhere ---.

16 **Q. Between your shoulder blades?**

17 A. Somewhere right around where my  
 18 hands are, that he couldn't keep it in  
 19 place. It would not stay in place.  
 20 And they treated me, you know, through  
 21 the years, so this was not normal.  
 22 Couldn't keep it in place, so he said  
 23 you're going to have to go to physical  
 24 therapy and strengthen that. So the  
 25 next thing you know, I'm up at

1 Harmorville Rehab again. And they ---  
 2 one day I would go, it would be in.  
 3 The next day it would be out and they  
 4 couldn't get it to stay in. And so  
 5 they just --- and my arm and hand were  
 6 going numb on me constantly.

7 **Q. Your right one?**

8 A. Oh, yeah. Constantly and they  
 9 knew that it has to be in the  
 10 Harmorville records because everybody  
 11 knew that. Because I would wake up and  
 12 it would scare the heck out of me  
 13 because my arm was gone or it would be  
 14 horribly painful. And I have great  
 15 difficulty sleeping. My son explained  
 16 to me why it's worse when I'm laying  
 17 down with the rotator cuff and that's  
 18 because I guess your shoulder shifts on  
 19 you somehow, and so it's actually worse  
 20 when --- you think when you go lay down  
 21 you're going to have some comfort and  
 22 get rid of the pain, but it actually  
 23 gets worse and wakes me on and off  
 24 through the night.

25 **Q. We'll get to that. Let me ask**

1 **you a couple questions here. After you  
 2 worked at Wal-Mart, you also worked at  
 3 the People's Library?**

4 A. Yeah, I did that while I was at  
 5 Wal-Mart.

6 **Q. Okay. And I have that you  
 7 started there about the middle of  
 8 August in 2005?**

9 A. Probably the second time I  
 10 worked for them, yes.

11 **Q. When did you work for them the  
 12 first time?**

13 A. Let me see. I worked for them  
 14 the first time 2003 to 2004, and then I  
 15 was still working for them a couple  
 16 nights a week when I was at the PA Job  
 17 Corp. And then I went up to USIS, I  
 18 think, that's when I had to leave them.  
 19 I was still working for them a little  
 20 bit. I worked back and forth for them.

21 **Q. What did you do for the PA Job  
 22 Corp?**

23 A. The PA Job Corp, I worked in the  
 24 education office, I entered all of the  
 25 --- what do you call it when a student

1 reports for class? I entered all of  
2 the data for every student that was  
3 going into whatever classroom they were  
4 going into and if they were absent and  
5 all of that.

6 **Q. Okay. Let me ask you this. At  
7 the library did you restock books?**

8 A. At the library the first time I  
9 worked for them, I was actually doing  
10 inventory for all the books.

11 **Q. What period of time was that?**

12 A. That would have been 2003 to  
13 2004. It was a data entry project.

14 **Q. What about the second stint when  
15 you were there from August 2005 --- are  
16 you still working at the library?**

17 A. No, not anymore.

18 **Q. When did you stop?**

19 A. When I went up to Erie to start  
20 working for the State Racing  
21 Commission.

22 **Q. So when was that?**

23 A. That was after Wal-Mart. That's  
24 the only thing that's not on here.

25 **Q. So your last day at Wal-Mart was**

1 **when?**

2 A. My last day at Wal-Mart is on  
3 the calendar. It would have been like  
4 the 20 something of June of '08 because  
5 I started at the track, I believe, on  
6 June 24th of '08. I only quit Wal-Mart  
7 a few days ahead, a couple days ahead.  
8 And the library the same thing,  
9 probably the week before I started up  
10 at the track.

11 **Q. And so you started at the track  
12 in Erie ---?**

13 A. June 24th, I believe, of '08.

14 **Q. Are you still working there?**

15 A. Yeah, it's wonderful.

16 **Q. What do you do up at the track?**

17 A. I work on the computer. We do  
18 all the licensing for the trainers,  
19 anybody that works on the track.

20 **Q. What's the name of the track or  
21 who do you work for?**

22 A. Well, I work for the  
23 Pennsylvania State Horse Racing  
24 Commission. It's a state job. And  
25 it's a state seasonal job, which

1 enables me to only have to work a half  
2 a year now, and I have a half year off.

3 **Q. So you have winter time off?**

4 A. Yes.

5 **Q. I saw a reference to a Paul  
6 Resnick at Three Rivers Orthopedics?**

7 A. Yes.

8 **Q. What did you see him for, it was  
9 apparently back in 1998?**

10 A. 1998, maybe that's when I had my  
11 foot surgery.

12 **Q. Did you get it done at Three  
13 Rivers Orthopedics?**

14 A. Doctor Resnick was the surgeon  
15 and I don't --- couldn't tell you if I  
16 ever went to him about my back or not,  
17 but he was the one who did my foot  
18 surgery.

19 **Q. Let me ask you about a couple  
20 other things here and then I went to  
21 get on to the accident a little bit.**

22 **Did you have any medical conditions  
23 prior to February 2005 that were not  
24 caused by the accident or even caused  
25 by the March 1996 accident? I mean,**

1 **the chronic neck and back pain that was  
2 from 1996; right? You've explained  
3 that to me; correct?**

4 A. Uh-huh (yes).

5 **Q. You got to speak up.**

6 A. Yes.

7 **Q. I thought I saw a reference to  
8 something called a syrinx, S-Y-R-I-N-X?**

9 A. It's a syrinx.

10 **Q. Syrinx up in your spinal cord in  
11 your neck?**

12 A. Uh-huh (yes).

13 **Q. What do you understand that to  
14 be?**

15 A. That's a pocket I guess in your  
16 spinal cord. I had been losing my  
17 balance and just feeling like out of it  
18 a lot of times at work and --- just  
19 really hard to explain. You could get  
20 a pain here, you could get one here,  
21 you could get it here, you could get in  
22 your --- just like shooting little  
23 pains here and there and never a set  
24 --- like it wasn't all the time. It  
25 was just very intermittent.

1 **Q. Pain in different parts around**  
 2 **your body?**  
 3 A. Yeah, it could be anywhere  
 4 because all your nerve endings are on  
 5 your spine, and the syrxinx in my spinal  
 6 cord is up in here somewhere.  
 7 **Q. Up in your neck.**  
 8 A. And I kept telling them that  
 9 before I would feel funny or lose my  
 10 balance, I would get a pain in my neck.  
 11 And that's what happens --- I don't  
 12 know what way your fluid is supposed to  
 13 go, but it's moving. You know, it's  
 14 moving somehow. And what happens when  
 15 you have a syrxinx, it's like a bulge  
 16 like a pocket and the fluid gets  
 17 caught. And if the fluid gets caught,  
 18 it hits the nerve endings. It  
 19 depresses on the nerve endings and it  
 20 can cause all these different things.  
 21 I was having blurred vision, balance.  
 22 That's under control and that  
 23 can be controlled also with ibuprofen  
 24 because it's actually inflammation that  
 25 would cause --- when the nerve endings

1 copy.  
 2 ATTORNEY BENSON:  
 3 Well, these are --- I  
 4 guess I was going to give them  
 5 to the court reporter.  
 6 ATTORNEY PATBERG:  
 7 That's fine.  
 8 ATTORNEY BENSON:  
 9 Because I don't know what  
 10 to do with them.  
 11 ATTORNEY PATBERG:  
 12 That's fine. That works  
 13 perfect.  
 14 A. I can make them all over again  
 15 if you want me to.  
 16 ATTORNEY PATBERG:  
 17 No, that's okay. He's  
 18 going to mark them as exhibits  
 19 and we'll attach them to the  
 20 transcript.  
 21 A. Can we get copies of these so I  
 22 don't have to go through copying them  
 23 again or not?  
 24 ATTORNEY PATBERG:  
 25 You don't have to copy

1 would get pressed on by this fluid, you  
 2 know, it would cause all sort of havoc.  
 3 **Q. Do you know whether you're born**  
 4 **with a syrxinx?**  
 5 A. My doctor figured it happened  
 6 --- that it could have been at birth  
 7 and just never --- you know, nobody was  
 8 looking for anything.  
 9 **Q. And whose your doctor who ---?**  
 10 A. Doctor Balestrino, the one that  
 11 sent me for the MRI, yeah.  
 12 **Q. Okay. Now, let's talk about**  
 13 **these calendars a minute.**  
 14 A. Now, this is where you get the  
 15 challenge because my handwriting sucks.  
 16 It's terrible.  
 17 **Q. That's okay. You're going to**  
 18 **read it, not me.**  
 19 A. Okay.  
 20 ATTORNEY PATBERG:  
 21 Tracey, I'm going to have  
 22 to get copies of that from you.  
 23 A. Yeah.  
 24 ATTORNEY PATBERG:  
 25 She only brought one

1 them. Here's what happens.  
 2 These exhibits at the end of  
 3 this, ---  
 4 A. Uh-huh (yes).  
 5 ATTORNEY PATBERG:  
 6 --- the court reporter  
 7 here will be kind enough to  
 8 attach those to the deposition  
 9 transcript just like the ones  
 10 that I had in the earlier  
 11 deposition. And then I'll get  
 12 copies when she copies them. If  
 13 you want more copies, then I'll  
 14 give you more copies.  
 15 A. Okay. It's just easier than  
 16 looking at my little books and you know  
 17 --- so I'd like copies, too.  
 18 ATTORNEY PATBERG:  
 19 Not a problem.  
 20 ATTORNEY BENSON:  
 21 Let me ask another  
 22 question. I hate to ask this  
 23 hard question, but Exhibit Two,  
 24 which was produced in response  
 25 to Interrogatories had a list of

1 the medical bills that are  
2 unpaid. Are we claiming --- or  
3 is she claiming any other  
4 medical treatment other than  
5 what's on Exhibit Number Two?

6 ATTORNEY PATBERG:

7 The rotator cuff is in  
8 the case.

9 ATTORNEY BENSON:

10 Okay. You're claiming  
11 the rotator cuff?

12 ATTORNEY PATBERG:

13 I actually just read it.

14 It's in the record. The  
15 shoulder was never looked at.

16 ATTORNEY BENSON:

17 Let's go off the record a  
18 second.

19 OFF RECORD DISCUSSION

20 BY ATTORNEY BENSON:

21 **Q. Mrs. MacDonald, we've marked**  
22 **some calendars that you brought today**  
23 **as MacDonald Exhibit Four, Five and Six**  
24 **and we only have one copy here. So**  
25 **you've indicated earlier that you keep**

1 **Q. Quite a collection?**

2 A. Yeah.

3 **Q. And the calendars, looking at**  
4 **Exhibit Four for example, what kind of**  
5 **information do you put on your**  
6 **calendars that's relevant to your**  
7 **claims in this lawsuit as far as you**  
8 **know?**

9 A. Well, it shows the progression  
10 of me bouncing from job to job. It  
11 shows my doctors appointments. It  
12 shows the days I had MRIs done or  
13 x-rays or whatever. If you look just  
14 for an example ---.

15 **Q. Well, for example, let me just**  
16 **ask you a question first. Looking at**  
17 **Exhibit Four, you have a couple of days**  
18 **blacked out on the calendar.**

19 A. Yeah.

20 **Q. What kind of information did you**  
21 **black out?**

22 A. Any information that was nobody  
23 else's business but mine, and that  
24 would be anything that didn't pertain  
25 to the accident. If have people's

1 **calendars; correct?**  
2 **(MacDonald Deposition**  
3 **Exhibit Four through Six**  
4 **marked for**  
5 **identification.)**

6 A. Yes.

7 BY ATTORNEY BENSON:

8 **Q. And they go back how far?**

9 A. Oh, I've been keeping calendars,  
10 God, for years. I don't know how far  
11 back. I brought what pertained to, you  
12 know, what we're doing here.

13 **Q. Do the calendars go back to 1996**  
14 **that you keep?**

15 A. Uh-huh (yes).

16 **Q. Correct?**

17 A. Yeah.

18 **Q. And then you also keep medical**  
19 **records and medical bills and things**  
20 **like that?**

21 A. Hopefully I have all of that. I  
22 know I have my --- I looked at all the  
23 calendars last night, and I'm missing  
24 maybe six years, and that's going back  
25 from the '70s forward.

1 birth dates or I have I went to a party  
2 or whatever, whatever has nothing to do  
3 with my job, my injuries, my doctors is  
4 nobody else's business, so I blacked it  
5 out. But I wanted to help you as far  
6 as ---.

7 ATTORNEY PATBERG:

8 This is a lawyer thing  
9 that I have to deal with.

10 Here's what I'm going to do,  
11 Tracey. Truthfully, I mean she  
12 had --- I was, as I told you,  
13 unaware of the calendars. I  
14 don't think we had previously  
15 had them in the file, otherwise  
16 they would have been provided to  
17 you in discovery. I'll go  
18 through them, if I think that  
19 the redactions are appropriate,  
20 I'll assert it's essentially  
21 going to be outside the scope of  
22 discovery.

23 Arguably he's going to be  
24 entitled to all of them, but  
25 I'll deal with it as it is. I

1 don't know if you want to  
 2 proceed with that or how you  
 3 want to handle it, but I'll make  
 4 that representation to you.  
 5 A. Well, I have ---.  
 6 ATTORNEY BENSON:  
 7 Well, I mean, I'm not  
 8 sure. I didn't see these before  
 9 today.  
 10 ATTORNEY PATBERG:  
 11 I'll agree. As soon as I  
 12 found them, I called your  
 13 office.  
 14 ATTORNEY BENSON:  
 15 The day is getting long  
 16 in the tooth, so I'm not sure  
 17 what to do on that. I don't  
 18 know. I guess I'll have you  
 19 look at it. She's blocked them  
 20 out, the ones that are here.  
 21 You couldn't tell what's under  
 22 there anyway.  
 23 ATTORNEY PATBERG:  
 24 Right.  
 25 ATTORNEY BENSON:

1 But I guess I'm going to  
 2 reserve my right to ask her  
 3 about those things if we feel  
 4 that's appropriate?  
 5 ATTORNEY PATBERG:  
 6 I'll deal with it. I'll  
 7 cross that bridge when I get to  
 8 it.  
 9 ATTORNEY BENSON:  
 10 That's fair.  
 11 ATTORNEY PATBERG:  
 12 And I'm not going to say  
 13 whether I'm going to consent.  
 14 What you're essentially saying  
 15 is you might want to bring her  
 16 back in to ask her questions at  
 17 some future dates is what I hear  
 18 you saying.  
 19 ATTORNEY BENSON:  
 20 Possibly. I'm not even  
 21 sure we're going to get this  
 22 deposition finished today just  
 23 because of where we're going.  
 24 And I have a dinner tonight, so  
 25 I do have to get back at some

1 point.  
 2 ATTORNEY PATBERG:  
 3 Well, you know, I'm not  
 4 --- I mean, I'll talk to her.  
 5 I'm not totally diametrically  
 6 opposed to coming --- we're  
 7 coming back anyway. I mean, I  
 8 got ---. I can put this on the  
 9 record. Here's what ---.  
 10 ATTORNEY BENSON:  
 11 Do you want it on the  
 12 record?  
 13 ATTORNEY PATBERG:  
 14 Yeah, leave it on the  
 15 record.  
 16 ATTORNEY BENSON:  
 17 All right, fine.  
 18 ATTORNEY PATBERG:  
 19 Here's what I'm planning  
 20 on doing. I need to come back  
 21 up and look at the vehicle. I'm  
 22 probably going to have to depose  
 23 Ireland, Campbell and Isler.  
 24 I'm probably going to want to  
 25 depose one or both of these

1 individuals, which is whoever  
 2 this Terry is at T and D  
 3 Fabrications. He's on the EL  
 4 Braid (phonetic) documentation.  
 5 And possibly this claims  
 6 examiner or adjuster or I don't  
 7 know what he is, Larry Luradue,  
 8 L-U-R-A-D-U-E.  
 9 OFF RECORD DISCUSSION  
 10 ATTORNEY PATBERG:  
 11 And then I got to figure  
 12 out who has the maintenance  
 13 records, since Hawk sold to Net  
 14 Scape --- it's not Net Scape,  
 15 whatever it is.  
 16 ATTORNEY BENSON:  
 17 Net Shape.  
 18 ATTORNEY PATBERG:  
 19 Net Shape.  
 20 ATTORNEY BENSON:  
 21 I have some maintenance  
 22 records, that's where these came  
 23 from. There are some other ones  
 24 from before the dates that I  
 25 produced just because it's a

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1 stack of yellow carbons.  
2 ATTORNEY PATBERG:  
3 Right.  
4 ATTORNEY BENSON:  
5 I gave you a copy of  
6 them.  
7 ATTORNEY PATBERG:  
8 There are records beyond  
9 maintenance. There are DOT ---  
10 I know this for a fact, that  
11 there are DOT required  
12 documentation that they have to  
13 have in the file.  
14 ATTORNEY BENSON:  
15 They may well. And my  
16 understanding is the reason I  
17 got the ones I did when I went  
18 up to take a picture of the  
19 truck, it actually was a  
20 happenstance. I didn't even go  
21 to do that. The truck came  
22 driving by and we followed the  
23 truck. The point is they were  
24 getting ready to close and sell  
25 that plant ---

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1 ATTORNEY PATBERG:  
2 Right.  
3 ATTORNEY BENSON:  
4 --- within the next  
5 month. And I asked whether they  
6 had any records and was given a  
7 folder with stuff in it. That's  
8 where the documents came from  
9 that we produced. My  
10 understanding is that Net Shape  
11 or Hawk or whoever would have  
12 other records that they never  
13 kept out there at some other  
14 office, whether they were the  
15 billing records or the invoices  
16 or ---  
17 ATTORNEY PATBERG:  
18 Right.  
19 ATTORNEY BENSON:  
20 --- all of that. So I  
21 understand if that's what you  
22 want to do.  
23 ATTORNEY PATBERG:  
24 Yeah. This can go off  
25 the record now at this point.

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1 OFF RECORD DISCUSSION  
2 BY ATTORNEY BENSON:  
3 **Q. All right. We're going to shift**  
4 **gears here, Mrs. MacDonald, since we're**  
5 **going to be --- the scope of the claims**  
6 **here are a little different and we're**  
7 **going to be coming back anyway. What I**  
8 **want to ask you about is the day of the**  
9 **accident.**  
10 A. Okay.  
11 **Q. Do you remember what day of the**  
12 **week that was?**  
13 A. Yes, I do.  
14 **Q. Tell me about it. When was it?**  
15 A. It was Thursday, February 17th  
16 of 2005. It was my son's birthday and  
17 I was headed for Connecticut for his  
18 birthday. And I left home somewhere  
19 around noon.  
20 **Q. In Springdale?**  
21 A. Yeah. Somewhere around noon and  
22 the accident --- well, I was going  
23 along. I stopped in Brookville I think  
24 to either get gas or get something to  
25 eat because I always do that. I come

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1 over Old 28 into Brookville, and then I  
2 get on 80 at Brookville. And I was  
3 coming along and it was sort of sun  
4 out, some clouds, no snow, clear road.  
5 It was a cold day, but it was a clear  
6 road. And I was coming along and I  
7 noticed up ahead of me that there were  
8 about three or four vehicles up ahead  
9 of me. All of us being in the right  
10 lane. I don't remember what was in the  
11 left lane. But there were three or  
12 four vehicles ahead of me, and I  
13 noticed that something was wrong up  
14 there because of the way they went  
15 around the truck.  
16 Normally when you're passing,  
17 you're sort of easing your way out, you  
18 know, and going. And I have some  
19 difficulty with this. Every time I go  
20 to say it, it's like there it is again.  
21 But anyway so there were three or four  
22 vehicles ahead of me. I knew something  
23 was wrong, so I slowed and I was way  
24 behind them. The first vehicle I  
25 remember was a large sedan, dark color.

1 And what I was seeing happen in front  
2 of me was I was seeing them come to the  
3 truck and go like that (indicating).

4 **Q. Wait.**

5 A. Not a gradual going around. It  
6 was like they were startled because it  
7 was coming up to them and around so  
8 abruptly and I'm watching them all do  
9 this.

10 **Q. I was only asking you --- go  
11 ahead finishing telling me.**

12 A. So I knew something was wrong so  
13 I slowed. At that point, you know, I  
14 just --- my antennas went up.  
15 Something wasn't right because of the  
16 way they were going around him so  
17 abruptly. So I, you know, proceeded  
18 forward. I was still in the right  
19 lane. I now was going to go around him  
20 because he was either --- he was either  
21 completely stopped or inching. He was  
22 not traveling. No lights, no flashers,  
23 no brake lights, nothing to warn you  
24 that he was at a dead stop. Just  
25 nothing.

1 So I started to go. I'm going  
2 to now go around him. I was still back  
3 very far from him because I knew by  
4 watching the other people that I needed  
5 to stay back. Now, as I started to do  
6 this, I apparently hit a patch of black  
7 ice, which you cannot see. So I didn't  
8 want to hit him. I now know he's going  
9 nowhere because my thought was, why as  
10 I'm sliding isn't he going away from  
11 me? I asked the state trooper that. I  
12 asked everybody that and they all just  
13 kept saying just let it go. He still  
14 should have been going away from me as  
15 I'm sliding. I should have been able  
16 to ride around. I was not speeding. I  
17 was not speeding.

18 When I saw that he was going  
19 nowhere and I was going to connect, I  
20 turned to the right. I was going to go  
21 towards the ditch so as not to hit  
22 anything else, and that's why the left  
23 front --- if you look in the pictures,  
24 the left front of my car took the brunt  
25 of it. My headlight on the right was

1 still there even though the hood peeled  
2 back. My left headlight is gone.

3 I started to angle to the right,  
4 so the left front of my car took the  
5 right lower corner of his brace. Now,  
6 if you took a piece of paper and you  
7 twisted it that's the damage on his  
8 truck, okay. On the brace in the right  
9 hand lower corner, twist, that's it.  
10 That's all the damage. So I see the  
11 back end of the truck. I know there's  
12 no way I'm not going to connect. So I  
13 was saying stuff about, I said  
14 something about the kids. I don't know  
15 if it was out loud or internal, I don't  
16 know that.

17 But at any rate I hit. I  
18 remember the sensation of going  
19 backwards and sort of sideways, and I  
20 ended up on the berm with just left the  
21 front on the road because the passerby  
22 then came to help and he moved my car  
23 to get the front left part off of the  
24 road. And he kicked some pieces over  
25 and stuff. When the car stopped, I

1 thought the car was on fire because it  
2 was all smoke. And I knew I didn't  
3 want to get out that way, and so I  
4 climbed over the shift. I climbed over  
5 the shift, got out on the passenger  
6 side. And I knew my knees were hurt  
7 because I'm short and I ride up  
8 forward, and so even with the seatbelt,  
9 which I absolutely always have on, my  
10 butt slid forward on the seat and I hit  
11 my knees on the molding around the  
12 steering column. You know, the molding  
13 there. So I hit both knees.

14 So when I got out of the car, I  
15 knew right away my knees were hurt  
16 because they were burning, and he's up  
17 there doing something. He did not come  
18 back right away. He did not come back  
19 to me right away. And he somehow did  
20 get it out of the right lane and onto  
21 the berm way up ahead of me. Now, I  
22 got out and I walked around the front  
23 of my car and because my knees hurt I  
24 was standing like this (indicating) and  
25 just yelling help me, help me and

1 waving my arms like anybody could hear  
2 me.

3 **Q. So you were standing with your  
4 knees bent a little bit?**

5 A. Yeah, yeah. Well, I knew they  
6 hurt. They hurt, and I guess I was ---  
7 I don't know what I was doing. But I  
8 did that and I stayed on the berm, but  
9 I'm going like this (indicating) and  
10 going help me, help me.

11 **Q. Waving for help.**

12 A. He hadn't come back yet. So  
13 this lady pulled over in a small like a  
14 compact vehicle, seemed to me like it  
15 was white. I was not okay because I  
16 didn't do what I know you're supposed  
17 to do. I did not get her name. I did  
18 not get the man's name that stopped. I  
19 did get all the information from the  
20 state trooper at 11 o'clock at night  
21 when I finally called the state police  
22 to get the --- I didn't take  
23 information. I didn't do what you're  
24 supposed to do.

25 So I got in her car. She pulled

1 So at any rate she called the  
2 police, and she had to call them two or  
3 three times before they came because  
4 now the snow started and there's  
5 accidents going on behind us. One  
6 right back where I could see it and  
7 then other close to one of the Dubois  
8 exits because they ended up closing 80  
9 right shortly after this all started.

10 The snow started ten minutes after the  
11 accident, the accident was at 1:40. We  
12 got the weather report, the snow  
13 started at 1:50. Just like I said,  
14 we're standing on the side of the road  
15 and down comes the snow and within just  
16 minutes the road was covered and the  
17 cars are still flying passed us.

18 So the lady that stopped to help  
19 me was panicking because the police  
20 weren't coming, and I was in the car  
21 when she made a couple of the calls at  
22 least. And the last one she made she  
23 said, get somebody out here to help us,  
24 we're in trouble out here, we're in  
25 danger out here. Because we were

1 over and she got out of the car and she  
2 said get in the car and sit down, so I  
3 did get in her car. Now, I think he  
4 walked back prior to me doing that, but  
5 I'm not sure if it was before I got in  
6 her car and got back out or what. But  
7 he did come back, and I said to him,  
8 are you hurt? And he said no. He said  
9 I didn't feel the impact. I heard it.  
10 And then he looked in his side mirror  
11 he said and saw me going backwards.  
12 And so he said, are you hurt? And I  
13 said, well, my knees because they're  
14 burning. So I knew right away my  
15 knees.

16 So then I got in this lady's  
17 car, and my phone wouldn't work out  
18 there on the highway. So she let me  
19 use her cell and I called my son in  
20 Connecticut. She's calling the police  
21 first. She called 911 or whatever.  
22 She was like a visiting nurse or  
23 something or a home healthcare person  
24 from out of Clearfield, but I don't  
25 know the name of who she was with.

1 afraid somebody was going to come  
2 flying and slam into us. Then the  
3 traffic stopped because they closed 80  
4 back somewhere near one of the Dubois  
5 exits. I guess they had a real bad  
6 pile up or something.

7 There were a lot of accidents  
8 out there because Channel 10, Altoona  
9 had my car on. I got to watch it on  
10 the news repeatedly for two days while  
11 I stayed in Dubois because I didn't  
12 drive home right away. So Channel 10  
13 Altoona was out there taking pictures  
14 of stuff, and my car was on the news  
15 for two solid days. So at any rate she  
16 let me use her cell and I called my  
17 son, and that was like, you know,  
18 somewhere between the accident and say  
19 2:15 that I called him.

20 And then he and my other son in  
21 Connecticut sat there until 6:00  
22 something before I ever called them  
23 back again because I didn't get to the  
24 hotel until 5:00 something, wait for  
25 the tow truck and go into the garage

1 while he unloaded the car. And I  
 2 unloaded the car into his truck and all  
 3 my stuff and took it to the hotel,  
 4 everything I could carry and he helped  
 5 me with that, the tow truck guy.  
 6 And the only conversation that  
 7 Craig and I really had was when the  
 8 police came and we were both in the  
 9 back seat other than on the berm of the  
 10 road that we had a little bit of  
 11 conversation, I don't remember anything  
 12 other than what we talked about that  
 13 pertained to the accident. Oh, he did  
 14 say to me --- this was a killer. He  
 15 said to me, I think you broke my  
 16 lights. I looked at him and said I  
 17 couldn't have. I was nowhere your  
 18 lights. You know, I hit your brace.  
 19 He said, well, when I went to put my  
 20 flashers on, I had no lights. He said  
 21 that to me.  
 22 We get in the police car. I  
 23 told the police officer that he had no  
 24 lights, he asked Craig and Craig said  
 25 yes, he did. As God as my witness,

1 ATTORNEY PATBERG:  
 2 He's not asking you to  
 3 guess, either you recall there  
 4 being snow or ---.  
 5 A. No, I don't know. I don't know.  
 6 BY ATTORNEY BENSON:  
 7 **Q. Do you know whether there was**  
 8 **any snow on the ground when you set out**  
 9 **for your trip to Connecticut?**  
 10 A. I can't tell you whether there  
 11 was snow on my lawn, but I can tell you  
 12 that there was no snow on the roads. I  
 13 would never have left. I wouldn't have  
 14 left.  
 15 **Q. Why not?**  
 16 A. Because I just --- I would have  
 17 been needing to find out what was going  
 18 on farther because I'm going north and  
 19 east, and if we had had snow in  
 20 Pittsburgh I would have been very  
 21 concerned because we hardly ever get  
 22 it, that there might be snow farther as  
 23 I go. I had to cancel a trip. What  
 24 was it, the homecoming weekend in State  
 25 College, they had all that snow. I was

1 Craig had no lights, no flashers,  
 2 nothing. I'm telling you ---.  
 3 **Q. Let me ask you ---. Are you**  
 4 **okay?**  
 5 A. Yeah. This is the damage, this  
 6 is how I get.  
 7 **Q. Do you need a break or are you**  
 8 **okay?**  
 9 A. No, I'm fine. Just ignore me.  
 10 **Q. Well, I'm not going to ignore**  
 11 **you. What I do want to do is ask you**  
 12 **some ---**  
 13 ATTORNEY PATBERG:  
 14 You're the star of the  
 15 show.  
 16 BY ATTORNEY BENSON:  
 17 **Q. --- follow-up on this; okay?**  
 18 A. Just what I wanted to be.  
 19 **Q. Had there been any snow out your**  
 20 **way in Springdale ---**  
 21 A. No, or I wouldn't ---.  
 22 **Q. --- for the couple of days prior**  
 23 **to leaving?**  
 24 A. Oh, I have no --- I doubt it.  
 25 We hardly ever get any snow.

1 supposed to be leaving for Connecticut  
 2 that weekend just this year. I didn't  
 3 go. I had to put it off. I mean, I  
 4 won't go in the snow.  
 5 **Q. And has that been the case since**  
 6 **even before this accident, you didn't**  
 7 **like driving in the snow?**  
 8 A. I would drive in the snow, but I  
 9 wouldn't necessarily get on a highway  
 10 to go on a long trip, an eight hour  
 11 trip, no. I would get on the road and  
 12 go everywhere else. Now, I won't.  
 13 I'll cancel doctors appointments if  
 14 there's ice or snow on the road.  
 15 **Q. Do you recall checking the**  
 16 **weather or checking road conditions**  
 17 **before you set out for Connecticut on**  
 18 **February 17, to get a sense for what**  
 19 **you might be driving into?**  
 20 A. Yes.  
 21 **Q. How did you check?**  
 22 A. Well, number one, through my son  
 23 in Connecticut. He checked that end  
 24 and I knew I was okay at my end. So  
 25 you know, we just did as much checking

1 as we could. He was watching his  
 2 weather channel and what they would  
 3 report for their area in Connecticut  
 4 and all of that, and I was watching the  
 5 weather channel for anything that they  
 6 covered on the Pittsburgh end.  
 7 **Q. Had you ever driven out on Route**  
 8 **80 between roughly I-79 in Connecticut**  
 9 **in the winter time prior to this**  
 10 **occasion in February 2005?**  
 11 A. Uh-huh (yes).  
 12 **Q. Yes?**  
 13 A. Had I ever ---  
 14 **Q. Yes.**  
 15 A. --- traveled to --- yeah. I  
 16 used to go all the time up to  
 17 Connecticut in February.  
 18 **Q. You normally took I-80?**  
 19 A. Or to State College. Initially,  
 20 I used to always take the turnpike to  
 21 Connecticut. But then I --- when I  
 22 started going to State College when  
 23 they lived in State College for several  
 24 years before they went to Connecticut,  
 25 I learned the back way coming over 80

1 December 8th --- I forget the year now,  
 2 2001 or '02. But the year that Lyric  
 3 was born, I went as soon as Scott  
 4 called to get to the hospital where she  
 5 was born. So that was one trip in  
 6 December. I then went home and went  
 7 back that weekend to help, I then went  
 8 back again for a Christmas celebration.  
 9 I went four times that December back  
 10 and forth over 80.  
 11 **Q. My question was ---**  
 12 A. No snow and ice.  
 13 **Q. --- did you ever encounter snow**  
 14 **or ice traveling Interstate 80 in the**  
 15 **winter time?**  
 16 A. No. No, I was so lucky. No, on  
 17 those trips, no, I did not. Because I  
 18 would have to, you know, probably pull  
 19 off.  
 20 **Q. Let me ask you another question.**  
 21 **When you set out from your home on**  
 22 **February 17, 2005, were you wearing a**  
 23 **coat in the car or what did you have**  
 24 **on?**  
 25 A. I had taken my coat off. I had

1 and I really liked it. So I stopped  
 2 doing the turnpike to 22 into State  
 3 College, so I didn't have to go up and  
 4 down those mountains.  
 5 **Q. Which son's birthday is February**  
 6 **17th?**  
 7 A. Scott, the middle one.  
 8 **Q. So you would customarily see him**  
 9 **on his birthday?**  
 10 A. Uh-huh (yes).  
 11 **Q. Correct?**  
 12 A. Uh-huh (yes).  
 13 **Q. And since it was on February**  
 14 **17th, you would often find yourself**  
 15 **driving in the winter time to get to a**  
 16 **birthday celebration?**  
 17 A. Uh-huh (yes).  
 18 **Q. You got to speak up.**  
 19 A. Yes.  
 20 **Q. Okay. And had you ever been**  
 21 **across Interstate 80 in snow or icy**  
 22 **conditions prior to February 2005?**  
 23 A. No, I was very lucky. My  
 24 granddaughter was born in State  
 25 College, and she was born in December,

1 the heater on, but I take my coat off  
 2 when I drive.  
 3 **Q. Do you drive --- were you**  
 4 **wearing a seatbelt that day?**  
 5 A. Absolutely.  
 6 **Q. A shoulder harness; correct?**  
 7 A. Correct. This way (indicating).  
 8 **Q. Right. It would go across your**  
 9 **left shoulder down to your right side**  
 10 **of your waist?**  
 11 A. Right.  
 12 **Q. Was anybody traveling with you**  
 13 **for any part of the trip?**  
 14 A. No.  
 15 **Q. And you were driving a 2002**  
 16 **Suzuki?**  
 17 A. Uh-huh (yes).  
 18 **Q. Is that what it is?**  
 19 A. 2003. Almost brand new, no  
 20 marks on it, nothing.  
 21 **Q. So when you set out there was no**  
 22 **precipitation at all?**  
 23 A. No.  
 24 **Q. Okay. And what time did you**  
 25 **leave the house?**

1 A. It was before, probably a little  
 2 bit before noon somewhere. Well, let's  
 3 say between 11:30 and 12:00, but I  
 4 would say somewhere in there.  
 5 **Q. So when you leave your house in**  
 6 **Springdale, what route did you take to**  
 7 **get up to Interstate 80?**  
 8 A. I take North 28 up to  
 9 Kittanning.  
 10 **Q. So that runs up the river; ---**  
 11 A. Yes.  
 12 **Q. --- is that correct?**  
 13 A. Well, sometimes you can see the  
 14 river, yeah.  
 15 **Q. And I know there's a bridge**  
 16 **across the Allegheny River at**  
 17 **Kittanning?**  
 18 A. Okay.  
 19 **Q. Is that the way you went?**  
 20 A. Yes, because you get off of ---  
 21 I'm on a two lane each way 28 as far as  
 22 Kittanning. And then you get off at  
 23 Kittanning or else you go onto 422.  
 24 Okay. So you get off there and you're  
 25 still on 28, and I take Old 28 all the

1 **headlights on or just ---?**  
 2 A. Yeah, I think it does. I  
 3 believe it does.  
 4 **Q. And so between Kittanning and**  
 5 **Brookville you don't know if your**  
 6 **windshield wipers were on at all?**  
 7 A. (Indicates no).  
 8 **Q. Did you drive behind**  
 9 **anybody ---?**  
 10 A. Oh, no. What was the question  
 11 again?  
 12 **Q. Were you driving behind people**  
 13 **that were throwing salt or anything up**  
 14 **on your windshield where you had to use**  
 15 **your wipers and clean them off?**  
 16 A. No.  
 17 **Q. Were the roads dry?**  
 18 A. I thought they were dry the  
 19 whole way, yes.  
 20 **Q. And so then you got up to**  
 21 **Brookville?**  
 22 A. Yes.  
 23 **Q. Do you know what time you got**  
 24 **there?**  
 25 A. Well, it usually takes me about

1 way over to Brookville. Old 28 after  
 2 about the first ten minutes turns into  
 3 where it's one lane each way.  
 4 **Q. Familiar with it.**  
 5 A. Yeah.  
 6 **Q. It's a windy road up hill, down**  
 7 **hill ---**  
 8 A. Up and down.  
 9 **Q. --- and around the bend?**  
 10 A. Yep. And I had perfect weather  
 11 going up and down.  
 12 **Q. So from the bridge at Kittanning**  
 13 **up to Brookville no precipitation, no?**  
 14 A. Not that I remember, no. No  
 15 snow. No snow, no ice. Maybe there  
 16 --- you know, I don't remember any rain  
 17 or anything.  
 18 **Q. Did you have your headlights on?**  
 19 A. I would have because that car  
 20 had those running lights.  
 21 **Q. Explain that to me.**  
 22 A. That's where they're on whether  
 23 you want them on or not.  
 24 **Q. Okay. Are they sort of like the**  
 25 **driving lights? Does that put the**

1 an hour and 20 minutes from my house,  
 2 so if I left --- it's about an hour and  
 3 20 minutes to Brookville.  
 4 **Q. Okay. Did you stop in**  
 5 **Brookville?**  
 6 A. I probably did, because I almost  
 7 always do to eat or get gas or to get  
 8 something, you know, at McDonald's  
 9 before I get on 80.  
 10 **Q. Do you remember whether you did**  
 11 **that ---**  
 12 A. I don't remember that.  
 13 **Q. --- on February 17th?**  
 14 A. I just sort of think I probably  
 15 did, but I don't remember it for a  
 16 fact.  
 17 ATTORNEY PATBERG:  
 18 We're falling into the  
 19 same trap again. She's had a  
 20 long day already. Let him  
 21 finish, please.  
 22 BY ATTORNEY BENSON:  
 23 **Q. So if you stopped in Brookville,**  
 24 **you can't tell me how long you would**  
 25 **have stopped? You don't recall what**

1 you did; right?  
 2 A. If I stopped in Brookville,  
 3 whether it was to get gas or get  
 4 something to eat or both, it wouldn't  
 5 have been more than ten minutes.  
 6 Q. Would you eat in the McDonald's  
 7 restaurant ---  
 8 A. No.  
 9 Q. --- or take it in the car?  
 10 A. Take it in the car.  
 11 Q. Okay. Do you ever --- are you  
 12 the kind of person that drives with a  
 13 cup of coffee in the car?  
 14 A. I don't drink coffee. It might  
 15 have been a Coke.  
 16 Q. Okay. All right. And what did  
 17 you do --- from Brookville what was  
 18 your next route, your next road?  
 19 A. 80.  
 20 Q. You got on in 80?  
 21 A. Yeah.  
 22 Q. Did you get on at the exit right  
 23 up there where all the hotels and  
 24 everything are?  
 25 A. Yeah.

1 when it's sunny?  
 2 A. Yes.  
 3 Q. Did you have sunglasses on at  
 4 the time of the accident?  
 5 A. I don't believe so. I can't  
 6 swear to that, but I don't think so.  
 7 I'm not sure.  
 8 Q. Do you keep your sunglasses  
 9 someplace where you can put them on and  
 10 take them off if conditions change?  
 11 A. Yes.  
 12 Q. Do you know if you had your  
 13 sunglasses on at all from the time you  
 14 left your house in Springdale up until  
 15 the point of the accident?  
 16 A. I don't remember that. If the  
 17 sun was bright I would have, but I  
 18 don't remember that as a fact.  
 19 Q. So how far was it from the  
 20 Brookville exit to where the accident  
 21 occurred do you know, estimate?  
 22 A. Well, if I could pin down  
 23 exactly what time I left home.  
 24 Q. I'm just asking you distance-  
 25 wise?

1 Q. Okay. And you would have gone  
 2 east then on Interstate 80?  
 3 A. Yes.  
 4 Q. When you got on the interstate,  
 5 what were the road conditions like?  
 6 A. Perfect.  
 7 Q. Dry?  
 8 A. Yes.  
 9 Q. Was there any snow on the ground  
 10 up along Interstate 80 when you got on  
 11 in Brookville?  
 12 A. Do you mean on the lawn or  
 13 something?  
 14 Q. Yeah. Either sitting on the  
 15 berm or on the grass.  
 16 A. I do not remember seeing any.  
 17 It was a clear day. It was a clear  
 18 day.  
 19 Q. Was the sun out when you got on  
 20 Interstate 80?  
 21 A. I know that there was sun  
 22 sometimes and sometimes not. I can't  
 23 tell you where I was when I had the sun  
 24 or didn't have the sun.  
 25 Q. Do you drive with sunglasses

1 A. I probably got on 80 about 20  
 2 after 1:00, so I was maybe on 80 for 20  
 3 minutes or so, maybe 20 minutes to a  
 4 half an hour.  
 5 Q. And how fast were you going?  
 6 A. Probably 70, 65, 70.  
 7 Q. Did anything happen between  
 8 Brookville and the time you got near  
 9 where the accident occurred that caused  
 10 you to change your speed or, you know,  
 11 do anything differently?  
 12 A. Not until I saw the cars in  
 13 front of me going around him abruptly,  
 14 then I really slowed down.  
 15 Q. When you say around him, you're  
 16 talking about ---  
 17 A. The truck.  
 18 Q. --- the truck that Craig  
 19 Houchins was driving?  
 20 A. Correct. Yes.  
 21 Q. Now, when you first saw vehicles  
 22 up ahead going around Mr. Houchins'  
 23 truck, what were the weather  
 24 conditions?  
 25 A. Still clear.

