

1                               IN THE DISTRICT COURT  
2                               113TH JUDICIAL DISTRICT  
3                               HARRIS COUNTY, TEXAS

4 \_\_\_\_\_  
5 GBEMISOLA ABIMBOLA,  
6                               Plaintiff,  
7               v.                               Cause No.:  
8 PHILIP AGBESE,                               2023-22553  
9                               Defendant.

10 \_\_\_\_\_  
11                               VIDEOTAPED DEPOSITION

12 \_\_\_\_\_

13

14 WITNESS:                       PHILIP AGBESE  
15 DATE:                           Tuesday, February 6, 2024  
16 START TIME:                    11:04 a.m., ET  
17 END TIME:                       12:23 p.m., ET  
18 REMOTE LOCATION:               Remote Legal platform  
19 REPORTER:                       Valeria Del Rio, CER/CDR-1724  
20 JOB NO.:                        22245

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1                                   A P P E A R A N C E S

2

3           TAYLOR LAW FIRM

4           2616 South Loop West,

5           Suite 608

6           Houston, Texas 77054

7           By:   RASHEED TAYLOR, ESQUIRE

8                       rasheed@taylortxlaw.com

9           Appearing for Plaintiff

10

11           MARTINEZ, DIETERICH & ZARCONE LEGAL GROUP

12           11811 North Freeway,

13           Suite 700

14           Houston, Texas 77060

15           By:   WARRENSON PAYNE, ESQUIRE

16                       warrenson.payne-jr@fredloya.com

17           Appearing for Defendant

18

19   ALSO PRESENT:

20           Andrew Adams, Notary Public

21

22

23

24

25

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1 P R O C E E D I N G S

2 THE REPORTER: All right. Good morning.

3 We are now on the record. Today's date is January 6,  
4 2024. And the time is approximately 11:04 a.m, Eastern.

5 My name is Valeria Del Rio. I am the  
6 officer designated by Remote Legal, 11 Broadway, Suite  
7 468, New York, New York 1004, to take the record of this  
8 proceeding.

9 This is the deposition of Philip Agbese,  
10 taken in the matter of Abimbola versus Agbese, filed in  
11 the district court, 113th Judicial District, Harris  
12 County, Texas.

13 Would all counsel identify themselves for  
14 the record, starting with the noticing attorney, and  
15 state who they represent.

16 MR. TAYLOR: I just wanted to clarify  
17 that the date is February 6th, 2024, not January 6th.

18 THE REPORTER: Sorry about that. Thank  
19 you.

20 MR. TAYLOR: Okay. So I'm Rasheed  
21 Taylor. I'm here for the plaintiff.

22 THE REPORTER: You're on mute, Mr. Payne.

23 MR. PAYNE: Warrenson Payne, here for the  
24 defendant.

25 THE REPORTER: Thank you. And would the

1 notary please identify themselves for the record?

2 THE NOTARY PUBLIC: Andrew Adams, RON.

3 THE REPORTER: Thank you. This  
4 deposition is being taken remotely on behalf of the  
5 plaintiff and is being conducted pursuant to the  
6 procedural rules and laws of the state which governs  
7 this matter.

8 As such, all parties agree to this means  
9 of capturing the official record, which may include  
10 recording by audio and/or audiovisual means, and agree  
11 not to oppose admission of this proceeding on the basis  
12 of the personnel or method by which testimony in this  
13 proceeding is captured.

14 Do the parties so stipulate?

15 MR. TAYLOR: Agreed.

16 MR. PAYNE: And by the rules, I missed  
17 (indiscernible) 02:01.

18 THE REPORTER: I'm sorry. Can you  
19 restate that for the record?

20 MR. PAYNE: Oh. Mr. Taylor, are we by  
21 the rules?

22 MR. TAYLOR: Yes. By the rules.

23 THE REPORTER: Okay. Would the notary  
24 please swear in the witness.

25 THE NOTARY PUBLIC: Good morning. For

1 the witness, can you please state and spell your name  
2 for the record?

3 MR. AGBESE: My name Philip Agbese.

4 THE NOTARY PUBLIC: Thank you. Can you  
5 spell it, please?

6 MR. AGBESE: P-H-I-L-I-P. Philip. A-G-  
7 B-E-S-E. Agbese.

8 THE NOTARY PUBLIC: Can you raise your  
9 right hand, please.

10 Do you swear or affirm that the testimony  
11 you shall give in this proceeding will be the truth, the  
12 whole truth, and nothing but the truth?

13 MR. AGBESE: Yes. I do.

14 WHEREUPON,

15 P H I L I P A G B E S E,  
16 having been called as a witness, being duly sworn by the  
17 notary public present, testified as follows:

18 THE REPORTER: Thank you very much.

19 Counsel, you may begin.

20 MR. TAYLOR: Thank you.

21 EXAMINATION

22 BY MR. TAYLOR:

23 Q Good morning, Mr. Agbese.

24 A Good morning, too.

25 Q My name is Rasheed Taylor, and I represent Ms.

1 Abimbola in an auto collision that happened August 17,  
2 2021. Do you understand who I am?

3 A I think I do.

4 Q Okay. And do you remember this collision?

5 A Yes. I do.

6 Q Okay. Are you under the influence of any --  
7 anything, any medications or anything else that would  
8 affect your ability to answer my questions today?

9 A Not at all.

10 Q Okay. Have you ever given a deposition  
11 before?

12 A No. This is my first time.

13 Q Okay. So I'll go over a few ground rules.  
14 You understand you just took a oath to tell the truth?

15 A Yeah.

16 Q And do you understand that your testimony  
17 today will have the same weight and effect as if you're  
18 in a court of law in front of a judge and jury?

19 A Yes. I do.

20 Q Great. And it's important that you let me  
21 finish my question before you give an answer. That way  
22 the court reporter can have a clear transcript. Can you  
23 agree to that?

24 A Yes. I (indiscernible - audio disruption)  
25 4:07.



1           Q     Very good. And it's also important that you  
2 answer in words instead of a nod or shake of the head.  
3 Can you agree to that?

4           A     I will answer in word.

5           Q     Great. Now, if you don't understand a  
6 question I ask, please let me know, agreed?

7           A     Sure.

8           Q     Okay. Now, you were involved in an auto  
9 collision on August 17, 2021, correct?

10          A     Yes. I might not -- I know I was involved in  
11 a collision, but I can't remember the date.

12          Q     Okay.

13          A     Yeah.

14          Q     All right. The August 17th collision -- I'll  
15 show you documents in a few minutes that will verify the  
16 date.

17          A     Okay.

18          Q     But I'll represent to you that the police  
19 report states the collision did happen on August 17,  
20 2021. Now, did you cause that collision?

21          A     No.

22          Q     Okay. Can you tell me what street the  
23 collision occurred on?

24          A     It was on Highway 6, south between Beechnut --  
25 Beechnut on Highway 6.

1           Q     Okay. And can you tell me how the collision  
2 occurred?

3           A     Okay. I was going to drop my kids in school.

4           Q     Okay.

5           A     Yeah. And the whole -- there were a lot of  
6 traffic on the road because a -- a lot of parents were  
7 queuing up trying to go -- I mean, go to the school with  
8 their wards.

9           Q     Okay.

10          A     As I was trafficking (sic) to come up, this -  
11 - the car I had a collision with what's coming behind  
12 me. I think she was on a speed. Probably. She didn't  
13 maybe I -- I discovered she was in -- she had a friend.  
14 They were in the car, maybe probably talking, and she  
15 didn't see me, even though I was trafficking the  
16 pointer to get to the -- to the queue.

17                   And that was how she crashed into me and move  
18 just by the side and she moved to the front and park  
19 because of the traffic. She now came hitting my car.  
20 And because the traffic was moving, I had to move along  
21 with the traffic.

22          Q     Okay.

23          A     And we got -- I got to the school and she was  
24 also going to the same school, KIPP, a unit school. And  
25 I went, took my ward into the school and I have my two

1 other kids who attend a different school.

2 Q Okay.

3 A Yeah. And so I was stopping by the gate where  
4 she parked and I came out of my car and to check the  
5 damage done to my car or hers. And at that point in  
6 time, she came out of her car and started cussing me  
7 out.

8 Q Okay.

9 A And I told her, madam, you don't need to do  
10 this. We've all moved from the accident scene. Well.  
11 And she started cussing me out again.

12 I said, okay, madam. Well, she told me she  
13 was going to call the police. I said, okay, do call the  
14 police, but I will have to go and take my daughter and  
15 my other son to their school, Texas International  
16 Leadership. And if you call the police, I'm going to  
17 come back to meet you.

18 And I went to the school and dropped them  
19 because I wouldn't want because of that, for them to  
20 have tardy in their classes. In their school, rather.

21 Q Okay.

22 A I came back to the school, that is KIPP, where  
23 she was waiting, where she said she was going to call  
24 the police. I came back and I parked by. By the time I  
25 came back, she was already with a -- a female police

1 officer. And I came out with my -- my son, my other  
2 son, who was just barely 2 years then 3 years.

3 So I walk up to her and the police, and when I  
4 got there, the police asked me for my identification,  
5 which I did present. And aside that, the police never  
6 allowed me to say anything, how it happened, what  
7 happened, and the police equally started threatening me,  
8 do you know she's a lady? You will go to jail.

9 I said, you can't -- don't threaten me with  
10 jail because I have not done anything wrong. She ran  
11 into my car or crashed -- crashed into me, rather.

12 And before I can say anything, she has already  
13 drafted her ticket. Or -- or what -- what do I call it?  
14 Yeah. Let me put it that way. Ticket.

15 Q Okay.

16 A And then that was how we all left the scene.  
17 And I went to my insurance office immediately and show  
18 my car to the insurance. I told them what happened and  
19 they take -- and they took photograph shots.

20 Q Okay.

21 A Thank you.

22 Q All right. So let me make sure I understand.  
23 You were traveling on Highway 6 south, correct?

24 A Yes.

25 Q And you were in traffic?

1           A       We were all -- yes.

2           Q       Okay. How would you describe the traffic  
3 immediately before the accident? Light, medium, or  
4 heavy?

5           A       It was heavy.

6           Q       Heavy. Okay. And how many lanes did the  
7 stretch of Highway 6 that the collision occurred on  
8 have?

9           A       It has like two.

10          Q       Two lanes?

11          A       Yeah.

12          Q       Going in each direction on Highway 6?

13          A       We're going -- we were going to, from north to  
14 south.

15          Q       Right. But vehicles traveling south on  
16 Highway 6 have two lanes and vehicles traveling north on  
17 Highway 6 also have two lanes?

18          A       Yes.

19          Q       Okay. And which lane were you in before the  
20 collision occurred?

21          A       I was on the -- on the right lane.

22          Q       Okay. And did you -- when the -- when the  
23 collision occurred, did you go -- were you going into  
24 the left lane?

25          A       I was coming out because there were vehicles

1 crossing the traffic, so I was trafficking or -- using  
2 my pointer to come out from the left lane. I mean,  
3 right -- right lane to the left.

4 Q Okay. And which lane, before the accident  
5 happened, which lane was my client in?

6 A I don't know. She was coming behind me, so I  
7 wouldn't know which lane she was.

8 Q Okay. Well, did you see my -- before the  
9 accident, did you see my client behind you in your lane?

10 A I didn't see her behind me. Like I said  
11 anyway, I wouldn't know if she was behind me, but all I  
12 knew was when I was coming out of the lane and I was  
13 trafficking, and in fact, the way she hit me, it was  
14 like she was -- she was like speeding off, maybe  
15 probably there was a little space. I don't know. Then  
16 she was trying to speed off.

17 Q Okay.

18 A That was -- that was how she crashed into me.

19 Q Okay. When your vehicle made contact with her  
20 vehicle, was she in the left lane of Highway 6 or the  
21 right lane?