1 **Q. Was it cloudy?**  
 2 A. It might have been, but I can't  
 3 swear to that, but clear. The road was  
 4 clear.  
 5 **Q. In terms of light, for example,**  
 6 **was it sunny?**  
 7 A. Let's say overcast.  
 8 **Q. And sometimes, you know,**  
 9 **overcast can be a light overcast where**  
 10 **you put your sunglasses on and**  
 11 **sometimes it can be a dark overcast.**  
 12 **How would you describe ---?**  
 13 A. It was not like it was going  
 14 towards nighttime.  
 15 **Q. Okay. Sometimes when you're**  
 16 **going to have precipitation and it's**  
 17 **cloudy, it gets darker. Did it seem**  
 18 **like that?**  
 19 A. No.  
 20 **Q. At that point, did you have any**  
 21 **indication that there was going to be**  
 22 **any snow?**  
 23 A. No.  
 24 **Q. Okay. So when you first looked**  
 25 **ahead and saw cars going around behind**

1 a large sedan that maybe the other  
 2 vehicles were smaller, but I can't  
 3 swear to that. The first vehicle was a  
 4 large sedan, and in my memory it was  
 5 dark, a dark color, but I couldn't tell  
 6 you what color. They were way ahead of  
 7 me.  
 8 **Q. When you say the first vehicle,**  
 9 **do you mean the vehicle farthest behind**  
 10 **and closest to you, or the vehicle**  
 11 **right behind the truck?**  
 12 A. Right behind the truck.  
 13 **Q. Okay. And when you say they**  
 14 **were far away from you, I mean, can you**  
 15 **give me an estimate in terms of**  
 16 **football fields or is there any**  
 17 **measurement that you give me to**  
 18 **describe how far ahead of you the truck**  
 19 **was when you first saw it?**  
 20 A. Well, I can certainly say a  
 21 football field and probably farther.  
 22 **Q. Now, let me ask you this, had**  
 23 **you seen the white box truck that Mr.**  
 24 **Houchins was driving at any point in**  
 25 **your trip prior to when you first saw**

1 **the truck that Mr. Houchins was driving**  
 2 **--- what was the road, level, up hill,**  
 3 **down hill, do you recall?**  
 4 A. I could not be definite about  
 5 that. I'm not ---.  
 6 **Q. How far ahead of you was the**  
 7 **closest vehicle, the first vehicle that**  
 8 **you saw go around Mr. Houchins' truck?**  
 9 A. I can't do measurements  
 10 seriously. I was far from them.  
 11 **Q. Could you see the truck?**  
 12 A. Yes.  
 13 **Q. And what kind of vehicles were**  
 14 **behind the truck --- when I use the**  
 15 **truck I'm talking about Mr. Houchins'**  
 16 **white box truck?**  
 17 A. Correct. Yes.  
 18 **Q. How many vehicles were behind**  
 19 **that that you saw go around him?**  
 20 A. Three to four.  
 21 **Q. And do you remember anything**  
 22 **about colors or makes or anything?**  
 23 A. I only distinctly remember the  
 24 first one, and that was a large sedan.  
 25 I'm thinking because I recognized it as

1 **these cars or vehicles going around**  
 2 **behind him?**  
 3 A. Not that I know of.  
 4 **Q. In other words, you hadn't been**  
 5 **traveling behind him for some distance?**  
 6 A. No.  
 7 **Q. Did you come over a hill or**  
 8 **around a bend, or how did it come to me**  
 9 **that this all of a sudden was in front**  
 10 **of you? I'm talking about Mr.**  
 11 **Houchins' truck and the vehicles riding**  
 12 **behind him?**  
 13 **BRIEF INTERRUPTION**  
 14 A. I'm sorry. Can you repeat that?  
 15 **BY ATTORNEY BENSON:**  
 16 **Q. Did you just come upon them from**  
 17 **behind or had you come over a hill, or**  
 18 **how did it come to be if you weren't**  
 19 **traveling and hadn't seen Mr. Houchins'**  
 20 **truck previously that all of a sudden**  
 21 **it was in your forward vision?**  
 22 A. Well, I was probably --- I don't  
 23 know. I don't know how far ahead of me  
 24 he was prior to having his difficulty  
 25 where the truck wasn't moving. I don't

1 know how --- what any of these other  
2 vehicles were doing. I was not paying  
3 attention per se to what vehicles were  
4 passing me or who I was passing. I  
5 didn't pass any of these people, so  
6 --- and I don't recall whether they  
7 passed me. I don't remember that.

8 **Q. Okay.**

9 A. I know that all of a sudden  
10 there was a truck and then there were  
11 three to four vehicles behind it doing  
12 odd things.

13 **Q. Did you see any vehicles ahead  
14 of the truck that Mr. Houchins was  
15 driving?**

16 A. No.

17 **Q. Did you have anything on inside  
18 your car, a radio, audio book, anything  
19 like that?**

20 A. My radio. I couldn't listen to  
21 a story while I'm driving.

22 **Q. So what were you listening to?**

23 A. There was music on. I couldn't  
24 tell you what.

25 **Q. Did you have your glasses on?**

1 A. Bucket.

2 **Q. Is there a console in between?**

3 A. Yeah, I have a bag that I have  
4 everything in and I have a glass case  
5 that has my sunglasses. So I don't  
6 have to look. It's right there. I  
7 don't have to fool with anything.

8 **Q. Just reach ---**

9 A. I know where everything ---.

10 **Q. --- over in the bag and ---**

11 A. Yes.

12 **Q. --- get your glasses and put  
13 them on?**

14 A. Everything is exactly where I  
15 put it. I reach.

16 **Q. Okay. So you're telling me when  
17 you first saw Mr. Houchins' truck, he  
18 was at least a football field ahead of  
19 you?**

20 A. At least.

21 **Q. Maybe more?**

22 A. Maybe more, yes.

23 **Q. And you say there were three or  
24 four vehicles behind him?**

25 A. Yes.

1 A. No, these are only for reading.

2 **Q. You don't wear glasses when you  
3 drive?**

4 A. No.

5 **Q. And you can't tell me whether  
6 you had your son's glasses on when you  
7 first came upon --- first saw Mr.  
8 Houchins' truck?**

9 A. I don't know because the sun was  
10 in and out, the clouds were in and out.  
11 I remember that. At what point was the  
12 sun out, what point were the clouds  
13 out, I have no clue.

14 **Q. And where do you keep your  
15 sunglasses in the car when you're  
16 driving?**

17 A. In a little thing right next to  
18 me.

19 **Q. So right to the right side of  
20 you?**

21 A. Yeah, I just reach. They're  
22 right there, I don't have to look for  
23 anything.

24 **Q. Did you have bucket seats or a  
25 bench seat in the front?**

1 **Q. Did you see all of these  
2 vehicles out ahead of you?**

3 A. Yes.

4 **Q. How close were the vehicles  
5 --- how close was the first vehicle  
6 behind Mr. Houchins' truck when you saw  
7 it?**

8 A. How close to his truck was it?

9 **Q. Yeah.**

10 A. He must have been very close  
11 because he went like this (indicating).  
12 That's when I started watching all of  
13 them and watching what they were doing.

14 **Q. So you saw ---.**

15 A. So he must have been very close  
16 up to have to zing around him like he  
17 did, very abruptly.

18 **Q. Let's talk about what you saw  
19 because --- did you talk to any of the  
20 drivers who were driving those vehicles  
21 that passed Mr. Houchins' before the  
22 accident?**

23 A. No, they were gone.

24 **Q. Okay. So you don't know why  
25 they passed him. All you know is what**

1 you saw, would you agree with me there?  
 2 A. How do I put this? They passed  
 3 him that abruptly because they realized  
 4 at the last minute that he was hardly  
 5 moving, if moving at all.  
 6 **Q. Well, how do you know that?**  
 7 A: By the way they did it. I knew  
 8 something was wrong because of what  
 9 they did. I wouldn't have known.  
 10 **Q. What did the first vehicle do**  
 11 **that alerted you that there was**  
 12 **something wrong up ahead?**  
 13 A. Went abruptly around him. When  
 14 you're going to pass somebody, you  
 15 gently pass them. I mean, you don't  
 16 have to be --- you know, I don't get up  
 17 on top of somebody and then swing out.  
 18 I'm back far enough that I can gently  
 19 go out. You know, from passing cars, I  
 20 think you understand what I'm saying.  
 21 Every one of these cars was not doing  
 22 that. They didn't know until the last  
 23 minute that they had a problem because  
 24 they --- not all of these people just  
 25 drive on top of somebody all the time.

1 vehicles already behind him ---  
 2 A. Yes.  
 3 **Q. --- or did you see any of those**  
 4 **vehicles approach him from behind if**  
 5 **you understand what I'm asking? Did**  
 6 **you see them actually close the**  
 7 **distance to get to the point where they**  
 8 **went around Mr. Houchins? Or when you**  
 9 **first saw it, was there a white truck**  
 10 **and then a series of vehicles right**  
 11 **behind him, like ducks behind mamma hen**  
 12 **(sic)?**  
 13 A. I white truck with a bunch of  
 14 ducks behind it.  
 15 **Q. Okay. That's what you saw. So**  
 16 **they were already --- and how far apart**  
 17 **--- do you have any estimate how much**  
 18 **space there was between the truck and**  
 19 **the first vehicle and the first vehicle**  
 20 **and the second vehicle and so on back?**  
 21 A. I could have only known that if  
 22 I was alongside them. I could not know  
 23 that from behind them.  
 24 **Q. All right. So let's see what**  
 25 **you saw. You saw the first vehicle**

1 Every one of them did not realize what  
 2 their situation was until they were up  
 3 on top of him and they swung out.  
 4 **Q. But how do you know that? How**  
 5 **do you know what they realized or what**  
 6 **they didn't realize?**  
 7 A. Because of the way they reacted.  
 8 They all reacted so abruptly like last  
 9 second.  
 10 **Q. Well, let me ask you some**  
 11 **questions and maybe we can flush this**  
 12 **out a little bit.**  
 13 A. Okay.  
 14 **Q. How far apart were the four**  
 15 **vehicles that you saw pass Mr.**  
 16 **Houchins' truck? How much space was**  
 17 **between each of those vehicles?**  
 18 A. I was not up close enough to  
 19 them to know the distance between each  
 20 one. I couldn't tell a distance. I  
 21 knew that I was way back behind them.  
 22 I was not close to them, but I could  
 23 see ---.  
 24 **Q. When you first saw the vehicles**  
 25 **and Mr. Houchins' truck, were the**

1 **pull out of the right-hand lane and**  
 2 **pass Mr. Houchins' truck?**  
 3 A. Uh-huh (yes).  
 4 **Q. Correct?**  
 5 A. Yes.  
 6 **Q. You got to speak up.**  
 7 A. Yes.  
 8 **Q. Okay. Did it have a turn signal**  
 9 **on, the first vehicle you saw?**  
 10 A. I don't know that.  
 11 **Q. And then what happened to that**  
 12 **vehicle after it moved into the passing**  
 13 **lane?**  
 14 A. He kept going. He was safe.  
 15 **Q. How long after the first vehicle**  
 16 **passed the truck did the next vehicle**  
 17 **drive behind it before it pulled into**  
 18 **the left-hand lane?**  
 19 A. I can't tell you time-wise, but  
 20 it was like one after the other zinged  
 21 around him.  
 22 **Q. When you say zinged, were they**  
 23 **moving quickly when they pulled into**  
 24 **the left-hand lane?**  
 25 A. They were moving quickly when

1 they went to go around him.  
2 **Q. Okay. And at some point in time**  
3 **were you closing the gap between the**  
4 **last vehicle that was ahead of you and**  
5 **your car?**

6 A. To some degree, but I still was  
7 way back.

8 **Q. So how far back were you when**  
9 **the last of the vehicles behind Mr.**  
10 **Houchins' truck passed him?**

11 A. Man, this is technical. How far  
12 from the truck was I when the last car  
13 went around him, is that the question?

14 **Q. Or how from the last vehicle**  
15 **were you when you saw it move into the**  
16 **left-hand lane and pass?**

17 A. I was never close to them. I  
18 never got on top. I never got in the  
19 line so to speak. I was way back. You  
20 want to use the football field again,  
21 say maybe almost a football field back.

22 **Q. And were you concerned about**  
23 **what you saw when you described these**  
24 **vehicles zinging around the truck that**  
25 **you found out later Mr. Houchins was**

1 **saw or that you did or that happened?**

2 A. The next thing that happened was  
3 at some point thereafter, they were all  
4 around and gone. As I was getting  
5 closer to him, I was realizing he  
6 wasn't going anywhere.

7 **Q. How did you realize that?**

8 A. Because I wasn't speeding and he  
9 should have been going away from me.  
10 He should have been going away from me.  
11 The gap shouldn't have been closing.  
12 He wasn't going anywhere, so I was  
13 getting closer.

14 **Q. So what did you do?**

15 A. What I did was I still slowing  
16 and then I hit --- as I was trying to  
17 brake, I hit black ice and that was the  
18 end of me being able to get away from  
19 that truck.

20 **Q. When you slowed down, were you**  
21 **slowing down --- when you were back a**  
22 **football away and you saw vehicles**  
23 **going around Mr. Houchins, how did you**  
24 **slow down from, you know, 70 ---**

25 A. I just ---.

1 **driving?**

2 A. Yes.

3 **Q. Did you do anything in response**  
4 **to your concern?**

5 A. Yes.

6 **Q. What did you do?**

7 A. I slowed.

8 **Q. Okay.**

9 A. I slowed.

10 **Q. So if you were going 70 when you**  
11 **saw the vehicle at first, what did you**  
12 **slow to?**

13 A. I was probably down to, I don't  
14 know, maybe 50, 45.

15 **Q. And you were a football field**  
16 **behind?**

17 A. I was way back. I don't know  
18 how long a football field is, but ---.

19 **Q. Well, it's a hundred yards.**

20 A. Well, I was back because I never  
21 got up tight. I never got up tight to  
22 the rest of them.

23 **Q. All right. So after the last**  
24 **vehicle ahead of you went around the**  
25 **truck, what's the next thing that you**

1 **Q. --- to whatever speed you slowed**  
2 **down to?**

3 A. I just took my foot off the  
4 accelerator.

5 **Q. So you just decelerated?**

6 A. And it goes down very fast.

7 **Q. How far away from the back of**  
8 **the truck were you when you first put**  
9 **on the brakes?**

10 A. Well, my intent was to pass him,  
11 so I would say that I should have been  
12 at least --- what my normal would be is  
13 I would be two or three car lengths  
14 behind somebody when I go to pass them.  
15 I don't come up on them and then, you  
16 know --- I would say I had still quite  
17 a bit of room when I touched the brakes  
18 and was going to start to go around.  
19 And that's when I hit the ice. And  
20 then I just felt like I was flying even  
21 though you're not, but when you're  
22 sliding you feel out of control. I was  
23 trying to stay in control. And at that  
24 point, I don't know because I was not  
25 accelerating anymore. That's for sure.

1 **Q. Let me ask you this. So was it**  
2 **three car lengths that you slid or more**  
3 **or less?**

4 A. That's so hard to say. Once you  
5 start sliding, you just feel like  
6 you're out of control. Well, you are.  
7 And I don't --- I can't measure. At  
8 that point I was scared, and so I was  
9 just trying to not hit anything, which  
10 became impossible because he was not  
11 going away from me.

12 **Q. Let me ask you a question. Did**  
13 **you consider getting into the left-hand**  
14 **passing lane back when you were**  
15 **watching these vehicles go around the**  
16 **truck?**

17 A. No, because I was still so far  
18 back behind them that even though I  
19 slowed, I did not at that point realize  
20 that he was stopped, not initially.

21 **Q. Up to that point, up until you**  
22 **slid on the ice, had you perceived that**  
23 **there were any icy conditions on the**  
24 **road?**

25 A. No.

1 A. No.

2 **Q. And after the last car passed,**  
3 **you're telling me you didn't see any**  
4 **lights on Mr. Houchins' truck?**

5 A. Absolutely no lights on Mr.  
6 Houchins truck. Not for one moment.

7 **Q. And you're saying you never saw**  
8 **any lights on his truck?**

9 A. Absolutely not, not for one  
10 moment.

11 **Q. Now let me ask you this. Did**  
12 **you see any lights on any other**  
13 **vehicles that were going around him?**

14 A. They hit their brakes as they  
15 went to go around him. They hit their  
16 brakes. I don't remember turn signals,  
17 but I remember them hitting brakes.

18 **Q. Okay.**

19 A. They lucked out and didn't hit  
20 the ice patch.

21 **Q. Now, how fast were you going**  
22 **when you perceived that you were**  
23 **sliding on ice?**

24 A. I had slowed way back and I  
25 would say down to 55 or so. As I was

1 **Q. Had you seen any moisture at**  
2 **all?**

3 A. No.

4 **Q. Was there anything your**  
5 **windshield?**

6 A. No, that I can ---.

7 **Q. Did you have your wipers on?**

8 A. No, because as I said it was a  
9 clear day. Not always sunny, not  
10 always cloudy, but dry, clear. I had  
11 no thought that there was going to be  
12 snow. I didn't have a thought in my  
13 brain that there was going to be snow.

14 **Q. And when you put on the brakes**  
15 **and slid toward the truck, did you have**  
16 **any steering control? Did you try to**  
17 **steer ---?**

18 A. Yeah, I tried to do this  
19 (indicating) to get yourself so that  
20 you, you know don't go into a ditch,  
21 but ---.

22 **Q. Did your car ever go sideways or**  
23 **spin?**

24 A. After I hit him, it did.

25 **Q. How about before?**

1 getting closer to him I was slowing,  
2 probably with the brake, not coasting  
3 like I did way back. Well, I had both  
4 feet on the brake at that point right  
5 before I hit him.

6 **Q. Okay.**

7 A. I'm not kidding. I had both  
8 feet on the brake ---

9 **Q. I believe that.**

10 A. --- at the point that I hit him.

11 **Q. I'm asking what your last**  
12 **perception of speed was before you had**  
13 **contact with the truck?**

14 A. I can't say definitely. I would  
15 think before I hit the truck --- are  
16 you saying before I hit the truck or  
17 before I put my brakes on?

18 **Q. Well, either one actually I'd**  
19 **like to know. Before you put your**  
20 **brakes on.**

21 A. Before I put my brakes on, I was  
22 probably still at 40 something, I  
23 suppose.

24 **Q. And do you have any idea how**  
25 **fast you were going when you hit the**

1 truck?  
 2 A. It felt like I was going very  
 3 fast because I was sliding, but I had  
 4 both feet on the brake, so at that  
 5 point it's amazing my car did not  
 6 stall. It should have stalled.  
 7 **Q. Do you have any basis to**  
 8 **estimate how fast the truck was going**  
 9 **when you contacted the truck?**  
 10 A. The truck was either not moving  
 11 at all or he was crawling. He was not  
 12 driving. He may have been, and I'm  
 13 only saying may have been inching. I  
 14 still think he was stopped.  
 15 **Q. Why do you think that?**  
 16 A. Because he was not going away  
 17 from me, and he should have been. Even  
 18 if he was going slowly, he should have  
 19 been going away from me because I was  
 20 trying to stop.  
 21 **Q. Okay. Now, when you contacted**  
 22 **the truck --- and I think you told me**  
 23 **you went off onto the berm?**  
 24 A. I went backwards and sideways  
 25 and ended up on the berm.

1 A. I don't know. I just know when  
 2 to shift by the sound.  
 3 **Q. Are you into the highest gear?**  
 4 A. I don't know how to --- when I'm  
 5 cruising along, I'd be in fifth.  
 6 ATTORNEY PATBERG:  
 7 Just so we're clear and I  
 8 don't mean to interrupt you,  
 9 when you say were you in that  
 10 gear ---.  
 11 ATTORNEY BENSON:  
 12 I'll ask it again.  
 13 ATTORNEY PATBERG:  
 14 Thank you. Okay. Just  
 15 for the record.  
 16 BY ATTORNEY BENSON:  
 17 **Q. When you got on in Brookville on**  
 18 **Interstate 80, you would have gone from**  
 19 **--- you would have geared up to higher**  
 20 **gears to get onto a driving speed on**  
 21 **the interstate right?**  
 22 A. Right.  
 23 **Q. And that's generally the**  
 24 **highest, fifth speed?**  
 25 A. Fifth, yeah.

1 **Q. What do you mean you went**  
 2 **backwards, that's what ---?**  
 3 A. When I hit the brakes, it threw  
 4 my car backwards.  
 5 **Q. You bounced backwards?**  
 6 A. Yes, and by that, that also  
 7 tells me he was stopped. I didn't like  
 8 hook onto him and go with him or  
 9 anything else. I didn't keep going  
 10 forward. I hit that brace. It was  
 11 like hitting a wall and I went  
 12 backwards as though you would hit a  
 13 wall.  
 14 **Q. What kind of transmission do you**  
 15 **have in your car?**  
 16 A. It was a five speed.  
 17 **Q. So a clutch?**  
 18 A. Yeah.  
 19 **Q. And what gear were you in --- is**  
 20 **there a drive gear like an overdrive**  
 21 **kind of thing?**  
 22 A. Yeah.  
 23 **Q. What speed would that be? What**  
 24 **gear would that be when you're driving**  
 25 **up Interstate ---?**

1 **Q. Did you have occasion to reduce**  
 2 **your gear at all between the time that**  
 3 **you got on in Brookville and the time**  
 4 **you came up from behind on the scene of**  
 5 **the truck and the three or four**  
 6 **vehicles traveling behind the truck?**  
 7 A. I probably went into fourth, but  
 8 I don't know if I ever went lower than  
 9 that or not.  
 10 **Q. When did you shift into fourth?**  
 11 A. Because I didn't --- when did I  
 12 shift into fourth? I would go by the  
 13 sound of it more --- I don't know what  
 14 speeds are each gear. I have no idea.  
 15 I have no idea.  
 16 **Q. Well, let me ask you this. At**  
 17 **any time from the time you first saw**  
 18 **the box truck ahead of you and the time**  
 19 **that you impacted with it, did you ever**  
 20 **downshift?**  
 21 A. I may have. I don't remember.  
 22 I may have.  
 23 **Q. Did you ever put the clutch in**  
 24 **to take it out of gear?**  
 25 A. To pop --- oh, I don't remember.

1 **Q. And after you hit, did you have**  
 2 **to take your car out of the gear to**  
 3 **bring it to a stop on the berm?**  
 4 A. I don't remember. I thought I  
 5 was on fire. I don't remember.  
 6 **Q. And you told me you thought your**  
 7 **car was going to stall or it should**  
 8 **have stalled, but it didn't stall?**  
 9 A. It should have because I didn't  
 10 have, I wasn't accelerating anymore. I  
 11 had both feet on the brakes.  
 12 **Q. And it was still in gear?**  
 13 A. I don't remember. I would  
 14 assume that I didn't take it out of  
 15 gear. I mean, it would have been in  
 16 one of the gears. I don't know what  
 17 gear.  
 18 **Q. And you didn't have foot on the**  
 19 **clutch at the time you hit the truck?**  
 20 A. No. No, I had both feet on the  
 21 brakes at that point. Once I started  
 22 sliding, both feet were on that brake  
 23 when I hit him.  
 24 **Q. So how far back did you bounce**  
 25 **after you hit the rear of the truck?**

1 ATTORNEY BENSON:  
 2 I want whatever pictures  
 3 she took.  
 4 ATTORNEY PATBERG:  
 5 You got them.  
 6 ATTORNEY BENSON:  
 7 Okay.  
 8 ATTORNEY PATBERG:  
 9 At the conclusion of the  
 10 deposition, send me a list of  
 11 anything you want because I  
 12 don't know what the  
 13 communications were before.  
 14 ATTORNEY BENSON:  
 15 Well, I requested a lot  
 16 of things, and I got precious  
 17 little, so ---.  
 18 ATTORNEY PATBERG:  
 19 You tell me what you  
 20 want, and I'll go get them for  
 21 you.  
 22 ATTORNEY BENSON:  
 23 We'll do that. Fair  
 24 enough. That's fair.  
 25 BY ATTORNEY BENSON:

1 A. That I couldn't tell you. I  
 2 could not tell you. It felt like I was  
 3 flying backwards. I have no idea on  
 4 how far back I went.  
 5 **Q. Did your airbag go off?**  
 6 A. No, it did not.  
 7 **Q. No airbags deployed?**  
 8 A. No, it did not because as you'll  
 9 see in one of the pictures --- because  
 10 I took tons of pictures also. You will  
 11 see in one of the pictures that where  
 12 his brace hit peeled back the hood. I  
 13 don't know how else to ---.  
 14 ATTORNEY PATBERG:  
 15 Let him ask the  
 16 questions. I let this go on for  
 17 a while and ---.  
 18 ATTORNEY BENSON:  
 19 Yeah, I'm going to ask  
 20 for all those pictures. We  
 21 asked for them before and didn't  
 22 get them.  
 23 ATTORNEY PATBERG:  
 24 I'll get you whatever  
 25 want.

1 **Q. Mrs. MacDonald, so you took**  
 2 **pictures and I guess you have pictures**  
 3 **that show the airbags did not deploy?**  
 4 A. Yeah.  
 5 **Q. Did you have any sensation of**  
 6 **your should harness tightening or**  
 7 **locking when you hit the back of the**  
 8 **truck?**  
 9 A. I don't remember.  
 10 **Q. Did you have any kind of bruises**  
 11 **on your body after this?**  
 12 A. My knees, but really no bruises  
 13 that I can remember anywhere else. I  
 14 did go to the hospital the following  
 15 Monday once I was back in Pittsburgh.  
 16 And Monday was a holiday, so I went to  
 17 St. Margaret's.  
 18 **Q. We're going to get to that. I**  
 19 **want to stay focused up here on the**  
 20 **interstate.**  
 21 A. I don't know whether my hospital  
 22 records would say whether I had bruises  
 23 or not.  
 24 **Q. So after you impacted what's the**  
 25 **thing you did in terms of perceiving**

1 the truck and what it was doing?  
 2 A. After I impacted?  
 3 Q. Yeah. You felt yourself like  
 4 you were bouncing back?  
 5 A. I had no idea what he was doing  
 6 at that point. I was going backwards  
 7 and sideways.  
 8 Q. Okay. When is the next time you  
 9 perceived the truck, where was it?  
 10 A. After I climbed out on the  
 11 passenger side.  
 12 Q. How long did you sit in your car  
 13 before you gathered yourself and  
 14 climbed across and got out the  
 15 passenger door?  
 16 A. I could not tell you how long it  
 17 was, but I probably got out pretty fast  
 18 because I thought the car was on fire.  
 19 I grabbed my coat, I put it on. The  
 20 keys were still in the ignition. I  
 21 hadn't even shut it off completely  
 22 because the radio was still playing  
 23 according to the guy that moved my car  
 24 for me a little while later.  
 25 Q. Was the engine still running

1 A. I don't know. She wasn't way  
 2 ahead of it.  
 3 Q. And when you got out of the car,  
 4 was Craig Houchins visible anywhere up  
 5 ahead of you?  
 6 A. No.  
 7 Q. Did you actually see him get out  
 8 of the truck?  
 9 A. Probably not, no, because I was  
 10 standing there waving, trying to get  
 11 help.  
 12 Q. Which way were you looking when  
 13 you were waving? Were you looking  
 14 eastbound ---  
 15 A. Up the road.  
 16 Q. --- westbound?  
 17 A. Probably westbound because I was  
 18 going eastbound and I wanted somebody  
 19 that's coming this way to pull over, so  
 20 I was looking west.  
 21 Q. And as you looked west, you are  
 22 on the berm?  
 23 A. I was standing on the berm in  
 24 front of my car.  
 25 Q. And so you were in the front of

1 when you got out?  
 2 A. No, I turned it off that much,  
 3 but you know how you come to that one  
 4 point and the radio can be on even  
 5 though the engine isn't engaged?  
 6 Q. Yes.  
 7 A. And I had turned it --- I knew  
 8 enough to do that. I did that.  
 9 Q. So then you got out, nobody came  
 10 up to you while you were sitting in the  
 11 car; is that correct?  
 12 A. No.  
 13 Q. The first person you encountered  
 14 you were out of the car and was that  
 15 the person that pulled up next to you?  
 16 A. I don't know if Craig got to me  
 17 first or if the car pulled over first.  
 18 I think he was there next to me when  
 19 they --- when the first car pulled  
 20 over, when the lady pulled over.  
 21 Q. Okay. And when she pulled over,  
 22 did she pull over behind your car or in  
 23 front of your car?  
 24 A. In front of me.  
 25 Q. How far in front of you?

1 your car, but looking west?  
 2 A. Right.  
 3 Q. Looking back across your car?  
 4 A. Right.  
 5 Q. Did you ever see the Houchins  
 6 --- the box truck I'll call it. That's  
 7 the one that you hit; right?  
 8 A. Uh-huh (yes).  
 9 Q. Okay.  
 10 A. Yes.  
 11 Q. Did you ever see it stop, come  
 12 to a stop? Did you see it stop?  
 13 A. No.  
 14 Q. Okay. So when you got out of  
 15 the car and then you saw the truck was  
 16 stopped?  
 17 A. I got out of the car. The truck  
 18 was stopped or close to stopped prior  
 19 to me hitting it.  
 20 Q. I understand that's your  
 21 testimony, but did the truck move after  
 22 you hit it?  
 23 A. He got it somehow onto the berm.  
 24 He did get it off, out of the right  
 25 lane, but I don't know how he did that

1 because I was trying to get help.  
 2 **Q. But how far ahead of the point**  
 3 **of impact was the truck when you next**  
 4 **saw it after you got out of your car?**  
 5 A. After I went backwards and  
 6 sideways, I couldn't tell you where the  
 7 point of impact was. I don't know how  
 8 far back I went. I don't know ---.  
 9 **Q. How far forward did the truck**  
 10 **go. That's what I want to know?**  
 11 A. I have no clue because I don't  
 12 know where the point of impact was.  
 13 **Q. Did you ever go look for any**  
 14 **broken glass or parts on the highway to**  
 15 **see where the point of impact might**  
 16 **have been?**  
 17 A. No, I did not go onto the  
 18 highway.  
 19 **Q. Did anybody that you're aware of**  
 20 **sweep up glass or parts at some point?**  
 21 A. Some parts fell off my car after  
 22 it was on the berm. Well, some of them  
 23 did because they were loose. And we  
 24 picked loose pieces that were falling  
 25 off the front end.

1 lights when you hit the back end of the  
 2 truck. And I looked at him like I  
 3 don't --- you know, even then and I was  
 4 not all together right at that moment,  
 5 I knew that was absolutely false  
 6 because I knew there were no lights.  
 7 **Q. Did you tell him anything else**  
 8 **while you were standing out by the**  
 9 **berm? Did you tell him you slid on**  
 10 **ice?**  
 11 A. I don't know if I did. I'll  
 12 tell you what. I know that we were out  
 13 there on 80 for a long time, but I  
 14 really do not remember my  
 15 conversations. I remember the initial  
 16 words we had. If we made small talk, I  
 17 don't remember it. We probably did.  
 18 **Q. Were you angry with him?**  
 19 A. No.  
 20 **Q. Did you accuse him or blame him**  
 21 **for the accident?**  
 22 A. I don't think I said anything  
 23 like that. I don't think that there  
 24 was any discussion of it.  
 25 **Q. Did you apologize to him for the**

1 **Q. I think your testimony was that**  
 2 **the windshield --- not the windshield,**  
 3 **I'm sorry. The driver's side headlight**  
 4 **was knocked out?**  
 5 A. Yes.  
 6 **Q. Do you know if that broke,**  
 7 **whether there was any glass on the**  
 8 **road?**  
 9 A. I would assume that everything  
 10 there broke. I didn't pick it up.  
 11 **Q. Did you ever see it broken on**  
 12 **the road?**  
 13 A. I don't remember.  
 14 **Q. So then when Mr. Houchins came**  
 15 **up to you, did he say anything to you?**  
 16 A. Yes.  
 17 **Q. What did he say?**  
 18 A. The first thing he said me to  
 19 was, are you injured? And I said, I  
 20 think my knees, my knees hurt. I asked  
 21 him if he was injured. He then  
 22 proceeded to tell me that I had broken  
 23 his lights when I hit him.  
 24 **Q. Exactly what did he say?**  
 25 A. He said, I think you broke my

1 **accident or ever indicate that it was**  
 2 **your fault?**  
 3 A. No.  
 4 **Q. Was there snow up to that point**  
 5 **when you and Mr. Houchins first met on**  
 6 **the berm of the highway in front of**  
 7 **your car?**  
 8 A. No, there was not.  
 9 **Q. Do you have any recollection of**  
 10 **Mr. Houchins putting out any kind of**  
 11 **orange triangle or anything like that**  
 12 **to warn oncoming traffic that your car**  
 13 **was disabled?**  
 14 A. I don't remember it. It may  
 15 have happened, but I don't remember it.  
 16 **Q. Do you know the identity of the**  
 17 **lady who ---**  
 18 **A. No.**  
 19 **Q. --- came on?**  
 20 **ATTORNEY PATBERG:**  
 21 **You got to slow down**  
 22 **again.**  
 23 **A. Okay. No, I don't.**  
 24 **BY ATTORNEY BENSON:**  
 25 **Q. Do you know anybody who you had**

1 dealings with out there on the highway  
 2 that day in connection with this  
 3 accident other than Mr. Houchins?  
 4 A. The state trooper that was  
 5 there.  
 6 **Q. Have you talked to him since the**  
 7 **accident?**  
 8 A. That night I did.  
 9 **Q. On the highway or someplace**  
 10 **else?**  
 11 A. No, I called him from the hotel  
 12 to ask for information that I had not  
 13 gotten when we were out there.  
 14 **Q. Okay. What information was that**  
 15 **that you asked him for?**  
 16 A. I asked him for the driver's  
 17 name. I asked him --- he told me who  
 18 owned the truck. He gave me all sorts  
 19 of information and I wrote it down.  
 20 Because I did not ask the questions,  
 21 you're supposed to ask when you're in  
 22 an accident. I was not okay when I got  
 23 out of the car.  
 24 **Q. Why not? What was going on?**  
 25 A. I was terrified. I thought I

1 **Q. Okay. And at some point when**  
 2 **the policeman came, where did he pull**  
 3 **his car?**  
 4 A. He ended up, up in front.  
 5 **Q. In front of you?**  
 6 A. Ahead of my car.  
 7 **Q. And was there a space between**  
 8 **the police car and the truck?**  
 9 A. Yeah, a big space.  
 10 **Q. How big a space?**  
 11 A. Big enough that when I asked the  
 12 police officer to drive me up to the  
 13 back of the truck so I could take a  
 14 picture of it he said now just be  
 15 quiet, just sit back there and relax  
 16 because, he said, now this is your  
 17 fault, now don't make waves. And he  
 18 would not take me out. Now, I should  
 19 have gotten out, got my camera out of  
 20 the car and just walked up. I should  
 21 have.  
 22 **Q. So you never got any pictures of**  
 23 **the truck ---**  
 24 A. No.  
 25 **Q. --- out on the interstate?**

1 was going to die when I saw the back  
 2 end of that truck right before I hit  
 3 it. I thought I was going to die. And  
 4 then I thought my car was on fire, and  
 5 then I got out and I knew I was  
 6 injured. And I didn't do things the  
 7 way you're supposed to do them at all.  
 8 I know all the rules when you have a  
 9 car accident, you're supposed to get  
 10 information and trade information, and  
 11 I didn't have my wits about me at all.  
 12 **Q. Let me ask you a couple of**  
 13 **questions here. You said you were**  
 14 **standing out on the highway for a while**  
 15 **before the policeman came?**  
 16 A. I was in and out of that lady's  
 17 car prior to them coming. I got out.  
 18 I had a cigarette. I got back in her  
 19 car. You know, she stayed until the  
 20 police came.  
 21 **Q. What was Mr. Houchins doing**  
 22 **during the time you were in and out of**  
 23 **the other lady's car?**  
 24 A. I don't remember that because he  
 25 didn't get in her car.

1 A. No.  
 2 **Q. Was it a football field ahead of**  
 3 **the police car, the box truck?**  
 4 A. Well, the fact that I asked him  
 5 to drive me up to it to me means it was  
 6 quite far ahead of us.  
 7 **Q. Do you have an estimate of**  
 8 **distance?**  
 9 A. No. No, but I could have  
 10 walked. I could have walked, and even  
 11 though it seemed to --- in my mind when  
 12 I see it in my mind, it's like the  
 13 truck was way up there.  
 14 **Q. Now, when you asked the**  
 15 **policeman to drive you up so you can**  
 16 **take a picture of the back of the truck**  
 17 **was that the first thing you did when**  
 18 **you saw the policeman? Had you**  
 19 **already ---?**  
 20 A. I don't ---.  
 21 **Q. Where in the sequence of events**  
 22 **was that?**  
 23 A. I don't remember. I sat in that  
 24 police car for a long, long time  
 25 because we waited for the tow truck. I

1 wouldn't let the first guy take my car.  
 2 Then we had to wait for another one.  
 3 So we were out there for a long time.  
 4 I didn't get to the hotel until after  
 5 5:00.  
 6 **Q. Let me ask you some other**  
 7 **questions. How do you know the**  
 8 **accident happened at 1:40?**  
 9 A. Because I wrote it down.  
 10 **Q. When did you look at your watch?**  
 11 A. I don't know. I may have looked  
 12 at the clock in the car. I don't know  
 13 what I looked at, but it was in my  
 14 mind.  
 15 **Q. Where did you write it down?**  
 16 A. On a little tablet that I had.  
 17 **Q. Do you still have that?**  
 18 A. Yes, I do.  
 19 **Q. Did you write anything else**  
 20 **down?**  
 21 ATTORNEY PATBERG:  
 22 Do you want me to get  
 23 that?  
 24 ATTORNEY BENSON:  
 25 No.

1 time the snow started, which was 10  
 2 minutes later.  
 3 **Q. Who found out what time the snow**  
 4 **started?**  
 5 A. The first attorney ---.  
 6 ATTORNEY PATBERG:  
 7 I'm going to have to  
 8 assert attorney-client privilege  
 9 of work product.  
 10 ATTORNEY BENSON:  
 11 That's fine. That's  
 12 fair. See said we, it could  
 13 have been anybody.  
 14 ATTORNEY PATBERG:  
 15 Right.  
 16 BY ATTORNEY BENSON:  
 17 **Q. No, I don't want to know what**  
 18 **you talked to about with your attorney.**  
 19 **But let me ask you this, Mrs.**  
 20 **MacDonald, at what point in time in the**  
 21 **sequence of events did the snow come?**  
 22 A. While we were standing on the  
 23 berm of the road waiting for the police  
 24 to come.  
 25 **Q. And how long did it snow before**

1 BY ATTORNEY BENSON:  
 2 **Q. Did you write anything else down**  
 3 **on the tablet?**  
 4 A. Yes, everything I've been  
 5 telling you.  
 6 ATTORNEY PATBERG:  
 7 I think I have it.  
 8 A. Yes, you do.  
 9 ATTORNEY PATBERG:  
 10 The question is --- I  
 11 know I have it in the file.  
 12 ATTORNEY BENSON:  
 13 I do not believe I've  
 14 seen that.  
 15 BY ATTORNEY BENSON:  
 16 **Q. When you wrote on the tablet**  
 17 **were you still in the car, or was it**  
 18 **after you got out of the car?**  
 19 A. I didn't get back into my car  
 20 other than to take stuff out. So I  
 21 didn't do it sitting in my car. I  
 22 probably did it --- I don't --- I can't  
 23 honestly tell you. But also, I  
 24 believe, on the police report it says  
 25 what time. And then we found out what

1 **the police arrived?**  
 2 A. The people that pulled over to  
 3 help me had trouble pulling over  
 4 because they were sliding. I remember  
 5 her saying that to me and the man said  
 6 it, too. He pulled over also, a man  
 7 pulled over in a different vehicle.  
 8 **Q. Did you see the snow coming, did**  
 9 **you see a snow squall coming your way?**  
 10 A. There was no warning. It came  
 11 down like a wall of snow. Just boom  
 12 and it was there.  
 13 **Q. Would you describe it as a**  
 14 **squall?**  
 15 A. I would say so, yes, because it  
 16 covered the road very rapidly and the  
 17 road had nothing on it prior to that.  
 18 **Q. Would you describe it as a**  
 19 **whiteout?**  
 20 A. Yes. Yeah, I think we did have  
 21 a whiteout at some point because ---  
 22 and like I said, other accidents  
 23 happened behind mine after that. They  
 24 were still flying passed us at first  
 25 when the snow was falling, and we saw

1 how fast the road got covered even with  
2 the traffic. And then she was getting  
3 panicky because she was afraid somebody  
4 was going to come flying into us and  
5 knock us right into the ditch.