22 A She was in the left lane.

23 Q Okay. And you didn't see her at any point  
24 before your vehicle made contact with her vehicle; is  
25 that right?

1           A     I didn't see her.

2           Q     Okay. So when was the first time you saw her  
3 vehicle?

4           A     I wouldn't know. But just like I said, I  
5 didn't see her before she ran into me.

6           Q     Okay. Well, would it be fair to say that the  
7 first time you saw my client's vehicle is when your  
8 vehicle hit her vehicle?

9           A     When she hit me.

10          Q     Okay. So the first time you saw my client's  
11 vehicle is when your vehicle and her vehicle made  
12 contact. Is that true?

13          A     Yeah. When she hits me. Yeah.

14          Q     Okay. And which lane did the collision occur  
15 in? The left lane or the right lane?

16          A     Just like I was coming out like I said. I  
17 think it happened in between the two lanes.

18          Q     Okay.

19          A     Yeah.

20          Q     So as you're changing lanes from the right  
21 lane you were in to the left lane, in the middle of that  
22 change, that's when your vehicle made contact with my  
23 client's vehicle?

24          A     I was -- I was almost out to the left lane  
25 when she hit me.

1           Q     Okay.  So were -- is it fair to say that you  
2     were in between the left and right lane when the  
3     vehicles made contact?

4           A     Yes.  Let me say that.

5           Q     Okay.  So what did -- what did my client do to  
6     contribute to the collision?

7           A     I wouldn't know because I was driving with  
8     her.  All I knew was that I was coming out using my  
9     pointer, and the next thing I knew was when like just,  
10    let me use your word, when she made contact with my  
11    vehicle.

12          Q     Okay.  So you don't know what my client did to  
13    contribute to the collision; is that fair to say?

14          A     I wouldn't know because I wasn't in her car.  
15    I was in my car, concentrating on how to get to the  
16    school to drop my wards.

17          Q     Okay.  All right.  What's your date of birth?

18          A     My date of birth is September 14th, 1976.

19          Q     Okay.  And what's your current address?

20          A     My current address is 14239 Playa Bend Lane,  
21    Houston, Texas.

22          Q     And that's Prior Bend Lane?

23          A     Playa.  Playa.  P-L--

24          Q     Can you --

25          A     -- Y-A.



1 Q -- can you spell it? P-L-A-Y-A?

2 A Bend Lane.

3 Q Okay. Got it. And what city is that in?

4 A Houston, Texas.

5 Q And what's the zip code?

6 A 77083.

7 Q Okay. And is that a house or an apartment?

8 A It's a house.

9 Q Okay. How long have you lived there?

10 A I think May. Since May last year.

11 Q Okay. Since May of 2023?

12 A Yes.

13 Q All right. And who do you live there with?

14 A With my family.

15 Q Okay. Are you married?

16 A I'm married.

17 Q Okay. And do you have children?

18 A I do. I told you I was taking my kids to

19 school.

20 Q Right. How many children do you have?

21 A I have three kids.

22 Q Okay. Other than your wife and three kids,

23 does anyone else live at the house with you?

24 A Nobody.

25 Q Okay. Where did you live before the Playa

1 Bend Lane house?

2 A Yes. I was living in an apartment. Pavilion  
3 Point.

4 Q Okay. Is that 14405 Pavilion Point?

5 A Yes.

6 Q Okay. And at the time of the accident, did  
7 you have a cell phone?

8 A I had a cell phone in my car, but it was not  
9 in use.

10 Q Okay. And how far from KIPP did this  
11 collision occur?

12 A I think less than 300 meter to the school  
13 gate.

14 Q Okay. So you were pretty close to KIPP?

15 A Say again?

16 Q You were pretty close to KIPP?

17 A Yes.

18 Q Okay. Are you currently employed?

19 A Yes.

20 Q Who's your employer?

21 A Texas Department of Criminal Justice.

22 Q Okay. And what's your position with Texas  
23 Department of Criminal Justice?

24 A I'm just an ordinary officer.

25 Q Corrections officer?

1           A     Yes, sir.

2           Q     Okay. How long have you been working as a  
3 corrections officer?

4           A     I started last year.

5           Q     Okay.

6           A     Late last year. Let me say, this November  
7 last year.

8           Q     Okay. And where did you work before that?

9           A     Fiserv Solutions.

10          Q     Can you spell that?

11          A     F-I-S-E-R-V.

12          Q     Fiserv Solutions?

13          A     Yes.

14          Q     Okay. And what was your position with them?

15          A     I was a production associate.

16          Q     Okay. And how long were you working with  
17 Fiserv Solutions before you left?

18          A     Yeah. I worked with them like, I think, like  
19 three years.

20          Q     And what made you leave?

21          A     What made me leave was I -- I was looking for  
22 a better pay. That's why I had to leave.

23          Q     Okay. All right. Do you know your current  
24 driver's license number?

25          A     No.

1           Q     Okay. But do you have a current Texas  
2 driver's license?

3           A     I do.

4           Q     Okay. And when did you first get your  
5 driver's license?

6           A     It was like I think seven years ago.

7           Q     Okay. And have you been in Houston for the  
8 last seven years?

9           A     Yes.

10          Q     Okay. Did you live in any other states before  
11 Texas?

12          A     No.

13          Q     Okay. Any other cities before Houston?

14          A     No. Okay.

15          Q     So where'd you live before Houston?

16          A     I lived in Lagos, Nigeria.

17          Q     Okay. All right. Now, on the day of the  
18 accident, you were driving a 2009 Honda Accord; is that  
19 right?

20          A     Yes.

21          Q     And is that your vehicle or your wife's  
22 vehicle? Or is it shared?

23          A     My vehicle.

24          Q     Okay. And when did you first start driving  
25 that vehicle?

1           A     I can't remember.

2           Q     Okay. Do you know when you purchased the  
3 vehicle?

4           A     I can't remember.

5           Q     Do you know if it was within the last seven  
6 years?

7           A     Yeah. I told you I started driving within the  
8 last seven years. Yeah.

9           Q     Okay. So since you started driving seven  
10 years ago, were you driving the Honda Accord or did you  
11 get the Honda Accord after?

12          A     I had, I think, two other vehicles before the  
13 Honda.

14          Q     Okay. Do you still have the Honda today?

15          A     No.

16          Q     Okay. When did you get rid of the Honda?

17          A     I think just last -- that was in -- in  
18 December. Yeah. In December.

19          Q     December of 2023?

20          A     Yes.

21          Q     Okay. And why did you get rid of it?

22          A     I need to change my car.

23          Q     Okay.

24          A     Yeah.

25          Q     So when you first got your Texas license, did

1 you take any driver's education classes or anything like  
2 that?

3 A I think it's -- it's basically the rule or the  
4 law, that you need to undergo a driving test before you  
5 can be given a driver's license, which I did.

6 Q Okay. So did you take any private classes?  
7 Or did you just, you know, read a --

8 A Of course I --

9 Q -- a book on driving?

10 A -- of course I took a private class from  
11 there, and I went to the Texas -- visited drivers  
12 whatever at -- where -- driver's license were issued.  
13 And I had to. Yeah.

14 Q Okay. And has your license ever been  
15 suspended?

16 A Not at all.

17 Q Okay. Do you have any restrictions on your  
18 license?

19 A No.

20 Q Okay. So no restrictions to wear glasses or  
21 anything like that?

22 A Mm-mm.

23 Q Okay. Before the August 2021 accident this  
24 case is about, had you been in any previous auto  
25 accidents?

1           A     No.

2           Q     Okay.  Since the August 2017 accident, have  
3 you been in any new accidents?

4           A     No.

5           Q     Okay.  So the August 2017 accident -- or 2021  
6 accident.  I'm sorry.  That's the only accident you've  
7 been in in your life?

8           A     Yes.

9           Q     Okay.  Now, after the collision, I believe you  
10 testified that you -- you looked at your vehicle damage;  
11 is that right?

12          A     Yes.  I did.

13          Q     Okay.  Did you take any pictures of your  
14 vehicle damage?

15          A     I -- like I said earlier, I took it to the  
16 insurance.  My insurance office.  Because it was very  
17 close to me.

18          Q     Right.

19          A     And I told them what happened, and one of the  
20 associates came out and took a video of the car and also  
21 took a snapshot.

22          Q     Okay.  So your insurance company, someone from  
23 your insurance company took pictures, but you never took  
24 pictures of your car, correct?

25          A     I -- I equally took pictures of the car, but

1 right now I don't have them -- I don't have it in my --  
2 on my phone. Because I've changed phone since then.

3 Q Okay. Did you ever get your car fixed?

4 A Yeah. I fixed my car.

5 Q Okay. Did you use your insurance to fix your  
6 car, or did you fix it yourself?

7 A I fixed it myself.

8 Q Okay. Before this collision occurred, where  
9 were you coming from that morning?

10 A Like I said, I was driving to the school from  
11 north side, going towards the south of Highway 6.

12 Q Okay. But -- so you were headed to KIPP --

13 A Yes.

14 Q -- KIPP school, right?

15 A Yeah.

16 Q Okay. Did you leave your house that morning  
17 to go to KIPP?

18 A Of course. I took -- took my kids to school.  
19 So where else would I have taken my kids from.

20 Q Right. That's what I figured. So when you  
21 left the house that morning, did you make any other  
22 stops before getting to KIPP?

23 A I -- I drove right away from my house to the  
24 school because that was my mission. I had no other  
25 place to stop by.



1           Q     Got it. And at the time of -- or on the day  
2 of the accident, you were living at 14405 Pavilion  
3 Point?

4           A     Yes.

5           Q     Okay. About how far from your house did the  
6 collision occur?

7           A     Let me say from the Point to my house is like,  
8 maybe I think, approximately like 1000 meters.

9           Q     Okay. So about how many minutes do you live  
10 from KIPP? Or at the time -- let me -- scratch that.  
11 Let me ask it a little better.

12                   On the day of the collision, about how many  
13 minutes was your house from KIPP, the school your child  
14 went to?

15          A     Yeah. It's -- it's about four to five  
16 minutes' drive.

17          Q     Okay. And what time -- what's the name of  
18 your child that was going to KIPP at the time?

19          A     His name is Omerigwe Agbese.

20          Q     Okay. And he was 4 years old at the time?

21          A     Yes.

22          Q     Okay. And what time does he have to be at --  
23 what time did he have to be at KIPP in the morning?

24          A     Seven.

25          Q     Seven. Okay. And what time -- do you recall

1 what time it was when you left the house that morning?

2 A Of course I left the house, I think, like  
3 about 6:45.

4 Q Okay. And at what time did the collision  
5 occur?

6 A I can't remember.

7 Q Okay. Do you know if it occurred before 7  
8 a.m. or after 7 a.m.?

9 A I think it should be -- it -- it should be  
10 before 7 a.m.

11 Q Okay.

12 A Yeah.

13 Q All right. But your recollection is you left  
14 home that morning at 6:45 approximately?

15 A Yeah. That's the normal time I leave the  
16 house for my -- I mean, for the schools with my kids.  
17 Because I want to get them into the -- I mean, even wait  
18 at the door before the school can open their door for  
19 the students to go in.

20 Q Okay. What time did your other children have  
21 to be at the second school?

22 A 7:15.

23 Q Okay. And how far is -- let's see. It was  
24 Texas International Leadership was the other school,  
25 right?

1           A       Yes.

2           Q       How far is that school from KIPP?

3           A       Let me say like another five to -- five to  
4 eight minutes' drive.

5           Q       Okay. So it's not too far from KIPP?

6           A       No.

7           Q       Okay. All right. Do you remember the day of  
8 the week the collision occurred?

9           A       I don't.

10          Q       Okay. But you know it was a weekday and not a  
11 weekend, right?

12          A       Of course. I can't take my ward to school on  
13 weekends.

14                   MR. TAYLOR: Okay. All right. Let me  
15 show you what I'm going to mark as Exhibit 1.

16           (Exhibit number 1 marked for identification.)