6 **Q. Who did you see slip?**

7 A. She said she slipped as she  
8 tried to pull over. She said it's  
9 getting, you know ---.

10 **Q. Did you ever go look at the ice  
11 that you think you slid on?**

12 A. God, no. I don't even know  
13 where the point of impact was. I don't  
14 know where I started braking or  
15 anything else. I just know where I  
16 ended up.

17 **Q. Okay. So when the police pulled  
18 up, did he pull over --- the first  
19 thing he did was pull over in front of  
20 your car?**

21 A. Uh-huh (yes).

22 **Q. And where were you when that  
23 happened?**

24 A. I was either in her car or  
25 standing on the berm, one or the other.

1 **Q. And who went first? Who told  
2 their version of events first?**

3 A. I don't remember.

4 **Q. What did Mr. Houchins tell the  
5 policeman?**

6 A. He just --- he couldn't have  
7 told him much. He didn't feel the  
8 impact is what he had told me, and he  
9 only heard it. So he didn't know what  
10 was going on until he looked in the  
11 mirror and saw me going backwards  
12 apparently.

13 **Q. But do you remember Mr. Houchins  
14 saying anything to the policeman when  
15 he was sitting in the backseat of the  
16 cruiser?**

17 A. The only thing that sticks in my  
18 mind that he said was when the police  
19 officer asked him if he had his  
20 flashers or his lights on he said, yes,  
21 he did. I remember that and that just  
22 obliterated anything else I might have  
23 heard because I knew that was not so.

24 **Q. And did you say anything? Did  
25 you speak up when Mr. Houchins told the**

1 I don't know.

2 **Q. Where was Mr. Houchins?**

3 A. That I can't remember when the  
4 police pulled up. I don't remember if  
5 he was standing on the berm or if he'd  
6 gone back up to the truck. I sort of  
7 assume that at some point he was  
8 calling the owner of the truck to  
9 explain what was going on. You know,  
10 he didn't do that in front of me.

11 **Q. What's the next thing you  
12 remember happening after the policeman  
13 pulled up?**

14 A. He asked us both what went on  
15 and, you know, for our versions  
16 and ---.

17 **Q. Where were you when he asked you  
18 that?**

19 A. In the vehicle.

20 **Q. So you got in the vehicle?**

21 A. Yeah, both of us were in the  
22 backseat.

23 **Q. Which side were you on?**

24 A. I was on the passenger side in  
25 the backseat.

1 **policeman that he had his --- what did  
2 he tell him he had on, just the  
3 flashers or all his lights or what?**

4 A. I don't know if he said brake  
5 lights, flashers, but he said he had  
6 his lights on.

7 **Q. Okay. And did you say anything  
8 right then in response to that comment?**

9 A. Yes.

10 **Q. What did you say?**

11 A. I started to say no, you, and  
12 the police officer stopped me.

13 **Q. How did he stop you?**

14 A. He just said (indicating) like  
15 that.

16 **Q. Held his hand up and said wait;  
17 right?**

18 A. Hand up, yeah.

19 **Q. Like stop?**

20 A. Yeah.

21 **Q. Do you remember anything else  
22 Mr. Houchins said other than answering  
23 the question that he had his flashers  
24 on?**

25 A. Not really.

1 **Q. Did the policeman ask Mr. Houchins if he had his flashers on?**  
 2  
 3 A. He asked him if he had his  
 4 flashers or his brake lights on. He  
 5 asked him if he had his lights on. I  
 6 don't remember his exact wording.  
 7 **Q. And so you don't remember anything else Mr. Houchins said at that point other than that he had them on and you took issue with that?**

8 A. Right.  
 9  
 10 **Q. What's the next thing you remember happening in the police car?**  
 11  
 12 A. Well, this ought to put  
 13 everybody into hysterics. This is  
 14 totally unrelated, it really is. We  
 15 had a very bizarre event, which is why  
 16 the police officer does remember that  
 17 accident. An SUV of some kind pulled  
 18 up behind us with a man and woman in  
 19 it, and she jumped out of the car and  
 20 came banging on the passenger window of  
 21 the front of the state trooper's car.  
 22 So he puts the window down and she is  
 23 having an altercation with her husband  
 24  
 25

1 because he came to the driver's door.  
 2 You know, we have the gun in the back,  
 3 he's at the driver's door. She's  
 4 sitting over here. Nobody knew what  
 5 this guy was going to do.  
 6 So the police officer put the  
 7 window down, I don't think all the way,  
 8 just part way maybe because he's  
 9 seated. He's not out of the car. And  
 10 it ended up that somehow she ends up  
 11 getting out of the car and going back  
 12 with her husband and then they go on  
 13 down the road, but that went on for  
 14 quite awhile. That was bizarre.  
 15 **Q. How long did it go on?**  
 16 A. The police officer probably has  
 17 it in his thing. It felt like she was  
 18 with us for at least a half an hour.  
 19 You know, something like that, at least  
 20 a half an hour.  
 21 **Q. Now, let me ask you this.**  
 22 A. You know, I can't swear to that.  
 23 **Q. At some point when did you get to tell the policeman your version of events? Did you?**  
 24  
 25

1 and wants to get in the police car.  
 2 Now Craig and I are in the  
 3 backseat, the police officer takes his  
 4 gun and puts it back on the seat  
 5 between us. Now I think I'm in the  
 6 middle of a --- you know, I already  
 7 wasn't okay, and now we have a rifle on  
 8 the seat and we have this lady jumping  
 9 in the car and we don't know what her  
 10 husband's going to do. Well, he took  
 11 off on her and this lady, something  
 12 about getting to New Jersey and getting  
 13 medication to her child. It just  
 14 turned into like this bizarre event  
 15 that you thought you were in the middle  
 16 of a movie.

17 **Q. So what happened to her?**  
 18 A. She stayed in the police car for  
 19 quite awhile. The husband left and  
 20 went down the road. And she wanted the  
 21 police officer to give her a ride to  
 22 somewhere, an airport or something.  
 23 And then the husband came back and  
 24 pulled up behind us again and he --- we  
 25 were in a very compromising position

1 A. Well, I told him the car, but  
 2 then when I called him at 11 o'clock  
 3 that night from the hotel after I had  
 4 my brain back in gear and I had, you  
 5 know, made notes and gone over  
 6 everything in my mind and sort of had  
 7 it --- you know, finally had settled  
 8 down. I called him and it was around  
 9 11:00 or something like that, and I  
 10 asked him a bunch of questions. And I  
 11 told him exactly what had been said to  
 12 me on the side of the road, what he had  
 13 said about me breaking his lights. And  
 14 he said, I know he said --- I know the  
 15 state trooper said to me, he said that  
 16 to you? I said, yes, he did. Now, he  
 17 was just typing up the reports and I  
 18 said please make sure that's in the  
 19 report. And I don't believe he did put  
 20 that in the report.

21 **Q. Let me ask you a question.**  
 22 A. And I requested that.  
 23 **Q. You said the policeman remembers this because of the incident of the woman getting in the car. How do you**  
 24  
 25

1 know he remembers it? Have you spoken  
2 with him since that night? You, have  
3 you spoken with the policeman?

4 A. No, I have not. No.

5 **Q. Has anybody other than your**  
6 **attorney to your knowledge spoken with**  
7 **the policeman since that day?**

8 A. It would have had to have been  
9 someone that was connected with my  
10 attorney that spoke to him.

11 **Q. Now, what did you tell the**  
12 **policeman when you were in the car?**

13 **Did you have to wait to have all of**  
14 **this situation sorted out with the**  
15 **other woman who got on before you told**  
16 **your version of events or did you do it**  
17 **right after Mr. Houchins did it?**

18 A. I think that we did it before  
19 that event started.

20 **Q. So what did you say happened?**

21 A. I told him just what I've told  
22 you.

23 **Q. Did the policeman say anything**  
24 **to you in the car?**

25 A. He said that you hit him, like

1 that's the end all to the whole thing.  
2 You know, you hit him, so nothing  
3 matters. That was, you know ---.

4 **Q. Did you argue that point in the**  
5 **car?**

6 A. No, I didn't argue it. I knew  
7 better than to do that.

8 **Q. Did you ever indicate to the**  
9 **policeman that you were going too fast?**

10 A. Absolutely not because I wasn't.

11 **Q. Did you tell him that you slid**  
12 **on ice?**

13 A. Yes, I did.

14 **Q. Did you ever apologize to Mr.**  
15 **Houchins or indicate that the accident**  
16 **was your fault?**

17 A. No. I probably said I felt  
18 really bad that we were all in this  
19 situation. I probably verbalized that  
20 somehow, you know, but I was sorry for  
21 me, too.

22 **Q. Just a little bit here and then**  
23 **we'll probably break for the day. At**  
24 **what point then --- do you remember**  
25 **anything else Mr. Houchins said while**

1 you were sitting in the police cruiser?

2 A. No. I'm sure that we made small  
3 talk, but I don't remember any of it  
4 because my mind was in Connecticut and  
5 trying to get a call to my kids, which  
6 I didn't do until after 6:00 probably.

7 **Q. Understood.**

8 A. And you know, any small talk  
9 --- and I mean, he was nice. He wasn't  
10 rude to me. We were sitting in the  
11 backseat together ---.

12 **Q. Mr. Houchins?**

13 A. Yeah. He never was rude to me  
14 on the berm or in the police vehicle.  
15 He never was rude to me.

16 **Q. Let me ask you, do you remember**  
17 **anything else that you said to either**  
18 **Mr. Houchins or the policeman while you**  
19 **were in the car relevant to the**  
20 **accident?**

21 A. I really don't, no.

22 **Q. And do you remember anything**  
23 **else the policeman said?**

24 A. Well, he didn't think I needed  
25 to go take a picture. I remember that

1 very clearly.

2 **Q. Was Mr. Houchins in the car when**  
3 **you asked for a ride to go take a**  
4 **picture of the back of the truck?**

5 A. I don't believe so. No, I don't  
6 believe so.

7 **Q. At what point in time did he**  
8 **leave?**

9 A. I don't know.

10 **Q. Did you see Mr. Houchins drive**  
11 **away in the truck?**

12 A. I honest to God don't remember.  
13 I mean, he had to have. It was there  
14 and then it wasn't, but I don't  
15 remember watching him pull away. I  
16 don't remember that.

17 **Q. When you were sitting in the**  
18 **car, did you ever --- could you see ---**  
19 **were there any lights on in the truck**  
20 **when you were in the police cruiser?**

21 A. No, I never saw lights on that  
22 truck, period. And the officer never  
23 went and checked either. He should  
24 have.

25 **Q. Could you see the truck up ahead**

1 or was it obliterated by snow when you  
2 were in the cruiser?

3 A. Well, when he had the blizzard,  
4 maybe you couldn't see the truck. I  
5 don't know because I was at that point  
6 talking to people that were on the berm  
7 or I was in a car or I was in the  
8 police car. I wasn't really looking  
9 for the truck, so I don't know.

10 **Q. How long did the blizzard last?**

11 A. I don't think it was real long,  
12 but I can't say how long. It didn't  
13 like --- well, you know, though when  
14 the tow truck driver came, he would not  
15 go back down 80. He said we're not  
16 going on 80, this is absolutely hell  
17 out here. And I do remember that when  
18 we got off of 80 to go back towards  
19 Dubois to go to the garage and then the  
20 hotel, I do remember that there was a  
21 lot of snow.

22 **Q. But I'm just asking time wise,  
23 how long from the time the snow started  
24 coming down until the time --- at some  
25 point the snow stopped; right?**

1 A. Of course.

2 **Q. So how long was that?**

3 A. I don't know.

4 **Q. So at some point then Mr.  
5 Houchins left the cruiser, went up to  
6 his truck and drove off. Did you see  
7 him do that?**

8 A. He went up to his truck and  
9 drove off? Yes, at some point he did  
10 that. I honest to God don't remember  
11 him doing that. I know he did it, but  
12 I don't ---.

13 **Q. But you can't visualize or have  
14 a recollection?**

15 A. No.

16 **Q. And then at that point you had  
17 to deal with the policeman and get a  
18 tow truck and all of that; right?**

19 A. Yes.

20 **Q. Why did you reject the first tow  
21 truck that came?**

22 A. Because I wanted my car taken  
23 where there was also a hotel nearby.

24 **Q. Okay.**

25 A. And the exit he was going to

1 take it off --- I don't even remember  
2 what one, but I said no, no go. It's  
3 not going.

4 **Q. Was there any discussion in the  
5 police cruiser as to whether the police  
6 was going to issue any citations  
7 against either you or Mr. Houchins for  
8 a vehicle violation?**

9 A. There was no discussion of that,  
10 but there also was no citations issued.

11 **Q. Did you have any discussion with  
12 the policeman when you called him later  
13 that evening from the hotel?**

14 A. About?

15 **Q. About whether anyone was going  
16 to be cited for the accident?**

17 A. No. I called to tell him my  
18 version of it and ask him who the  
19 people were because I didn't take the  
20 information.

21 **Q. And what barracks was he from,  
22 do you know?**

23 A. He was in Dubois.

24 **Q. Okay. At what point in the  
25 process did you start taking notes that**

1 **you then organized and reviewed when  
2 you called the trooper later that  
3 evening?**

4 A. Once I was at the hotel.

5 **Q. What time did you get to the  
6 hotel?**

7 A. Because you had asked me before  
8 if I did it in the car, and I know I  
9 never sat back down in my car. I would  
10 say I got to the hotel after 5:00.

11 **Q. Okay. And did you make any  
12 notes on a pad or anything else while  
13 you were out on the highway?**

14 A. I may have when I was sitting in  
15 that lady's car, not in the police car  
16 I didn't do anything. I may have when  
17 I was in her car. I don't remember for  
18 sure. I don't remember. I remember at  
19 the hotel once I landed safely.

20 **Q. Sitting here today, do you know  
21 of anyone else, the identification of  
22 anybody other than yourself who has  
23 told you that they looked at the box  
24 truck and didn't see any lights or  
25 flashers on it?**

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A. No.  
ATTORNEY BENSON:  
This is probably a good  
place to break for the day.  
\*\*\*\*\*  
DEPOSITION CONTINUED AT 4:00 P.M.  
\*\*\*\*\*

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COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF CLEARFIELD )

CERTIFICATE

I, Rhonda K. Thorpe, a Notary Public in  
and for the Commonwealth of Pennsylvania, do  
hereby certify:  
That the witness whose testimony appears  
in the foregoing deposition, was duly sworn by me  
on said date and that the transcribed deposition  
of said witness is a true record of the testimony  
given by said witness;  
That the proceeding is herein recorded  
fully and accurately;  
That I am neither attorney nor counsel  
for, nor related to any of the parties to the  
action in which these depositions were taken, and  
further that I am not a relative of any attorney  
or counsel employed by the parties hereto, or  
financially interested in the action.



*Rhonda K. Thorpe*

# **EXHIBIT I**

IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PA  
CIVIL DIVISION

\* \* \* \* \*

\*  
SUSAN M. MACDONALD, \*  
Plaintiff \* Case No.  
vs. \* 06-1431-CD  
CRAIG HOUCHINS and \*  
RICHARD FULLINGTON, \*  
Defendants \*  
\*

ORIGINAL

\* \* \* \* \*

DEPOSITION OF  
SUSAN M. MACDONALD  
September 21, 2011

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by the certifying agency.

## DEPOSITION

OF

SUSAN M. MACDONALD, taken on behalf of  
the Defendant herein, pursuant to the  
Rules of Civil Procedure, taken before  
me, the undersigned, Jacqueline L.  
Hazlett, a Court Reporter and Notary  
Public in and for the Commonwealth of  
Pennsylvania, at the offices of  
Sargent's Court Reporting Service,  
Inc., 106 North Second Street,  
Clearfield, Pennsylvania, on Wednesday,  
September 21, 2011 beginning at 12:10  
p.m.

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A P P E A R A N C E S

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WITNESS: SUSAN M. MACDONALD

EXAMINATION

By Attorney Benson

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## P R O C E E D I N G S

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SUSAN M. MACDONALD, HAVING FIRST BEEN  
DULY SWORN, TESTIFIED AS FOLLOWS:  
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EXAMINATION

BY ATTORNEY BENSON:

Q. Mrs. MacDonald, we're here to complete your deposition today that we started back on November 20, 2009. Do you remember my instructions at that time or do I need to give you the rundown on the deposition instructions again?

A. You told me to use yes or no when I could. And I know I run off at the mouth, so I will try to stick to that this time.

Q. Okay. If I don't understand your answer, I'll ask you to clarify. If you don't understand my question, you ask me to clarify.

A. Okay.

Q. Okay? And I'm going to try and not duplicate a lot of what we talked

1 about the last time because we have it  
2 in a transcript and it's quite lengthy.  
3 So I may touch on a few areas, but  
4 we'll try and move forward here and get  
5 this finished; okay?

6 A. Okay.

7 Q. All right. Before you came  
8 today, did you review anything to  
9 prepare for your testimony?

10 A. I did. I looked over the  
11 deposition, my copy of the deposition  
12 from two years ago.

13 Q. Okay. Anything else?

14 A. Not really.

15 Q. Okay. Since November 20, 2009,  
16 I just want to ask you, have you filed  
17 any kind of Workers' Compensation  
18 claims?

19 A. No.

20 Q. Okay. Any type of Social  
21 Security disability claim?

22 A. No. I'm on Social Security.

23 Q. Right. And you had told me that  
24 last time. But you haven't applied for  
25 disability of any type?

1 A. Prior to going onto Social  
2 Security, when I turned 62 I had tried.  
3 And they basically saw when I could  
4 apply early and booted me out of the  
5 office. I did not attempt it again.

6 Q. All right. That was a Social  
7 Security disability claim?

8 A. I tried. I didn't get anywhere.

9 Q. You never really filed?

10 A. No.

11 Q. They told you wait a little bit  
12 and you'll retire?

13 A. Yes. They didn't want to bother  
14 with me.

15 Q. Okay. Now, do me a favor here.  
16 Let's try and let me finish answering  
17 the question --- asking the question  
18 before you start to answer. I know you  
19 think you know where I'm going, but  
20 we'll have a better transcript if we do  
21 that. Okay?

22 A. Okay.

23 Q. The last time we had marked a  
24 copy of your résumé, which you had  
25 provided in discovery here. I'm not

1 going to ask you about all of that. But  
2 I'm interested in your employment since  
3 November 20, 2009. I think at the time  
4 you told me you were working for the  
5 Pennsylvania Racing Association;  
6 correct?

7 A. Yes.

8 Q. And that's seasonal work?

9 A. Yes.

10 Q. When the racetrack season is not  
11 on, do you get unemployment  
12 compensation for that?

13 A. Yes.

14 Q. Okay. And the reason I'm asking  
15 you that is you had produced since your  
16 deposition some calendars, and it had  
17 references to UC on some dates. Was  
18 that a reference to getting  
19 unemployment compensation?

20 A. Yes.

21 Q. Okay. And my understanding is  
22 you quit your job at Wal-Mart in June  
23 of 2008 when you went to work for the  
24 racetrack in Erie?

25 A. Yes.

1 Q. When you go to the racetrack, is  
2 that just a weekend?

3 A. No. And I am no longer there.

4 Q. Okay.

5 A. And it was a season. It started  
6 in April and went to the beginning of  
7 October.

8 Q. Okay. And was that five days a  
9 week or how often ---?

10 A. Five days a week.

11 Q. Did you drive to the racetrack  
12 in Erie from your home, back and forth  
13 every day?

14 A. Not every day. I drove up on  
15 Tuesday mornings and drove back home  
16 Saturday nights.

17 Q. Okay. Why'd you do that?

18 A. Because I wanted to be home a  
19 couple of days a week.

20 Q. No, why didn't you drive back  
21 and forth every day?

22 A. Because it was two hours each  
23 way.

24 Q. When did you last work for the  
25 Pennsylvania Racing Commission?

1 A. That ended last October, so  
2 October of 2010 it ended.

3 Q. Why did it end?

4 A. The head of our office just  
5 decided who was coming back and who  
6 wasn't. I was given absolutely no  
7 reason.

8 Q. Okay. So it didn't end because  
9 you quit, it ended because they didn't  
10 call you back for the next season?

11 A. Yes.

12 Q. Have you obtained any other  
13 employment since then?

14 A. Yes.

15 Q. And what have you been doing?

16 A. Part-time working for Senior  
17 Care At Home.

18 Q. How long have you been doing  
19 that?

20 A. I went to orientation in January  
21 of 2011. They didn't give me any work  
22 until February of 2011, about a month  
23 later.

24 Q. Okay. And is this sort of ---  
25 kind of like private duty? You render

1 care to older folks in their home?

2 A. Yes.

3 Q. Okay. And what type of care do  
4 you render?

5 A. You might do their laundry, you  
6 might do their shopping. It's whatever  
7 they need. You don't know what you're  
8 going to do with each different person  
9 that you work with. No lifting, no any  
10 --- we're not allowed. If somebody  
11 falls we can't even pick them up.

12 Q. Okay.

13 A. We have to call for help.

14 Q. You don't do practical nursing-  
15 type of tasks?

16 A. No.

17 Q. So you're more of a companion  
18 and sort of a housekeeper?

19 A. Well, I haven't done any  
20 cleaning, but I do run errands for  
21 them. I was helping one lady fix her  
22 computer. I mean whatever they need.  
23 It's whatever their needs are, and you  
24 don't know that until you, you know, it  
25 depends on who you're working with.

1 Q. How many hours a week have you  
2 been doing that since February of 2011?

3 A. Nothing guaranteed. You give  
4 availability on Monday. They call you  
5 on Friday and tell you what your  
6 schedule is.

7 Q. Okay.

8 A. It's nothing I could sustain  
9 myself on.

10 Q. Any kind of an average of what  
11 it's been?

12 A. Right now it's up right now. I  
13 can get as much as 24 and maybe three  
14 or four more hours on top of that.  
15 Prior to that my highest hours for a  
16 week, some weeks were 15, some weeks I  
17 had six hours. It fluctuates. They  
18 want you to guarantee your  
19 availability, and a lot of it, but they  
20 don't guarantee you the hours of work.  
21 You don't know what you're going to  
22 get.

23 Q. And what geographic ---?

24 A. I couldn't sustain on this.

25 Q. What geographic range do you go

1 to? I mean are you traveling 20 miles  
2 from your home or a 50 mile circle?

3 A. The farthest I've gone so far  
4 was Fox Chapel. I'm up in the Oakmont  
5 area sometimes, across the river. It  
6 probably doesn't take me more than 15,  
7 20 minutes to get where I'm going. So  
8 I'm in traffic --- I'm not sure, I  
9 don't know how many miles.

10 Q. Okay.

11 A. But I don't think I've ever done  
12 over 30 roundtrip.

13 Q. And in the course of a day, how  
14 many hours will you work for a given  
15 client?

16 A. Right now, the client I'm with,  
17 three days a week I'm giving eight  
18 hours a day. Which is nice because I  
19 can stay off of unemployment when I do  
20 that.

21 Q. In a typical eight hour shift  
22 then for your current client,  
23 recognizing they all have different  
24 needs, kind of give me a, just a brief  
25 rundown of what you do.

1 A. I go in, see what they need. I  
2 might run the dishwasher, I might  
3 unload the dishwasher. The lady I'm  
4 with right now, she needs nothing.  
5 They have a cleaning lady that comes  
6 in, so I don't need to do anything  
7 there. And I really haven't ever had  
8 to do that. Somebody else comes in and  
9 does the washing. I mean it can be  
10 that I'm running errands, taking them  
11 somewhere. Just whatever you see they  
12 might need. Sometimes you're just  
13 sitting and talking, you're just a  
14 companion.

15 Q. You might take them to the  
16 doctors?

17 A. Making sure they're okay. I did  
18 with a couple of them.

19 Q. Okay. I think I understand what  
20 you're doing.

21 A. You never know what you're going  
22 to do.

23 Q. All right. The last time at  
24 your deposition we talked a little bit  
25 about your auto insurance through

1 Travelers at the time of this accident  
2 in 2005. And my understanding was that  
3 you had medical expense coverage of  
4 \$10,000?

5 A. I'm not sure.

6 Q. Okay. And whatever the  
7 insurance papers that you gave me show  
8 ---

9 A. Okay.

10 Q. --- is what it was; right?

11 A. Whatever they stated, yes.

12 Q. And Travelers did not pay all of  
13 your medical bills that you submitted  
14 in connection with this accident;  
15 right?

16 A. Correct.

17 Q. In fact I looked, the list of  
18 bills that Travelers had paid was about  
19 \$5,618. Did they tell you that they  
20 weren't going to pay additional bills  
21 because Travelers didn't think they  
22 were necessary?

23 A. I received, and I'm sure both of  
24 you have a copy of it, a letter from  
25 Travelers stating that after February

1 17th of 2006, they were no longer going  
2 to pay anymore bills related to the  
3 accident, was the gist of the letter.

4 Q. Actually I don't think I have  
5 seen that.

6 A. I think you did.

7 ATTORNEY BENSON:

8 Do you have that, Rolf?

9 ATTORNEY PATBERG:

10 I don't have it with me.

11 ATTORNEY BENSON:

12 Okay.

13 A. I think you both have it.

14 BY ATTORNEY BENSON:

15 Q. All right.

16 A. Now, what occurred after that  
17 was I went to Dr. Cicuto in June of  
18 2006. I had another MRI done somewhere  
19 in that area. Now, they had already  
20 stated they would pay nothing after  
21 02/17/06; however, they paid for the  
22 MRI. They paid two of Cicuto's bills,  
23 \$108 each I believe. There was a third  
24 \$108 bill that they refused to pay.  
25 And they did not pay \$100 or something

1 approximate to that for a compounding  
2 pharmacy that I had gotten some topical  
3 stuff for pain that Cicuto had  
4 recommended.

5 Q. The 2006 MRI that Travelers paid  
6 for, what body part was that?

7 A. It was for just all this jazz  
8 with the car accident damage.

9 Q. Well, what I'm asking do you  
10 know was it your neck or was it your  
11 knees or was it your shoulder? Do you  
12 know which one it was?

13 A. It should have been related to  
14 the shoulder.

15 Q. Okay. And just so I'm clear  
16 here, the shoulder that you believe was  
17 injured in the car accident--- and  
18 anytime I refer to that it's going to  
19 be the February 17, 2005 accident ---  
20 is it your right shoulder or your left  
21 shoulder? And I ask that because you  
22 said both ways in the last deposition,  
23 and I want to make sure I know which  
24 one it was.

25 A. The right shoulder.

1 Q. Okay. You're not claiming any  
2 injury to your left shoulder?

3 A. No.

4 Q. Sitting here today, are you  
5 taking any medications for any of the  
6 injuries that you believe were caused  
7 or aggravated by this accident?

8 A. Only 800 milligram ibuprofen.

9 Q. Is that a prescription?

10 A. Yes.

11 Q. And who prescribes that?

12 A. Dr. Balestrino I believe, way  
13 back.

14 Q. And specifically what condition  
15 are you taking the ibuprofen for?

16 A. Pain.

17 Q. Pain where?

18 A. This whole area and down  
19 (indicating).

20 Q. So you're describing the top of  
21 your right shoulder ---.

22 A. Arm, my hand ---.

23 Q. Just so we're clear. The top of  
24 your right shoulder ---?

25 A. The top of my right shoulder,

1 the cap of it, if you call it the cap,  
2 down the arm into the hand.

3 Q. Down the right arm into the  
4 hand?

5 A. Uh-huh (yes). And all on the  
6 right side of my back down to about  
7 here.

8 Q. Kind of like back where it's  
9 hard to itch your back there?

10 A. Yeah, I've got a Sheppard's Hook  
11 so I can get at things.

12 Q. How many ibuprofens do you take  
13 a day?

14 A. I do not take them on a regular  
15 basis. I only take them when I am ---  
16 when I really need to be able to  
17 function and I can't lay down.

18 Q. Okay. So did you take any  
19 today?

20 A. Yes.

21 Q. Is that because you drove here  
22 to Clearfield from your home?

23 A. Yes.

24 Q. Did you take any yesterday?

25 A. No.

1 Q. When's the last time you took  
2 ibuprofen before driving out to  
3 Clearfield today

4 A. Probably on Monday.

5 Q. Okay. And today's Wednesday, so  
6 two days ago?

7 A. I really fight it. I do not  
8 like to take medication. If I'm at  
9 home, I don't take it because I can lay  
10 down. I can get in a position where I  
11 can stop the pain. I can do my  
12 exercises. But to function, I carry  
13 ibuprofen with me all the time.

14 Q. Okay. And I'm going to ask you  
15 a little bit more about your injuries  
16 here, but let me take you back to the  
17 accident because I have a couple of  
18 follow-up questions from your last  
19 testimony on this. And you were  
20 sitting here today for Trooper McKee's  
21 deposition?

22 A. Yes.

23 Q. All right, first of all, it's my  
24 recollection --- and again, you gave a  
25 lot of testimony on it, and if I say

1 anything trying to just sort of move  
2 this along that's incorrect, please  
3 correct me; okay? But that you had  
4 approached the, we'll call it the box  
5 truck, which is what Crag Houchins was  
6 driving; right?

7 A. Correct.

8 Q. Okay. And you hadn't been  
9 following behind that vehicle for any  
10 length of time before the accident?

11 A. No.

12 Q. That you had come up on it and  
13 had seen a number of vehicles ahead of  
14 you but behind the box truck?

15 A. Correct.

16 Q. And I don't remember if the  
17 number was three, four or five. Did  
18 you have an exact number on that?

19 A. I said it was at least three.

20 Q. Okay.

21 A. I was not sure if there was  
22 more, but definitely I can still see  
23 three for sure.

24 Q. And I think I even asked you if  
25 the vehicles came up one at a time or

1 it was like ducklings behind the mother  
2 duck. And you said it was like the  
3 ducklings behind the mother buck --- or  
4 the mother duck; in other words, the  
5 truck was there and there were at least  
6 three vehicles right behind it?

7 A. Yes.

8 Q. And that's the first time you  
9 saw the box truck?

10 A. Yes.

11 Q. And you told me that each of the  
12 three vehicles pulled into the left-  
13 hand land and passed the box truck?

14 A. Very abruptly they passed, yes.

15 Q. And my question to you on that  
16 is did they do it in any order, like  
17 the first vehicle did it and then the  
18 second, or did the last one go first;  
19 do you remember?

20 A. I think it was in order, one,  
21 two, three.

22 Q. Okay. And I thought you told me  
23 that after the third or the last  
24 vehicle passed the box truck, that you  
25 were a football field behind?

1 A. I do need to correct that. You  
2 were asking me about measurements. I  
3 am lousy at measurements. So after I  
4 left here, being on the highway, I  
5 started really paying attention to ---  
6 because you talked about football  
7 fields, which I even had to ask you how  
8 big is a football field. You know I  
9 don't know. And so then I started  
10 trying to picture a football field.  
11 And I would have to very honestly say  
12 if we're using a football field as an  
13 example of distance, it would have been  
14 several football fields. I was  
15 watching a truck way up, way far from  
16 me, and three vehicles behind it, which  
17 then had to swerve around it. And they  
18 were so abrupt that you knew they  
19 didn't know until the last minute that  
20 this guy's not moving.

21 Q. Well, let me ask you about that.  
22 That's kind of what I was trying to  
23 bring you to. How do you know what any  
24 of the drivers in the cars up ahead of  
25 you knew or were thinking?

1 A. Well, by what I would have been  
2 thinking if I had swung that abruptly  
3 around somebody. It would've been a  
4 last minute oh, I got to get out away  
5 from him, he's not going anywhere.  
6 That's how I would've thought.

7 Q. Well, when you were driving and  
8 you saw the box truck and the vehicles  
9 behind it, was the box truck moving  
10 forward?

11 A. I couldn't tell from that  
12 distance. Once I got up to him I knew  
13 he wasn't.

14 Q. All right. And that's what ---.

15 ATTORNEY PATBERG:

16 I have an objection. I  
17 mean I thought we had tacitly  
18 agreed we're not going to go  
19 back over all this testimony  
20 again because it would be asked  
21 and answered, even though the  
22 deposition occurred two years  
23 ago. So I'd just appreciate it  
24 --- I mean if you have a couple  
25 of follow-ups, that's fine ---.

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ATTORNEY BENSON:

Well, I do. I'm just trying to hone-in on some details here.

ATTORNEY PATBERG:

I understand.

ATTORNEY BENSON:

And I didn't think it was fair to just hit her two years after the last testimony.

ATTORNEY PATBERG:

I understand.

BY ATTORNEY BENSON:

Q. That's my question. Is it your testimony that the box truck was standing still in the right-hand lane of I-80 as you went --- from the time you first saw it until the time you ran into it?

A. I believe that I stated before, and every time I've talked about this I've stated it basically the same way, he was either not moving or barely moving. And I know I have said that repeatedly. He was either not moving

1 or barely moving. Now, way back I  
2 couldn't tell that. All I could tell  
3 from way back was something was wrong,  
4 I didn't know what, ---

5 Q. Okay. So ---.

6 A. --- by the reaction of the other  
7 vehicles.

8 Q. Okay. All right. So the  
9 reaction was the vehicles --- but when  
10 you saw the other vehicles they were  
11 not closing in on the box truck, they  
12 were already lined up right behind him,  
13 weren't they?

14 A. I can't tell you how far from  
15 him they were because I would only be  
16 able to do that if I was alongside  
17 them. I don't know what they --- they  
18 were close. They had to have been  
19 close or they wouldn't have swerved the  
20 way they did.

21 Q. Okay.

22 A. But I don't and could never say  
23 how close.

24 Q. Okay. But for example, sitting  
25 here today, you don't know if they

1 swerved because they just didn't want  
2 to ride that slow behind a box truck,  
3 that they just wanted to get around it  
4 and go faster. Do you know that?

5 A. I didn't see any of them going  
6 very fast after they went around him.  
7 And I slowed way down at that point  
8 because their reaction to whatever was  
9 going on up ahead of me told me  
10 something was wrong.

11 Q. Okay. So let me ask you a  
12 question. Was the box truck --- you  
13 said it was either stopped or moving  
14 slowly ---.

15 A. Or barely moving.

16 Q. Okay. You can't tell me which?

17 A. No.

18 Q. And when you say barely moving,  
19 do you have a speed estimate?

20 A. I would mean like crawling,  
21 whatever that would be. Like just  
22 barely moving. Like if your car was  
23 going to stall on you and you were, you  
24 know, just barely going anywhere.

25 Q. Okay.

1 A. He was not going anywhere.

2 Q. And so you continued to approach  
3 the box truck from whatever the  
4 distance was when you first saw him.  
5 Why didn't you move into the left-hand  
6 lane long before you approached the  
7 rear of the truck?

8 A. I had slowed way down when I saw  
9 what these other vehicles were doing.  
10 I don't know why I didn't go into the  
11 left lane.

12 Q. Because everyone else did;  
13 right?

14 A. They did because they were right  
15 on top of him. I started sliding way  
16 back from him.

17 Q. All right. Now, let me ask you  
18 about that. Did you start sliding when  
19 you applied the brakes or did your  
20 vehicle start to slide because you  
21 encountered what you call black ice?

22 A. I was sliding on ice.

23 Q. Okay. But when you first had  
24 the sense that you were sliding on ice,  
25 had you applied the brakes or did you

1 apply the brakes after you felt your  
2 car sliding?

3 A. I believe I didn't start sliding  
4 until I applied the brakes.

5 Q. Okay. And how far from the back  
6 of the box truck were you when that  
7 happened?

8 A. I don't know. I'm not sure.

9 Q. And had you seen any ice before  
10 you started to slide?

11 A. No. The road looked clear.

12 Q. Did you see any of the vehicles  
13 ahead of you sliding?

14 A. Not that I know of.

15 Q. Now, you told me that when you  
16 impacted the back of the truck your car  
17 felt like it went backwards?

18 A. Yes.

19 Q. Okay. How far do you figure  
20 your car moved, if it moved, in an  
21 eastward direction from the point of  
22 impact? Did you stop right there or  
23 did you keep moving forward?

24 A. No. When I hit the brace of the  
25 truck, which is the part of the truck I

1 hit, and he had a good one, he had a  
2 good brace, but that's why I went  
3 backwards instead of going under him.  
4 Okay? He was higher than the top of my  
5 hood. If his brace had folded, I would  
6 have gone under. I hit that brace.  
7 That catapulted me backwards. I was  
8 going backwards and sort of sideways at  
9 the same time. I ended up on the berm  
10 with almost all of my car on the berm.  
11 The left front was slightly in the  
12 road. You had asked the trooper if I  
13 was blocking a lane. I wasn't. The  
14 very left side, front left side of my  
15 car was still on the road when the  
16 people pulled over to help. And the  
17 one man was the second person that  
18 pulled over. There was a lady who was  
19 a visiting nurse and then the one man  
20 that pulled over. He said to me, is it  
21 okay if I get the rest of you car onto  
22 the berm? And he got into my car and  
23 he took it backwards ---.

24 Q. So he backed it up?

25 A. He did.

1 Q. Okay. My question to you ---?

2 A. Just to get the left side off  
3 the road.

4 Q. My question is did you see any  
5 debris on the road that would indicate  
6 the point where your car hit the truck?  
7 In other words, debris or broken  
8 headlights or plastic or anything like  
9 that?

10 A. Some of the debris was right  
11 there and some of it was up farther.

12 Q. Okay. So that's what I want to  
13 know. All the debris was either right  
14 by the front of your car or east of  
15 your car?

16 A. Right.

17 Q. In other words, you didn't pass  
18 over any of the debris in your car?

19 A. When I was going backwards?

20 Q. Yes.

21 A. I have no idea.

22 Q. Okay. What I'm saying is, you  
23 didn't have to walk back behind your  
24 car to find the debris?

25 A. Not back behind my car.

1 Q. It was all there or forward?

2 A. Or forward, yes.

3 Q. Okay. And did you have any  
4 sense of what the truck did after the  
5 impact?

6 A. He somehow moved his truck over  
7 to the berm at some point, but I don't  
8 know when he did that. At this point,  
9 when I'm going backwards and sideways,  
10 and even when I get out of the car, I  
11 did not have my wits about me when I  
12 got out of the car.

13 Q. All right.

14 A. I thought I was on fire because  
15 the radiator was smoking. I got out, I  
16 stood there. I know my knees were hurt  
17 because I was bent. I was like sort of  
18 bent like I was protecting them because  
19 they hurt. I didn't know what else was  
20 hurt at that time. And I got out and I  
21 started --- I was standing on the berm,  
22 I started waving.

23 Q. Okay.

24 A. And I was saying help me. Then  
25 the people came over.

1 Q.. So I guess the point of my  
2 question, just to move along here ---.

3 ATTORNEY PATBERG:

4 We have 60 pages of  
5 testimony regarding this  
6 accident.

7 ATTORNEY BENSON:

8 I know. And I'm just  
9 trying to ask simple questions,  
10 but I'm getting a long answer.

11 ATTORNEY PATBERG:

12 I understand. I  
13 understand. But they're  
14 questions that shouldn't even be  
15 asked because they've been asked  
16 and answered already.

17 BY ATTORNEY BENSON:

18 Q. My question, Ms. MacDonald, is  
19 from the moment of impact, you weren't  
20 paying attention to what the truck was  
21 doing, you were focused on your own  
22 situation; would that be fair?

23 A. Yes.

24 Q. And sitting here today, do you  
25 have an opinion regarding the speed of

1 the truck at the time the impact  
2 occurred?

3 A. He was either stopped or barely  
4 moving.

5 ATTORNEY PATBERG:

6 Which she has already  
7 said three times today and said  
8 three times the last time.

9 A. Said 50,000,000 times before  
10 today.

11 BY ATTORNEY BENSON:

12 Q. All right. So you don't know  
13 whether he was stopped or barely  
14 moving, that's what I'm --- you don't  
15 know.

16 A. He was either stopped or barely  
17 moving. Inching. Use the word inching  
18 as barely moving to describe barely  
19 moving, inching.

20 Q. All right. So it was so slow  
21 you couldn't even give it a speed, if  
22 he was moving at all?

23 A. Exactly.

24 Q. Fair enough. Now, the trooper  
25 had indicated during his testimony and

1 indicated in his report his estimate  
2 that your speed was 50 miles an hour at  
3 the time of the impact. Do you agree  
4 with that or disagree with that?

5 A. Absolutely not.

6 Q. All right. What would you place  
7 your speed at ---

8 A. Absolutely not.

9 Q. --- at the time that you hit?

10 A. I had already slowed down to 40,  
11 at least, before I hit the ice. At  
12 least.

13 Q. That would be the last speed you  
14 know before you slid?

15 A. At the most, 40. It could have  
16 been less than that. I had slowed way  
17 down because of what I saw going on in  
18 front of me.

19 Q. Okay. And my question to you is  
20 when you put the brakes on and you slid  
21 on the ice, you had both feet on the  
22 brake; right?

23 A. I slid on the ice.

24 Q. Did you get a sense that you  
25 were slowing down while you slid on the

1 ice or you weren't slowing down while  
2 you slid on the ice?

3 A. I felt like I wasn't. Maybe I  
4 should have been pumping. I don't  
5 know.

6 Q. Okay. Now, the trooper  
7 indicates in his narrative of the  
8 report, and you heard him testify about  
9 this, he attributed to you --- again,  
10 this is his paraphrase. I was coming  
11 along and the roads were icy. Your  
12 testimony is you didn't know the roads  
13 were icy while you were coming along.