17                   THE WITNESS: Okay.

18                   MR. TAYLOR: And let me know when you can  
19 see it.

20                   THE WITNESS: Okay. I can see -- I can  
21 see you presenting a document, but I can't read it.

22                   MR. TAYLOR: Okay. Is it too small?

23                   THE WITNESS: Yeah. It's too small.

24                   MR. TAYLOR: Okay. Let me see. All  
25 right. Is it a little bigger now?

1 THE WITNESS: Can't read it.

2 MR. TAYLOR: No?

3 THE WITNESS: Yeah.

4 MR. TAYLOR: Okay. Well, I --

5 THE REPORTER: Sorry. It expanded for  
6 me. Mr. Agbese, something else you can do, is if you  
7 see the plus and minus sign on your screen, you have the  
8 ability to click the plus sign to zoom in and the minus  
9 to zoom out.

10 THE WITNESS: Say again?

11 THE REPORTER: You'll see a plus and a  
12 minus sign above the exhibit. If you click on the plus  
13 sign, it'll zoom in for you. And if you click on the  
14 minus, it'll zoom out.

15 THE WITNESS: I'm trying to do this with  
16 my hand.

17 THE REPORTER: Are you using a phone?

18 THE WITNESS: I'm using a phone. Yeah.

19 THE REPORTER: Okay.

20 MR. TAYLOR: Okay. That's probably why.  
21 It's okay.

22 THE REPORTER: Yeah. Exactly. That's  
23 probably why when you zoomed in, Mr. Taylor, it still  
24 seems --

25 MR. TAYLOR: Okay. No problem.

1 THE WITNESS: All right.

2 BY MR. TAYLOR:

3 Q Have you ever seen a police report related to  
4 this collision?

5 A No.

6 Q Okay.

7 MR. TAYLOR: Let me see if you can see  
8 what I'm going to mark as Exhibit 2. Hopefully, you can  
9 see that. All right. Let me know when you can see  
10 Exhibit 2.

11 (Exhibit number 2 marked for identification.)

12 THE WITNESS: Yeah. I -- I can see some  
13 stuff, but it's not legible for me.

14 BY MR. TAYLOR:

15 Q Okay. So you can't see a diagram with six  
16 lanes?

17 A I see lanes, but like -- yeah. I see lanes,  
18 but I can't really --

19 Q Do you see --

20 A -- okay. All right.

21 Q -- do you see the two cars in the lanes?

22 A I -- I can see some -- some sketch, but I  
23 can't really identify what are on the drawings or  
24 whatever.

25 Q Okay. So you can't tell this is a diagram of

1 Highway 6?

2 A Just like I said, I can see six line there.

3 But the sketch, like you did mention about -- about  
4 vehicles, I can't really see. But I can see a dark  
5 spot, like trying to paint up something. I don't know.

6 Q Okay. All right. Well, based on the police  
7 report, the diagram that the officer did has Highway 6  
8 as having three lanes running in each direction.

9 A Yeah.

10 Q Do you recall three lanes on the stretch of  
11 Highway 6 where the collision occurred, or just the two  
12 lanes you mentioned earlier?

13 A The two lane -- now let me give you a --  
14 picture of this scenario. Now, when you -- when we're  
15 going to drop our wards in the school, you -- we -- we  
16 stay on the right lane. Because that's because the  
17 other lanes usually are blocked by the police.

18 Q Okay.

19 A Yes. So we stay right on the right lane.

20 Q Okay.

21 A That's where all queue behind ourselves when  
22 we go in there.

23 Q Right. Okay. All right. So as you were  
24 driving on Highway 6 approaching KIPP before the  
25 collision occurred, would KIPP have been on the right

1 side --

2 A Yes.

3 Q -- of the road?

4 A Yes. KIPP.

5 Q Okay.

6 MR. TAYLOR: Okay. Let me show you  
7 another picture to see if you recognize it. All right.  
8 Bear with me. All right. I want to show you what I'm  
9 marking as Exhibit 3.

10 (Exhibit number 3 marked for identification.)

11 MR. TAYLOR: And this is an actual photo,  
12 so hopefully you can see this. Let me know when you see  
13 it on your screen.

14 THE WITNESS: Yeah. I can see a picture  
15 of a road.

16 BY MR. TAYLOR:

17 Q Okay. Does that road look familiar?

18 A No. I just know, is a -- is a tiled road.  
19 Like usual tiled road where vehicles run. So I don't  
20 know which road is this.

21 Q Okay. Well, does this look like the stretch  
22 of Highway 6 where the collision occurred right before  
23 KIPP school?

24 A I don't -- I don't know.

25 Q Okay.

1           A       Yeah.

2           Q       How long was your child going to KIPP before  
3 this accident occurred?

4                   MR. TAYLOR: Oh-oh. Did we lose him?

5                   THE REPORTER: Yeah. Would you like to  
6 go off the record?

7                   MR. TAYLOR: What? Yeah, we could --

8                   MR. PAYNE: You listen -- yeah.

9                   MR. TAYLOR: Yeah. We can go off the  
10 record if Mr. Payne is agreeable.

11                  MR. PAYNE: Yes. Please go off the  
12 record. Let's see if we can -- see if we can contact  
13 him again. Maybe he's called.

14                  THE REPORTER: It's 11:43 a.m. We are  
15 now off the record.

16                  (Off the record.)

17                  THE REPORTER: Oh. Sorry. It's 11:45  
18 a.m. We're back on the record.

19 BY MR. TAYLOR:

20           Q       All right. Before we got disconnected, I  
21 asked you how long your child had been going to KIPP  
22 before this collision.

23                  THE REPORTER: Sorry. Mr. Payne, can you  
24 put yourself on mute. Thank you.

25 BY MR. TAYLOR:



1           Q     I'll ask again. How long had your child been  
2 going to KIPP before the collision occurred?

3           A     I think for a year.

4           Q     For a year?

5           A     I would say for a whole section.

6           Q     Okay.

7           A     It's like they resumed the second section.

8           Q     Okay.

9           A     Yes. And the --

10          Q     And what grade was your child in that attended  
11 KIPP at the time of the collision?

12          A     I can't remember now.

13          Q     Okay. All right. When did you first become  
14 aware that a collision was going to happen that morning?