14 A. Well, no, I didn't.

15 Q. Okay.

16 A. If I had known, I would have  
17 pulled off because I'm terrified of  
18 ice.

19 Q. And the trooper states,  
20 paraphrasing your statement to him, he,  
21 I assume meaning Mr. Houchins, was  
22 slowing down. Did you have a  
23 perception that the box truck was  
24 slowing down as you approached it from  
25 behind?

1 A. As I got closer I didn't think  
2 he was doing anything.

3 Q. Okay. You said he was either  
4 stopped or inching slowly.

5 A. Right.

6 Q. And then the trooper indicates,  
7 attributes to you the statement that I  
8 tried to slow down. And did you try to  
9 slow down before you hit your brakes?

10 A. No, I didn't have to try to slow  
11 down before I hit my brakes. I did  
12 slow down before I hit my brakes. I  
13 was already slowing once I saw what was  
14 going on with the other vehicles in  
15 front of me.

16 Q. Okay. You took your foot off  
17 the accelerator? Is that how you did  
18 it?

19 A. I had put the brakes on  
20 probably, I probably pumped. When  
21 you're slowing down you either take  
22 your foot off the accelerator or you  
23 put your foot on the brakes.

24 Q. Okay. Which did you do?

25 A. I can't honestly tell you. I

1 could've just taken my foot off the  
2 accelerator because it goes down real  
3 fast when you do that.

4 Q. Okay. So sitting here today,  
5 you're not sure whether you slowed down  
6 by taking your foot off the accelerator  
7 or whether you were slowing down by  
8 putting on your brakes? Is that fair?

9 A. I initially, I'm sure, slowed  
10 down by taking my foot off the  
11 accelerator, because that's what I do.  
12 Okay? Because it wasn't an immediate  
13 need because they were still far from  
14 me. I don't know at which point I  
15 started or put my foot on the brake.  
16 Probably when I was quite a bit closer  
17 to him. Those cars would not have been  
18 in the right lane at that point.

19 Q. Okay. And your putting the foot  
20 on the brake was because you saw the  
21 truck getting closer to you?

22 A. Yes.

23 Q. Not because you knew there was  
24 ice?

25 A. I didn't know there was ice

1 until I hit it.

2 Q. Okay. Was there anything else  
3 today that you heard Trooper McKee say  
4 that you took issue with? I know you  
5 had a notepad with you here during the  
6 deposition. Did you write anything  
7 down?

8 A. Well, definitely when the  
9 accident occurred at 1:40 the road was  
10 clear. When he got there it was  
11 totally snow covered and there were  
12 more accidents behind me at that point.  
13 So definitely there was snow on the  
14 ground when he got there. And it was  
15 like he described. It just comes up.  
16 It was a squall and people were still  
17 flying past us. And then all of a  
18 sudden there was no more traffic  
19 coming, so that's when they must've  
20 stopped the traffic somewhere behind --  
21 -.

22 Q. And that's what you told me the  
23 last time; right?

24 A. Yeah.

25 Q. Okay.

1 A. Yeah. But there was no snow at  
2 the time of the crash. So I wouldn't  
3 be able to say why Hotchins or  
4 Hotchkins, however, was slowing down  
5 because of the weather. Unless he had  
6 already realized there was ice, you  
7 know, so it doesn't make any sense.

8 Q. Was there anything else you  
9 wrote down during the trooper's  
10 testimony that you disagreed with?

11 A. There were several calls made by  
12 the lady that pulled over to get the  
13 police to come. She made two to three  
14 calls at least before anybody came.  
15 She was getting panicky because of all  
16 the snow. The car was not in a lane  
17 when he arrived. It was totally on the  
18 berm, because the witness had already  
19 moved it. He said he was at the scene  
20 approximately an hour. He was there  
21 much longer between the other event  
22 that occurred and waiting for the  
23 second tow truck, because there were  
24 many accidents out there. So we were  
25 out there for a very long time. The

1 accident was at 1:40. The snow started  
2 at 1:50. He said he came somewhere  
3 after 2:00, I guess. So we sat there  
4 with no help for quite a while. And  
5 then this event occurred where the lady  
6 got in his car. That went on. She was  
7 with us at least a half an hour or  
8 more. The one tow truck came, and then  
9 another one maybe --- oh, it was quite  
10 a bit after. So we were out there a  
11 long time. I didn't get to the hotel  
12 until about between 5:00 and 5:30,  
13 something like that.

14 Q. Okay. All right. So I  
15 understand your testimony here, you  
16 didn't observe the box truck doing  
17 anything that you would say was  
18 reckless up until the point that you  
19 tried to slow down and stop? In other  
20 words, he wasn't weaving on the road or  
21 anything like that?

22 A. He was not weaving, no.

23 Q. Okay. And your contention is  
24 that he should have either been going  
25 faster or had his flashers on?

1 A. Correct.

2 Q. Is there anything else that he  
3 did or didn't do that you feel caused  
4 this accident, other than those ---?

5 A. He had no brake lights, no  
6 lights of any kind on. No flashers.  
7 He should have had them on because he  
8 was either stopped or barely moving.

9 Q. But you wouldn't know whether he  
10 had his brake lights on unless he  
11 applied his brakes, would you?

12 A. Correct.

13 Q. Your testimony is no flashers,  
14 and I understand that. But other than  
15 that, is there anything else you're  
16 saying Mr. Houchins did or didn't do  
17 that caused the accident?

18 A. If he had been slowing, he  
19 would've had brake lights on.

20 ATTORNEY PATBERG:

21 I object to the form of  
22 the question on the basis that  
23 she's already testified that  
24 because he slowed down or was  
25 stopped, that she felt that that

1           caused the accident in  
2           combination with the flashers.  
3           That's all my point is. You had  
4           asked the question only the  
5           flashers.

6                           ATTORNEY BENSON:

7                           I'll ask it a different  
8           way, just so we're clear.

9           BY ATTORNEY BENSON:

10          Q.           Ms. MacDonald, in paragraph 15  
11          of your complaint there's some  
12          allegations of negligence on the part  
13          of Mr. Houchins. And I just want to  
14          understand what we're dealing with  
15          here. The first one you alleged was in  
16          15(a), in failing to properly operate  
17          and control his vehicle. So my  
18          question to you is are you contending  
19          that Mr. Houchins didn't have control  
20          of his vehicle at the time of this  
21          accident?

22          A.           If he was having trouble with  
23          the truck and he had no lights on, and  
24          if he was slowing as you said, he said,  
25          his brake lights would've been on if he

1 was slowing. And if he was having  
2 difficulty with the truck, the flashers  
3 should've been going.

4 Q. Okay. My question then is  
5 failing to properly operate and control  
6 his vehicle, that has to do with not  
7 having flashers or brake lights; is  
8 that ---

9 A. Correct.

10 Q. --- what you're saying?

11 A. Or getting off the road when  
12 he's having a problem, if he can.

13 Q. Okay. And in 15(b) you alleged  
14 that he was negligent in driving in a  
15 reckless manner. Is that based on  
16 anything other than the brake lights  
17 and the flashers that you're telling me  
18 about?

19 A. No.

20 Q. Okay. In failing to be properly  
21 attentive while operating said vehicle,  
22 that's paragraph 15(c), do you have any  
23 information that Mr. Houchins wasn't  
24 attentive prior to the accident?

25 A. Well, I guess that would be

1 considered not being attentive if you  
2 don't put your flashers on.

3 Q. Okay. So again ---.

4 A. To warn other drivers if there's  
5 something wrong with the truck.

6 Q. Other than that?

7 A. Correct.

8 Q. Okay. 15(d), failing to take  
9 appropriate action to avoid a  
10 collision. Is that based on anything  
11 other than you're not seeing flashers  
12 or brake lights?

13 A. Or him getting off the road,  
14 correct.

15 Q. Okay. 15(e), in being  
16 inattentive to approaching traffic. Is  
17 that based on anything other than,  
18 again, the truck being ahead of you  
19 without brake lights or flashers on,  
20 according to your testimony?

21 A. Everything that I know that he  
22 did wrong was not having his lights,  
23 his brake lights, his flashers, warning  
24 other drivers he had a problem with the  
25 vehicle.

1 Q. Okay.

2 A. And getting it off the road if  
3 he could.

4 Q. What makes you think that Mr.  
5 Houchins had a problem with his vehicle  
6 such that it should have been taken off  
7 the road?

8 A. He was either stopped or barely  
9 moving in the right-hand lane, and he  
10 did not have any warning --- he was not  
11 giving any warning to other drivers.

12 Q. Okay. Basically what you've  
13 told me already. There's nothing in  
14 addition to that?

15 A. No.

16 Q. Okay. Now ---.

17 ATTORNEY BENSON:

18 Rolf, do you have another  
19 copy of this to show to Ms.  
20 MacDonald?

21 ATTORNEY PATBERG:

22 Sure.

23 BY ATTORNEY BENSON:

24 Q. Ms. MacDonald, the last time you  
25 testified here, you had told me about

1 having a little notepad in the car and  
2 that you made notes ---

3 A. Uh-huh (yes).

4 Q. --- on the date of the accident  
5 and afterwards, and I asked Mr. Patberg  
6 for a copy of those and he gave them to  
7 me today. So I'm going to mark as  
8 MacDonald Exhibit --- you know what  
9 ---.

10 BRIEF INTERRUPTION

11 BY ATTORNEY BENSON:

12 Q. Ms. MacDonald, I've marked as  
13 MacDonald Exhibit Seven the copy of  
14 these notes that Mr. Patberg gave to me  
15 today. And first of all, these are all  
16 your notes?

17 (MacDonald Exhibit Seven  
18 marked for  
19 identification.)

20 A. Yes. I had them in a little  
21 notebook.

22 BY ATTORNEY BENSON:

23 Q. And can you tell from looking at  
24 these when they were written?

25 A. Probably the majority of that

1 was written when I got to the hotel.

2 Q. Okay. So they would have been  
3 written ---

4 A. When I got my brain back.

5 Q. --- on February 17th, 2005,  
6 after you got to the hotel in DuBois?

7 A. Most of them.

8 Q. Okay. Mr. Patberg provided me  
9 with a CD with photographs on it, and  
10 of course I haven't had a chance to  
11 look at it today because I don't have  
12 my computer.

13 ATTORNEY PATBERG:

14 I'm sorry.

15 BY ATTORNEY BENSON:

16 Q. Those are copies of photographs  
17 that you took of your car that day?

18 A. I believe I took all the  
19 pictures of my car when they towed it  
20 to the garage. I didn't take any  
21 pictures out on the road.

22 Q. Okay. But did you take them on  
23 the day of the accident?

24 A. It was either that day or the  
25 next day.

1 Q. Okay.

2 A. While it was still in the garage  
3 in Dubois.

4 Q. Now, it looks to me like the  
5 first four pages here kind of deal with  
6 the damage to your vehicle, where  
7 you're going to get it fixed and when  
8 it was going to be done and that sort  
9 of thing?

10 A. I don't know. The lady's name  
11 from Best Western is on the first page.  
12 I don't even --- oh, this was the place  
13 in DuBois. I wrote people's names.

14 Q. Did you call your insurance  
15 company to report the accident on the  
16 day it happened?

17 A. That night at the hotel.

18 Q. Okay. Do you know if they took  
19 a statement from you over the phone?

20 A. I don't remember if I had to  
21 wait for someone to call me back or  
22 not. I really don't remember. I know  
23 that I called. I either left my name  
24 and number, where I could be reached,  
25 or I spoke to somebody right then.

1 Q. Okay.

2 A. I think I spoke to someone right  
3 then.

4 Q. Why don't you go to page five,  
5 if you would, right there.

6 A. Five?

7 Q. Yeah. I'm looking up here at  
8 this note, and it looks like the number  
9 two with graph?

10 A. Yeah.

11 Q. Where's number one?

12 A. Maybe I started numbering before  
13 then. I don't have any idea. I really  
14 don't know. You were given everything  
15 I had.

16 Q. Fair enough. We'll go back to  
17 number two there on page five.

18 A. Yeah.

19 Q. And tell me what you wrote.

20 A. Oh, number one's on the next  
21 page it looks like.

22 Q. Okay. Well, let's go to page  
23 one, two, three, four --- go to page  
24 six, that's number one.

25 A. Okay.

1 Q. Why don't you read me number one  
2 and take me down through here.

3 A. February 17th, '05, Thursday,  
4 left Pittsburgh at 12:20; accident at  
5 1:40; I-80 east after DuBois exit,  
6 before Clearfield exit at mile marker  
7 109. Well, it's 108, according to him.

8 Q. Okay. So you were just writing  
9 down where it happened and ---?

10 A. Yeah.

11 Q. What else?

12 A. Called the insurance company  
13 around 5:30 to 6:30 p.m. That was when  
14 I was at the hotel. Called Enterprise  
15 Car Rental, the same time frame.

16 Q. Okay. How about below there?

17 A. Several cars abruptly swerving  
18 around truck. He was slowing, no  
19 lights, no flashers, and I can't read  
20 that. Braked and slid.

21 Q. Well, no, after no flashers,  
22 does that say hit ice?

23 A. Hit --- yeah, hit ice. The  
24 bottom of the "I" isn't there.

25 Q. Hit ice. And then it says

1 braked and slid?

2 A. Uh-huh (yes).

3 Q. So does that indicate you hit  
4 the ice before you put the brakes on  
5 then?

6 A. It's possible that I hit the ice  
7 before I put the brakes on and it's  
8 possible I braked and hit the ice. I  
9 can't be absolutely definite.

10 Q. Okay. And what time of day did  
11 you make this note, it was sometime  
12 after 5:00 p.m.?

13 A. After 5:30. I was trying to  
14 write everything I could think of.

15 Q. All right. Let's go then to  
16 page --- the prior page that has number  
17 two. What did you write there?

18 A. Hit brace on back of truck, only  
19 bent right-hand corner of bottom of  
20 brace. I dispute the picture that I  
21 saw when I was in here the last time,  
22 because I have from day one told  
23 everybody that the right-hand side,  
24 right-hand bottom side of the brace  
25 looked like when you take a piece of

1 paper and twist it. That's what it  
2 looked like. That was the damage I saw  
3 on that day.

4 Q. Okay.

5 A. The picture I saw in here, when  
6 I did my initial deposition, didn't  
7 look like what I saw.

8 Q. Well, I think that picture may  
9 have been taken after it was fixed, but  
10 I'm not sure of that.

11 A. I don't know about that.

12 Q. Okay. What did you write next  
13 below there?

14 A. I guess that says license  
15 number.

16 Q. Where did you get that?

17 A. Off the back of the truck --- or  
18 I probably got that from the trooper.

19 Q. Okay. From the slip he gave you  
20 at the scene?

21 A. I don't remember any slip at the  
22 scene.

23 Q. Okay.

24 A. I called the trooper later that  
25 evening because I needed all the

1 information I should have gotten when I  
2 was at the scene, which I know better,  
3 but I wasn't thinking.

4 Q. Okay. Why don't you read slowly  
5 here your note then.

6 A. He told officer --- this is when  
7 we were in the vehicle, the police car.  
8 He told the officer his flashers were  
9 on. I put a dash, no, underlined it,  
10 exclamation mark. The truck driver  
11 told me, right after he asked me if I  
12 was all right, after sitting on the  
13 berm, told me I must have damaged his  
14 lights when I hit because he had no  
15 dash lights when he went to turn his  
16 flashers on after the accident before  
17 the trooper came. And I told the  
18 trooper that that night when I called  
19 him.

20 Q. So he had no dash lights. What  
21 were you trying ---?

22 A. That's what he said.

23 Q. Okay. And ---?

24 A. Because he had no dash lights  
25 when he went to turn the flashers on,

1 meaning he had no lights. He went to  
2 turn anything on and didn't have it.

3 Q. Okay. Go up here to the next  
4 page, it has number four. We'll take  
5 it out of order. Why don't you ---  
6 what's the date on that one?

7 A. I have trouble reading my  
8 writing. 02/21/05.

9 Q. Okay.

10 A. 8:30 a.m., called insurance,  
11 spoke to Linda. It says, can go to the  
12 hospital. They don't move my car  
13 without my permission. It was still in  
14 DuBois in a garage. We'll talk about  
15 tires then; I wanted the tires off  
16 because they were brand new. AAA would  
17 tow. Insurance pays the difference.  
18 Gave them my work number. Gave  
19 driver/owner info.

20 Q. All right. Now let me ask a  
21 question. How did it come up that the  
22 insurance company told you you could go  
23 to the hospital on February 21, 2005?

24 A. The accident happened on  
25 Thursday. I was afraid to drive, so I

1 did not drive home until Saturday. I  
2 had started taking ibuprofen right away  
3 because my son said do you have a lot  
4 of pain? I said, yes. They gave me  
5 ice at the hotel. I laid on my  
6 stomach, put ice under my knees. I  
7 started taking the ibuprofen right  
8 away. When I stopped taking it on  
9 Sunday I found out how hurt I was.

10 Q. Okay.

11 A. The pain was excruciating all  
12 over. I could barely walk. Back,  
13 everything hurt.

14 Q. So let me ask you --- let me  
15 just stop you right there. On Sunday,  
16 when you didn't take the ibuprofen,  
17 what parts of your body hurt?

18 A. Almost everything hurt. Just  
19 probably from the, you know, the jolt.

20 Q. Had you been taking ibuprofen  
21 before the accident?

22 A. Not on a regular basis at all,  
23 no.

24 Q. Okay. So you can't tell me here  
25 which body parts you felt hurt ---

1 A. By the time I got ---

2 Q. --- on Sunday?

3 A. --- to the hospital on Monday, I  
4 could barely maneuver. The longer I  
5 sat in the waiting room --- and I  
6 remember this distinctly, I kept  
7 getting up because I was getting so  
8 stiff. Everything was stiff.  
9 Everything on me stiffened. I kept  
10 going up to the girl and saying, my  
11 pain's getting worse; I can barely  
12 move; I can't keep sitting. Because I  
13 apparently at home had kept moving,  
14 which kept me from getting stiff like  
15 that too, plus I was pumping in the  
16 ibuprofen.

17 Q. All right. So on Monday then  
18 you called the insurance.

19 A. Yes.

20 Q. And did you ask if you could go  
21 to the hospital?

22 A. Yes.

23 Q. Okay. And they said yeah, go to  
24 the hospital?

25 A. Yes.

1 Q. And that's the first medical  
2 care that you received after the  
3 accident?

4 A. Yes.

5 Q. Okay.

6 A. It was a holiday that day, if I  
7 remember right. And I didn't have to  
8 go to work.

9 Q. Let's go onto the next page.  
10 This was number three.

11 A. It's upside down.

12 Q. Yeah. Why don't you tell me  
13 what you wrote?

14 A. Numerous accidents behind me  
15 after DuBois. 20 vehicle at DuBois  
16 exit. I was told that while we were on  
17 the highway, there was a 20 vehicle at  
18 the DuBois exit, approximately one  
19 trailer truck and car on other side of  
20 overpass in median. That was closer to  
21 us. Traffic on 80 ---.

22 Q. You said behind me, so that was  
23 west of you?

24 A. West of me but in the eastbound.

25 Q. Okay.

1 A. Traffic on 80 stopped completely  
2 for that one. Whiteouts occurring  
3 several times --- I can't read my  
4 writing --- several times immediately  
5 after and while with trooper.

6 Q. Okay. So there were a number of  
7 --- you made a note that there were a  
8 number of squalls that came through  
9 while you were up on Interstate 80?

10 A. While we were sitting there on  
11 the side of the road.

12 Q. Okay. And then what's the note  
13 down at the bottom of that page?

14 A. Truck seemed to hardly be  
15 moving.

16 Q. Okay. And then you were  
17 basically ---.

18 A. Hardly works with barely.

19 Q. Okay. What you told me today?

20 A. Either not moving at all or  
21 barely moving.

22 Q. Okay.

23 A. I will never change that.

24 Q. But your note didn't say it was  
25 not moving at all, it said it was

1 hardly moving.

2 A. This was me scribbling, yes.

3 Q. Well, I'm just asking ---

4 A. Yes.

5 Q. --- you didn't write anywhere in  
6 here that the truck was not moving at  
7 all, did you?

8 A. I believe somewhere I actually  
9 did. I don't know, but I know that I  
10 stated that to the trooper.

11 Q. Okay. There are some other  
12 notes here that, you know, that have  
13 numbers, there's four, there's five,  
14 there's six.

15 A. I don't know why they're  
16 numbered that way.

17 Q. Do you know what day you wrote  
18 those? It looks like these aren't all  
19 in order.

20 A. Yeah, I can see they're not.  
21 They were. I'll have to go back and  
22 pull out my notes and try to put this  
23 in order.

24 Q. Okay.

25 A. This is all that stuff I did

1 while I was still at the hotel.

2 Q. All right. So you did them  
3 either on Thursday, February 17 or  
4 Friday, February 18? Would that be  
5 fair?

6 A. Most of this.

7 Q. Okay.

8 A. I had one that was dated 02/21,  
9 that was on Monday.

10 Q. Right, that's the one talking to  
11 the insurance company about going to  
12 the hospital?

13 A. Yeah.

14 Q. Okay. Are these all the notes  
15 that you wrote then?

16 A. Yes. And I talked to the  
17 trooper another time too. I talked to  
18 him that night because I had not done  
19 what I should have at the accident  
20 scene and gotten everybody's  
21 information. So I spoke to him that  
22 night. And when I spoke to him that  
23 night, that's when he started to do his  
24 report. He said he was just starting  
25 to write up the report. And so I

1 wanted to make sure that he put my side  
2 of it in there. And then I talked to  
3 the trooper again, he said he --- let  
4 me get this straight. On 02/21 I  
5 called the state police again because  
6 he was going to get me Houchins'  
7 address and everything, which he did.

8 Q. Okay.

9 A. When I had spoken to him on  
10 Thursday night, he didn't have that.  
11 So that's when he gave me that  
12 information.

13 Q. Okay. Moving onto something  
14 else here, I've marked as Susan  
15 MacDonald Exhibit Number Eight this one  
16 page document from Pittsburgh  
17 Investigations, Michael C. Conroy.

18 (MacDonald Exhibit Eight  
19 marked for  
20 identification.)

21 A. Uh-huh (yes).

22 BY ATTORNEY BENSON:

23 Q. Have you seen that before today?

24 A. A long, long time ago --- I  
25 don't know if I saw it, but I knew of

1 it.

2 Q. Okay. And who is Mr. Conroy; do  
3 you know?

4 A. I believe that --- I'm not  
5 positive. I think he was the guy that  
6 Attorney Eddins asked to go and check  
7 into this.

8 Q. Okay. And the reason I'm asking  
9 is this doesn't have a date on it.

10 A. No.

11 Q. But the first paragraph says, I  
12 was contacted by Susan MacDonald on  
13 October 10, 2006 by way of phone, where  
14 she explained to me the accident that  
15 she was involved in on February 17,  
16 2005. And I guess that's my question,  
17 were you the one that initially  
18 contacted Mr. Conroy?

19 A. No, I wouldn't have been. I  
20 wouldn't have known who the heck he  
21 was.

22 Q. Okay. But you did speak to him  
23 as he indicated on the letter here?

24 A. I honest to God don't remember  
25 talking to him. This was five years

1 ago. But I know that this is  
2 apparently the guy that Attorney Eddins  
3 sent to DuBois to talk to the state  
4 police.

5 Q. Okay. So you don't really know  
6 anything else about it then?

7 A. I am thinking that this guy went  
8 to DuBois to talk to Trooper McKee, but  
9 here it sounds like he only spoke to  
10 him on the phone.

11 Q. Well, I'm asking you, other than  
12 contacting --- did you contact Michael  
13 Conroy on October 10, 2006 over the  
14 phone?

15 A. I can see it.

16 Q. Do you have any recollection of  
17 that?

18 A. I, at this moment in time, no.

19 Q. Okay.

20 A. I would have to look back. I  
21 possibly wrote something on the  
22 infamous calendars that we have on that  
23 date.

24 Q. Now, let me ask you --- let's  
25 move on to something else. You told me

1 you spoke with your son after the  
2 accident. Is he the one who is the  
3 physician?

4 A. I spoke to one of my sons. I  
5 left messages for them actually. When  
6 I was still on the highway the lady  
7 that pulled over to help me, let me use  
8 her cell because mine wouldn't get  
9 anything out there, and so she let me  
10 use her cell. And I was trying to call  
11 my son in Connecticut to tell him that  
12 I was not coming, because that's where  
13 I was headed.

14 Q. Right.

15 A. And he and my other son sat  
16 there until I don't know what time that  
17 evening waiting for me to call back.  
18 So I didn't speak to him directly, I  
19 left a message. But I did, at the  
20 hotel that night, talk to my son who's  
21 a family practice doctor. And he told  
22 me, do you have your ibuprofen or  
23 anything with you? And I said, yes.  
24 And he said, start it right now.

25 Q. So when did you talk to him ---

- 1 A. So I did.
- 2 Q. --- the first time?
- 3 A. Sometime in the evening of  
4 Thursday night, 02/17/05, from the  
5 hotel. I don't know what time.
- 6 Q. Was there any discussion with  
7 your son, the physician, about going to  
8 the hospital that night?
- 9 A. He said do you think you should  
10 go? And I said I don't want to go  
11 anywhere. I didn't want to leave that  
12 room. The ladies kept coming down and  
13 checking on me, front desk.
- 14 Q. Okay. Why did you feel then ---  
15 did you get worse from the evening of  
16 the 17th until Monday the 21st?
- 17 A. As the days went on, yes.
- 18 Q. Okay. And ---?
- 19 A. And especially I --- see I  
20 thought I was doing great, so I backed  
21 off on the ibuprofen, which I should  
22 not have done, because that's when it  
23 kicked in really bad.
- 24 Q. So when you went to the  
25 emergency room, how long had it been

1 since you had taken any ibuprofen?

2 A. Probably Sunday afternoon.

3 Q. Okay. I've got a record here  
4 indicating that on February 21, 2005  
5 you went to the UPMC Saint Margaret  
6 Emergency Room?

7 A. Correct.

8 Q. Okay. And this --- I'm not  
9 going to go through the whole record  
10 because it says what it says, but it  
11 says that the chief complaint was motor  
12 vehicle accident and right hip and knee  
13 pain.

14 A. That was the chief complaint. I  
15 was stiff and sore, but that was my  
16 chief complaint.

17 Q. Okay. What was it about your  
18 right hip that made you highlight that  
19 over the general stiffness and soreness  
20 that you had?

21 A. Oh, because it was very painful.  
22 I was having trouble maneuvering at  
23 that point.

24 Q. Okay.

25 A. I could barely walk.

1 Q. And I think you told me before,  
2 did you have a bruise on your right  
3 knee?

4 A. I don't remember that.

5 Q. Okay.

6 A. I don't remember.

7 Q. Did you complain about your  
8 right shoulder at the emergency room,  
9 as far as you know?

10 A. I can't remember doing that.

11 Q. Okay. And they basically ---  
12 did they take some x-rays?

13 A. I think they did. I don't  
14 remember exactly what they did.

15 Q. Okay.

16 A. They usually do that  
17 automatically, so ---.

18 Q. What was your follow-up after  
19 they discharged you from the emergency  
20 room? What did they tell you to do,  
21 the best that you can recall?

22 A. I don't even remember.

23 Q. Okay. Who's the next person you  
24 saw?

25 A. I would have to go back through

1 all my notes to tell you what order I  
2 did what. I know that I went to the  
3 chiropractor for a while. I believe  
4 that's what I did first.

5 Q. Was that Dr. Flynn?

6 A. That would have been Dr. Flynn.

7 Q. I'm not sure I've been able to  
8 get --- is that a he or a she?

9 A. It's a he.

10 Q. Okay..

11 A. There's two of them, a father  
12 and son.

13 Q. They're up in Oakmont?

14 A. Yes.

15 Q. How long did you treat with the  
16 chiropractor ---?

17 A. I don't remember the length of  
18 it, but he did tell me that he couldn't  
19 keep this one --- I don't know what you  
20 call it, that goes up your spine, the  
21 different things, they go out of place  
22 and you've got to put them back in?  
23 What am I trying to say?

24 Q. Discs?

25 A. Yeah or something. He couldn't

1 keep it in, and he finally did tell me  
2 I had to go for physical therapy. So I  
3 think the order of things, and I'm not  
4 swearing to it, I believe the order of  
5 what I initially did in 2005 was Dr.  
6 Flynn and then Harmarville Rehab  
7 Physical Therapy.

8 Q. Okay.

9 A. Because he said he could not get  
10 that to stay in, that I would have to  
11 go for strengthening.

12 Q. Who referred you to Harmarville  
13 for the physical therapy?

14 A. I don't know who wrote the  
15 prescription. It probably was not the  
16 chiropractor. It was probably my  
17 family practice doctor. I'm not sure.

18 Q. Okay. And that's Vincent  
19 Balestrino?

20 A. Right.

21 Q. B-A-L-E-S-T-R-I-N-O?

22 A. Uh-huh (yes).

23 Q. Now, I see a --- I have an  
24 office record from Dr. Balestrino for  
25 March 3, 2005.

1 A. Okay.

2 Q. And it indicates that you came  
3 in for a follow-up after your motor  
4 vehicle accident on February 17, 2005.

5 A. Okay.

6 Q. Would you have any reason to  
7 think that's not correct?

8 A. Again, I would need to look at  
9 my calendar to swear to dates.

10 Q. Okay.

11 A. I can't do that off the top of  
12 my head, no.

13 Q. Fair enough. And again, this is  
14 a medical record and, you know, you may  
15 have a different sense, but it  
16 indicates here that you were having  
17 exacerbation of your neck pain.

18 A. Uh-huh (yes).

19 Q. All right. So you had had neck  
20 pain before the accident and it was  
21 flared up again?

22 A. I had no real problem anymore  
23 with my neck and head. After I had  
24 gone to Harmarville Rehab, they had my  
25 neck and head problem in very good

1 order. After the accident, everything  
2 started up again. And Dr. Cicuto would  
3 be the one that could totally back that  
4 up and Dr. Balestrino, because those  
5 were the two primary doctors all  
6 through the neck problem. And Dr.  
7 Cicuto was the head of the Pain  
8 Management Program at Harmarville Rehab  
9 that I went to for one entire month.  
10 And you do have --- Carol Eddins copied  
11 and sent to you all of the Harmarville  
12 Rehab records from my stint when I did  
13 that month at Harmarville Rehab for the  
14 neck problems that I had.

15 Q. That was ---?

16 A. Way prior to --- yeah, that was  
17 in October of 2002. I spent that  
18 month, five days a week, eight hours a  
19 day, outpatient at Harmarville Rehab in  
20 a major pain management program that  
21 they had.

22 Q. Ms. MacDonald, I want to just  
23 show you what I've marked as MacDonald  
24 Exhibit Nine. And this is a copy of  
25 his note from March 3, 2005, Dr.

1 Balestrino. And the only thing I  
2 wanted to ask you about it is in  
3 addition to talking about exacerbation  
4 of your neck pain, which you've just  
5 told me about, it says there were no  
6 other injuries. Would you agree that  
7 you didn't complain of anything besides  
8 the neck issues when you say Dr.  
9 Balestrino on March 3, 2005?

10 (MacDonald Exhibit Nine  
11 marked for  
12 identification.)

13 A. Right. If that's what his  
14 records say then that's correct.  
15 Nobody --- when I went to Dr. Cicuto,  
16 that's when we definitely pinned down.  
17 Because I said to him, and he actually  
18 listened to me, when I said my shoulder  
19 is what's causing the problem, that's  
20 when we finally started trying to  
21 address that. That was in June of  
22 2006.

23 BY ATTORNEY BENSON:

24 Q. Okay. And I'll take that back,  
25 just so you're not cluttered with it.

1 And let me ask you about that. Dr.  
2 Cicuto's located where?

3 A. He used to be at Harmarville  
4 Rehab. Now he is with UPMC Shadyside.

5 Q. Okay.

6 A. And that's where I went to see  
7 him in June of '06. I already knew, at  
8 the point I went to Dr. Flynn, that my  
9 right side had a serious problem, which  
10 it did not before.

11 Q. Okay. I want to show you what  
12 I've marked as MacDonald Exhibit Ten.  
13 And again, I'm not going to go through  
14 this whole thing because it's a medical  
15 record and it says what it says. But  
16 if you look here under history of  
17 presenting complaint --- and by the  
18 way, this appears to be a ---

19 A. I don't even know where we are.

20 Q. --- treatment note from March  
21 30, 2006 from UPMC. And you're saying  
22 that you saw Dr. Cicuto at the  
23 Shadyside Hospital?

24 A. Yeah.

25 Q. Okay.

1 A. Center Avenue.

2 Q. Okay. Right here, where it says  
3 history of present complaint?

4 A. Uh-huh (yes).

5 Q. It says this is an initial  
6 visit. The patient is a 51-year-old  
7 while female who was referred to our  
8 office by Dr. Balestrino for cervical  
9 bilateral shoulder and left  
10 radiculopathy down her left arm. It  
11 started after an auto accident on  
12 February 17, 2005, and then it goes on.  
13 Do you know why this would indicate you  
14 were having symptoms down your left  
15 arm?

16 ATTORNEY PATBERG:

17 Hold on.

18 A. No.

19 Q. Did you have symptoms down your  
20 left arm?

21 ATTORNEY BENSON:

22 I'll just ask it that  
23 way.

24 ATTORNEY PATBERG:

25 That's fine. Thank you.

1 BY ATTORNEY BENSON:

2 Q. Were you having symptoms or pain  
3 down your left arm at any time after  
4 the accident?

5 A. If I did, I don't remember that.  
6 I don't remember it being down my right  
7 arm at that time. I remember having  
8 great difficulty with basically my  
9 whole right side, which is why Dr.  
10 Flynn sent me for physical therapy.  
11 Because by then we knew that there was  
12 damage on the right side of my back,  
13 which I had not had before.

14 Q. Okay. When do you first  
15 remember having symptoms of pain down  
16 your right arm and, you know, into your  
17 fingers, which is what you tell me you  
18 have now; right?

19 A. When I went to Harmarville  
20 Rehab, I do remember discussing it with  
21 the physical therapist and saying to  
22 her the thing that scares me is that my  
23 right arm and hand, my hand goes numb  
24 on me. My hand was tingling and going  
25 numb on me.

1 Q. Can you put a time frame on that  
2 for me?

3 A. Whenever the records say I went  
4 to Harmarville Rehab. That was after  
5 the chiropractor.

6 Q. Okay. I don't have a handle on  
7 that, so sitting here today, can you  
8 give me a month and a year?

9 A. No. It was that same year.

10 Q. Was it in 2005 or 2006?

11 A. I believe it was before I went  
12 to Cicuto in 2006, let me put it that  
13 way. Sometime in 2005, I believe.

14 Q. Okay.

15 A. I do not have my calendars in  
16 front of me. If I did, I could give  
17 you precise dates.

18 Q. So Dr. Cicuto was the first  
19 person to follow-up on that, on the  
20 right ---?

21 A. To really pay attention to the  
22 shoulder, yes. The shoulder itself,  
23 yes.

24 Q. Your right knee, I think you  
25 told me you hit the dashboard with that

1 in the accident?

2 A. Yes.

3 Q. Have the problems with that gone  
4 away?

5 A. The only time I ever get twinge  
6 at all in either of my knees is when  
7 I'm going up my front steps, basically,  
8 because they're steep.

9 Q. Was your right knee sore after  
10 the accident? Was there, you know,  
11 pain, not the same pain you have  
12 because of our age, but something  
13 different that you felt was caused by  
14 the accident?

15 A. It was definitely not something  
16 I was used to.

17 Q. Okay.

18 A. Or I would've have said anything  
19 about it.

20 Q. Did you receive any type of  
21 treatment for that, other than taking  
22 your ibuprofen?

23 A. For my knee?

24 Q. For your right knee.

25 A. I don't remember doing anything

1 for my right knee.

2 Q. Okay.

3 A. That I can think of.

4 Q. At what point do you figure the  
5 knee got back to where it was before  
6 the accident?

7 A. I have no idea. We're talking  
8 now about six years ago.

9 Q. Okay. Well, I guess my question  
10 is do you believe that the injury to  
11 your right knee was significant or just  
12 kind of a bump and bruise that would've  
13 healed ---?

14 A. It was probably just from the  
15 jolt, and I have never been told that I  
16 have any damage to my knee.

17 Q. Okay. So let's talk about your  
18 shoulder. No, strike that. Let's talk  
19 about your neck a minute. You know,  
20 we've talked before at length, you  
21 explained to me about the way your neck  
22 twists and all the care you got at  
23 Harmarville. Has that gotten back to  
24 where it was before the February 17th,  
25 2005 accident?

1 A. No.

2 Q. Okay. And what's different  
3 about it?

4 A. Because of the damage to the  
5 shoulder, the fact that my shoulder  
6 pulls up, goes forward, scrunches in,  
7 it's pinched, whatever, in here, which  
8 makes this go out of control. I have a  
9 lot of trouble with my neck and head  
10 now.

11 Q. In other words, your neck on  
12 your right side, sort of between your  
13 neck and shoulder pinches and makes  
14 your head, what, tilt on the right?

15 A. Pull, up and back.

16 Q. Okay.

17 A. My head right here wants to  
18 connect with right here.

19 Q. All right. So the back of your  
20 head wants to sort of be back on your  
21 right shoulder?

22 A. Yes.

23 Q. And that's a condition that you  
24 had from the accident back in the late  
25 '90s that you had treated extensively

1 for?

2 A. Actually, no.

3 Q. No?

4 A. No. This is far worse. Far  
5 worse than what I had back then. And I  
6 had much more control over my head back  
7 then, even though I had the neck  
8 problem.

9 Q. All right.

10 A. I have never had such difficulty  
11 with my head. When I initially was  
12 sitting over there, my head was  
13 shaking, so I balance it. If I turn to  
14 the left for too long it wants to stay  
15 over there.

16 Q. Have you tried to go back to  
17 Harmarville to have another one of  
18 those months of intense therapy to try  
19 and get back ---

20 A. They don't have it anymore.

21 Q. Let me ask the question. --- to  
22 try and get back to the condition you  
23 had achieved before the accident?

24 A. I would've loved to. They  
25 didn't have the program anymore. And

1 nowhere else had a program like that.

2 Q. So which doctor is treating you  
3 for your neck and the tendency of your  
4 head to want to tilt back and to the  
5 right?

6 A. What they're really working on  
7 right now is to try to get the right  
8 side of my back strengthened and my  
9 shoulder so that this stops.

10 Q. Okay. But who is the doctor who  
11 is dealing primarily with your head  
12 tilt issues?

13 A. Head tilt? We're not  
14 specifically dealing with my head tilt  
15 issues. We're dealing with my shoulder  
16 and the right side of my back so that  
17 this will get itself under control.  
18 Because if my shoulder's not scrunching  
19 into my neck, it won't make it do what  
20 it does.

21 Q. Okay. Fair enough. And who  
22 would you say is the quarterback on  
23 that medical effort?

24 A. Right now?

25 Q. Yes.

1 A. Dr. Vonda Wright.

2 Q. Vonda Wright. Who is she with?

3 A. She is with UPMC Sports  
4 Medicine.

5 Q. Is it Wright, W-R-I-G-H-T?

6 A. Yeah.

7 Q. UPMC Sports Medicine. Where is  
8 she located?

9 A. She's located in Shadyside on  
10 Centre Avenue and also at the Sports  
11 Medicine facility in Southside.

12 Q. Is there a, you know, like a  
13 professional office building next to  
14 Shadyside Hospital?

15 A. It's in an office building, yes.

16 Q. Okay. And she's there and also  
17 at the Southside Sports Medicine  
18 Center?

19 A. Uh-huh (yes).

20 Q. How long have you been seeing  
21 Dr. Wright?

22 A. I think I started --- I think in  
23 August.

24 Q. Of 2011?

25 A. Yeah.

1 Q. Why did you start going to see  
2 Dr. Wright?

3 A. I go periodically. I gave up  
4 for a while. And then I go back at it  
5 and Dr. Balestrino told me the last  
6 time I saw him that he had someone in  
7 mind. He couldn't remember the name,  
8 but it was who he referred to. And so  
9 he called me then later and gave me her  
10 name and said go there.

11 Q. Are you still treating with Dr.  
12 Cicuto, C-I-C-U-T-O?

13 A. I haven't seen him for a very  
14 long time.

15 Q. Okay. And you say he's at  
16 Shadyside now?

17 A. He's at Shadyside. He's over  
18 where she is. I think it's the same  
19 building. I'm not sure.

20 Q. Okay. And is there a reason why  
21 you stopped treating with Dr. Cicudo?

22 A. Probably it was another point  
23 where I didn't have insurance.

24 Q. Okay.

25 A. So I couldn't see no one.

1 Q. Do you have insurance now?

2 A. Yes.

3 Q. Why didn't you go back to Dr.  
4 Cicudo?

5 A. And they're going to try to come  
6 after --- because Dr. Balestrino had  
7 found out about her and said go there.

8 Q. Okay. So when's the last time  
9 you think you saw Dr. Cicuto?

10 A. Back in '06 somewhere.

11 Q. Okay. So after you stopped  
12 seeing Dr. Cicuto in 2006, you treated  
13 with Dr. Balestrino, your family  
14 doctor?