15          A     It was as soon as (indiscernible -- audio  
16 disruption) 40:11.

17          Q     When it happened?

18          A     Yeah.

19          Q     Okay. And was there anything you could do to  
20 try and avoid the collision?

21          A     Like I said, I was coming -- I was trying to  
22 get with my -- pointer, which is an indicator that, oh,  
23 I'm moving from this lane to that lane.

24          Q     Okay.

25          A     That's what I did. So I didn't know -- like I

1 said, I -- I wasn't in the car with her, but I know she  
2 was with a friend of hers, a lady. Probably she might  
3 be talking and she was carried away, you know?

4 Q Okay.

5 A Not -- not -- watching her -- her view.

6 Q Okay. What part of your vehicle made contact  
7 with my client's vehicle?

8 A It was I think the -- at the back. Yeah. Hit  
9 me from behind.

10 Q So what part of your vehicle, was it your  
11 driver's side or the passenger side of your vehicle that  
12 was damaged?

13 A My passenger side.

14 Q Your passenger side?

15 A Yeah. At the bottom, almost at the tip. The  
16 -- should I say fender? Yeah.

17 Q Okay. So the left side of your vehicle, the  
18 driver's side wasn't damaged at all in this collision;  
19 it was the passenger side?

20 A No.

21 Q Okay. And what part of my client's vehicle  
22 was damaged?

23 A I don't know.

24 Q Do you know what part of my client's vehicle  
25 made contact with your vehicle?

1           A     Her car made contact with me. I wouldn't know  
2 the part, but all I know was that she hit me on the  
3 back.

4           Q     Okay. So was your rear bumper damaged in this  
5 collision?

6           A     Yeah.

7           Q     Yes?

8           A     Yes. I said.

9           Q     Okay. So your rear bumper on the passenger  
10 side was damaged by this collision; is that right?

11          A     Yes.

12          Q     Okay. And -- so if the collision occurred  
13 when you were going from the right lane to the left  
14 lane, how did your passenger side get damaged and not  
15 your driver's side?

16          A     Okay. Like I said, I was coming from the  
17 left. You know, you have the two lane, you have the --  
18 on the right-hand side where it was almost as the -- at  
19 the -- what do you call it?

20          Q     The shoulder?

21          A     Yes.

22          Q     Okay.

23          A     Yeah. So I was coming out of the shoulder to  
24 the left lane, and I was almost in. So she -- I think  
25 she was -- yeah, she coming from behind with the other

1 lane. That's how she ran into me. I was almost on the  
2 -- I was almost on the -- on the lane to move, coming  
3 from the shoulder.

4 Q Okay. So why were you on the shoulder of the  
5 road instead of the right lane of the road?

6 A Yeah. Usually if you -- if there was -- I  
7 mean, parents are taking their wards to school. Most of  
8 the time, they go on the shoulder. They go on the  
9 shoulder to move away from the two lanes.

10 But basically the two lanes are what are  
11 supposed to be used when most parents get there. And so  
12 I was on that shoulder and I tried to move to the right  
13 lane.

14 Q Okay. So you were on the shoulder of Highway  
15 6 in school traffic for the KIPP school; is that right?

16 A Yes.

17 Q Okay. And then you wanted to get from the  
18 shoulder back into the right lane of Highway 6, which  
19 was to your left?

20 A Yes.

21 Q Okay. And the collision occurred between the  
22 shoulder and the right lane of Highway 6; is that right?

23 A The -- the -- it occurred between the right  
24 lane and the left lane. Because I was already off the  
25 shoulder on the right lane. So she was coming from

1 behind. So that's why I told you I don't know. Like  
2 you did ask if she was behind -- if I noticed her  
3 before. No. I didn't.

4 Q Okay. So when you're on the right shoulder,  
5 you wanted to go to the left lane, the far-left lane of  
6 Highway 6. Is that where you intended to get into?

7 A No. I was on the shoulder and I come to the  
8 right lane, which is next --

9 Q Right.

10 A -- shoulder.

11 Q Right. So we have the right shoulder of  
12 Highway 6, right?

13 A Mm-hmm.

14 Q Then there's the right lane of Highway 6.

15 A Yep.

16 Q Then there's the left lane of Highway 6. Then  
17 there's some kind of median; is that right?

18 A I wouldn't know. I don't know. But I know --  
19 I think it has like two or three lane. Yeah.

20 Q Okay. Do you know -- do you recall if a  
21 median divides the northbound and southbound lanes of  
22 Highway 6 where the collision occurred?

23 A Say again?

24 Q Do you know if a median is what divides the  
25 northbound lanes on Highway 6 from the southbound lanes

1 of Highway 6 in the area where the collision occurred?

2 A I -- I -- can't really get that question.

3 Q Okay. All right. How fast were you going  
4 when the two vehicles made contact?

5 A I was barely -- it's a traffic. It's a very  
6 chaotic -- traffic. So the movement, rather, was very,  
7 very, very slow. Very, very slow.

8 Q Okay. So you don't know exactly how fast you  
9 were going, right, but very slow?

10 A Very slow.

11 Q Okay. And before you left the right shoulder  
12 of Highway 6 to get into the lane to your left, did you  
13 look in your blind spot to your left --

14 A I --

15 Q -- behind you?

16 A -- I did. And at the same time using my  
17 trafficator (sic) to indicate --

18 Q Okay.

19 A -- I am moving from this point to this point.

20 Q Okay. When you say trafficator, do you mean  
21 turn signal?

22 A Pointer. The pointer.

23 Q The turn signal?

24 A Yes.

25 Q Okay. All right. All right. So before you

1 got out of the shoulder into the lanes of Highway 6 and  
2 you looked back to see if the lanes were clear, do you  
3 recall any cars approaching?