15 A. Well, I always go back and forth  
16 to him.

17 Q. Okay. Who's the next doctor you  
18 saw for your right shoulder after Dr.  
19 Cicuto when you last saw him in 2006?

20 A. I don't remember.

21 Q. Okay.

22 A. Without my calendars, I cannot  
23 really follow with you on this. As you  
24 want me to say dates and I can't --- I  
25 need to look at my calendars. You're

1 looking at --- you've got the notes in  
2 front of you and I don't.

3 Q. You don't have your calendars in  
4 your notebook, do you?

5 A. Yes, I do.

6 Q. I might have a copy of them.  
7 I'll have to dig them out.

8 A. And you know what, when we  
9 copied those calendars and sent them  
10 all to you? I only have ten years of  
11 them copied. They're much easier to  
12 look at that way. I need to get copies  
13 made.

14 Q. While Mr. Patberg's looking for  
15 those, why don't we just proceed on  
16 here so that we can get through this  
17 today. Mrs. MacDonald, at some point  
18 you were seen by a Ralph Passarelli?

19 A. Yes. He's a shoulder physician.

20 Q. He's an orthopedic guy?

21 A. He's a surgeon, yeah.

22 Q. At Three Rivers Orthopedics?

23 A. Yes.

24 Q. Why don't you go ahead and take  
25 a look and then see if you can tell me

1 when you last saw Dr. Cicuto? We'll  
2 start with that.

3 ATTORNEY PATBERG:

4 I don't want to interrupt  
5 you, but how much longer do you  
6 think you're going to be?

7 ATTORNEY BENSON:

8 I'm going to try and get  
9 this done in an hour.

10 ATTORNEY PATBERG:

11 Okay.

12 A. I'm not coming back.

13 ATTORNEY PATBERG:

14 Oh, we're not coming  
15 back, that I can guarantee.

16 A. No, we're not coming back.

17 ATTORNEY PATBERG:

18 The only time we'll be  
19 coming back here will be for  
20 trial.

21 A. Okay. Where are we going here?  
22 Who I saw? Do you want after Cicuto,  
23 is that where you were at?

24 BY ATTORNEY BENSON:

25 Q. Yeah. The last note I have from

1 Dr. Cicuto, if this helps you now that  
2 I see this, was September 18, 2006.

3 A. September 18th?

4 Q. That's what I have.

5 A. Of 2006? I'm in 2005. 7:20  
6 a.m., yeah.

7 Q. Okay. So are you saying you  
8 stopped seeing Dr. Cicuto because at  
9 some point you stopped having insurance  
10 coverage?

11 A. Yeah. And I'm trying to think  
12 what September 2006 was. I guess you  
13 don't need to know that. I'm talking  
14 to myself. I may have been unemployed  
15 at that time.

16 Q. Okay.

17 A. I'm not sure.

18 Q. So my first note with Ralph  
19 Passarelli, P-A-S-S-A-R-E-L-L-I, M.D.,  
20 the first one I have is June 10, 2008.

21 A. Okay.

22 Q. And I know you had been back at  
23 that group in the late '90s or mid '90s  
24 and had, you know, your union fixed  
25 and some things like that.

1 A. Yeah.

2 Q. But you hadn't really treated  
3 with them for a while before June 2008;  
4 is that correct?

5 A. The only time that I remember  
6 going to them was for my foot, until I  
7 went for my shoulder, which was  
8 Passarelli.

9 Q. So what did Dr. Passarelli offer  
10 to do for you? I take it he --- I saw  
11 he gave you at least one shot in your  
12 right shoulder?

13 A. Yeah, he tried that. It didn't  
14 really do much good.

15 Q. And he only did that one time?

16 A. Maybe twice, I don't remember.

17 Q. Okay. What else did they do for  
18 your right shoulder after you started  
19 treating with Dr. Passarelli?

20 A. I believe he had me go to  
21 physical therapy.

22 Q. Okay. And I saw some reference  
23 to taping. What was that?

24 A. I didn't go to physical therapy  
25 yesterday or I would be taped right

1 now. Taping holds my shoulder down and  
2 back. And when my shoulder is really  
3 under control --- now I have a brace on  
4 right now.

5 Q. Okay.

6 A. I got it out and put it on so  
7 that it could keep my shoulder down and  
8 back, or my head would be doing this in  
9 front of you.

10 Q. Okay.

11 A. Most of the time.

12 Q. Well, let me ask you about ---.

13 A. Taping is --- they start the  
14 tape here, they go over the cap of my  
15 shoulder, they come all the way down to  
16 here, and then they put a different  
17 kind of tape, two layers of it over  
18 that tape. The white tape protects  
19 your skin. Although I do get ripped a  
20 little bit. And basically, right  
21 before they hook the tape back down  
22 here, they take the shoulder and push  
23 it down and back, where it's supposed  
24 to be. And then they pull the tape  
25 quite tight.

1 Q. All right, so what they're doing  
2 is ---?

3 A. It holds the shoulder down and  
4 back.

5 Q. They use the tape from the front  
6 of your shoulder, right shoulder, to  
7 tape it so it stays in the position  
8 where it should be ---

9 A. Right.

10 Q. --- so that it doesn't ride up  
11 into your neck?

12 A. So that I'm not scrunching here  
13 and my head isn't doing its thing.

14 Q. Okay. How often ---?

15 A. So I tried to --- because I  
16 didn't get taped last night. I can't  
17 tape myself. I can get it off myself,  
18 but I cannot get it on myself. You  
19 need a hand to push and pull and all  
20 that, and hold onto the tape at the  
21 same time. But normally I do that. So  
22 this brace is sort of helping, although  
23 it cuts into me.

24 Q. Let me ask you a question. How  
25 often do you get taped?

1 A. Every time I go to physical  
2 therapy now.

3 Q. How often do you do that?

4 A. Twice a week.

5 Q. Where are you doing the physical  
6 therapy?

7 A. Southside Sports Medicine.

8 Where all the ---.

9 ATTORNEY PATBERG:

10 You're over there with  
11 the Steelers.

12 A. Yes, I am. And the Penguins and  
13 all of them. Their pictures are all  
14 over the walls.

15 BY ATTORNEY BENSON:

16 Q. Okay. But you've only been  
17 going there since August. Where were  
18 you getting taped ---?

19 A. I think I started in August.

20 Q. Where were you getting taped  
21 before August of 2011?

22 A. I wasn't. Because when I  
23 initially got taped in Passarelli's  
24 office, I really --- it really tore my  
25 skin.

1 Q. Okay.

2 A. And so I thought that really  
3 wasn't --- I went and bought the tape.  
4 I would occasionally have a friend tape  
5 me, because I can tell them how to do  
6 it, and where to start and where to  
7 end. I'd prefer that they do it at PT,  
8 but I can have a friend do it. So  
9 occasionally I had a friend tape me. I  
10 went and bought both kinds of tape, and  
11 it was like about \$30 for the two boxes  
12 of tape. Now, Harmarville Rehab wrote  
13 down for me exactly what the tape was  
14 so I could go buy it.

15 Q. You've indicated too that you  
16 have a brace that you're wearing today.  
17 Does it essentially do the same thing  
18 as the tape?

19 A. It seems to be working pretty  
20 good today.

21 Q. How does it strap on?

22 A. But it cuts into me. That's why  
23 I don't usually use this. It cuts into  
24 me right here because this isn't  
25 exactly how this side is.

1 Q. So it cuts in underneath your  
2 armpit on the right side?

3 A. On the right side. Over here it  
4 doesn't, over here it's totally  
5 comfortable. But here ---.

6 Q. Who prescribed the brace?

7 A. I just ordered this myself.

8 Q. When?

9 A. Oh, I don't know how long I've  
10 had it.

11 Q. Well, can you give me an idea?  
12 Did you have it before the accident?

13 A. No.

14 Q. Do you still use either of the  
15 TENS units that you had before the  
16 accident?

17 A. I do occasionally use the TENS.

18 Q. Where do you use them, on what  
19 part of the body?

20 A. All the muscles back in here.

21 Q. So the top and back of your  
22 right shoulder?

23 A. Yeah.

24 Q. Okay. Is Dr. Balestrino doing  
25 anything for you now, specifically in

1 reference to your right shoulder and  
2 neck situation?

3 A. He's the one that sent me to  
4 Vonda Wright.

5 Q. But he's not doing anything  
6 specifically? He sent you to the  
7 Sports Medicine Center; correct?

8 A. Right. He wanted me to go to a  
9 shoulder surgeon.

10 Q. Okay.

11 A. I was ready, if she would've  
12 done it, to do surgery.

13 Q. Is Dr. Wright an orthopedic  
14 surgeon?

15 A. Yeah.

16 Q. And the last record I have for  
17 you seeing Dr. Passarelli was April 15,  
18 2010.

19 A. Uh-huh (yes).

20 Q. So I guess my question is why  
21 did you change your care from Dr.  
22 Passarelli to Dr. Vonda Wright?

23 A. I did not feel that he was  
24 onboard to take care of that shoulder  
25 and it'll help my neck. Everybody

1 wants to concentrate on my neck  
2 problem. And I know what's happening  
3 to me. And I know how I feel. And I  
4 know what affects what, because I  
5 experience it. And I went out of  
6 control when my shoulder got damaged,  
7 and the right side of my back got  
8 damaged. And I believe with all my  
9 heart, fix this shoulder and this is  
10 going to be 80 percent better. And so  
11 that's what we're concentrating on, the  
12 shoulder and the right side of my back.

13 Q. If you fix the shoulder you feel  
14 then your neck and the shoulder riding  
15 up on the right side would be better?

16 A. Uh-huh (yes).

17 Q. Now, let me ask you, did Dr.  
18 Passarelli ever offer to do surgery on  
19 your right shoulder?

20 A. I don't know if he ever  
21 considered it. He sent me to physical  
22 therapy, which I've had so much of.  
23 But this time they are really  
24 concentrating on my shoulder and it's  
25 really ---.

1 Q. Did you ever ask Dr. Passarelli  
2 to do surgery?

3 A. I really wasn't ready for  
4 surgery at that point. I may have  
5 asked him about it; that I can't tell  
6 you. I may --- I'm sure we had some  
7 discussion about whether it should  
8 occur or not. I don't remember the  
9 discussion totally.

10 Q. Okay.

11 A. I'm sure we did talk about it.

12 Q. And you're telling me that back  
13 in the 2008 or 2009 time frame you  
14 didn't want to have surgery to the  
15 shoulder?

16 A. I really, truly was not ready  
17 until I went to her. And she said she  
18 was not going to do surgery.

19 Q. That's Dr. Wright?

20 A. Uh-huh (yes). Not at this time.

21 Q. So at this point in time, are  
22 you scheduled for any surgery ---

23 A. No.

24 Q. --- to the right shoulder?

25 A. No.

1 Q. So your treatment right now is  
2 physical therapy two times a week at  
3 the Southside Sports Medicine Center?

4 A. Correct, and taping.

5 Q. And taping?

6 A. Uh-huh (yes).

7 Q. Okay. And you're not getting  
8 any other physical therapy for your  
9 neck or the torticollis or anywhere  
10 else?

11 A. No. No, I haven't had therapy  
12 specifically for that for years.

13 Q. Okay. Now, do you have health  
14 insurance now?

15 A. Yes.

16 Q. Through whom?

17 A. I have Medicare, and I have  
18 Freedom Blue PPO through Blue  
19 Cross/Blue Shield, and they want to  
20 know what's going on.

21 Q. So that's a supplement?

22 A. Uh-huh (yes).

23 Q. That you ---?

24 A. Part C.

25 Q. Okay.

1 A. Yeah. And they want to know  
2 what's going on.

3 Q. What do you mean by that?

4 A. They're going to want their  
5 money back for what they've paid for  
6 related to this car accident.

7 Q. Are they paying ---?

8 A. From Harmarville Rehab and now  
9 from this Southside Physical Therapy.

10 Q. And you say it's Blue Shield or  
11 Blue Cross?

12 A. It's Blue Cross/Blue Shield.  
13 It's Freedom Blue PPO.

14 Q. Freedom Blue, okay. So all your  
15 medical bills are being paid now?

16 A. Yes.

17 Q. So if I wanted to know what your  
18 current medical situation was, I'd go  
19 to Renaissance Family Practice to get  
20 Dr. Balestrino's records, and I would  
21 go to the UPMC Sports Medicine and the  
22 Southside Sports Center, and that's  
23 where you're treating exclusively?

24 A. That's it.

25 Q. Okay.

1 A. Yeah.

2 Q. Tell me a little bit about your  
3 activities here. Is there anything now  
4 that you can't do that you did before  
5 the accident?

6 A. Yeah. There really is.

7 Q. What would that be?

8 A. My social life has totally  
9 changed. I don't go out at night  
10 because by evening I'm shot and I've  
11 got to lay down. I've never dreamt  
12 that my favorite part of the day would  
13 be putting my head down to get rid of  
14 discomfort and pain.

15 Q. Okay.

16 A. But I like to lay down. It  
17 hurts to shift the car.

18 Q. Do you still have a stick shift?

19 A. Yes. My kids are screaming at  
20 me about that.

21 Q. Okay.

22 A. Yes, it hurts to shift. I have  
23 to really be very careful. I have  
24 learned to not pull my seatbelt over  
25 with the right hand. I pull it over

1 with my left hand. When I get it over  
2 to where I can click it in then I click  
3 it in with the right hand. I'm far  
4 more careful about how I lift and what  
5 I lift.

6 Q. Why's that?

7 A. Well, because if I lift the  
8 wrong way it's going to feel like I  
9 just pulled my shoulder out of its  
10 socket.

11 Q. Since 2005 have you gone to  
12 Connecticut to see your son?

13 A. Oh, yes.

14 Q. You do that how many times a  
15 year?

16 A. Not as much as I used to. Not  
17 because I can't drive, just because I  
18 don't have the time. I go up whenever  
19 I can. I haven't been up since June.  
20 That's a long time for me.

21 Q. Do you still live alone?

22 A. Yes.

23 Q. So you do your own, you know,  
24 food shopping and food preparation?

25 A. Oh, yeah.

- 1 Q. Do your own laundry?
- 2 A. All daily functions. I never  
3 stopped doing them.
- 4 Q. Have you taken any vacations  
5 other than to Connecticut?
- 6 A. Yeah.
- 7 Q. Where you been?
- 8 A. Florida. Stayed with friends  
9 down in Florida two years in a row.
- 10 Q. Did you fly or drive?
- 11 A. Flew the one time and drove the  
12 second.
- 13 Q. Are you still active with your  
14 grandchildren's activities?
- 15 A. As much as I can be, yeah.
- 16 Q. Are there any that live in the  
17 Pittsburgh area or ---?
- 18 A. No.
- 19 Q. They're in Connecticut?
- 20 A. Titusville and Connecticut.
- 21 Q. Okay.
- 22 A. Or Pleasantville and  
23 Connecticut.
- 24 Q. So you go to --- whether it's a  
25 dance recital or a soccer game you try

1 to go?

2 A. Absolutely.

3 Q. Okay.

4 A. Whether they're at night or not,  
5 that I do. That I absolutely do.

6 Q. You've been to Florida two  
7 times?

8 A. Yes.

9 Q. Okay. Is there anywhere else  
10 you've been significant, Disneyworld or  
11 other vacations?

12 A. Other than just going up to  
13 Pleasantville or Erie or Connecticut to  
14 see the kids, all of those places to  
15 see the kids, and Ohio to see my  
16 brother. That's it. The longest  
17 distance I go by car, other than the  
18 one Florida trip, is Connecticut.

19 Q. And I think I asked you this.  
20 You're just taking ibuprofen now as  
21 needed, you're not on no prescription  
22 medications?

23 A. I had other stuff prescribed,  
24 but I didn't take it because I was  
25 afraid it would impair something.

1 Q. Okay. Let me mark this as S.  
2 MacDonald --- I think this is 11. Is  
3 that what we're up to? Yeah. These  
4 are some handwritten notes that Mr.  
5 Patberg had sent to me with the  
6 discovery responses. Did you prepare  
7 these to respond to my discovery in  
8 this case, or did you have these notes  
9 for some other purpose?

10 (MacDonald Exhibit 11  
11 marked for  
12 identification.)

13 A. I don't know why I wrote them.

14 BY ATTORNEY BENSON:

15 Q. You don't know why?

16 A. I know I wrote them. I guess  
17 probably I was asked to do it.

18 Q. Okay.

19 A. I don't know.

20 Q. Does this appear to be all of  
21 your healthcare providers, other than  
22 Dr. Vonda Wright and the sports  
23 medicine group over at UPMC?

24 A. If I have it up through  
25 Passarelli, then the newest thing is

1 Vonda Wright.

2 Q. Okay. And, you know, I had been  
3 given some calendars. And you use a  
4 lot of initials on your calendars to  
5 describe doctors.

6 A. Do I keep this or give that  
7 back?

8 Q. Oh, give that back. My question  
9 to you is if you use --- you have a  
10 little key here on the front of Exhibit  
11 11, and it says Dr. N is Novak and Dr.  
12 ---?

13 A. Viti.

14 Q. Viti. What is that?

15 A. Lung.

16 Q. Oh, it's lung. Dr. C. Who is  
17 that?

18 A. Candelerium (phonetic), my  
19 gynecologist.

20 Q. Okay. Dr. B?

21 A. Family practice.

22 Q. That's Dr. Balestrino?

23 A. Uh-huh (yes).

24 Q. Dr. P?

25 A. Is the dentist.

1 Q. Okay. And you didn't have any  
2 dental issues related to this accident,  
3 did you?

4 A. No.

5 Q. Okay.

6 A. Now, I do have --- there was a  
7 doctor that I had where I have to write  
8 dentist, I believe it is. But there  
9 was two P's. Well, P the dentist and  
10 Passarelli the orthopedic surgeon. So  
11 you could see a Dr. P and it would mean  
12 Passarelli, it might mean Patitis  
13 (phonetic).

14 ATTORNEY BENSON:

15 Why don't you just give  
16 me a minute here. Let's just  
17 take a little break.

18 ATTORNEY PATBERG:

19 That's fine.

20 SHORT BREAK TAKEN

21 BY ATTORNEY BENSON:

22 Q. Mrs. MacDonald ---?

23 A. Can I correct you on something?

24 Q. Sure.

25 A. I'm not Mrs.

1 Q. Okay. Ms. Ms. MacDonald, is  
2 there anything else about the injuries  
3 you claim to have sustained in this  
4 accident that we haven't either touched  
5 on or covered ad nauseam between today  
6 and the deposition that started back in  
7 November of 2009? I want to make sure  
8 that I understand your claims and the  
9 way the accident has affected you. I  
10 mean I understand that you're having  
11 problems ---.

12 A. Can I tell him?

13 ATTORNEY PATBERG:

14 Go ahead. You can tell  
15 him.

16 BY ATTORNEY BENSON:

17 Q. Go ahead.

18 A. Okay. I have found out today,  
19 by putting this on, that this has the  
20 same affect that the tape does. So I'm  
21 going to be doing this everyday from  
22 now of when I'm not taped. It holds my  
23 shoulder down and back. By doing so I  
24 can look at you, which is nice, instead  
25 of my head flipping. And I can turn my

1 head very well. And I don't lose my  
2 balance. I wasn't walking sideways  
3 when I went over to the car. When this  
4 shoulder is out of control and it's  
5 yanking all of this, and all of this is  
6 pinched, I can neither look down ---  
7 which I can do right now --- I can't go  
8 this way this easily.

9 Q. So you can't turn to the right?

10 A. I can do it, it's not easy.

11 Right now, this is easy.

12 Q. So you're saying that ---?

13 A. And I can look down. I can't  
14 look down without holding my head if  
15 I'm not taped or don't have this on. I  
16 also lose my balance.

17 Q. So you're telling me that the  
18 shoulder brace, you're finding after  
19 not wearing it a while that it's  
20 actually beneficial to you?

21 A. Yeah. The reason I stopped  
22 wearing it was because it does cut  
23 right in here. Not on this side. On  
24 this side it's totally comfortable.

25 Q. The left side is good?

1 A. I'm fine. It cuts in here so  
2 I'm going to have to like maybe get  
3 something to cushion right here, to  
4 pull it, you know.

5 Q. Is there a sleeve that goes  
6 through on your right arm?

7 A. It's a thing that you put on  
8 just like a jacket.

9 Q. Okay.

10 A. And it comes over each shoulder,  
11 fits around here, and then it's  
12 Velcroed here. Another reason I had  
13 ---.

14 Q. So it's Velcroed ---

15 A. It's Velcroed ---.

16 Q. --- kind of on a high waist?

17 A. It's Velcroed right here.

18 Q. Kind of around the mid back?

19 A. Is where that thing is  
20 (pointing).

21 Q. Okay.

22 A. It has magnets going up the  
23 center of the back. It has some rubber  
24 on it. That was another reason I  
25 stopped wearing it was because it

1 affected my skin. I got abrasions from  
2 it. But what I did today was I put a  
3 shirt under it and then put it over the  
4 shirt, so I know it's not going to  
5 affect my skin. So there were two  
6 reasons I stopped using it. I had just  
7 ordered it myself. I had asked about  
8 having a brace to one of the doctors or  
9 maybe all of them. And they said you  
10 can just order one from somewhere, so I  
11 did. I got it out of some catalogue.  
12 Don't remember which one. I stopped  
13 using it for two reasons. It was  
14 cutting me in here and it was breaking  
15 out my skin.

16 Q. That I understand.

17 A. But I've now found a way around  
18 --- yeah, because the rubber's down  
19 here. I've found a way around that by  
20 putting a shirt under it. So that's  
21 what I did today and then put it over  
22 the shirt.

23 Q. Let me ask you, if ---?

24 A. I cry when I tell people that  
25 I'm feeling better because I'm usually

1 not.

2 Q. Has anybody told you that doing  
3 some type of surgery to your right  
4 shoulder will in fact fix your neck  
5 problem?

6 A. No.

7 Q. Do you have pain down your right  
8 hand, down your right arm to your  
9 fingers, sitting here right now?

10 A. No, because my shoulder's where  
11 it's supposed to be.

12 Q. Okay. So if the shoulder's in  
13 place, whether it's taped or wearing  
14 the brace, then you're not having the  
15 symptoms of tingling and pain down the  
16 right arm?

17 A. Not right now.

18 Q. Okay.

19 A. Which is what proves to me, get  
20 the shoulder under control and this is  
21 under control. I could not be looking  
22 at you right now.

23 Q. Okay. But I guess what I'm  
24 wondering is is the shoulder under  
25 control independent of the torn rotator

1 cuff that you told me about the last  
2 time?

3 A. As long as it's in position, but  
4 it won't stay in position by itself.

5 Q. Okay. Has anybody told you that  
6 doing surgery for a torn rotator cuff  
7 in your right shoulder will help the  
8 shoulder stay in position?

9 A. No.

10 Q. Okay.

11 A. No, at this point Dr. Wright  
12 does not want to do surgery. They want  
13 to build up, it's called the rhomboid,  
14 which I had never heard of until I went  
15 to her. It's the muscle that comes  
16 across here and also connects into the  
17 trapezius which comes all the way up --  
18 -.

19 Q. So the muscle that goes across  
20 the middle part of the back ---

21 A. It starts right here --- .

22 Q. Wait a minute. --- the middle  
23 part of the back below your right  
24 shoulder?

25 A. Yes.

1 Q. That's the muscle they want to  
2 build up?

3 A. That and all the rest of the  
4 muscles in my back because they've all  
5 weakened, on the right side.

6 Q. Okay.

7 A. But nobody ever talked about  
8 this one that comes across before, and  
9 I knew I had a lot of pain coming  
10 across as well as coming up and into  
11 the shoulder and everything.

12 Q. Okay. Well, do you believe you  
13 tore the rhomboid muscle in this  
14 accident?

15 A. Nobody has told me it's torn,  
16 but nobody x-rayed down that far either  
17 or did an MRI down that far. I never  
18 heard of the rhomboid until I went to  
19 Dr. Wright.

20 Q. Okay. And so Dr. Wright is  
21 treating you to try and build up your  
22 rhomboid muscle and your trapezius  
23 muscle on the right side of your  
24 shoulder?

25 A. Uh-huh (yes).

1 Q. Is that correct?

2 A. And the shoulder itself, trying  
3 to build up everything. All of my  
4 exercises that I'm doing are for the  
5 shoulder to strengthen the shoulder,  
6 strengthen all the back muscles on the  
7 right side.

8 Q. And you're doing those at home?

9 A. I do them at home as well as at  
10 physical therapy.

11 Q. Do you still swim?

12 A. I haven't been, but that is very  
13 helpful and I want to go back. They  
14 closed the pool at the place that was  
15 close to my house.

16 Q. Okay. And the exercises you're  
17 doing at physical therapy and at home,  
18 are they weights?

19 A. Yes. Mostly weights, there's a  
20 lot of stretching though too.

21 Q. And the weights, how heavy a  
22 weight do you work with?

23 A. I can't get past three.

24 Q. Three pounds?

25 A. Yeah. And some of the exercises

1 are too excruciating in this area when  
2 I try the three pounds so I do the two  
3 pound. And instead of doing three  
4 times ten, they have me doing two times  
5 ten --- or two times 15, I think I'm up  
6 to.

7 Q. Okay.

8 A. For two specific ones that hurt  
9 like hell when I do them.

10 Q. Are you just doing exercises on  
11 your right upper extremity or do you do  
12 them on the left?

13 A. She just told me the other day  
14 at my last appointment, the physical  
15 therapist, to start doing almost all of  
16 them I'm supposed to do now both sides.

17 Q. Okay.

18 A. Because, of course, I'm wrecking  
19 this side because this side's not doing  
20 anything.

21 Q. So if the right side's not  
22 right, the left side gets squirrely?

23 A. Exactly.

24 Q. Now, let me ask you, have you  
25 noticed an improvement in your right

1 shoulder situation since you started  
2 the physical therapy in August of 2011  
3 at the Southside Sports Medicine  
4 Center?

5 A. There is some improvement. It's  
6 going to be pretty slow going I think  
7 because ---.

8 Q. Describe the improvement for me.  
9 How is it better? How has it improved?

10 A. I don't know. I think the other  
11 day she asked me how much improvement I  
12 thought there was, the physical  
13 therapist, and I said maybe something  
14 like 40. I can't remember now what,  
15 but we talked about it the other day.

16 Q. Forty (40) what? 40 percent?

17 A. Maybe.

18 Q. So let me ask you this. So I  
19 understand the shoulder situation, your  
20 shoulder, am I correct to understand,  
21 your shoulder's not in pain. What  
22 happens is it gets out of position and  
23 that out of position then affects your  
24 neck and the way your head positions?

25 A. The reason that I tend to pull

1 up and pitch forward is because it does  
2 hurt. And so you try to put your body  
3 in the position that's going to make it  
4 feel better, which is throwing you  
5 totally out of the position I should be  
6 in. I try to compensate and everything  
7 just goes around. I don't know how to  
8 describe that.

9 Q. Okay. Let me ask you just a  
10 couple questions on it. The pain, is  
11 it sort of over a whole area or is it  
12 sharp like someone's sticking a point  
13 in you?

14 A. It's all of this.

15 Q. All of the top of your right  
16 shoulder going down, the top of your  
17 right arm ---?

18 A. Yeah, and then it'll go down  
19 into my arm and my hand and ---.

20 Q. Does it hurt or --- .

21 A. Yeah, it'll --- .

22 Q. Excuse me. Does it hurt or is  
23 it a tingle?

24 A. The arm hurts. By the time it  
25 gets down into the hand it can be a

1 tingle and pain. There's not really  
2 tingling in my arm, it's a tingling and  
3 sort of going to sleep in the hand, by  
4 the time it gets down to there. A lot  
5 of pain when I do different things, in  
6 the upper arm, front and back.

7 Q. Okay. Now, let me ask you a  
8 question. Does the pain go away when  
9 you stretch it and get your shoulder  
10 back into position?

11 A. When the shoulder is where it  
12 should be there's a lot less  
13 discomfort, a lot less pain, sometimes  
14 no pain. I could be alright right now  
15 and ten minutes from now be dying.

16 Q. Okay.

17 A. So it just ---.

18 Q. But as a general rule, if your  
19 shoulder's in alignment, then the pain  
20 and the tingling down your arm tends to  
21 go away?

22 A. A lot of relief.

23 Q. Okay. And the pain on the top  
24 of the shoulder, those muscles up  
25 there, that tends to go away?

1 A. A lot of relief, yes.

2 Q. Okay.

3 A. I can feel a little bit of the  
4 pain right now in this area, and this  
5 is where it gets ---.

6 Q. Up on your right collarbone?

7 A. Yeah. And that's because I've  
8 been scrunched so much, so ---.

9 Q. Okay. And who's told you that  
10 this condition today, in 2011, is  
11 related to the 2005 auto accident as  
12 opposed to either getting old or what  
13 you had before or something else?

14 A. I was in great shape, great  
15 shape prior to that car accident that  
16 day. I was in wonderful shape.

17 Q. Have any of the doctors told you  
18 that this was caused by that accident  
19 or that this wasn't caused by that  
20 accident?

21 A. Well, a torn rotator cuff  
22 couldn't just happen.

23 ATTORNEY PATBERG:

24 All right, you've got to  
25 listen to the question.

1 BY ATTORNEY BENSON:

2 Q. What I'm asking is ---?

3 ATTORNEY PATBERG:

4 He wants to know if a  
5 doctor told you that this is  
6 related or not related.

7 BY ATTORNEY BENSON:

8 Q. Yeah. Well, let me break it  
9 down and then I think I'll be finished  
10 here. Have any doctors told you, first  
11 of all, that your shoulder alignment  
12 problem that you've been describing to  
13 me on your right shoulder was caused by  
14 the February 17th, 2005 accident?

15 A. I think that they're in  
16 agreement on that.

17 Q. But did they tell you?

18 A. Since it did not --- I can't  
19 remember what all of our discussions  
20 have been. I've had so many.

21 Q. Have any of your doctors told  
22 you that, you know, it might not have  
23 been caused by that, it was from what  
24 you had before or it's arthritis or  
25 something else. The way you sleep, I

1 mean I don't know, have any of your  
2 doctors told you that your shoulder  
3 problems today had a different cause  
4 than the accident?

5 A. Not from arthritis or the way I  
6 sleep or anything like that, no.

7 Q. So they haven't told you ---?

8 A. No.

9 Q. Has any doctor told you that you  
10 tore your right rotator cuff in this  
11 accident?

12 A. I did not have it prior to the  
13 accident, so I believe that they  
14 believe that it occurred through the  
15 accident. You would have to ask them  
16 directly.

17 Q. But have you ever asked them?

18 A. We've discussed it as being from  
19 the accident. Nobody's ever said to  
20 me, no, it wasn't from the accident.

21 Q. Did anybody ever say, yes, it is  
22 from the accident, I agree with you?

23 A. I think we are all in agreement  
24 that it's from the accident. But you  
25 would have to ask them directly, is

1 that from her accident?

2 Q. All right. So we'd have to find  
3 that out some other way?

4 A. Yeah, because they have never  
5 told me it wasn't from the accident. I  
6 don't remember the exact wording of  
7 yes, it was from the accident. But  
8 I've had this problem since the  
9 accident.

10 Q. Okay.

11 A. I did not, prior to that, have a  
12 torn rotator cuff.

13 Q. Okay. Fair enough. When you  
14 had the torn rotator cuff, that was  
15 diagnosed in what, June of 2006; right?

16 A. 2006. After I had kept saying  
17 to everybody it's my shoulder, it's my  
18 shoulder. And finally Cicuto took a  
19 look and had MRIs done of the shoulder.  
20 And I had MRIs of the shoulder done  
21 with Passarelli.

22 Q. When you were complaining of  
23 your right shoulder back then in, you  
24 know, 2005, 2006, was it this  
25 positioning thing you're telling me

1 about today or was it a different  
2 symptom?

3 A. It was the pain. I wasn't as  
4 out of control because it was a new  
5 injury. It's worsened as I've gone  
6 along.

7 Q. Okay. And your shoulder, has it  
8 gotten --- well, you told me you're 40  
9 percent better since August. Did it  
10 continue to get worse from 2005 until  
11 August of 2011?

12 A. On and off it was better,  
13 depending on whether I was in physical  
14 therapy or swimming. When I was not in  
15 physical therapy or swimming, of course  
16 it would get worse because I wasn't  
17 working then. I wasn't, you know,  
18 doing --- I'm going to probably have to  
19 work it for the rest of my life.

20 Q. So the more you use it, the more  
21 you exercise your right shoulder and  
22 stretch it, the more you swim, the  
23 better the symptoms are. Would that be  
24 fair to say?

25 A. They can be, yes, because I'm

1 strengthening what's injured.

2 Q. Okay. I appreciate you coming  
3 back and talking to me, Mrs. --- Ms.  
4 MacDonald.

5 A. Ms. MacDonald or Susan.

6 ATTORNEY BENSON:

7 And I guess you have to  
8 decide if you want to read and  
9 sign or waive.

10 ATTORNEY PATBERG:

11 We'll read.

12 ATTORNEY BENSON:

13 You're going to read it?

14 Okay. Thank you.

15 \* \* \* \* \*

16 DEPOSITION CONCLUDED AT 2:09 P.M.

17 \* \* \* \* \*

18

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1 COMMONWEALTH OF PENNSYLVANIA )  
2 COUNTY OF CAMBRIA )

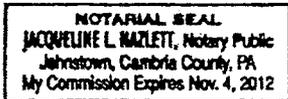
3  
4 CERTIFICATE

5 I, Jacqueline L. Hazlett, a Notary Public  
6 in and for the Commonwealth of Pennsylvania, do  
7 hereby certify:

8 That the witness whose testimony appears  
9 in the foregoing deposition, was duly sworn by me  
10 on said date and that the transcribed deposition  
11 of said witness is a true record of the testimony  
12 given by said witness;

13 That the proceeding is herein recorded  
14 fully and accurately;

15 That I am neither attorney nor counsel  
16 for, nor related to any of the parties to the  
17 action in which these depositions were taken, and  
18 further that I am not a relative of any attorney  
19 or counsel employed by the parties hereto, or  
20 financially interested in this action.



23 Jackie Hazlett  
24 Court Reporter  
25

**EXHIBIT J**



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Transcript of the Testimony of **Craig Houchins**

**Date:** November 20, 2009

**Case:** Macdonald v. Houchins

Printed On: December 10, 2009

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IN THE COURT OF COMMON PLEAS  
OF CLEARFIELD COUNTY, PA  
CIVIL DIVISION

\* \* \* \* \*

	*
SUSAN MACDONALD,	*
Plaintiff	* Case No.
vs.	* 06-1431-CD
CRAIG HOUCHINS and	*
RICHARD FULLINGTON,	*
Defendants	*
	*

\* \* \* \* \*

DEPOSITION OF  
CRAIG HOUCHINS  
November 20, 2009

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is prohibited without authorization  
by the certifying agency.

1 DEPOSITION  
 2 OF  
 3 CRAIG HOUCHINS, taken on behalf of the  
 4 Plaintiff herein, pursuant to the Rules  
 5 of Civil Procedure, taken before me,  
 6 the undersigned, Rhonda K. Thorpe, a  
 7 Court Reporter and Notary Public in and  
 8 for the Commonwealth of Pennsylvania,  
 9 at the offices of Sargent's Court  
 10 Reporting Service, 106 North Second  
 11 Street, Clearfield, Pennsylvania, on  
 12 Friday, November 20, 2009, beginning at  
 13 10:10 a.m.  
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1 you know, we're just looking for your  
 2 best response. This isn't a memory  
 3 quiz. This isn't a test or anything of  
 4 that nature. It's just trying to  
 5 determine what information that you  
 6 have that might be pertinent to the  
 7 case.  
 8 It's important that you give  
 9 oral responses because our court  
 10 reporter here can't pick up nods of the  
 11 head, hand gestures, things of that  
 12 nature.  
 13 A. Okay.  
 14 Q. If the question requires an  
 15 affirmative or negative response as a  
 16 yes or no, I would ask you to state yes  
 17 or no as opposed to uh-huh (yes) and  
 18 uh-uh (no), so that we truly get your  
 19 intended response. I would ask that  
 20 you allow me to finish my question and  
 21 I will endeavor to let you finish your  
 22 answer because she can only take us  
 23 down one at a time.  
 24 A. One at a time, yeah.  
 25 Q. And if I ask you a question and

1 PROCEEDINGS  
 2 -----  
 3 CRAIG HOUCHINS, HAVING FIRST BEEN DULY  
 4 SWORN, TESTIFIED AS FOLLOWS:  
 5 -----  
 6 EXAMINATION  
 7 BY ATTORNEY PATBERG:  
 8 Q. Mr. Houchins, my name is Rolf  
 9 Patberg. I introduced myself prior to  
 10 today's deposition. I represent Susan  
 11 MacDonald in the case in which you're a  
 12 named Defendant from a motor-vehicle  
 13 accident that occurred on February  
 14 17th, 2005. Would you please state  
 15 your full name for the record?  
 16 A. Craig Houchins.  
 17 Q. Mr. Houchins, I'm going to give  
 18 you some basic instructions. I'm sure  
 19 Mr. Benson has talked to you a little  
 20 bit about what goes on. Have you given  
 21 a deposition before?  
 22 A. No.  
 23 Q. This is just basically a  
 24 question and answer session where I'm  
 25 going to ask you some questions and,

1 you don't understand it, simply ask me  
 2 to rephrase it or tell me you don't  
 3 understand what parts of the question  
 4 you don't understand. I'll be happy to  
 5 do that. Do you understand those  
 6 instructions, sir?  
 7 A. Yes.  
 8 Q. What is your home address, Mr.  
 9 Houchins?  
 10 A. 1622 Pifer Road, Clearfield.  
 11 Q. P-F-E-I-F-F-E-R?  
 12 A. P-I-F-E-R.  
 13 Q. Okay. And are you married?  
 14 A. Yeah.  
 15 Q. What's your wife's name?  
 16 A. Kimberly Ann Houchins.  
 17 Q. Where did you go to high school  
 18 at?  
 19 A. Clearfield.  
 20 Q. What year did you graduate?  
 21 A. '96.  
 22 Q. Have you ever been in the  
 23 military?  
 24 A. No.  
 25 Q. Any schooling after high school?

1 A. Yeah, I went to Penn State for  
 2 about a year.  
 3 **Q. Is that right after you left**  
 4 **Clearfield?**  
 5 A. Almost a year after I graduated.  
 6 **Q. And where have you been employed**  
 7 **since 1997?**  
 8 A. I worked for Bill Reed for  
 9 several years. He owned a restaurant  
 10 and a car lot.  
 11 **Q. Okay.**  
 12 A. And then for Powdered Metals  
 13 after that, which was Clearfield  
 14 Powdered Metals, and then got bought  
 15 out by Hawk, and that's who I drove  
 16 for. And then I left there I went to  
 17 W.G. Satterlee and Sons. That's where  
 18 I am now.  
 19 **Q. W.G. Satterlee?**  
 20 A. Yeah.  
 21 **Q. What did you do for Mr. Reed?**  
 22 A. I worked in the restaurant and I  
 23 sold cars.  
 24 **Q. That's an interesting**  
 25 **combination.**

1 A. Yes, it is.  
 2 ATTORNEY BENSON:  
 3 Take a side of fries and  
 4 a Buick; right?  
 5 A. There you go.  
 6 BY ATTORNEY PATBERG:  
 7 **Q. From what year to what year did**  
 8 **you work for Mr. Reed?**  
 9 A. Oh, I'm thinking --- oh, you  
 10 want to know where I worked from 1997  
 11 on?  
 12 **Q. Yes, sir?**  
 13 A. Yeah, from '97 to I'm thinking  
 14 '99 or 2000 --- 2001, I think, when I  
 15 went to Powdered Metals. And I worked  
 16 there until --- I've been at Satterlee  
 17 for three years.  
 18 **Q. So '06 maybe?**  
 19 A. Yeah.  
 20 **Q. When you said Powdered Metal,**  
 21 **that includes Hawk?**  
 22 A. Yeah, it was Clearfield Powdered  
 23 Metal and then it was Hawk, and then it  
 24 got bought out by Net Shape whenever I  
 25 finally quit.

1 **Q. And what do you do for W.G.**  
 2 **Satterlee?**  
 3 A. I haul fuel.  
 4 **Q. I'm sorry, I apologize.**  
 5 ATTORNEY BENSON:  
 6 Haul fuel.  
 7 A. Yeah.  
 8 ATTORNEY BENSON:  
 9 Is it Satterling or  
 10 Satterlee?  
 11 A. Satterlee.  
 12 ATTORNEY BENSON:  
 13 What are the initials on  
 14 that?  
 15 A. W.G. Satterlee and Sons.  
 16 BY ATTORNEY PATBERG:  
 17 **Q. I'm just going to use Hawk**  
 18 **because that seems to be the entity**  
 19 **that was in operation at the time of**  
 20 **this incident. What type of business**  
 21 **was Hawk?**  
 22 A. What type of business?  
 23 **Q. Uh-huh (yes).**  
 24 A. Powdered metal parts.  
 25 **Q. And how many employees do they**

1 **have?**  
 2 A. I'd say when they were busy and  
 3 up in full swing probably 120, 130  
 4 roughly. I think. I mean, you know,  
 5 close ballpark. I don't know exactly.  
 6 **Q. Do they have a vehicle**  
 7 **maintenance department?**  
 8 A. They had a maintenance  
 9 department that covered the --- if it  
 10 was something the maintenance  
 11 department couldn't handle, then they  
 12 sent it out.  
 13 **Q. Do you know a gentleman by the**  
 14 **name of Tom Ireland?**  
 15 A. Yes, I do.  
 16 **Q. How do you know Mr. Ireland?**  
 17 A. I worked with him. He was the  
 18 head of maintenance.  
 19 **Q. When you say head of**  
 20 **maintenance, does that mean maintenance**  
 21 **at the plant or vehicles or what?**  
 22 A. Yeah, maintenance at the plant.  
 23 Yeah, the maintenance department in the  
 24 plant.  
 25 **Q. Is he still employed by Hawk?**

1 A. Well, Net Shape now. Yeah, I  
 2 think he still works there.  
 3 **Q. Where's the plant out?**  
 4 A. Now it's over in Falls creek.  
 5 **Q. Back in '05 where was it located**  
 6 **at?**  
 7 A. They had one in Falls creek and  
 8 one in Clearfield.  
 9 **Q. Did you work out of the one in**  
 10 **Clearfield?**  
 11 A. Yeah. They have other plants  
 12 too in other states, but I don't know  
 13 where they're at. But I mean, those  
 14 are the only two around here.  
 15 **Q. And was there a specific vehicle**  
 16 **maintenance department, or did that**  
 17 **fall under Mr. Ireland's**  
 18 **responsibility?**  
 19 A. That fell under Ireland, yeah,  
 20 for the most part.  
 21 **Q. Do you know a gentleman by the**  
 22 **name of Bill Campbell?**  
 23 A. Yes, I do.  
 24 **Q. How do you know Mr. Campbell?**  
 25 A. He was supervisor at the plant.

1 **intended response?**  
 2 A. Darren Isler. That's how you  
 3 say that.  
 4 **Q. Isler. Okay, Isler. And what**  
 5 **did Mr. Isler do ---?**  
 6 A. He worked in the maintenance.  
 7 He did a lot of electrical work.  
 8 **Q. Okay. Would he repair vehicles**  
 9 **from time to time?**  
 10 A. Yeah. Yes, he would if it was  
 11 something he could handle, you know.  
 12 **Q. Who was your immediate**  
 13 **supervisor back in February of 2005?**  
 14 A. Well, let me think. Krista  
 15 Ingram was in charge of all my  
 16 deliveries.  
 17 **Q. Okay.**  
 18 A. Between Krista Ingram and Bill  
 19 Campbell.  
 20 **Q. And what was Krista's title, if**  
 21 **you know?**  
 22 A. What was she? She was the head  
 23 of --- I forget what they called her,  
 24 but she was the head of shipping and  
 25 outside secondaries. Outside secondary

1 **Q. Plant supervisor?**  
 2 A. Part of the plant. He had  
 3 different departments he was supervisor  
 4 over.  
 5 **Q. Do you know a gentleman by the**  
 6 **name of Darren Isler?**  
 7 A. Uh-huh (yes).  
 8 ATTORNEY BENSON:  
 9 You got to speak up.  
 10 BY ATTORNEY PATBERG:  
 11 **Q. Yes?**  
 12 ATTORNEY BENSON:  
 13 You went uh-huh instead  
 14 of yes.  
 15 A. Oh, yes. Yes, I do. I'm sorry.  
 16 Yes.  
 17 BY ATTORNEY PATBERG:  
 18 **Q. That's why I give that**  
 19 **instruction because ---.**  
 20 A. I'm sorry.  
 21 **Q. No, it's nothing to sorry about**  
 22 **because truthfully what happens is he**  
 23 **and I read this transcript a year from**  
 24 **now or whatever and we just want to**  
 25 **make sure we get, you know, your truly**

1 coordinator I think is what they called  
 2 her.  
 3 **Q. She was in charge of delivery?**  
 4 A. Yeah, pretty much.  
 5 **Q. Did you have a job title back in**  
 6 **February of '05, your actual job title?**  
 7 A. Yeah, driver.  
 8 **Q. And was there a written job**  
 9 **description as best as you can recall?**  
 10 A. Yeah. Well, I never seen a  
 11 written --- the only real job  
 12 description I ever seen was whenever  
 13 they put the bid up whenever I bid on  
 14 it when the other driver quit.  
 15 **Q. That's my next question. How**  
 16 **many drivers were there at the**  
 17 **Clearfield facility?**  
 18 A. Just one, just me. Well, there  
 19 was a back up driver, I'm sorry. He  
 20 didn't drive very often, only when I  
 21 was hunting.  
 22 **Q. Okay. It sounds like you got**  
 23 **the better end of the deal on that?**  
 24 A. Yeah, it worked out well.  
 25 **Q. What was his name, the back up**

1 driver?  
 2 A. Doug Bakiza (phonetic).  
 3 Q. Do you want to spell that last  
 4 name?  
 5 A. I couldn't tell you.  
 6 Q. Okay. Is it P-A-G?  
 7 A. B, Bakiza.  
 8 Q. Bakiza, okay. This was a box  
 9 truck as I understand; is that right?  
 10 A. Yeah, single axle box truck. It  
 11 had a 26 foot box on it.  
 12 Q. Do you know how many box trucks  
 13 ran out of the Clearfield plant?  
 14 A. Clearfield plant had one box  
 15 truck and the Falls creek plant had one  
 16 box truck. They had two smaller  
 17 pickups, too, but that wouldn't have  
 18 nothing to do with this.  
 19 Q. So this is basically the only  
 20 delivery vehicle that worked out of the  
 21 Clearfield plant?  
 22 A. Except for that little pickup,  
 23 but I did probably 95 percent of the  
 24 hauling.  
 25 Q. Was this the only vehicle you

1 wave you by, sometimes they'd wave you  
 2 in. It just depended on how busy they  
 3 were or if it was raining or ---.  
 4 Q. So this happened on the road  
 5 obviously; is that right?  
 6 A. Yeah.  
 7 Q. That's PennDOT?  
 8 A. Department of Transportation.  
 9 Q. Do you know if there's a  
 10 particular office that they worked out  
 11 of?  
 12 A. I couldn't tell you.  
 13 Q. Do you recall ever being pulled  
 14 over for DOT checks in 2005?  
 15 A. I don't recall when I got  
 16 checked.  
 17 Q. Any particular inspections  
 18 during your course of employment at  
 19 Hawk that stand out in your mind, in  
 20 other words you got a citation,  
 21 anything of that nature?  
 22 A. No, I never got any citations or  
 23 anything. I got wrote up one time for  
 24 a dirty taillight.  
 25 Q. Okay. Do you know when that

1 drove during work hours?  
 2 A. I'd drive that pickup whenever  
 3 the box truck was like getting  
 4 inspected or in the shop or something.  
 5 Q. Was there a maintenance schedule  
 6 that you know of for the box truck?  
 7 A. Well, it got inspected every six  
 8 months.  
 9 Q. Okay.  
 10 A. And other than that, whenever I  
 11 seen something wrong with it, I would  
 12 report it.  
 13 Q. How would you describe the  
 14 quality of maintenance of the box  
 15 truck?  
 16 A. Always took care of stuff pretty  
 17 good. They're right on top of that.  
 18 There's a lot of DOT checks where I  
 19 used to go to, so you had to keep up on  
 20 everything or they would ---.  
 21 Q. Do you know how often the DOT  
 22 checked the vehicle?  
 23 A. Whenever they were in a bad mood  
 24 and felt like doing it. Sometimes  
 25 they'd let you go by. Sometimes they'd

1 was?  
 2 A. I don't know, but they replaced  
 3 it and put brand new taillights on it.  
 4 They didn't have to, but they did.  
 5 Q. Do you know if it was before or  
 6 after this accident?  
 7 A. Couldn't tell you.  
 8 ATTORNEY PATBERG:  
 9 I assume you don't know  
 10 anything about that, Tracey?  
 11 ATTORNEY BENSON:  
 12 I'm not sure what a dirty  
 13 taillight is.  
 14 ATTORNEY PATBERG:  
 15 It's a taillight with  
 16 dirt on it, I think.  
 17 BY ATTORNEY PATBERG:  
 18 Q. In any event, did you have a  
 19 standardized route that you utilized  
 20 back in 2005?  
 21 A. A what?  
 22 Q. A standardized route. In other  
 23 words you went to the same customers?  
 24 A. You mean a route?  
 25 Q. Right, route?

1 A. Yeah, I had pretty much the same  
 2 route.  
 3 **Q. Do you want to tell me what that**  
 4 **was?**  
 5 A. From Clearfield to Kersey to St.  
 6 Mary's and back.  
 7 **Q. Clearfield to where?**  
 8 A. To Kersey.  
 9 **Q. How do you spell that? I'm**  
 10 **sorry.**  
 11 A. K-E-R-S-E-Y. And then I'd make  
 12 a trip to Falls Creek every once in a  
 13 while, too.  
 14 **Q. From Clearfield to Kersey**  
 15 **to ---?**  
 16 A. St. Mary's.  
 17 **Q. You pretty much had the same**  
 18 **route every day pretty much?**  
 19 A. Yeah.  
 20 **Q. What time would you typically in**  
 21 **the start in the morning?**  
 22 A. What time?  
 23 **Q. Uh-huh (yes).**  
 24 A. I would --- about 5:30.  
 25 **Q. Would your truck already be**

1 **customers that you stopped at pretty**  
 2 **much?**  
 3 A. U.S. Heat Treat in Kersey.  
 4 **Q. Heat Treat. Where is that**  
 5 **located at?**  
 6 A. Kersey.  
 7 **Q. So you wouldn't stop in**  
 8 **Clearfield typically on the way out?**  
 9 A. Well, the truck was kept in  
 10 Clearfield. I'd load the truck and  
 11 leave Clearfield.  
 12 **Q. Okay. Which leads me to another**  
 13 **question. Did you ever take the truck**  
 14 **home with you or was it always left at**  
 15 **the plant?**  
 16 A. It was always at the plant.  
 17 **Q. What time would you typically**  
 18 **get at the Heat Treat Plant do you**  
 19 **think? And again, we're talking about**  
 20 **just your standardized average day?**  
 21 A. Between 8:00 and 9:00 probably.  
 22 **Q. And how much time would you**  
 23 **spend at the Heat Treat plant?**  
 24 A. It all depends on how much stuff  
 25 I had to unload.

1 **loaded or would you ---?**  
 2 A. No, I would load the truck.  
 3 **Q. And then what time would you get**  
 4 **out of the plant about, do you think?**  
 5 A. It varied every day depending on  
 6 how many deliveries I had.  
 7 **Q. How long did it typically take**  
 8 **you to the load the truck, do you**  
 9 **think?**  
 10 A. Roughly an hour.  
 11 **Q. And would you stop somewhere in**  
 12 **Clearfield first?**  
 13 A. I would get fuel every other  
 14 day.  
 15 **Q. And where would you get fuel at?**  
 16 A. I first got fuel at Satterlee's,  
 17 and then they switched to Sheetz.  
 18 **Q. Satterlee's. Can you spell that**  
 19 **for me? Is that the people you work**  
 20 **for now?**  
 21 A. Yeah.  
 22 **Q. Okay.**  
 23 A. S-A-T-T-E-R-L-E-E.  
 24 **Q. Where would your first stop be**  
 25 **typically? Did you have the same**

1 **Q. Where would you go after the**  
 2 **Heat Treat plant in Kersey?**  
 3 A. Into St. Mary's.  
 4 **Q. Were there particular customers**  
 5 **you serviced there?**  
 6 A. I would drop off parts at --- we  
 7 had a lot of places in St. Mary's, but  
 8 mostly it was PA Heat Treat, Quality  
 9 Metal Coatings, Advanced Heat Treat.  
 10 And there was lots of little tool shops  
 11 and stuff. I couldn't begin to name  
 12 them all.  
 13 **Q. Was the product in boxes**  
 14 **typically?**  
 15 A. Mostly barrels on skids,  
 16 cardboard barrels on skids. Some was  
 17 in boxes, but mostly it was in barrels.  
 18 **Q. Would it be something that would**  
 19 **require a forklift to unload?**  
 20 A. Yes.  
 21 **Q. And what time did your day**  
 22 **usually end?**  
 23 A. Oh, anywhere from 1:00 to --- I  
 24 worked as late as maybe four or five  
 25 o'clock in the afternoon. But mostly

1 around between 1:00 and 2:00.  
 2 **Q. Do you ever recall any instances**  
 3 **when the taillights or anything got**  
 4 **damaged as a result of the forklift?**  
 5 A. No. The forklift --- and you'd  
 6 back into a dock, you drive into the  
 7 truck. The forklift wasn't even around  
 8 the taillights.  
 9 **Q. Okay. In other words, the**  
 10 **lights would be covered, essentially?**  
 11 A. Yeah, the dock plate would be  
 12 over top between the building and the  
 13 truck.  
 14 **Q. After you left your customers in**  
 15 **St. Mary's, would you then head back to**  
 16 **the plant or did you stop somewhere**  
 17 **else?**  
 18 A. Sometimes I would go to  
 19 Falls creek, sometimes I would go back  
 20 to Clearfield just depending on where  
 21 the parts went. Or if I had to pick up  
 22 stuff in Falls creek or sometimes I'd go  
 23 back to the plant and unload and just  
 24 make another trip to Falls creek.  
 25 **Q. If I understand this correctly,**

1 let's say, from 2005 back of any  
 2 particular maintenance issues with the  
 3 box truck in question?  
 4 A. Nothing that sticks out in my  
 5 mind.  
 6 **Q. Any electrical issues that you**  
 7 **can recall?**  
 8 A. No.  
 9 **Q. When the vehicle ---.**  
 10 A. Well, excuse me. What are you  
 11 talking about? Are you talking about  
 12 when Darren fixed the lights?  
 13 **Q. I'm talking about anything that**  
 14 **you recall.**  
 15 A. Well, I recall that, but I mean  
 16 I don't recall any other electrical  
 17 issues with the truck.  
 18 **Q. Okay. If you needed repairs**  
 19 **done on the vehicle, was there a**  
 20 **process or a procedure that you would**  
 21 **go through to get the repairs done?**  
 22 A. I would fill out a maintenance  
 23 sheet.  
 24 **Q. Can you describe that document**  
 25 **for me?**

1 **you actually manufactured granular**  
 2 **metals, is that what it is?**  
 3 A. It's a pressed powdered metal  
 4 that was sintered?  
 5 ATTORNEY BENSON:  
 6 Sintered,  
 7 S-I-N-T-E-R-E-D?  
 8 A. Yes.  
 9 ATTORNEY PATBERG:  
 10 Like centrifuge?  
 11 ATTORNEY BENSON:  
 12 Sinter, it's a ---.  
 13 A. Sintered, it's a big oven.  
 14 ATTORNEY BENSON:  
 15 You press it together or  
 16 you compress it.  
 17 ATTORNEY PATBERG:  
 18 Okay.  
 19 A. You cook it.  
 20 ATTORNEY BENSON:  
 21 You have to melt it.  
 22 BY ATTORNEY PATBERG:  
 23 **Q. Okay. I'm not in the powdered**  
 24 **metals business, so bear with me on**  
 25 **that. Do you have any recollection,**

1 A. That one right there.  
 2 **Q. This? I might as well mark it.**  
 3 **H-O-U-C-H-I-N-S; is that correct?**  
 4 A. Yeah.  
 5 **Q. I want to make sure I spell your**  
 6 **name ---. Mr. Houchins, I'm placing in**  
 7 **front of you a document marked as**  
 8 **Exhibit One, which has been produced by**  
 9 **the Defense in this matter as Bates**  
 10 **stamp 151. And you indicated that**  
 11 **there was a maintenance sheet that you**  
 12 **would typically fill out. And I've**  
 13 **identified ---.**  
 14 **(Houchins Deposition**  
 15 **Exhibit One marked for**  
 16 **identification.)**  
 17 A. Well, either I would fill it out  
 18 or I would get a maintenance man to  
 19 fill it out. This was the sheet that  
 20 you filled out.  
 21 BY ATTORNEY HOUCHINS:  
 22 **Q. Were these maintenance sheets**  
 23 **kept in a central location?**  
 24 A. In the maintenance office.  
 25 **Q. And was there a maintenance file**

1 for the vehicle, if you know?  
 2 A. Yeah, you got it, don't you? Or  
 3 we have it?  
 4 ATTORNEY PATBERG:  
 5 I'm assuming that's all  
 6 been produced?  
 7 ATTORNEY BENSON:  
 8 Yeah, we produced ---.  
 9 ATTORNEY PATBERG:  
 10 I got GMC box truck  
 11 maintenance records ---.  
 12 ATTORNEY BENSON:  
 13 I produced them for a  
 14 time frame.  
 15 ATTORNEY PATBERG:  
 16 We'll work it out later.  
 17 ATTORNEY BENSON:  
 18 I think I --- well, you  
 19 should read what I said I  
 20 produced. I think there were  
 21 miscellaneous records from a  
 22 period of time. I produced them  
 23 from I believe November 2004  
 24 through May 2005.  
 25 ATTORNEY PATBERG:

1 Q. 156 to 158. I'm going to also  
 2 show you ---.  
 3 ATTORNEY BENSON:  
 4 Do you want 155? Oh, you  
 5 said 156. I'm not sure ---.  
 6 ATTORNEY PATBERG:  
 7 That's the way it was  
 8 labeled when I got it.  
 9 ATTORNEY BENSON:  
 10 Okay.  
 11 ATTORNEY PATBERG:  
 12 Whatever you want to look  
 13 --- I'm just trying to make sure  
 14 I got all of the documents.  
 15 That's all I'm interested about.  
 16 A. Yeah. What about it?  
 17 BY ATTORNEY PATBERG:  
 18 Q. And then I'm also going to ask  
 19 you to look at 159.  
 20 ATTORNEY BENSON:  
 21 I think you meant to ask  
 22 him for 146 to 158? You said  
 23 156.  
 24 ATTORNEY PATBERG:  
 25 Right. Oh, right 146.

1 Yeah, it's Answer to  
 2 Interrogatory 13.  
 3 ATTORNEY BENSON:  
 4 And then I supplemented  
 5 it.  
 6 ATTORNEY PATBERG:  
 7 Yeah.  
 8 BY ATTORNEY PATBERG:  
 9 Q. I'm just going to show you  
 10 something here quickly, Mr. Houchins.  
 11 I'm not going to mark it. We can mark  
 12 it later if you want, but I'm going to  
 13 refer you to pages 146 to 158. And I'm  
 14 just going to ask you to page through.  
 15 ATTORNEY BENSON:  
 16 Are those Interrogatory  
 17 Answers or ---?  
 18 ATTORNEY PATBERG:  
 19 Yeah, the same.  
 20 BY ATTORNEY PATBERG:  
 21 Q. I'm going to direct you to page  
 22 158, and then I'm going to show you  
 23 some additional records that Mr. Benson  
 24 has provided to me.  
 25 A. 158?

1 I'm sorry. I think he started  
 2 at 146.  
 3 ATTORNEY BENSON:  
 4 Did he? Okay.  
 5 A. 146.  
 6 BY ATTORNEY PATBERG:  
 7 Q. And I'm also going to show you  
 8 just these three documents that were  
 9 also produced, which is 159, 160, and  
 10 161 and ask you to just look through  
 11 those for a second and bear with me?  
 12 Now, you've seen dockets 146  
 13 through 161. Do you know if there are  
 14 any other additional documents that are  
 15 contained in the maintenance file that  
 16 you don't see in the documents that  
 17 I've identified?  
 18 A. Not that I know of.  
 19 Q. Okay.  
 20 ATTORNEY BENSON:  
 21 Let me see them.  
 22 ATTORNEY PATBERG:  
 23 Sure.  
 24 ATTORNEY BENSON:  
 25 I mean, I'll say this, I

1 have documents from prior to  
 2 November 2004. I didn't think  
 3 they were relevant.  
 4 ATTORNEY PATBERG:  
 5 You don't think that's  
 6 going to help me?  
 7 ATTORNEY BENSON:  
 8 No, but I have them if  
 9 you want to see them.  
 10 ATTORNEY PATBERG:  
 11 Yeah, we'll work that out  
 12 later.  
 13 ATTORNEY BENSON:  
 14 Okay.  
 15 BY ATTORNEY PATBERG:  
 16 Q. Where was I? And just so the  
 17 record is clear, we were referencing  
 18 --- and this isn't a question, but just  
 19 a statement. Mr. Benson and I were  
 20 discussing the Responses to  
 21 Interrogatories, 146 through 161 are  
 22 from the Defendant's document  
 23 production and are so Bates stamped.  
 24 So if I understand you  
 25 correctly, Mr. Houchins, other than

1 marker lights.  
 2 Q. I'm going to show you a document  
 3 we'll mark as Deposition Exhibit Two,  
 4 which for the record is page 137 of  
 5 Defendant's document production. First  
 6 of all, Mr. Houchins, I'm showing you  
 7 Deposition Exhibit Two. Does this  
 8 appear to be a true and accurate  
 9 reflection and picture of the back of  
 10 the box truck in question?  
 11 (Houchins Deposition  
 12 Exhibit Two marked for  
 13 identification.)  
 14 A. Well, that is the box truck in  
 15 question.  
 16 BY ATTORNEY PATBERG:  
 17 Q. Now, you indicated with regard  
 18 to the box lights not functioning ---  
 19 I'm going to give you a pen here and  
 20 ask you to circle what lights weren't  
 21 functioning as to the best of your  
 22 recollection?  
 23 WITNESS COMPLIES  
 24 BY ATTORNEY PATBERG:  
 25 Q. If you will be kind enough to

1 this incident regarding the maintenance  
 2 form that we've identified as Exhibit  
 3 One, you're unaware of any other prior  
 4 maintenance on the lighting system or  
 5 the electrical system; is that correct?  
 6 A. Nothing that I'm aware of.  
 7 Q. Referencing you to Exhibit One  
 8 with regard to the --- it says at the  
 9 top no box lights. Is that in your  
 10 handwriting?  
 11 A. I think Darren wrote that up.  
 12 Q. Do you have a recollection when  
 13 you came back from the accident as to  
 14 whether or not there were certain  
 15 lights that were not functional when  
 16 you returned to the plant?  
 17 A. I think I noticed the box lights  
 18 weren't working when I parked the truck  
 19 that day, but I was going to get Darren  
 20 to do it in the morning because he  
 21 would do the electrical work.  
 22 Q. When you say box lights, what do  
 23 you mean?  
 24 A. Marker lights on the box, I'm  
 25 pretty sure that's what it was. Yeah,

1 put your initials next to that for us  
 2 and today's date, which I believe is  
 3 November 20th, 2009? Thank you.  
 4 Did you get an understanding  
 5 --- let me back up for a moment. You  
 6 see the lights underneath the box, I'm  
 7 pointing to what I'll call the  
 8 taillights? Do you see those two on  
 9 the photograph?  
 10 A. Yeah.  
 11 Q. I'm not trying to be --- I have  
 12 to make a record, so I have to ask you  
 13 questions like this.  
 14 A. Okay.  
 15 Q. And Mr. Benson will tell you I'm  
 16 not trying to be condescending or being  
 17 smart or anything like that. Do you  
 18 know whether or not the light above the  
 19 license plate was functioning when you  
 20 returned to the plant that day?  
 21 ATTORNEY BENSON:  
 22 You're pointing to what I  
 23 would call the left taillight?  
 24 ATTORNEY PATBERG:  
 25 Driver's side taillight.

10 (Pages 34 to 37)

1 Fair enough?  
 2 ATTORNEY BENSON:  
 3 Sure.  
 4 A. If it was working?  
 5 BY ATTORNEY PATBERG:  
 6 **Q. Yes, sir.**  
 7 A. Yeah.  
 8 **Q. And I'm going to reference you**  
 9 **to the passenger side taillight that**  
 10 **I'm pointing to. Was that functional**  
 11 **when you returned to the plant?**  
 12 A. I don't remember anything being  
 13 wrong with the taillights when I got  
 14 back to the plant.  
 15 **Q. Okay.**  
 16 A. Just the box lights.  
 17 **Q. And you've initialed those for**  
 18 **us at the top; is that right?**  
 19 A. Yeah.  
 20 **Q. With regard to the box lights,**  
 21 **do you have any understanding as to the**  
 22 **wiring scheme or schematic for those**  
 23 **particular lights?**  
 24 A. You mean where the wire was  
 25 busted at?

1 A. I'm pretty sure.  
 2 ATTORNEY BENSON:  
 3 Mr. Houchins is pointing  
 4 to illustrate his testimony and  
 5 correct me if I'm wrong ---  
 6 we're just going to get this so  
 7 when it's written down we can  
 8 follow it. That you think that  
 9 the wiring harness that went to  
 10 the box lights that you circled  
 11 at the top of the box on  
 12 document 137, Exhibit Two came  
 13 from the left taillight, ran  
 14 behind --- is that what you call  
 15 the under ride bumper?  
 16 A. That will be part of the ICC  
 17 bar.  
 18 ATTORNEY BENSON:  
 19 Okay. It ran behind the  
 20 ICC bar to the right taillight,  
 21 and at some point there did it  
 22 actually run to the right  
 23 taillight or go up?  
 24 A. The wires, maybe they went  
 25 through here. They must have come

1 **Q. Yes, sir.**  
 2 A. Okay. I can't say. I'm pretty  
 3 sure the wiring harness left this  
 4 taillight and went up the back of the  
 5 bumper right behind that bar.  
 6 **Q. Okay.**  
 7 A. And where they went up into the  
 8 box after that, I'm not sure.  
 9 **Q. So let's circle the taillight**  
 10 **where you said that the wire comes**  
 11 **from. Okay, circle it.**  
 12 A. Well, the wire comes from both  
 13 taillights.  
 14 **Q. Okay.**  
 15 A. But I think right there is where  
 16 the wire harness went up into the box  
 17 right there, which had a beam there.  
 18 **Q. Let me see what you're looking**  
 19 **at.**  
 20 A. I think the wire come from that  
 21 taillight and that taillight and right  
 22 there's where the main harness went up.  
 23 ATTORNEY BENSON:  
 24 Do you want to do that or  
 25 do you want me ---?

1 through here and then they came down  
 2 right there, the wire harness. The one  
 3 wire went there and another wire run  
 4 over to this taillight.  
 5 ATTORNEY BENSON:  
 6 Okay. But where did the  
 7 wiring harness go to the box  
 8 lights?  
 9 A. I don't know.  
 10 ATTORNEY BENSON:  
 11 You're talking the wiring  
 12 went to the taillights?  
 13 A. I imagine it would go up through  
 14 here, I would imagine.  
 15 ATTORNEY BENSON:  
 16 All right. So you think  
 17 that perhaps the wiring harness  
 18 to the box lights went up one of  
 19 the sides of the box?  
 20 A. I would guess this side because  
 21 it would be closer to run it that way,  
 22 but I couldn't say for sure.  
 23 ATTORNEY BENSON:  
 24 You're not sure?  
 25 A. No, I'm not sure.

1 BY ATTORNEY PATBERG:  
 2 Q. All right. Fair enough. Grab  
 3 my pen back. Thank you. Do you know  
 4 whether the box lights were functional  
 5 when you left the plant on ---?  
 6 A. Yes, there were functional.  
 7 ATTORNEY BENSON:  
 8 Let him finish.  
 9 A. I'm sorry. You're right.  
 10 BY ATTORNEY PATBERG:  
 11 Q. That's okay. I'll ask the  
 12 question again. It's your recollection  
 13 that the lights were functional on  
 14 February 17th, 2005; is that correct?  
 15 A. They were working.  
 16 Q. Now, when you get in the truck  
 17 in the morning, is there a procedure,  
 18 some type of inspection procedure that  
 19 you go through?  
 20 A. Pre-trip.  
 21 Q. Can you explain to me what a  
 22 pre-check is?  
 23 A. Well, you would walk around your  
 24 truck, check the lights, kick the  
 25 tires.

1 the vehicle?  
 2 ATTORNEY BENSON:  
 3 You mean ever?  
 4 BY ATTORNEY PATBERG:  
 5 Q. Right. Prior to today? I  
 6 assume you didn't drive it today.  
 7 A. It would have been whenever I  
 8 quit there, June of ---. All right,  
 9 let me think here, what year did I  
 10 quit?  
 11 Q. Okay. In other words, you drove  
 12 it up until the day that you left  
 13 there?  
 14 A. Yes. Two and a half years ago I  
 15 think is when I quit. So it would be  
 16 June of --- what last June would be  
 17 --- 2006, I believe.  
 18 Q. Okay. And as a result of this  
 19 accident, how long was the truck out of  
 20 service if at all?  
 21 A. After the accident?  
 22 Q. Yes, sir.  
 23 A. It was down for that morning  
 24 while Darren fixed the wires, and that  
 25 was it.

1 Q. And did you do that the morning  
 2 of February 17th?  
 3 A. I did that mostly every morning.  
 4 Q. Do you know whether or not the  
 5 vehicle --- this was a 1998 back in  
 6 '05; is that correct? Seven year old  
 7 vehicle, is that true?  
 8 A. That's the year, yeah, it was.  
 9 I don't remember what year it was.  
 10 Q. Okay. Do you ever recall having  
 11 any acceleration issues with the truck  
 12 back in '05?  
 13 A. No, never had any problems with  
 14 that.  
 15 Q. Was it a stick or a standard?  
 16 A. Six speed, standard.  
 17 Q. I just notice I should have said  
 18 standard or ---?  
 19 ATTORNEY BENSON:  
 20 Both.  
 21 ATTORNEY PATBERG:  
 22 Right, exactly. Should  
 23 have standard or automatic.  
 24 BY ATTORNEY PATBERG:  
 25 Q. When is the last time you drove

1 Q. Did you ever have any  
 2 discussions --- when you say Darren I  
 3 assume you mean Darren --- is it Isler?  
 4 A. Darren Isler, yes.  
 5 Q. Have you ever had any  
 6 discussions with him concerning what  
 7 the issue was with the wiring or  
 8 anything of that nature?  
 9 A. I think when the ICC bar got  
 10 bent, it pinched one of the wires up in  
 11 there and he just needed to replace it  
 12 or repaired it. I'm not sure.  
 13 Repaired it, he repaired it.  
 14 Q. Did you personally observe him  
 15 repairing the vehicle or simply he went  
 16 and took it to the shop or whatever?  
 17 A. No, he did it right up front  
 18 where I parked it. Well, actually I  
 19 pulled it into a garage door there  
 20 right there by where I park and he  
 21 fixed it.  
 22 Q. Were you able to see where he  
 23 was actually performing the repairs?  
 24 A. I didn't get underneath the  
 25 truck and look at it, no. I don't

1 remember looking at it, anyway.  
 2 **Q. Okay. Have you ever had any**  
 3 **discussions with Mr. Isler concerning**  
 4 **this case? In other words, that she**  
 5 **filed suit and things of that nature?**  
 6 A. Oh, I think everybody in the  
 7 plant knew about it.  
 8 **Q. Tell me why you would say that.**  
 9 A. Well, because we talked about  
 10 it.  
 11 **Q. Can you give me the names of**  
 12 **some people you talked with?**  
 13 A. No.  
 14 **Q. Do you know if Mr. Isler was one**  
 15 **of those individuals?**  
 16 A. I'm sure he was. I just didn't  
 17 --- I mean, I don't remember some of  
 18 the peoples names I worked with. I  
 19 mean, it was just --- well, you know,  
 20 how people at a plant bullshit.  
 21 **Q. That's fine.**  
 22 A. You know.  
 23 **Q. Right, I understand. Do you**  
 24 **recall anything that you said**  
 25 **specifically?**

1 That's what he wants to  
 2 know.  
 3 A. Yeah, but I mean I didn't ---.  
 4 BRIEF INTERRUPTION  
 5 BY ATTORNEY PATBERG:  
 6 **Q. Do you recall who came up to the**  
 7 **truck when you pulled the truck in that**  
 8 **you spoke with?**  
 9 A. You mean when I came back to the  
 10 plant after it happened?  
 11 **Q. Yes, sir.**  
 12 A. I think Tom Ireland and Bill  
 13 Campbell is the two I remember.  
 14 **Q. Do you recall what you said?**  
 15 A. No, I don't remember what I  
 16 said.  
 17 **Q. Do you recall anything that they**  
 18 **said?**  
 19 A. Yeah, they were laughing because  
 20 my four ways were stuck on or were  
 21 still on.  
 22 **Q. Anything else?**  
 23 A. We looked at the bumper.  
 24 **Q. Did you notice at that point**  
 25 **that your box lights were not**

1 A. No.  
 2 **Q. Before the case was filed but**  
 3 **after the accident, do you know if you**  
 4 **had any discussions with anyone**  
 5 **concerning the incident?**  
 6 A. What's this now, before ---?  
 7 **Q. The accident happened on**  
 8 **February 17th, of '05 and then this**  
 9 **case was filed in 2006 by her prior**  
 10 **lawyer. Do you know if you had any**  
 11 **discussions with anyone in that time**  
 12 **frame?**  
 13 ATTORNEY BENSON:  
 14 In other words, did you  
 15 talk to anyone at the plant  
 16 after the accident?  
 17 A. About what?  
 18 BY ATTORNEY PATBERG:  
 19 **Q. About the accident?**  
 20 A. No. I don't know.  
 21 **Q. When you were involved ---?**  
 22 A. Well, I mean, everybody walked  
 23 out and looked at the bumper and said  
 24 what the heck happened, you know.  
 25 ATTORNEY BENSON:

1 **functioning?**  
 2 A. At some point --- I don't  
 3 remember when, but I knew by the time I  
 4 left I knew they wasn't working because  
 5 I knew I had to bug Darren about it in  
 6 the morning.  
 7 **Q. But do you know, was there any**  
 8 **type of policy at Hawk back in 2005**  
 9 **where when something like this happens,**  
 10 **you have to file an incident report or**  
 11 **give a report to your supervisor or**  
 12 **anything like that?**  
 13 A. I don't remember filling out any  
 14 reports.  
 15 **Q. Let me back up for one second.**  
 16 **Do you have a commercial driver's**  
 17 **license?**  
 18 A. Yeah. Yes.  
 19 **Q. And how long have you had that?**  
 20 A. I couldn't ---. What date did  
 21 this happen? What year was it?  
 22 **Q. 2005.**  
 23 A. I think I got them in 2003 or  
 24 2004. I can't remember exactly.  
 25 **Q. Okay. And prior to '05, had you**

1 ever had your license suspended or  
 2 anything of that nature?  
 3 A. When I was a kid.  
 4 Q. When you say you was a kid, I'm  
 5 just interested in something --- let's  
 6 say from the time that you started  
 7 working at Hawk until the time of the  
 8 accident?  
 9 A. No, I've never had nothing on my  
 10 record since then.  
 11 Q. Just to follow up on some of  
 12 these questions, don't be offended by  
 13 them, it's just stuff that I have to  
 14 ask. Have you ever been convicted of a  
 15 crime, anything of that nature?  
 16 A. I got caught drinking when I was  
 17 a kid, but no, nothing other than that,  
 18 no.  
 19 Q. All right. Ever been a party to  
 20 a lawsuit?  
 21 A. No.  
 22 Q. I'm going to ask you a couple  
 23 questions here. Have you ever had the  
 24 vehicle to T and D Fabricating for  
 25 repairs, as far as you know?

1 T and D Bar, as far as you know?  
 2 ATTORNEY BENSON:  
 3 The ICC bar.  
 4 BY ATTORNEY PATBERG:  
 5 Q. ICC bar.  
 6 A. Not that I was --- no, not that  
 7 I know of.  
 8 Q. Are you aware of any maintenance  
 9 or repairs that were performed on the  
 10 vehicle by the company at Point Spring  
 11 Drive Shaft Company?  
 12 A. Break Drum. Break Drum's had a  
 13 lot of work to it. They did all the  
 14 inspections I think.  
 15 ATTORNEY BENSON:  
 16 He's asking about Point  
 17 Spring Drive Shaft Company.  
 18 A. That's Break Drum.  
 19 ATTORNEY BENSON:  
 20 Okay.  
 21 BY ATTORNEY PATBERG:  
 22 Q. Do you know what street Break  
 23 Drum is located at?  
 24 A. It's in the industrial park. I  
 25 don't know the name of the road, but

1 ATTORNEY BENSON:  
 2 When you say you, do you  
 3 mean him or the plant, the  
 4 company?  
 5 BY ATTORNEY PATBERG:  
 6 Q. The company. To the extent that  
 7 you have any knowledge, do you know if  
 8 the company ever had the vehicle to T  
 9 and D Fabricating?  
 10 A. For that ICC bar.  
 11 Q. And just so the record is clear,  
 12 the ICC bar is the bar that you're  
 13 referencing that's underneath the box;  
 14 is that right?  
 15 A. Yeah, that bar right there.  
 16 Them two pieces there in that cross  
 17 member.  
 18 Q. Anything other than that?  
 19 ATTORNEY BENSON:  
 20 I'm not sure I understand  
 21 the question.  
 22 BY ATTORNEY PATBERG:  
 23 Q. I'll rephrase it. Had the  
 24 vehicle ever been serviced at T and D  
 25 Fabricating for anything other than the

1 it's in the industrial park up there.  
 2 Q. You said they did all of the  
 3 inspections on the vehicle; is that  
 4 right?  
 5 A. Yeah, they did mostly all of  
 6 them.  
 7 Q. Other than inspections, are you  
 8 aware of any other repairs or  
 9 maintenance that Break Drum performed  
 10 on the vehicle?  
 11 A. Well, if it ever needed anything  
 12 at the inspections, they would do it.  
 13 I mean, I don't remember exactly if it  
 14 would need --- whatever it would need  
 15 for inspection if anything was worn,  
 16 you know.  
 17 Q. Uh-huh (yes).  
 18 A. But that's pretty much what they  
 19 did.  
 20 Q. Do you know when the last time  
 21 the vehicle was inspected prior to  
 22 February of '05?  
 23 A. I don't remember when the  
 24 inspections were. I just know it  
 25 needed a sticker every six months. All

1 commercial vehicles get inspected every  
2 six months.

3 **Q. Other than the maintenance**  
4 **documents I showed you, was there an**  
5 **actual maintenance log that went with**  
6 **the truck specifically? Some vehicles**  
7 **or some employers require you to have a**  
8 **log.**

9 A. We didn't have one. You mean  
10 like one that I filled out every day?

11 **Q. Right.**

12 A. No, they didn't have nothing  
13 like that.

14 ATTORNEY BENSON:

15 You mean like a driver's  
16 log?

17 ATTORNEY PATBERG:

18 Correct.

19 ATTORNEY BENSON:

20 That shows when you're on  
21 duty, off duty ---.

22 A. You don't need a driver's log  
23 for that truck. You didn't go far  
24 enough --- logbook.

25 BY ATTORNEY PATBERG:

1 **Q. Are you aware of, other than**  
2 **fires, any repairs that was done to the**  
3 **vehicle by the company at Purcell Tire**  
4 **Company?**

5 A. No.

6 **Q. Are you aware of any parts that**  
7 **were purchased or work that was done at**  
8 **Napa Auto Parts by the company on the**  
9 **vehicle?**

10 A. I don't remember getting  
11 anything at Napa.

12 **Q. Let me back up for a moment.**  
13 **Did the company use a particular Napa**  
14 **auto parts store to obtain parts, if**  
15 **you know?**

16 A. Probably the one here in  
17 Clearfield.

18 **Q. What street is that on, if you**  
19 **know?**

20 A. Bridge Street. I think that's  
21 the name of it.

22 **Q. Are you aware of any repairs or**  
23 **work that was done on the vehicle by**  
24 **Johnson Motors in Dubois by the**  
25 **company?**

1 A. I did take it there for  
2 something, but I don't remember what.

3 **Q. Do you know when that was**  
4 **approximately?**

5 A. No. When you talk about Napa,  
6 they might have gotten break fluid and  
7 stuff there, but ---

8 **Q. Okay.**

9 A. --- nothing major.

10 **Q. Just one quick question on this.**

11 **Do you know or have you ever met**  
12 **Richard Fullington?**

13 A. I think I met him a time or two.

14 **Q. Ever talked to him about this**  
15 **case or anything?**

16 A. No.

17 **Q. Do you have any recollection of**  
18 **the actual accident itself on February**  
19 **17th, 2005?**

20 A. Yeah, I remember.

21 **Q. Tell me to the best of your**  
22 **recollection what do you recall from**  
23 **the accident?**

24 A. Well, I remember I got on the  
25 interstate at Falls creek coming back to

1 Clearfield with a load of parts or  
2 whatever I had on. And we got one of  
3 them snow squalls, a real bad white  
4 out. I had the truck --- I had her  
5 slowed down pretty good. We all slowed  
6 down. There was a handful of tractor  
7 and trailers in front of me, three,  
8 four, five. I don't remember, a few.

9 And we were slowed down, just  
10 taking it easy waiting to get down the  
11 other side of the mountain, but I  
12 didn't get there because I got hit.