4 A No. I looked -- I watched my mirror. I  
5 wasn't seeing any car coming behind me before I make --  
6 I -- I make the -- I make that move.

7 Q Okay.

8 A Yeah.

9 Q So you only looked at your side mirror before?

10 A I did.

11 Q Okay. But you didn't turn your head around  
12 over your left shoulder, correct?

13 A I looked at my mirror because my glass was  
14 wind up, so I wouldn't bring out my head from my -- from  
15 the window to turn. I think that's the purpose of the  
16 mirror there.

17 Q Right. But you know how you can turn your  
18 head to look, not out the window, but how you can turn  
19 your head to look into your blind spot. Are you  
20 familiar with that?

21 A Well, usually I looked at my mirror. That's  
22 where I can view if vehicles are coming behind me and if  
23 they are closer or if they are farther away.

24 Q Okay. So it's your testimony that before you  
25 left the right shoulder of Highway 6, you looked in your

1 left mirror only?

2 A I did look in my mirror to view if a vehicle  
3 is coming behind me or not, to see if it's closer or  
4 it's farther.

5 Q Okay. So you relied on looking at your left  
6 mirror before getting from the right shoulder of Highway  
7 6 into the lanes, correct?

8 A Yeah. That's usually what I do. Even  
9 (indiscernible) 49:38.

10 Q Okay. So after the vehicles made contact, did  
11 you stop or did you keep driving?

12 A I told you, I -- I stopped. And she moved  
13 farther a bit from where my vehicle was because I -- I  
14 guess she was on a -- on a -- on a speed. She moved  
15 about few meters and she -- she came back. I was still  
16 standing. I mean, my car was still parked at that same  
17 spot. And that was when she came hitting my car, the  
18 roof of my car.

19 Q Okay. So after your vehicle, my client's  
20 vehicle made contact, she continued to drive a few  
21 meters forward?

22 A Yeah. Sure.

23 Q Okay. And which lane was she in when she was  
24 driving a few meters forward? The left lane of Highway  
25 6, or the right lane?



1           A       She on the left lane when she drove up.

2           Q       Okay. And you stopped your vehicle at that  
3 point?

4           A       At that point.

5           Q       Okay. So you stopped your vehicle in the  
6 middle of the two lanes of Highway 6?

7           A       Yes. Between the shoulder and the right lane.

8           Q       Okay. Okay. And did you exit your vehicle at  
9 that time?

10          A       I did not. Because she came banging on the  
11 roof of my car and she has already moved from the -- the  
12 scene of the incident.

13          Q       Okay. So let me make sure I understand. So  
14 after your vehicle and my client's vehicle made contact,  
15 you stopped in between the right shoulder of Highway 6  
16 and the right lane of Highway 6, correct?

17          A       I stopped right -- let me -- let me put it  
18 clearly to you. I stopped right on the right lane  
19 because I was moving from the shoulder to the right  
20 lane. And she, after it happened, I think she swerved  
21 to the left.

22          Q       Okay.

23          A       Swerved to the left and went farther, drove  
24 some minutes away or some distance away where she parked  
25 right on the road. And I was at the immediate spot

1 where the incident happened. And she walked from her  
2 car, screaming and banging on the roof of my car.

3 Q Okay. And this is before you got to the  
4 school?

5 A Yes.

6 Q Okay. So after the collision, your vehicle  
7 remained in the right lane of Highway 6, right?

8 A Yes.

9 Q And she drove about how many yards up?

10 A I can't really mention the yard, but she drove  
11 some few yards away from me.

12 Q What about car lengths? Did she drive more  
13 than two car lengths up?

14 A I think so. I think so.

15 Q Okay. Okay. And then you saw her exit her  
16 vehicle and walk towards your vehicle, correct?

17 A Yeah.

18 Q Okay.

19 Q And she banged on your hood; is that right?

20 A On the roof of my car.

21 Q On your -- on the roof. Okay. And then what  
22 did she say to you?

23 A She was just banging on the roof and was  
24 saying, oh god, come outside, come outside. That was  
25 what she was saying.

1 Q Okay.

2 A Yeah.

3 Q And did she ever get back into her vehicle  
4 after that?

5 A Of course. Of course. Yes.

6 Q Okay. And then what happened after she got in  
7 her vehicle?

8 A She drove off to school.

9 Q And did you see where she drove to?

10 A I saw, because I was still on the line, on the  
11 queue, going to the school on the right lane.

12 Q Okay. Where did she drive to?

13 A To the school. To the school. To KIPP.

14 Q Okay. All right. So before this collision  
15 occurred, there was vehicles in front of you on the  
16 right shoulder of Highway 6, right?

17 A Yes.

18 Q Okay. Were there also vehicles to the left of  
19 those vehicles on the shoulder, or was that a lane for  
20 traffic to drive?

21 A I think there was a lane.

22 Q Okay. So cars were only stopped on the  
23 shoulder of Highway 6?

24 A On the shoulder. Yeah.

25 Q That's right?

1           A     Mm-hmm.

2           Q     Okay.  So once you got out of the shoulder  
3     into the lane to the left right there, was there still  
4     traffic in front of you, or had you gotten from behind  
5     that traffic?

6           A     Yeah.  There were -- there were traffic, but  
7     it was -- there were traffic to the left, but it was a  
8     little -- it was a little more -- a bit faster compared  
9     to -- or moving.  Let me use that word.

10          Q     Okay.

11          A     Moving faster than the one on the shoulder.

12          Q     Okay.  Got it.  So after you moved from behind  
13     the vehicles stopped on the shoulder, waiting to get  
14     into the school, you got into the lane to the left, and  
15     that was still slow, but it was moving faster than the  
16     shoulder, correct?

17          A     Yes.

18          Q     Okay.

19          A     That -- that was the right lane --

20          Q     Right.

21          A     -- going to the school.  Going to the --

22          Q     Right.  Right.  The right lane of Highway 6,  
23     but that right lane is to the left of the right shoulder  
24     of Highway 6, correct?