13 **Q. Where were you at --- this was**  
14 **on Route 80; is that right?**

15 A. Yeah, 80 headed east.

16 **Q. What time of day was it**  
17 **approximately?**

18 A. Afternoon, two-ish.

19 **Q. You said it was whiteout**  
20 **conditions?**

21 A. Yeah, it was pretty bad, it was  
22 snowing pretty hard.

23 **Q. Was there snow already on the**  
24 **ground if you recall?**

25 A. I can't remember. There might

1 have been some snow from before,  
 2 but ---.  
 3 **Q. Had the highway appeared to have**  
 4 **been plowed?**  
 5 A. There wasn't no snow on the  
 6 --- the snow was hitting the road and  
 7 melting and freezing. There wasn't  
 8 really any snow on the road, it was  
 9 ice.  
 10 **Q. When you were struck by Ms.**  
 11 **MacDonald's vehicle, where were you at**  
 12 **on I-80 east?**  
 13 A. I can't remember. It was before  
 14 you'll start down over the mountain.  
 15 What did it say, I think mile marker  
 16 108? No, that's not right.  
 17 **Q. Let me ask it to you this way,**  
 18 **what two exits were you in between, if**  
 19 **you can recall?**  
 20 A. Falls creek Exit and 111.  
 21 **Q. Is Falls creek, is that east or**  
 22 **west of 111?**  
 23 A. West.  
 24 **Q. Is that the actual name of the**  
 25 **exit or is it named something else?**

1 BY ATTORNEY PATBERG:  
 2 **Q. Mr. Houchins, I'm going to place**  
 3 **in front of you an exhibit I marked as**  
 4 **Exhibit Three, and I'm going to ask you**  
 5 **to circle the lights that you're**  
 6 **referencing and place your initials and**  
 7 **date next to them with regard to the**  
 8 **four ways. If you won't mind**  
 9 **initialing that for me ---?**  
 10 WITNESS COMPLIES  
 11 BY ATTORNEY PATBERG:  
 12 **Q. Now, when you turned your four**  
 13 **ways on, do you know whether or**  
 14 **not ---?**  
 15 ATTORNEY BENSON:  
 16 Let me just note that  
 17 that does not show all of the  
 18 four ways that he described.  
 19 ATTORNEY PATBERG:  
 20 Right. I'll clarify.  
 21 A. Just the front ones, right.  
 22 BY ATTORNEY PATBERG:  
 23 **Q. First of all, does Exhibit Three**  
 24 **appear to depict the same vehicle that**  
 25 **was involved in the incident on**

1 A. It says Falls creek on the sign.  
 2 It says something else, too, but I  
 3 can't remember.  
 4 **Q. So you're driving east in**  
 5 **whiteout conditions. Did you have your**  
 6 **blinkers on or flashers?**  
 7 A. I had my four ways on.  
 8 **Q. Now, when you say you have your**  
 9 **four ways on, can you tell me**  
 10 **specifically what areas of the truck**  
 11 **did that light?**  
 12 A. There was two turn signals that  
 13 set on top the front fenders that  
 14 blinked and then the two taillights in  
 15 the back.  
 16 ATTORNEY PATBERG:  
 17 For the record, I'm going  
 18 to mark this Deposition Exhibit  
 19 Three, Houchins Three, which  
 20 appear to be two photographs  
 21 Bates stamped 140 produced by  
 22 the Defendants in this case.  
 23 (Houchins Deposition  
 24 Exhibit Three marked for  
 25 identification.)

1 **February 17, 2005?**  
 2 A. Yes.  
 3 **Q. I see it says Net Shape on it;**  
 4 **is that correct?**  
 5 A. Yes.  
 6 **Q. When did Apex ---? I'm sorry, I**  
 7 **have another case on my mind.**  
 8 ATTORNEY BENSON:  
 9 I can tell you when the  
 10 photos were taken ---  
 11 ATTORNEY PATBERG:  
 12 That's fine.  
 13 ATTORNEY BENSON:  
 14 --- because I took them.  
 15 ATTORNEY PATBERG:  
 16 Okay. Well, when do you  
 17 think?  
 18 ATTORNEY BENSON:  
 19 May of 2009.  
 20 BY ATTORNEY PATBERG:  
 21 **Q. When did Hawk sell to Net Shape,**  
 22 **if you know approximately?**  
 23 A. I couldn't tell you. It was a  
 24 drawn out process.  
 25 **Q. Was it before or after you left**

1 employment there?  
 2 A. It was Net Shape when I left.  
 3 Q. So somewhere between February  
 4 17th, 2005 --- I think you said you  
 5 left in June 2007?  
 6 A. Uh-huh (yes).  
 7 Q. Does that sound about right?  
 8 A. I think so.  
 9 ATTORNEY BENSON:  
 10 I think he said 2006, but  
 11 it was 2007. Do you know when  
 12 it was or not?  
 13 A. Maybe it was 2007.  
 14 ATTORNEY BENSON:  
 15 But it was Net Shape  
 16 Technology?  
 17 A. It was Net Shape when I left,  
 18 yeah. My check said Net Shape.  
 19 BY ATTORNEY PATBERG:  
 20 Q. All right. Now, with regard to  
 21 the box lights that you previously  
 22 circled and marked your initials on  
 23 Exhibit Two, when the four ways were  
 24 placed on, do you know whether or not  
 25 there were any flashes at the top of

1 functional ---  
 2 A. Yes.  
 3 Q. --- prior to the incident? And  
 4 were all the box lights functional  
 5 prior to the incident?  
 6 A. Yes.  
 7 Q. Where were you at immediately  
 8 prior to getting on I-80?  
 9 A. I was at the Falls creek plant.  
 10 Q. Is there a loading dock  
 11 somewhere you generally take your  
 12 vehicle when you're at the Falls creek  
 13 plant?  
 14 A. Yes, they have three docks.  
 15 Q. Is it paved?  
 16 A. Yeah.  
 17 Q. Do you recall whether or not  
 18 your vehicle was particularly clean or  
 19 dirty on February 17, 2005?  
 20 A. I usually kept it pretty clean,  
 21 but I mean I couldn't say what the  
 22 condition was exactly. But I normally  
 23 kept the vehicle pretty clean.  
 24 Q. Prior to this snow squall that  
 25 you recall, do you recall what the

1 the box?  
 2 A. Flashes at the top of the box?  
 3 Q. Yes, sir.  
 4 A. You mean if them lights flashed?  
 5 Q. Yes, sir.  
 6 A. No, they didn't flash.  
 7 Q. Do you know if you had your  
 8 headlights on immediately prior to the  
 9 accident?  
 10 A. I believe I had all my lights  
 11 on.  
 12 Q. So you had your headlights and  
 13 the flashers on at two o'clock in the  
 14 afternoon on February 17th, '05; is  
 15 that correct?  
 16 A. Yes. To the best of my  
 17 knowledge, I had all my lights on.  
 18 Q. Do you know if all the flashers  
 19 were functional?  
 20 A. The four ways, yes, they all  
 21 worked.  
 22 Q. Were all the headlights  
 23 functional?  
 24 A. Yes.  
 25 Q. Were all the taillights

1 weather was like that day?  
 2 A. I don't remember what it was  
 3 like earlier that day. I think it was  
 4 snow off and on all day that day.  
 5 Q. Was it sunny or cloudy out prior  
 6 to that, do you recall?  
 7 A. I believe cloudy.  
 8 Q. So I think we're up to the point  
 9 where you're driving down I-80 and  
 10 you're in between the Falls creek and  
 11 Exit 111. And then did you feel impact  
 12 or what happened that indicated to you  
 13 that you had been hit?  
 14 A. We were going along and, yeah, I  
 15 felt a thump. I felt her hit the back  
 16 of the truck.  
 17 Q. Do you know whether any other  
 18 vehicles had been passing you while  
 19 this was ongoing?  
 20 A. No, there wasn't any vehicles  
 21 passing while any of this happened, no.  
 22 Q. Do you know how fast you were  
 23 going when she hit you?  
 24 A. Fortyish or so.  
 25 Q. How do you know that?

1 A. Well, I know had the truck in a  
 2 lower gear, so I couldn't have been  
 3 going very fast.  
 4 **Q. Do you know what gear you had it**  
 5 **in?**  
 6 A. No.  
 7 **Q. When you say lower gear, what do**  
 8 **you mean by that?**  
 9 A. Either in fourth or fifth,  
 10 probably fourth.  
 11 **Q. And were you going up an**  
 12 **incline?**  
 13 A. I think it was either level or a  
 14 slight incline.  
 15 **Q. So you're driving along and your**  
 16 **eyes are what, on the vehicle in front**  
 17 **of you?**  
 18 A. I'm watching the road, yeah.  
 19 I'm watching where I'm going.  
 20 **Q. Do you know what kind of vehicle**  
 21 **you were following?**  
 22 A. No. It was a tractor trailer,  
 23 but I don't know what make or model.  
 24 There were four or five tractors in  
 25 front of me.

1 **Houchins?**  
 2 A. No.  
 3 **Q. Did you make any calls while you**  
 4 **were driving that day?**  
 5 A. No, not that I remember.  
 6 **Q. Do you have the same cell phone**  
 7 **number today that you had back then?**  
 8 A. No, it was a company phone.  
 9 **Q. Do you recall what that phone**  
 10 **number was?**  
 11 A. No, I don't.  
 12 **Q. Is there a CB radio or anything**  
 13 **of that nature in that vehicle?**  
 14 A. I had a CB, yeah.  
 15 **Q. Were you speaking on that at all**  
 16 **that day if you can recall?**  
 17 A. Yeah, I was on it a little bit  
 18 listening to it.  
 19 **Q. Do you know if you were on the**  
 20 **CB radio at the time of the accident?**  
 21 A. It was on, but I wasn't using  
 22 it. I was just listening to it.  
 23 **Q. You indicated there was a**  
 24 **whiteout; is that correct?**  
 25 A. Yeah, it was a real bad squall.

1 **Q. Did you recognize any of the**  
 2 **companies or anything of that nature?**  
 3 A. No, I don't know ---.  
 4 **Q. Do you know whether you had the**  
 5 **radio on or off immediately prior to**  
 6 **the incident or at the time of the**  
 7 **incident?**  
 8 A. My radio was off. I never  
 9 listened to the radio in that truck.  
 10 **Q. Did you have a cell phone with**  
 11 **you?**  
 12 A. Yes, I did.  
 13 **Q. Were you using it at the time of**  
 14 **the accident?**  
 15 A. No.  
 16 ATTORNEY PATBERG:  
 17 Give me one second here,  
 18 Tracey.  
 19 ATTORNEY BENSON:  
 20 Okay.  
 21 BRIEF INTERRUPTION  
 22 BY ATTORNEY PATBERG:  
 23 **Q. Now, immediately prior to the**  
 24 **incident in question and at the time,**  
 25 **were you on your cell phone at all, Mr.**

1 **Q. Now, how far do you think you**  
 2 **could see in front of you down the**  
 3 **road?**  
 4 A. I couldn't --- I really couldn't  
 5 really remember to be exact. I could  
 6 see the vehicles in front of me, I  
 7 could see their lights. I could see  
 8 their trailers.  
 9 **Q. Do you know whether or not when**  
 10 **repairs were done to a vehicle at Hawk**  
 11 **back in 2005, whether a bill was**  
 12 **generated as a result of that?**  
 13 A. I didn't get involved in none of  
 14 that stuff. I don't know how the  
 15 billing worked. I don't know nothing  
 16 about it.  
 17 **Q. Do you know --- it's your**  
 18 **testimony unequivocally that Mr. Isler**  
 19 **is the one that repaired the wiring to**  
 20 **the box truck?**  
 21 A. Yeah, he fixed it.  
 22 **Q. Do you know whether or not there**  
 23 **was any --- whether at the time that he**  
 24 **fixed the box truck as to whether or**  
 25 **not he did any work on the right rear**

1 tail lamp wiring?  
 2 A. Before the accident?  
 3 Q. After the accident?  
 4 A. When he repaired that wire that  
 5 morning.  
 6 Q. Okay. But that was for the box;  
 7 is that correct?  
 8 A. For the box lights, yeah.  
 9 Q. And it's your testimony that  
 10 when you arrived back after the  
 11 accident that the right rear tail lamp  
 12 was functional because you had all four  
 13 of your blinkers on?  
 14 A. The four ways were blinking when  
 15 I got back. They were all working.  
 16 Q. Does that include the right rear  
 17 tail lamp?  
 18 A. There wasn't nothing wrong with  
 19 the right rear taillight.  
 20 Q. Do you ever recall someone  
 21 coming out from --- have you ever heard  
 22 of an entity by the EL Braid Claim  
 23 Service?  
 24 A. No.  
 25 Q. Do you know an individual by the

1 you the document marked as Houchins  
 2 Exhibit Four and ask you whether you've  
 3 ever seen those photographs prior to  
 4 today?  
 5 A. No, I don't remember seeing  
 6 these.  
 7 Q. I'll represent to you, and I  
 8 think counsel would agree, these were  
 9 documents that were produced by the  
 10 claim service that handled the claim in  
 11 this case. And we're going to start in  
 12 the upper left-hand corner. You see  
 13 that photograph in the upper left-hand  
 14 corner?  
 15 A. Uh-huh (yes).  
 16 Q. And the one next to it?  
 17 A. Yeah.  
 18 Q. With regard to the --- I'm  
 19 sorry, what did you call that bar that  
 20 goes across there?  
 21 A. The ICC bar.  
 22 Q. ICC bar. You see the ICC bar is  
 23 bent; is that true, in this photograph?  
 24 A. Yeah, it's bent.  
 25 Q. Does that appear to be the same

1 name of Larry Lumadue, L-U-M-A-D-U-E?  
 2 A. Lumadue?  
 3 Q. Yes, sir.  
 4 A. Larry Lumadue?  
 5 Q. Yes, sir.  
 6 A. No, I don't think. I don't know  
 7 him. Who is he? Should I know him?  
 8 Q. According to the documentation,  
 9 he appears to be someone that did the  
 10 damage assessment on the truck. Does  
 11 that help you at all?  
 12 A. No.  
 13 ATTORNEY PATBERG:  
 14 I'm going to show you a  
 15 document I'll mark ---.  
 16 ATTORNEY BENSON:  
 17 You're marking it as  
 18 what, Four?  
 19 ATTORNEY PATBERG:  
 20 Four.  
 21 (Houchins Deposition  
 22 Exhibit Four marked for  
 23 identification.)  
 24 BY ATTORNEY PATBERG:  
 25 Q. Mr. Houchins, I'm going to show

1 truck that you were operating on  
 2 February 17th, 2005?  
 3 A. Yeah.  
 4 Q. Now, how long did that bar stay  
 5 bent like that before it was repaired?  
 6 A. I don't remember.  
 7 Q. Was that something that was  
 8 fixed the same day if you know?  
 9 A. No. It wasn't that quick, I  
 10 don't think. No, it wasn't the same  
 11 day. I know that.  
 12 Q. And the upper left-hand corner  
 13 seems to picture the passenger side  
 14 taillight; is that correct?  
 15 A. Yeah.  
 16 Q. And that's the light that you  
 17 say was functioning when you returned  
 18 to the plant that day; is that true?  
 19 A. Yeah.  
 20 Q. Let's see. If you look at the  
 21 photograph on Exhibit Four, second row,  
 22 far right, there appears to be some  
 23 type of name on the side of the truck.  
 24 Do you see that?  
 25 A. Uh-huh (yes). Yes.

1 Q. Do you know what that is?  
 2 A. It says Hawk.  
 3 Q. So at least we know these photos  
 4 were taken prior to the transition from  
 5 Hawk to ---  
 6 A. Net Shape.  
 7 Q. --- Net Shape; is that correct?  
 8 A. Yes.  
 9 Q. And there also appears to be a  
 10 picture of the odometer of 208,948  
 11 miles. Do you see that?  
 12 A. Yes.  
 13 Q. Does that appear to be the  
 14 approximate correct mileage of the  
 15 vehicle on the date of the accident in  
 16 question?  
 17 A. I would assume so. Yeah, that's  
 18 right. That's when it happened.  
 19 ATTORNEY BENSON:  
 20 In other words, given  
 21 that we don't know when the  
 22 photograph was taken.  
 23 BY ATTORNEY PATBERG:  
 24 Q. Right. Right. Now, again, I'm  
 25 going to point your attention to the

1 box lights were damaged? Do I  
 2 understand your ---?  
 3 ATTORNEY BENSON:  
 4 Object to the form of  
 5 that.  
 6 BY ATTORNEY PATBERG:  
 7 Q. I'll rephrase it. After the  
 8 accident it's your testimony that your  
 9 right rear taillight was still  
 10 functional; correct?  
 11 A. It worked.  
 12 Q. And according to you, the only  
 13 lights that were out after the accident  
 14 were the top of the box lights;  
 15 correct?  
 16 A. Yeah, the top of the box light,  
 17 the marker lights.  
 18 Q. Okay. And you're pointing to  
 19 Exhibit Two at the top; right?  
 20 A. Yeah.  
 21 Q. And you have no estimation as to  
 22 when the repairs were done on the  
 23 vehicle by T and D Fabricating;  
 24 correct?  
 25 A. I don't remember when that was

1 photograph in the upper left-hand  
 2 corner, which is a picture of the  
 3 taillight, passenger side taillight.  
 4 Do you see there's a wire coming out  
 5 and connecting the taillight? Can you  
 6 see that?  
 7 A. No. Oh, that wire right there?  
 8 Q. Yes.  
 9 A. Yeah, I see it now.  
 10 Q. Do you know if that wire was the  
 11 one that was repaired or were you  
 12 talking about a different wire?  
 13 A. I don't know what wire he  
 14 repaired. I don't remember.  
 15 Q. Are you aware of any repairs  
 16 that were performed on the right rear  
 17 tail lamp wiring by T and D  
 18 Fabricating?  
 19 A. I don't what they --- I know  
 20 they replaced the ICC bar. That's all  
 21 I was aware of.  
 22 Q. Okay. And it's your testimony  
 23 that the right taillight remained  
 24 functional, actually --- it wasn't  
 25 damaged during the accident, only the

1 done.  
 2 Q. Was the vehicle out of service  
 3 for a period of time while that repair  
 4 was done?  
 5 A. No. Oh, while the repair was  
 6 done?  
 7 Q. Yes, sir.  
 8 A. Yeah, it was up there for a day  
 9 or two probably.  
 10 Q. So you're driving down the road  
 11 and you feel this impact. There's a  
 12 whiteout. You're looking at the  
 13 vehicle in front of you. You have the  
 14 CB on. Then what happens?  
 15 A. After she hit me?  
 16 Q. Yes, sir.  
 17 A. I didn't know what happened. I  
 18 looked in the mirror and I seen what  
 19 happened, I seen her car veered off to  
 20 the right side of the road there.  
 21 Q. Did it spin to the right or to  
 22 the left of you if you know?  
 23 ATTORNEY BENSON:  
 24 Object to the form of the  
 25 question.

1 BY ATTORNEY PATBERG:  
 2 **Q. Did it spin?**  
 3 A. I don't know if it spun. I just  
 4 seen it veer off to the right hand side  
 5 of the road.  
 6 **Q. Okay. Describe for me from the**  
 7 **moment that you looked in the mirror**  
 8 **and saw what you saw, was the vehicle**  
 9 **still moving for example?**  
 10 A. I felt a thump. I looked in  
 11 both my mirrors. I seen out of the  
 12 right hand mirror, I seen her car shoot  
 13 off the road. It went off the right  
 14 hand side onto the berm.  
 15 **Q. Did it strike anything, a**  
 16 **guardrail, anything of that nature?**  
 17 A. I don't think there was a  
 18 guardrail there.  
 19 **Q. What's the next thing you recall**  
 20 **happening after that?**  
 21 A. I stopped. I pulled off to the  
 22 side of the road. I got off to the  
 23 side and come to a stop.  
 24 **Q. Did you downshift?**  
 25 A. Yeah.

1 there was a bit of a distance between  
 2 her car and my truck.  
 3 **Q. So you stopped the vehicle and**  
 4 **what did you do at that point, did you**  
 5 **call anyone or ---?**  
 6 A. I got out of the truck with my  
 7 phone, and I was walking back there,  
 8 yes, I called 911. And I believe there  
 9 was somebody else there that called  
 10 911, too.  
 11 **Q. Another vehicle that had**  
 12 **stopped?**  
 13 A. I think somebody stopped that  
 14 was sitting back there with her. I  
 15 don't remember who it was, but ---.  
 16 **Q. Do you know if it was a man or a**  
 17 **woman that was with her?**  
 18 A. With her?  
 19 **Q. That you said ---?**  
 20 A. There was nobody with her, there  
 21 was somebody stopped there.  
 22 **Q. Yeah, let me rephrase it. The**  
 23 **person that stopped, was it a man or a**  
 24 **woman, do you know?**  
 25 A. I don't remember.

1 **Q. And did you hit the brakes?**  
 2 A. Yes.  
 3 **Q. Now, when you looked in the**  
 4 **mirror, did you watch her vehicle? You**  
 5 **said it kind of went off to the right;**  
 6 **correct?**  
 7 A. Yes.  
 8 **Q. Did you watch it the entire time**  
 9 **until it stopped or were you**  
 10 **looking ---?**  
 11 A. No, I just looked in the mirror  
 12 and what I can remember I seen it going  
 13 off the side of the road, and I thought  
 14 I better get this thing stopped and  
 15 make sure, see what happened, make sure  
 16 she's all right. It took me a little  
 17 bit to slow down.  
 18 **Q. Do you have any estimation as to**  
 19 **how far of a distance you traveled**  
 20 **after the time she hit your vehicle**  
 21 **until you came to a stop?**  
 22 A. I was up the road a little  
 23 piece, maybe 150 yards, 200 yards  
 24 maybe. Maybe farther than that, I  
 25 don't remember exactly, but I know

1 **Q. Okay. So you get out --- did**  
 2 **you look at your truck before or after**  
 3 **you called 911?**  
 4 A. I looked at the truck when I  
 5 walked by it. When I was walking back  
 6 to her I seen the bumper was bent, but  
 7 I was more concerned --- I wanted to go  
 8 back and see what was going on back  
 9 there.  
 10 **Q. And when you got out of your**  
 11 **truck, were your four ways still on?**  
 12 A. Yeah.  
 13 **Q. And did you have the opportunity**  
 14 **to turn around and look at your**  
 15 **vehicle, the back of the vehicle?**  
 16 A. I don't remember if I looked at  
 17 it or not. I probably looked at it  
 18 when I walked by it.  
 19 **Q. Let me ask you just generally at**  
 20 **any point in time before you got back**  
 21 **in the truck and left, did you have the**  
 22 **opportunity to look at the back of the**  
 23 **vehicle?**  
 24 A. Of my truck?  
 25 **Q. Yes, sir.**

1 A. Yes.  
 2 **Q. And was the right rear tail lamp**  
 3 **functioning at that point?**  
 4 A. They were all functioning.  
 5 **Q. Do you know anyone that's**  
 6 **employed by T and D Fabricating, the**  
 7 **names of any of the mechanics?**  
 8 A. No. I know a guy or two that  
 9 works there, but I don't know their  
 10 names.  
 11 **Q. So you get out of your truck,**  
 12 **start walking back --- did you call 911**  
 13 **while you were walking?**  
 14 A. I think that's what I did on the  
 15 way back there.  
 16 **Q. So would it be fair to say that**  
 17 **whatever time is on your phone --- this**  
 18 **was a cell phone; is that correct?**  
 19 A. Uh-huh (yes). Yes.  
 20 **Q. And assuming that it's**  
 21 **documented, whatever time that you made**  
 22 **that call would have been within would**  
 23 **you say three minutes of the accident?**  
 24 A. Or less.  
 25 **Q. And so you go back, you're**

1 **you mean by that?**  
 2 A. Kinked.  
 3 **Q. Kinked. What did the front end**  
 4 **look like do you recall?**  
 5 A. It looked like it just hit the  
 6 back of my truck.  
 7 **Q. Can you describe for me? For**  
 8 **example ---.**  
 9 A. It was pretty banged up.  
 10 OFF RECORD DISCUSSION  
 11 BY ATTORNEY PATBERG:  
 12 **Q. So in any event, you came back,**  
 13 **you looked at her vehicle. It appeared**  
 14 **to be fairly damaged; is that right?**  
 15 A. Yeah.  
 16 **Q. I'm going to show you a**  
 17 **photograph that I'll mark hopefully if**  
 18 **I can find my pen. Mr. Houchins, I'm**  
 19 **going to show you a photograph I'll**  
 20 **mark as Deposition Exhibit Five. It**  
 21 **appears to depict a red vehicle. Do**  
 22 **you recall the vehicle being red?**  
 23 **(Houchins Deposition**  
 24 **Exhibit Five marked for**  
 25 **identification.)**

1 **making the phone call. How far was it**  
 2 **between your vehicle and her vehicle as**  
 3 **best as you can recall?**  
 4 A. I'm going to say a couple  
 5 hundred yards.  
 6 **Q. And as you approached her**  
 7 **vehicle --- well, was the road slippery**  
 8 **at all when you were walking back?**  
 9 A. Icy. Real icy.  
 10 **Q. Why don't you tell me in your**  
 11 **own words what you recall encountering**  
 12 **as soon as you came upon her vehicle?**  
 13 A. If I remember correctly she was  
 14 already out of the vehicle when I got  
 15 back there, because I remember being  
 16 relieved that she wasn't --- you know,  
 17 it could have been --- you know, I was  
 18 glad that she was out of her car  
 19 walking around and stuff, she was all  
 20 right. I was glad she was all right.  
 21 **Q. Did you take the opportunity to**  
 22 **look at her vehicle?**  
 23 A. Yeah, I looked at it. It was  
 24 kinked up.  
 25 **Q. When you say kicked up what do**

1 A. I thought it was a darker color,  
 2 but it's been a while.  
 3 BY ATTORNEY PATBERG:  
 4 **Q. So are you able to indicate**  
 5 **whether or not Exhibit Five accurately**  
 6 **depicts the vehicle or you can't**  
 7 **recall?**  
 8 A. Well, like I said, I thought it  
 9 was a darker color, but it's been a  
 10 long time.  
 11 **Q. All right. So you can't say**  
 12 **whether or not that's the vehicle?**  
 13 A. Yeah, I don't remember.  
 14 **Q. So coming back to the accident,**  
 15 **you come back and leave the truck and**  
 16 **you call 911 on the way walking**  
 17 **through. You come up, she's already**  
 18 **out of the car. You look at the front**  
 19 **end that you believe to be damaged, and**  
 20 **what's the next thing you recall**  
 21 **happening after that?**  
 22 A. After I made the phone call, I  
 23 went back and I got some triangles out  
 24 of my truck, orange triangles and put  
 25 them up.

1 **Q. And where did you place those?**  
 2 A. I can't remember. I'm trying to  
 3 think. I don't know if I put one  
 4 behind my truck and a couple behind her  
 5 car. I think I put a couple behind her  
 6 car because I remember carrying one  
 7 down the road.  
 8 **Q. So if I understand you**  
 9 **correctly, you got out of the truck,**  
 10 **made the call, went and saw she was out**  
 11 **of her car, looked at her vehicle.**  
 12 **Now, while you were down at her car**  
 13 **before you went back to the triangles,**  
 14 **did you two have any conversation or**  
 15 **did you say anything to each other?**  
 16 A. I don't remember what was said.  
 17 I think I asked her if she was all  
 18 right. I think that's when she told me  
 19 she was all right. She had a cut on  
 20 her knee or bumped her knee.  
 21 **Q. And you said there was another**  
 22 **person who had stopped?**  
 23 A. Yes.  
 24 **Q. I think you said that that other**  
 25 **person you thought had called 911 also?**

1 was going to go back and get some stuff  
 2 out of my truck, them triangles to set  
 3 up. I told somebody that, that way  
 4 they knew where I was going.  
 5 **Q. What's the next thing you recall**  
 6 **happening after that?**  
 7 A. Waiting for the trooper to show  
 8 up. There was another --- well, then  
 9 80 got shut down, too. There was  
 10 another accident down the line behind  
 11 us, a couple of tractor and trailers.  
 12 And then they shut the road down  
 13 completely so there wasn't any traffic  
 14 for awhile.  
 15 **Q. What's the next thing you recall**  
 16 **happening after you got the triangles**  
 17 **out of your truck?**  
 18 A. Waiting for the trooper.  
 19 **Q. Did you wait with Ms. MacDonald**  
 20 **or did you stay with your truck?**  
 21 A. No, I walked back there towards  
 22 where she was and I was standing down  
 23 there.  
 24 **Q. Did you talk to her while you**  
 25 **were down there?**

1 A. Yeah, they had a phone. I think  
 2 they called someone, too. I think.  
 3 **Q. Okay. Would it be fair to say**  
 4 **that they were on the phone, but you**  
 5 **really didn't know who they were**  
 6 **calling or were you able to overhear to**  
 7 **whom they were speaking?**  
 8 A. I don't remember if I could hear  
 9 them speaking or not.  
 10 **Q. And you don't recall --- how**  
 11 **many people were there in addition to**  
 12 **Ms. MacDonald as best as you can**  
 13 **recall?**  
 14 A. I just remember one vehicle  
 15 being pulled over. I couldn't tell you  
 16 how many people were in it. There  
 17 could have been another one. I don't  
 18 remember.  
 19 **Q. With regard to these other**  
 20 **people that were there, did you have**  
 21 **any conversation with them that you can**  
 22 **recall?**  
 23 A. No. I think the person that was  
 24 there, the only thing I said --- I  
 25 don't know. I remember telling them I

1 A. Probably. I don't remember.  
 2 I'm sure I did, but I don't remember  
 3 what was said.  
 4 **Q. Okay. Were there other people**  
 5 **outside the vehicle that you can**  
 6 **recall?**  
 7 A. Them people that pulled over I  
 8 think that --- I don't remember how  
 9 long they stayed. I don't know if they  
 10 stayed until the trooper got there or  
 11 not. I can't remember.  
 12 **Q. Well, you said at some point**  
 13 **I-80 had been shut down?**  
 14 A. Yeah, after that other wreck.  
 15 It was very much longer after she hit  
 16 me that the other wreck happened.  
 17 **Q. Was it before or after the**  
 18 **trooper arrived that I-80 got shut**  
 19 **down?**  
 20 A. Before.  
 21 **Q. Just so I got the sequence, when**  
 22 **did that happen as far as you know?**  
 23 **Was it when you were down at her car,**  
 24 **while you were at your truck?**  
 25 A. The other wreck?

1 Q. Uh-huh (yes).  
 2 A. I don't remember. I know it was  
 3 very shortly after. After she hit me,  
 4 I pulled off the road. There wasn't  
 5 traffic for very much longer at all, so  
 6 it had to happen pretty directly.  
 7 Q. Do you have any estimate of the  
 8 period of time, five minutes, ten  
 9 minutes?  
 10 A. I don't know.  
 11 Q. How long did it take for the  
 12 trooper to arrive, if you can recall?  
 13 A. We had to wait a little bit for  
 14 him. It might have took 20 minutes or  
 15 so. It's hard to judge time when  
 16 you're standing there waiting, you  
 17 know, ---  
 18 Q. Sure.  
 19 A. --- excited.  
 20 Q. Do you recall anything between  
 21 the time that you went back to her  
 22 vehicle and the trooper arriving? Do  
 23 you recall anything that happened  
 24 during that period of time?  
 25 A. I know I talked to her a little

1 distinctly recall putting triangles  
 2 behind her vehicle?  
 3 A. I remember bringing them down  
 4 there. I must have put some behind her  
 5 vehicle. I remember carrying them down  
 6 the road. I think I put one behind my  
 7 truck or one or two behind my truck and  
 8 one or two behind her car. I only have  
 9 three.  
 10 Q. Okay.  
 11 A. That's all you have with you. I  
 12 don't remember where exactly I put  
 13 them, but I know I put them out. I  
 14 just don't remember where.  
 15 Q. What's the next thing you recall  
 16 happening?  
 17 A. The trooper got there.  
 18 Q. Did he get out of his car?  
 19 A. Yeah, he got out and about  
 20 slipped on the road. He said we better  
 21 get PennDOT up here.  
 22 Q. He said that?  
 23 A. Something to that. Something.  
 24 Better get the salt trucks up here, I'm  
 25 going to give them a call or something

1 bit. It felt good because she --- I  
 2 remember her saying she didn't realize  
 3 the road was that slippery and she was  
 4 going too fast, and I thought uh-huh.  
 5 Q. What did she say?  
 6 A. I remember she didn't realize  
 7 how bad the road was.  
 8 Q. How do you know that?  
 9 A. I think she told me.  
 10 Q. She said that specifically?  
 11 A. Something to that sorts.  
 12 Q. Did she say anything else to you  
 13 that you can recall?  
 14 A. I remember her apologizing for  
 15 hitting me. I don't think we said a  
 16 whole lot more. We were pretty much  
 17 just waiting for the trooper.  
 18 Q. Did she say anything to you  
 19 about your lights that you can recall?  
 20 A. No.  
 21 Q. Do you recall anything else that  
 22 happened other than that in between the  
 23 time that you returned to her vehicle  
 24 --- is that when you put the triangles  
 25 up when you returned? Well, do you

1 to that sort or something to that, you  
 2 know ---.  
 3 Q. When he got out of his car, did  
 4 he speak to you or Mrs. MacDonald first  
 5 do you recall?  
 6 A. I think both of us, we were all  
 7 standing there.  
 8 Q. What did he say do you recall?  
 9 A. No, I don't remember. We went  
 10 and sat in his car and he filled out  
 11 the reports.  
 12 Q. Do you recall anything that  
 13 happened in between him coming up to  
 14 you and you sitting in his car?  
 15 A. No, I don't remember. I'm sure  
 16 he probably looked at the vehicles or  
 17 whatever.  
 18 Q. Did you see him do that that you  
 19 recall?  
 20 A. No, I didn't follow him around.  
 21 Q. So both you and Ms. MacDonald  
 22 got in the vehicle?  
 23 A. Me and Ms. MacDonald and a  
 24 colored lady come walking down the  
 25 road, she got in there for a bit.

1 **Q. And what did the African**  
 2 **American say that you can recall?**  
 3 A. She was all fired up about  
 4 something. Her husband got in a --- or  
 5 her boyfriend or whatever got in a  
 6 fight and she jumped out of the SUV.  
 7 And she come stomping down the road and  
 8 all fired up, sitting in the cop car.  
 9 I thought oh, my goodness this is  
 10 getting better by the minute.  
 11 **Q. Were you and Ms. MacDonald**  
 12 **already in the vehicle at that point?**  
 13 A. Yeah, she walked up to the  
 14 trooper's car. We were already sitting  
 15 in it.  
 16 **Q. Was the trooper in there as**  
 17 **well?**  
 18 A. Uh-huh (yes).  
 19 **Q. Is that a yes?**  
 20 A. Yes. Yes, it is.  
 21 **Q. So how long did yourself and Ms.**  
 22 **MacDonald been sitting in the state**  
 23 **police vehicle before this lady**  
 24 **approached the state police vehicle?**  
 25 A. I don't remember. We were

1 know we were talking about what  
 2 happened.  
 3 **Q. And what did you say happened?**  
 4 A. Pretty much what I told you.  
 5 **Q. And what did Mrs. MacDonald say?**  
 6 A. Nothing. She was very --- I  
 7 don't what's the word. She was going  
 8 right along there. I mean, she was  
 9 --- she, you know, said she was going  
 10 too fast.  
 11 **Q. She said that?**  
 12 A. Yeah, she said she didn't  
 13 realize the road was that bad.  
 14 **Q. Anything else you recall?**  
 15 A. I know we set there for a while  
 16 and that other lady left, the African  
 17 American. And we sat there and he took  
 18 our information and then she stayed  
 19 there, and the trooper told me to go  
 20 ahead. He said, we're done with you.  
 21 We don't need nothing from you. Go  
 22 ahead. Do what you got to do. Leave.  
 23 **Q. Did he ask for a driver's**  
 24 **license?**  
 25 A. My driver's license?

1 sitting there for five, ten minutes,  
 2 somewhere in around there.  
 3 **Q. Did she come from ---?**  
 4 A. She was headed east.  
 5 ATTORNEY BENSON:  
 6 Wait, let him finish.  
 7 A. I'm sorry.  
 8 BY ATTORNEY PATBERG:  
 9 **Q. She was walking east?**  
 10 A. Yes.  
 11 **Q. Do you recall where the**  
 12 **trooper's vehicle was parked --- I'm**  
 13 **sorry, relative to the vehicles?**  
 14 A. No, I don't remember where he  
 15 did park.  
 16 **Q. Tell me what you recall what**  
 17 **went on while --- or excuse me, what**  
 18 **went on in the trooper's vehicle before**  
 19 **the African American female showed up**  
 20 **and approached the vehicle?**  
 21 A. I think he was just asking us  
 22 questions about what happened.  
 23 **Q. What did he ask specifically?**  
 24 A. I don't remember. I don't  
 25 remember what he was asking. I just

1 **Q. Yes, sir.**  
 2 A. Yeah, he had my driver's  
 3 license.  
 4 **Q. And registration ---?**  
 5 A. Yeah, he asked for all that  
 6 stuff, insurance.  
 7 **Q. Do you recall Ms. MacDonald**  
 8 **asking to go back to look at your**  
 9 **vehicle, the back of your vehicle?**  
 10 A. No.  
 11 **Q. Were you able to see the back of**  
 12 **your vehicle from where the police car**  
 13 **was?**  
 14 A. Yeah.  
 15 **Q. So were you able to see the**  
 16 **lighting as well, ---**  
 17 A. Yeah.  
 18 **Q. --- the blinkers? Is this is a**  
 19 **straight piece of highway?**  
 20 A. Yeah, pretty straight.  
 21 **Q. Were you looking up hill,**  
 22 **straight, down?**  
 23 A. It was not up hill, it might  
 24 have been slight up hill, a level.  
 25 **Q. Was the police car was it turned**

1 or was it on the berm or which way was  
2 it facing?

3 A. It was facing east. I don't  
4 remember if he was parked on the road  
5 or off the road. I'm thinking he was  
6 parked in the right hand lane because  
7 like I said, there wasn't any traffic  
8 anyway. He was either in the right  
9 hand lane or off the road, I don't  
10 remember.

11 **Q. So the accident you're talking  
12 about occurred, what, it would be west?  
13 In other words, there was no traffic  
14 coming at all?**

15 A. There was no traffic going east.  
16 I don't know about the westbound lane.  
17 I wasn't paying attention.

18 **Q. So you get out of the vehicle,  
19 what's the next thing you recall?**

20 A. After I got out of which  
21 vehicle?

22 **Q. After you got out of the  
23 trooper's vehicle?**

24 A. I think when I got out, I went  
25 back to my truck and left.

1 **Q. Did you go back and get the  
2 triangles?**

3 A. Well, yeah, I took my triangles.

4 **Q. Did you have to go backwards or  
5 forwards, do you recall? In other  
6 words, was it on the way or did you  
7 have to go backwards and get it?**

8 A. My triangles?

9 **Q. Yes, sir.**

10 A. I don't remember. I might have  
11 already had them gathered up. I don't  
12 know.

13 **Q. At some point did you contact  
14 your employer?**

15 A. Yeah, I called them after I  
16 called 911.

17 **Q. Who did you talk to, do you  
18 recall?**

19 A. I'm thinking it was Bill  
20 Campbell.

21 **Q. What did you tell him?**

22 A. I told him I was --- the lady  
23 ran into the back of the truck and I  
24 was waiting for the cops, and I wasn't  
25 sure when I'd be back to the plant.

1 **Q. Do you recall what the phone  
2 number was at the plant at that point?**

3 A. 765-2474.

4 **Q. That's 814 area code?**

5 A. Yeah. There's other numbers,  
6 too, but that's the one I can remember.

7 **Q. Is that the number you called as  
8 best as you can recall?**

9 A. Yeah, I think so.

10 **Q. What did Campbell say, do you  
11 recall?**

12 A. Bill's a real nice guy, he just  
13 said, do what you got to do. Take care  
14 of stuff and see you when you get back.  
15 Be careful.

16 **Q. Anything else?**

17 A. Not that I can remember.

18 **Q. How long did that conversation  
19 last do you know?**

20 A. Not long.

21 **Q. And this would have been before  
22 you got to --- this would have been  
23 after you got out of your truck, after  
24 you called 911? I'm just trying to get  
25 my sequence right. After you got out**

1 **of the truck, after you called 911, but  
2 before you came upon her vehicle that  
3 you had that conversation; is that  
4 right?**

5 A. I think I walked back to her  
6 vehicle and had 911 called before I  
7 called the plant.

8 **Q. But when you called the plant,  
9 was it right after you called the 911?**

10 A. Yeah, that was my next call.

11 **Q. Did you call anyone else that  
12 you can remember?**

13 A. I don't think I did. I may have  
14 called my wife, but I don't think I  
15 did. No, I don't think I called  
16 anybody else.

17 **Q. So you got back in your truck  
18 --- you left the trooper's vehicle, got  
19 back in your truck. Anything you can  
20 recall in between the time leaving the  
21 trooper's vehicle and you getting back  
22 in your truck?**

23 A. Nothing really sticks out in my  
24 mind.

25 **Q. And do you recall was that**

1 pretty much --- did you pass her car as  
2 you were going back to the truck or was  
3 the police car sitting in between the  
4 two vehicles?

5 A. I think the cop car --- I think  
6 the trooper's car was sitting in  
7 between.

8 **Q. Okay. And by the time you were**  
9 **going back to get in your truck had**  
10 **I-80 opened up again already?**

11 A. Yeah, by the time I started,  
12 when I pulled out yeah, I think there  
13 was a few trucks coming down the road.

14 **Q. How long of a drive was it from**  
15 **where the accident was for you to get**  
16 **back to the plant?**

17 A. Oh, probably another --- and I'm  
18 just guessing because I can't remember  
19 the mile marker, but I'm going to say  
20 another 10, 12 mile down 80. And once  
21 you get off 80, it might be a mile to  
22 the plant, a mile, mile and a quarter,  
23 something like that.

24 **Q. Do you know what time you got**  
25 **back to the plant?**

1 A. I'm thinking between 3:00 and  
2 4:00 because I think the first shift  
3 had already left. Yes. First shift  
4 already did leave because my dad worked  
5 first shift and he wasn't there.

6 **Q. What's your dad's name?**

7 A. Jack.

8 **Q. Same last name, I presume?**

9 A. Yes.

10 **Q. Where's he live at?**

11 A. Down the road from me. Do you  
12 want the address?

13 **Q. Yes, sir, if you have it.**

14 A. I don't remember it. 1147 Pifer  
15 Road, I'm pretty sure.

16 **Q. Did you ever talk to him about**  
17 **this accident?**

18 A. I'm sure I did.

19 **Q. Do you know when you spoke with**  
20 **him?**

21 A. No.

22 **Q. Do you have timecards at the**  
23 **plant?**

24 A. Yes.

25 **Q. How soon did you punch out after**

1 you arrived back at the plant?

2 A. Oh, I don't remember.

3 **Q. Who's the first person you spoke**  
4 **to --- so you pulled into the plant.**

5 **Explain as if you were giving me**  
6 **directions. Tell me which way you**  
7 **would have driven from the accident**  
8 **scene to the plant.**

9 A. I had to run down 80 and get off  
10 at the 120, make a right. Go to the  
11 third light --- would that be the third  
12 light going ---? Yeah, the third  
13 light, make a left and go up in the  
14 industrial park.

15 **Q. Okay.**

16 A. And once you go in industrial  
17 park, you go up to the top of the hill  
18 across the railroad tracks, make a  
19 right and drive straight into the plant  
20 parking lot.

21 **Q. And where do you park at**  
22 **relative to the parking lot?**

23 A. Where I back my truck into the  
24 dock to unload it.

25 **Q. Is there a sign-in sheet or**

1 **anything as to when you actually arrive**  
2 **at the plant?**

3 A. No.

4 **Q. Do you have to report to anyone**  
5 **when you arrive?**

6 A. No. They're usually waiting for  
7 me.

8 **Q. Do you recall who it was that**  
9 **was, to use your terms, waiting for you**  
10 **when you arrived?**

11 A. That day I think it was Tom  
12 Ireland and Bill Campbell. It was Tom  
13 Ireland and Bill Campbell, I remember  
14 them two.

15 **Q. Now, you backed up into a**  
16 **loading dock at that point?**

17 A. Yes.

18 **Q. Did either of them say anything**  
19 **to you that you recall?**

20 A. When I came into the plant?

21 **Q. Yes, sir.**

22 A. Yeah, they told me to go back  
23 out and shut my four ways off.

24 **Q. Who told you that?**

25 A. Both of them remarked about it

1 or both told me about it.  
 2 **Q. Was the vehicle actually parked**  
 3 **up against the dock at this point or**  
 4 **was it sitting out in the parking lot?**  
 5 A. It was up --- well, I don't  
 6 know. I might have just backed it into  
 7 the dock far enough because they  
 8 probably wanted to come out and look at  
 9 the damage. I might not have backed it  
 10 up to the building. I might have been  
 11 10, 12 feet away from the building.  
 12 **Q. Did they come out and look at**  
 13 **the damage?**  
 14 A. Yeah, Ireland --- yeah, both of  
 15 them did.  
 16 **Q. What did they say, do you**  
 17 **recall?**  
 18 A. I don't remember what was said.  
 19 **Q. Did you point out to them at**  
 20 **that point that the lights on the**  
 21 **box ---?**  
 22 A. No, I don't remember when I  
 23 noticed that. It might even have been  
 24 Tom --- I don't remember. I don't  
 25 remember who noticed it or when it was

1 point?  
 2 A. I parked the truck in its  
 3 parking place.  
 4 **Q. Where's that located at?**  
 5 A. Right where the truck's parked  
 6 in Exhibit Four. Do you see the line  
 7 on the ground, the painted line?  
 8 **Q. Okay.**  
 9 A. That's for the line --- in  
 10 between that line and the building is  
 11 my parking place.  
 12 **Q. Okay. Did you have to fill out**  
 13 **an accident report or anything once you**  
 14 **got back?**  
 15 A. I don't think. I don't remember  
 16 filling out anything. They might have  
 17 filled out some stuff, but I don't  
 18 think I did.  
 19 OFF RECORD DISCUSSION  
 20 BY ATTORNEY PATBERG:  
 21 **Q. So you don't recall anything**  
 22 **that happened between the time that you**  
 23 **arrived and the time that you punched**  
 24 **out?**  
 25 A. No, I don't remember what we

1 noticed, but I know it was noticed.  
 2 **Q. Did you notice it before your**  
 3 **shift was over that night?**  
 4 A. I noticed it before I left.  
 5 **Q. And at some point did you back**  
 6 **up into the dock?**  
 7 A. Yeah, I had to unload the truck.  
 8 **Q. Did anyone help you?**  
 9 A. I don't remember.  
 10 **Q. Do you know how long it took you**  
 11 **to unload?**  
 12 A. No. I don't even remember what  
 13 I was hauling that day.  
 14 **Q. When you come into the plant, is**  
 15 **there a guardhouse or anything like**  
 16 **that, or is there just a plain gate or**  
 17 **what's the situation?**  
 18 A. Nothing.  
 19 **Q. You just pull right in like in**  
 20 **any other parking lot?**  
 21 A. Right in the parking lot.  
 22 There's no gate or nothing. Pull right  
 23 in.  
 24 **Q. After you unloaded your truck,**  
 25 **do you recall what you did at that**

1 talked about.  
 2 **Q. Didn't have a meeting with your**  
 3 **superiors or anything of that nature?**  
 4 A. Well, yeah, Bill and Tom were  
 5 standing there and we were talking, but  
 6 I don't remember what we talked about.  
 7 We were talking about what happened. I  
 8 don't remember what was said.  
 9 SHORT BREAK TAKEN  
 10 BY ATTORNEY PATBERG:  
 11 **Q. Just a couple of quick follow-up**  
 12 **questions here. Again, don't get**  
 13 **offended, I have to ask you stuff like**  
 14 **this. Had you consumed any alcohol**  
 15 **prior to the accident?**  
 16 A. No.  
 17 **Q. Were you on any medications or**  
 18 **anything like that?**  
 19 A. I don't think so. I take a pill  
 20 for gout. I might have took that.  
 21 **Q. I'm sure that doesn't affect**  
 22 **your driving?**  
 23 A. No, that has nothing to do with  
 24 anything like that.  
 25 **Q. So I think we're at a point**

1 where you punch out. We had talked  
 2 about that. Is that at the front of  
 3 the plant, back of the plant, did you  
 4 have to walk through the plant?  
 5 A. The time clock is right there in  
 6 the area where the dock is.  
 7 Q. So it's basically right where  
 8 you're unloading?  
 9 A. Yeah, it's only 50 feet away  
 10 from where the dock is, probably.  
 11 Q. Do you know if you spoke with  
 12 your superiors in between the time you  
 13 unloaded the truck and you punched out,  
 14 or did you just unload the truck, go  
 15 punch out, and leave?  
 16 A. No, we were standing there  
 17 talking for a little while.  
 18 Q. What were they doing, standing  
 19 there and watch you work?  
 20 A. That's pretty much how it works,  
 21 yeah.  
 22 Q. Do you know where you went after  
 23 left work that day?  
 24 A. No, I don't remember.  
 25 Q. Do you know if you went straight

1 the morning because Darren got there  
 2 early. I remember telling him first  
 3 thing in the morning as soon as I got  
 4 there.  
 5 Q. What time did you start? Did  
 6 you say you started at 5:30 in the  
 7 morning?  
 8 A. I would start there between 5:00  
 9 and 5:30.  
 10 Q. What time does Darren start, do  
 11 you know?  
 12 A. He started pretty early, too.  
 13 He might have started at 5:00.  
 14 Q. Did you talk to him before or  
 15 after you punched in if you can recall?  
 16 A. Probably after, that used to be  
 17 the first thing I'd do was punch in.  
 18 Q. No one works for free; right?  
 19 A. That's right.  
 20 Q. Does Darren have an office?  
 21 A. There was a maintenance office  
 22 that they all used, but it wasn't  
 23 really his. It wasn't his office, it  
 24 was the maintenance office.  
 25 Q. Okay. Did you approach Darren

1 home or stopped ---?  
 2 A. I don't remember.  
 3 Q. How far do you live from the  
 4 plant?  
 5 A. Oh, I don't know, eight mile.  
 6 Six mile, eight mile, something like  
 7 that.  
 8 Q. How long does it take you to get  
 9 home usually?  
 10 A. Ten minutes.  
 11 Q. So you have no recollection of  
 12 what you did that evening; is that  
 13 right?  
 14 A. No, I don't remember what I did.  
 15 Q. Do you know if you told anyone  
 16 before you left the plant on the 17th,  
 17 about the lights on the top of the box?  
 18 A. I don't know because I don't  
 19 remember when I noticed them that  
 20 night.  
 21 Q. What's the first time you recall  
 22 telling anyone about the lights out on  
 23 the box?  
 24 A. I don't know if I told anybody  
 25 that night. I know told first thing in

1 or did he approach you?  
 2 A. No, I think I went back to the  
 3 maintenance office and talked to him.  
 4 Q. What did you say, do you recall?  
 5 A. Yeah, I said fix these lights.  
 6 I got to go.  
 7 Q. Then what happened after you  
 8 told him that?  
 9 A. Well, he fixed the lights.  
 10 Q. I think we started talking about  
 11 that before, but I'm big on sequencing,  
 12 which you probably figured out. You  
 13 go, you punch in. Is the maintenance  
 14 office in the back of the plant ---  
 15 A. Yeah.  
 16 Q. --- the front of the plant?  
 17 A. The maintenance is in the back.  
 18 Q. So we know the time clock is  
 19 within 50 feet of the loading dock;  
 20 right?  
 21 A. Yeah, pretty much.  
 22 Q. And so you have to walk through  
 23 the plant to go back in the maintenance  
 24 office and he's there; is that right?  
 25 A. Yeah.

1 Q. And then you told him to fix the  
 2 lights. What did he say?  
 3 A. I don't remember what he said.  
 4 I think he told me to back it up in the  
 5 garage, the garage door.  
 6 Q. Do you know when he filled out  
 7 what we previously marked as Deposition  
 8 Exhibit One?  
 9 ATTORNEY BENSON:  
 10 I object to the form of  
 11 that. I don't know that he ---.  
 12 ATTORNEY PATBERG:  
 13 That's fair. I'll  
 14 rephrase.  
 15 BY ATTORNEY PATBERG:  
 16 Q. With regard to Exhibit One,  
 17 first of all, does your handwriting  
 18 appear on that document?  
 19 A. No, I think Darren filled this  
 20 out.  
 21 Q. So none of your handwriting is  
 22 contained on there?  
 23 A. No.  
 24 Q. Okay. Now, looking at Exhibit  
 25 One, his equipment number says GMC

1 to fix it?  
 2 A. Yeah, he had it done pretty  
 3 early. That sounds about right.  
 4 Q. Were you still able to use the  
 5 truck that day?  
 6 A. Yeah, I loaded it up after he  
 7 fixed it.  
 8 Q. What did you do for the hour in  
 9 between --- assuming that this work  
 10 order is true that you placed the order  
 11 at 5:00 a.m. and he was done at 6:00,  
 12 do you recall what you did for that  
 13 hour?  
 14 ATTORNEY BENSON:  
 15 I'm going to object to  
 16 the form, but he can answer the  
 17 question. I'm not sure that  
 18 that's what it means.  
 19 BY ATTORNEY PATBERG:  
 20 Q. I'll rephrase the question. Do  
 21 you know what you did between 5:00 a.m.  
 22 and 6:00 a.m. on the 18th?  
 23 A. I was probably talking to Darren  
 24 while he fixed the truck.  
 25 Q. Where did he repair it at?

1 --- well, first of all, you've seen  
 2 this document prior to today?  
 3 A. Uh-huh (yes).  
 4 Q. Is that yes?  
 5 A. Yes.  
 6 Q. It's a tough habit to break.  
 7 That's why like I said ---. So he has  
 8 on there --- did he fill this out in  
 9 your presence, do you recall?  
 10 A. I don't remember. He might have  
 11 even filled it out after he fixed it  
 12 and I left or before it even come up.  
 13 I don't know.  
 14 Q. You don't know either way right?  
 15 A. No, I don't.  
 16 Q. He has it says no box lights at  
 17 the top, and then it said repaired  
 18 broken wire. Do you see that?  
 19 A. Yes.  
 20 Q. And then he has down here date  
 21 work was completed 6:00 a.m., February  
 22 18th, 2005. Do you see that?  
 23 A. Yeah, I see it.  
 24 Q. Does this sound about right to  
 25 you that it took about an hour for him

1 A. Up by the dock.  
 2 Q. So you had started it and moved  
 3 it?  
 4 A. Yeah.  
 5 Q. I think you testified --- it was  
 6 in that space that you showed us  
 7 between the white line and the  
 8 building?  
 9 A. Yeah, that's where I parked it.  
 10 Q. Okay. And then you brought it  
 11 over to the dock for him to repair it  
 12 is that what happened?  
 13 A. Yeah.  
 14 ATTORNEY BENSON:  
 15 I think he said the  
 16 garage.  
 17 A. There's a garage door right  
 18 here, right on the other side of the  
 19 truck, 15 feet off to the right.  
 20 BY ATTORNEY PATBERG:  
 21 Q. I just need to make the record.  
 22 You're pointing to ---?  
 23 A. There's a big garage door and  
 24 the dock is next to it. I pulled the  
 25 truck forward and backed it in to that

1 garage.  
 2 **Q. Okay. Do you recall anything**  
 3 **that happened the following day?**  
 4 A. No.  
 5 **Q. And all the lights were**  
 6 **functional when you took it out on the**  
 7 **18th?**  
 8 A. Yes.  
 9 **Q. Including the right rear panel?**  
 10 A. Every light on the truck worked.  
 11 **Q. Including the box lights right?**  
 12 A. Including the box lights.  
 13 **Q. Would it be fair to say that you**  
 14 **never filled out any paperwork**  
 15 **describing the accident?**  
 16 A. I don't remember filling out  
 17 anything.  
 18 **Q. Do you recall whether or not Ms.**  
 19 **MacDonald told the trooper that she did**  
 20 **not see any brake lights or flashers?**  
 21 A. I don't remember her saying  
 22 anything about lights.  
 23 **Q. How long did you have your four**  
 24 **ways on, do you recall?**  
 25 A. I don't know for sure. I would

1 company contacting you to take a  
 2 statement?  
 3 A. Yeah, a rep lady called me.  
 4 **Q. Tell me what you recall from**  
 5 **that.**  
 6 A. I know she asked me a bunch of  
 7 questions.  
 8 **Q. Did she tell you that she was**  
 9 **tape recording the statement?**  
 10 A. Yeah.  
 11 **Q. Did she tell you that as soon as**  
 12 **she got on the phone?**  
 13 A. Yeah, I think she did. Yes, she  
 14 did.  
 15 **Q. Do you know if you ever told her**  
 16 **about the blinking light that you**  
 17 **talked about, your bosses said that the**  
 18 **blinking lights were still on when you**  
 19 **arrived back?**  
 20 A. Did I tell her that?  
 21 **Q. Uh-huh (yes).**  
 22 A. I believe I did. I don't know.  
 23 Did she call me --- did you say that  
 24 that took place after the lawsuit?  
 25 **Q. I can't tell you. I mean, I**

1 say at least a couple miles. I turned  
 2 them a couple miles before this whole  
 3 ordeal took place.  
 4 **Q. Do you recall someone from the**  
 5 **insurance company contacting you**  
 6 **on ---?**  
 7 ATTORNEY BENSON:  
 8 It's not dated.  
 9 ATTORNEY PATBERG:  
 10 Okay. Is that in the  
 11 Answers, do you know?  
 12 ATTORNEY BENSON:  
 13 No. But I can tell you  
 14 that I looked yesterday and I  
 15 think that this was done shortly  
 16 after the lawsuit was filed.  
 17 ATTORNEY PATBERG:  
 18 Okay. Yeah, usually at  
 19 the top it says taken ---.  
 20 ATTORNEY BENSON:  
 21 Often it is. This one  
 22 didn't.  
 23 BY ATTORNEY PATBERG:  
 24 **Q. Do you recall at some point, Mr.**  
 25 **Houchins, someone from the insurance**

1 don't know either way. I mean, I think  
 2 that your counsel has indicated that  
 3 that's what his conclusion was. I  
 4 don't want to put words in your mouth,  
 5 but that's ---. I don't know when it  
 6 was taken. We'll have to figure that  
 7 out at some point.  
 8 A. It don't matter to me. I was  
 9 just wondering. I don't remember when  
 10 it was, either.  
 11 **Q. This isn't your statement, but**  
 12 **it's in her notes. Here's what she**  
 13 **says ---.**  
 14 ATTORNEY BENSON:  
 15 What are we looking at  
 16 here?  
 17 ATTORNEY PATBERG:  
 18 Three.  
 19 ATTORNEY BENSON:  
 20 Page three?  
 21 ATTORNEY PATBERG:  
 22 Bates stamp three,  
 23 rather.  
 24 BY ATTORNEY PATBERG:  
 25 **Q. And this isn't on your taped**

1 interview, so I want to be clear ---.  
 2 A. What's that?  
 3 **Q. This is not off of your taped**  
 4 **interview.**  
 5 ATTORNEY BENSON:  
 6 He's going to read you  
 7 something that somebody else  
 8 wrote ---  
 9 ATTORNEY PATBERG:  
 10 Right.  
 11 ATTORNEY BENSON:  
 12 --- when you weren't  
 13 around.  
 14 BY ATTORNEY PATBERG:  
 15 **Q. There's a note here. And I**  
 16 **think your counsel would agree with me,**  
 17 **when claims adjusters handle files,**  
 18 **they create what are essentially claims**  
 19 **notes. And in the last sentence she**  
 20 **says --- this on page three at the top,**  
 21 **Tracey. While they were in the patrol**  
 22 **car, he remembers looking out and**  
 23 **seeing his flasher on. Do you see**  
 24 **that?**  
 25 A. Yeah, I see it.

1 through that for a second?  
 2 ATTORNEY BENSON:  
 3 He wants you to read  
 4 this.  
 5 A. All right.  
 6 BY ATTORNEY PATBERG:  
 7 **Q. But you don't recall what you**  
 8 **told her I think is what you just said;**  
 9 **is that right?**  
 10 A. Well, it was a long --- I  
 11 remember talking on the phone with her,  
 12 but I don't remember --- I just know  
 13 she asked me a lot of questions.  
 14 **Q. Okay. So you don't remember**  
 15 **whether or not you told her --- you**  
 16 **don't recall if you said some or all of**  
 17 **this, would that be a fair statement?**  
 18 **I'll mark this as Six; right?**  
 19 **You don't recall whether you**  
 20 **said --- you've had the chance to read**  
 21 **Exhibit Six?**  
 22 A. Yeah, I read it. I probably  
 23 said it.  
 24 **Q. But as you sit here today, you**  
 25 **don't recall that, is that fair?**

1 **Q. Do you recall telling her that?**  
 2 A. Telling who, the lady on the  
 3 phone?  
 4 **Q. Yes.**  
 5 A. No, I don't remember. I don't  
 6 remember what I told her exactly. It  
 7 was quite a while ago when she called  
 8 me.  
 9 ATTORNEY BENSON:  
 10 Just for the record, Mr.  
 11 Patberg was referring to a claim  
 12 note dated September 21, 2006,  
 13 our document number 003.  
 14 ATTORNEY PATBERG:  
 15 I'll make mine an exhibit  
 16 after we're done, but I didn't  
 17 make a copy, so we'll do that if  
 18 you don't mind.  
 19 ATTORNEY BENSON:  
 20 Sure.  
 21 BY ATTORNEY PATBERG:  
 22 **Q. Why don't you take a moment and**  
 23 **review the statement in its entirety?**  
 24 **It starts with, he states it started**  
 25 **snowing hard, and then just read**

1 A. No, I don't remember saying it,  
 2 no. I remember ---.  
 3 ATTORNEY BENSON:  
 4 Are you asking him does  
 5 he recall saying it on the  
 6 phone ---  
 7 ATTORNEY PATBERG:  
 8 Right.  
 9 ATTORNEY BENSON:  
 10 --- or does he recall  
 11 that that's what happened?  
 12 ATTORNEY PATBERG:  
 13 I'm asking if he recalls  
 14 saying it on the phone.  
 15 A. Well, I remember sitting in the  
 16 cop car and the flashers were on.  
 17 BY ATTORNEY PATBERG:  
 18 **Q. Okay. How far was your truck**  
 19 **away?**  
 20 A. From the cop car?  
 21 **Q. Uh-huh (yes).**  
 22 A. I don't know, a hundred yards,  
 23 150 yards maybe. I don't remember  
 24 exactly.  
 25 **Q. Now, I think you even mentioned**

1 this that some of your superiors had  
2 indicated that your flashers were still  
3 on once you got back to the plant?

4 A. Yes.

5 Q. Do you recall who said that, or  
6 did they both say it?

7 A. They both said it.

8 Q. And just for the record, who are  
9 the two bosses that we're referencing?

10 A. Tom Ireland and Bill Campbell.

11 ATTORNEY PATBERG:

12 We'll have that marked as

13 Six.

14 (Houchins Deposition  
15 Exhibit Six marked for  
16 identification.)

17 A. You talked and said Dickie was  
18 already in there? What's he going to  
19 do with that truck or don't you know?

20 ATTORNEY BENSON:

21 I don't know.

22 BY ATTORNEY PATBERG:

23 Q. That's a good question. Do you  
24 know where the truck is currently?

25 A. Dickie has it.

1 ATTORNEY BENSON:

2 I'm not available then.

3 If we can find a day ---.

4 ATTORNEY PATBERG:

5 Well, just make sure he  
6 doesn't do anything between now  
7 and the day we choose to do it.

8 ATTORNEY BENSON:

9 I'll call him.

10 ATTORNEY PATBERG:

11 Okay. That's fair.

12 ATTORNEY BENSON:

13 I know he was going to  
14 Altoona or somewhere today, so  
15 he's not available.

16 ATTORNEY PATBERG:

17 Okay.

18 OFF RECORD DISCUSSION

19 BY ATTORNEY PATBERG:

20 Q. Mr. Houchins, I'm going to show  
21 you a document marked as Exhibit Seven,  
22 which I'll identify for the records  
23 requisition number 02486. Their  
24 defense Bates stamp 149. It's a  
25 document apparently dated November

1 Q. Okay.

2 ATTORNEY PATBERG:

3 Tracey, at some point I  
4 want to make arrangements to  
5 look at the truck, so you just  
6 make sure he doesn't do anything  
7 with it.

8 ATTORNEY BENSON:

9 Well, I think he's  
10 planning on doing something with  
11 it because they cancelled the  
12 lease ---

13 ATTORNEY PATBERG:

14 Right.

15 ATTORNEY BENSON:

16 --- so you need to let me  
17 know.

18 ATTORNEY PATBERG:

19 I think I got to be back  
20 up here on the 1st on another  
21 matter.

22 ATTORNEY BENSON:

23 1st of what?

24 ATTORNEY PATBERG:

25 December.

1 18th, 2004.

2 (Houchins Deposition  
3 Exhibit Seven marked for  
4 identification.)

5 BY ATTORNEY PATBERG:

6 Q. Mr. Houchins, I'm showing you  
7 Exhibit Seven. This appears to be some  
8 type of requisition form. First of  
9 all, are you familiar with a form such  
10 as this at Hawk?

11 A. Uh-huh (yes).

12 Q. Is that a yes?

13 A. Yes. Yes, I am familiar. I've  
14 seen these before.

15 Q. And could you describe --- first  
16 of all does your handwriting appear  
17 anywhere on this particular form?

18 A. No.

19 Q. So I'm not going to ask you  
20 about the actual handwriting on some of  
21 it, but are you familiar with this type  
22 of form, the form itself?

23 A. Yeah.

24 Q. Can you tell me generally what  
25 are these forms utilized for?

1 A. I think these are just the PO  
 2 whenever you take the truck to Brake  
 3 Drum to have something done.  
 4 **Q. Do you recall if you took the**  
 5 **vehicle over to Brake Drum on November**  
 6 **18th, 2004?**  
 7 A. I probably did. I was the one  
 8 that did all of the driving of that  
 9 truck.  
 10 **Q. And do you know who Tom**  
 11 **--- there's a reference requested by**  
 12 **Tom. Do you know who that references?**  
 13 A. Tom Ireland.  
 14 **Q. And there's a reference to a**  
 15 **light, do you see that?**  
 16 A. Yes.  
 17 **Q. Do you recall there being any**  
 18 **particular issue with a lighting device**  
 19 **in November 2004 prior to the accident?**  
 20 A. I don't remember what light  
 21 you're even talking about.  
 22 **Q. Okay. So you have no**  
 23 **recollection of the trip or anything of**  
 24 **that nature is that true?**  
 25 A. For this one, no. I don't know

1 what light they're even referring to  
 2 there.  
 3 **Q. I'm going to show you a document**  
 4 **marked as Exhibit Eight, which for the**  
 5 **record is purchase order number**  
 6 **AP36008, Bates stamp 150 for the**  
 7 **Defendant. Mr. Houchins, this appears**  
 8 **to be another purchase order from**  
 9 **December 16th, --- is that ---?**  
 10 **(Houchins Deposition**  
 11 **Exhibit Eight marked for**  
 12 **identification.)**  
 13 ATTORNEY BENSON:  
 14 2005.  
 15 BY ATTORNEY PATBERG:  
 16 **Q. 2005, which is obviously after**  
 17 **the accident, but nonetheless. There's**  
 18 **some --- it says fix turn signal and it**  
 19 **says box truck will not turn off, do**  
 20 **you see that?**  
 21 A. Yes.  
 22 **Q. Do you recall that happening or**  
 23 **any event such as that in December of**  
 24 **'05?**  
 25 A. I remember messing with the

1 front turn signal. I think my light  
 2 bulb busted off and I had to go get a  
 3 new --- they either pulled it out or  
 4 put a new signal on it. I don't  
 5 remember. But I don't know what this  
 6 means, box truck won't turn off. He  
 7 might be talking about the turn signal,  
 8 my turn signal wouldn't turn off. I  
 9 don't remember.  
 10 ATTORNEY PATBERG:  
 11 We'll mark this as  
 12 Exhibit Nine.  
 13 (Houchins Deposition  
 14 Exhibit Nine marked for  
 15 identification.)  
 16 BY ATTORNEY PATBERG:  
 17 **Q. This appears to be about 17 days**  
 18 **--- are you done with that?**  
 19 A. Yeah.  
 20 **Q. I'm going to show you a document**  
 21 **we've marked as Houchins Exhibit Nine,**  
 22 **which is Bates stamp 1528C, March 7th,**  
 23 **2005 purchase requisition at Brake**  
 24 **Drum. And this is, I guess it would be**  
 25 **about 17 days after the accident. It**

1 seems to indicate that there was some  
 2 issue with the door in that the truck  
 3 needed serviced. Do you see those  
 4 entries there?  
 5 A. Yes.  
 6 **Q. Does that refresh your**  
 7 **recollection as to taking the vehicle**  
 8 **within 20 days after the accident to**  
 9 **Brake Drum?**  
 10 A. We had the truck over to Brake  
 11 Drum, and they put new rollers in the  
 12 door in the back of the box. They were  
 13 just old and rusty and needed replaced.  
 14 **Q. So the door that wouldn't close**  
 15 **was the pull down door?**  
 16 A. Yeah.  
 17 **Q. Okay.**  
 18 A. And truck service was probably  
 19 just an oil change.  
 20 **Q. I'm going to show you a document**  
 21 **we'll mark as Deposition Exhibit Ten,**  
 22 **which is Bates stamp 158. It appears**  
 23 **to be some type of requisition order to**  
 24 **T and D Fab for the box truck bumper.**  
 25 **Do you see that?**

1 (Houchins Deposition  
 2 Exhibit Ten marked for  
 3 identification.)  
 4 A. Yeah.  
 5 BY ATTORNEY PATBERG:  
 6 Q. First of all, this is dated May  
 7 4th, 2005. Do you recall whether or  
 8 not the bumper itself as opposed to the  
 9 bar that goes across, whatever you  
 10 called it, you know with the I ---  
 11 well, let me ask you, do you recall  
 12 taking it in March of '05 to T and D  
 13 Fab?  
 14 A. I remember taking it to T and D  
 15 Fabricating. I don't remember the  
 16 date.  
 17 Q. Okay. Do you know, was it for  
 18 the bar across the back?  
 19 A. Yes.  
 20 Q. So when it says bumper, that  
 21 doesn't mean the front bumper?  
 22 A. No, that's what they're  
 23 referring to, the ICC bar.  
 24 Q. So would you agree with me that  
 25 the ICC bar remained in that condition,

1 ATTORNEY PATBERG:  
 2 That's fine. That's  
 3 accepted.  
 4 BY ATTORNEY PATBERG:  
 5 Q. Other than documents that  
 6 counsel provided you, are you aware of  
 7 any other documentation that exists  
 8 concerning the vehicle in this action  
 9 other than what I'm showing you here  
 10 today?  
 11 A. No, I don't think so.  
 12 Q. Going back to the statement  
 13 issue --- not issue, but the statement  
 14 that you provided. Did they ever give  
 15 you a copy of it prior to you meeting  
 16 with counsel?  
 17 A. What statement?  
 18 Q. Well, have you ever seen a  
 19 statement that has a question and  
 20 answer on it that as a result of your  
 21 interview with the insurance person?  
 22 A. A phone thing?  
 23 Q. Right.  
 24 A. I think I have a copy of that.  
 25 Q. Okay. Do you know if you've

1 assuming that this is correct, from the  
 2 day of the accident until May 4th,  
 3 2005?  
 4 A. Yeah, I think it did. I don't  
 5 know if we heated it up and bent it  
 6 back or not. I don't remember. I  
 7 don't think we did. I don't remember  
 8 doing that.  
 9 Q. If you'll just give me a couple  
 10 seconds just to look over my stuff, I  
 11 think I'm probably going to get you out  
 12 of here.  
 13 I've showed you a series of  
 14 documents, which are ten exhibits in  
 15 today's deposition. Do you recall  
 16 seeing any other documents in  
 17 preparation for your deposition or to  
 18 review of this matter that I've not  
 19 shown you?  
 20 ATTORNEY BENSON:  
 21 Well, I'm going to object  
 22 to that because you're not  
 23 entitled to find out if he saw  
 24 any documents meeting with me in  
 25 any event.

1 ever listened to the actual recording  
 2 itself? Usually they're on mini  
 3 cassettes or ---.  
 4 A. I never heard it, no. I've  
 5 never even seen it.  
 6 Q. The last thing I'm going to ask  
 7 you to do and we'll get you out of  
 8 here, is I want you to take a minute  
 9 for me and we'll mark your statement.  
 10 ATTORNEY PATBERG:  
 11 I need some more  
 12 stickers. Do you have anymore  
 13 stickers?  
 14 OFF RECORD DISCUSSION  
 15 ATTORNEY BENSON:  
 16 What are we up to,  
 17 Exhibit 11?  
 18 ATTORNEY PATBERG:  
 19 Yes, sir.  
 20 BY ATTORNEY PATBERG:  
 21 Q. I'm going to show you a document  
 22 marked as Exhibit 11. Mr. Houchins,  
 23 what I would ask you to do is to take a  
 24 moment and read through this. This is  
 25 the statement that was provided to

1 Traveler's Insurance Company, and just  
2 read through it and tell me whether or  
3 not you believe it actually reflects  
4 the statement that you gave to the  
5 insurance adjuster whose name we  
6 currently do not know.

7 (Houchins Deposition  
8 Exhibit 11 marked for  
9 identification.)

10 WITNESS COMPLIES

11 BY ATTORNEY PATBERG:

12 Q. Does that appear to accurately  
13 reflect the statements you gave on  
14 whatever date it was?

15 A. Yes.

16 ATTORNEY PATBERG:

17 Thank you for your  
18 patience. I know you probably  
19 don't feel like doing this, but  
20 that's all the questions I have  
21 at this point.

22 ATTORNEY BENSON:

23 Okay. Great. We're  
24 probably going to read that one.

25 \* DEPOSITION CONCLUDED AT 12:20 P.M. \*

1 COMMONWEALTH OF PENNSYLVANIA )  
2 COUNTY OF CLEARFIELD )

3  
4 CERTIFICATE

5 I, Rhonda K. Thorpe, a Notary Public in  
6 and for the Commonwealth of Pennsylvania, do  
7 hereby certify:

8 That the witness whose testimony appears  
9 in the foregoing deposition, was duly sworn by me  
10 on said date and that the transcribed deposition  
11 of said witness is a true record of the testimony  
12 given by said witness;

13 That the proceeding is herein recorded  
14 fully and accurately;

15 That I am neither attorney nor counsel  
16 for, nor related to any of the parties to the  
17 action in which these depositions were taken, and  
18 further that I am not a relative of any attorney  
19 or counsel employed by the parties hereto, or  
20 financially interested in the action.



21  
22  
23 *Rhonda K. Thorpe*  
24  
25

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW

SUSAN M. MACDONALD,  
  
Plaintiff,  
  
v.  
  
CRAIG HOUCHINS,  
  
Defendant.

) CIVIL DIVISION - LAW  
)  
) No. 06-1431-CD  
)  
) Type of Case - Motor Vehicle  
)  
)  
) Type of Filing  
) **Praeipce for Briefing Schedule**  
) **and Argument**

Filed on Behalf of Defendant  
Craig Houchins

Counsel of Record for Parties:

Tracey G. Benson, Esquire  
Pa. I.D. 34984  
MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

FILED  
O 1:30 p.m. BK  
APR 04 2012  
William A. Shaw  
Prothonotary/Clerk of Courts  
ICC AH+ej  
BK

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW**

SUSAN M. MACDONALD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-1431-CD
	)	
CRAIG HOUCHINS	)	
	)	
Defendant.	)	

**PRAECIPE FOR BRIEFING SCHEDULE AND ARGUMENT**

TO THE PROTHONOTARY OF SAID COURT:

Kindly request that the Court Administrator issue a briefing schedule, and set an argument date in connection with Defendant Craig Houchins' Motion for Summary Judgment.

  
\_\_\_\_\_  
Tracey G. Beyson, Esquire

MILLER KISTLER & CAMPBELL  
124 North Allegheny Street  
Bellefonte, PA 16823  
(814) 355-5474

Counsel for Defendant  
Craig Houchins

Dated: April 4, 2012

**IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY,  
PENNSYLVANIA  
CIVIL ACTION - LAW**

SUSAN M. MACDONALD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 06-1431-CD
	)	
CRAIG HOUCHINS	)	
	)	
Defendant.	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Praecipe for Briefing Schedule and Argument**, was hereby served by depositing the same within the custody of the United States Postal Service, First Class, postage prepaid, addressed as follows:

Rolf Louis Patberg, Esq.  
Patberg, Carmody & Ging  
Deushtown Center  
801 Vinial Street – Third Floor  
Pittsburgh, PA 15212

MILLER, KISTLER & CAMPBELL

By:   
Tracey G. Benson, Esquire

Dated: April 4, 2012

A

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD

: NO. 2006-1431-CD

V.

CRAIG HOUCHINS and  
RICHARD FULLINGTON

:  
:  
:  
:  
:  
:

**FILED**

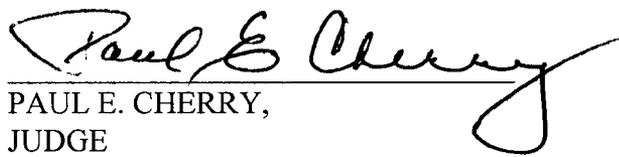
APR 05 2012

9 0/11-30/12  
William A. Shaw  
Prothonotary/Clerk of Courts  
UPPER R. PARSONS

ORDER

1. Jury Selection in this matter is scheduled for June 7, 2012, beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
2. Trial in this matter is scheduled for July 26 and 27, 2012 beginning at 9:00 o'clock A.M. in Courtroom No. 2 of the Clearfield County Courthouse, Clearfield, Pennsylvania.
3. The deadline for providing any and all outstanding discovery shall be by and no later than 60 days prior to the commencement of trial.
4. The deadline for submitting any and all Motions shall be by and no later than 60 days prior to the commencement of trial.
5. Points for Charge shall be submitted to the Court by and no later than 15 days prior to the commencement of trial.
6. Proposed Verdict Slip shall be submitted to the Court by and no later than 15 days prior to the commencement of trial.
7. The parties shall mark all exhibits for trial prior to trial to speed introduction of exhibits.

BY THE COURT,

  
PAUL E. CHERRY,  
JUDGE

CA

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD

Plaintiff,

vs.

CRAIG HOUCHINS

Defendant,

NO. 2006-1431-CD

**FILED**

APR 05 2012  
01:31:03/W

William A. Shaw  
Prothonotary/Clerk of Court

3 sent to Amy  
Benton

ORDER

AND NOW, this 5<sup>th</sup> day of April, 2012, it is the ORDER of the  
Hearing on Defendant's Motion for Summary Judgment in the above captioned case,  
shall be and is hereby scheduled for Friday, June 1, 2012 at 1:30 P.M. in Courtroom  
No. 2, Clearfield County Courthouse.

One hour has been reserved for this hearing.

BY THE COURT:

  
PAUL E. CHERRY  
JUDGE

Photography/Case 1  
William A. Smith  
APR 03 1972  
**FILED**

DATE    
BY    
REASON    
OTHER

5 : : : : : Noce.  
m/3:072m  
2017 Copy to CIA

William A. Shaw  
Prothonotary Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD,

CIVIL DIVISION

Plaintiff,

NO.: 06-1431-CD

v.

TYPE OF PLEADING:

CRAIG HOUCHINS and RICHARD  
FULLINGTON,

**PRAECIPE TO SETTLE AND  
DISCONTINUE**

Defendant.

FILED ON BEHALF OF PLAINTIFF

COUNSEL OF RECORD FOR THIS  
PARTY:

ROLF LOUIS PATBERG, ESQUIRE  
PA I.D. NO.: 65185

PATBERG, CARMODY & GING  
DEUSCHTOWN CENTER  
801 VINIAL STREET - THIRD FLOOR  
PITTSBURGH, PA 15212  
(412) 232-3500

**JURY TRIAL DEMANDED**

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA  
CIVIL DIVISION

SUSAN M. MACDONALD, ) CIVIL DIVISION  
 )  
Plaintiff, ) NO.: 06-1431-CD  
 )  
v. )  
 )  
CRAIG HOUCHINS and RICHARD )  
FULLINGTON, )  
 )  
Defendant. ) **JURY TRIAL DEMANDED**

**PRAECIPE TO SETTLE AND DISCONTINUE**

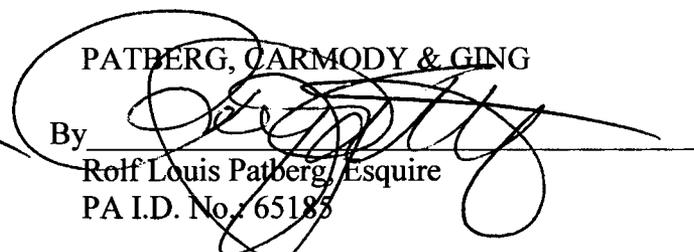
TO: PROTHONOTARY

Please settle and discontinue the above-captioned matter.

RESPECTFULLY SUBMITTED:

PATBERG, CARMODY & GING

DATE: 5-23-12

By 

Rolf Louis Patberg, Esquire  
PA I.D. No. 65185

PATBERG, CARMODY & GING  
Deushtown Center  
801 Vinial Street - Third Floor  
Pittsburgh, PA 15212  
(412) 232-3500

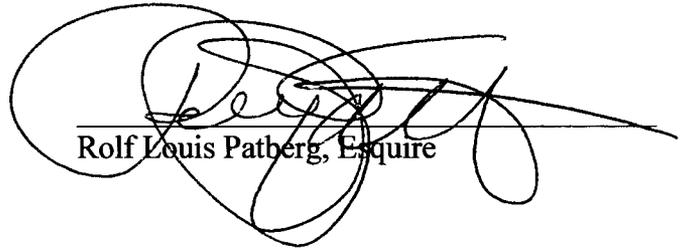
Attorney for Plaintiff

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I, Rolf Louis Patberg, Esquire, hereby certify that a true and correct copy of the foregoing Praecipe to Settle and Discontinue was forwarded this 23 day of May, 2012 via postage prepaid U.S. Mail and E-Mail to the following counsel of record:

Tracey G. Benson, Esquire  
Miller, Kistler, Campbell, Miller, Williams & Benson, Inc.  
124 North Allegheny Street  
Bellefonte, PA 16823

  
Rolf Louis Patberg, Esquire