25          A     Yes.

1           Q     Okay. All right. So you saw my client drive  
2 into KIPP, the KIPP school, right?

3           A     Yeah. I saw her drove into KIPP. Into KIPP.

4           Q     Okay. Okay. And then when did you next see  
5 her again, after you saw her drive into the KIPP school?

6           A     I saw her next again by the gate. The exit  
7 gate.

8           Q     Okay.

9           A     We stopped.

10          Q     All right. And when you saw her at the exit  
11 gate of KIPP school, correct?

12          A     Mm-hmm.

13          Q     When you saw her at the exit gate, was she in  
14 her vehicle or outside of her vehicle?

15          A     She was in her vehicle.

16          Q     Okay.

17          A     Parked.

18          Q     Okay. And did you talk to her at that time by  
19 the exit gate?

20          A     Yes. Of course. I came out of my car, and I  
21 said, madam. And that was the point she was cussing me  
22 out, and I'm like, oh, madam, listen. She was cussing  
23 me out. And the next thing, she was calling on her  
24 husband.

25                   I think she was saying (Nigerian language

1 spoken.) And she was speaking in her dialect, Yoruba  
2 language or dialect, and was saying she's going -- told  
3 the husband, hold on, let me call the police. I was  
4 still standing.

5 Q Okay.

6 A And then she -- she -- and I told her, okay,  
7 madam, if you want to call the police, please do. But I  
8 have to take my kids to school, I don't want them to be  
9 late. And I will come back and meet you here.

10 Q Okay.

11 A That was exactly what I did.

12 Q Okay. So when you say cussing you out, can  
13 you -- do you remember the exact word she used when she  
14 was cussing you out?

15 A Yeah. She was using Yoruba language, telling  
16 the husband that, look at this (Nigerian language  
17 spoken.) Somebody with a bad -- bad head.

18 Q Okay.

19 A Yes.

20 Q All right. So she was cussing you out in her  
21 native language.

22 A Exactly.

23 Q Okay. And do you -- do you speak her  
24 language?

25 A I do. I -- I understand her language.

1 Q Okay. Do you speak it also?

2 A But I first -- I first spoke her language back  
3 to her.

4 Q Okay. So you can speak and understand her  
5 language?

6 A Very well.

7 Q Okay. All right. And what is your language?  
8 Are you Igbo?

9 A I'm an Idoma man from Benue State, Nigeria.

10 Q Idoma. Okay. So your dialect is different  
11 than her dialect?

12 A Exactly.

13 Q Okay. But you understand her dialect, right?

14 A Yeah.

15 Q Okay. All right. So she says she's going to  
16 call the police, and you tell her that you have to drop  
17 your other two kids off at their other school, but that  
18 you will return; is that right?

19 A Exactly.

20 Q Okay. So then you left KIPP to go to the  
21 other school, correct?

22 A Mm-hmm. Yeah.

23 Q Okay. And then about how long was it before  
24 you returned to KIPP?

25 A I told you, it's usually (indiscernible -

1 audio disruption) 59:00.

2 Q Okay.

3 A Can you hear me?

4 Q Okay. So the phone cut out for a little. Can

5 you repeat your answer?

6 A Okay. Can you hear me now?

7 Q Yes, sir.

8 A All right.

9 Q Yes, sir.

10 A I said it's usually between five to eight

11 minutes' drive.

12 Q Okay. But you don't know exactly how long it

13 took you to drop the kids off and come back to KIPP,

14 right?

15 A Yeah. I -- I don't know exactly, because all

16 I did was just drop my kids and I came back immediately.

17 Q Okay.

18 A Yes.

19 Q But when you dropped your kids off, did you

20 have to get out of the vehicle? Or do you just drive

21 up, they get out and then you drive off?

22 A Yeah. They get -- they get out and I drive

23 off.

24 Q Okay.

25 A Yeah.



1           Q     And how old were the other kids in your car  
2 that you had to take to the second school?

3           A     Yes. I have the other smaller kids.

4           Q     How old -- how old were they?

5           A     The smaller one that I was carrying then was,  
6 he was a year and 6 months. He was in his car seat in  
7 the car.

8           Q     Okay. So you're dropping your child off to  
9 the second school that was a year and 6 months?

10          A     Yeah. I -- I -- no. That one doesn't -- he -  
11 - he's not of a school age then. The one that was of  
12 school age was Omerigwe in KIPP, and my daughter was in  
13 Texas Leadership International school.

14          Q     And how old is your daughter?

15          A     My daughter, she's 14 now.

16          Q     Okay. At the time of the act of the  
17 collision, how old was she?

18          A     She's 14 -- she's 14 this year. So 2000 and -  
19 - what was it that one? Was it 2001, the incident?

20          Q     Yes. Yes, sir.

21          A     Yeah. So --

22          Q     All right.

23          A     Yeah.

24          Q     So she was maybe 11 or, you know, 12;  
25 something like that?

1           A     Yeah.  Maybe.  Maybe 11.  Maybe 11.  I don't  
2     know.  I can't -- but I know she's 14.

3           Q     Okay.  So when this collision happened, you  
4     had your three children in the vehicle.  One -- the  
5     youngest one was one and a half years old, who wasn't  
6     going to school, right?

7           A     Yes.

8           Q     Then you had your son, who was 4 years old,  
9     who was attending KIPP at the time?

10          A     Yes.

11          Q     Then you had your daughter, who was  
12     approximately 11 years old, who was attending Texas  
13     Leadership International?

14          A     Yes.  Yes.

15          Q     Okay.  Got it.  Okay.  So tell us what  
16     happened when you returned to KIPP after dropping your  
17     daughter off to her school?

18          A     Okay.  I've said it earlier, but if you want  
19     me to repeat it again, I will do so.  I said when I  
20     drove back to KIPP, just to keep my word.

21          Q     Right.

22          A     I -- I parked my car, came out of the car, and  
23     took my son from the car.  And I walked towards the exit  
24     gate where your client was parked with her  
25     (indiscernible -- simultaneous speech) 1:02:30.

1           Q     Okay. Well, let me ask you some more specific  
2 questions, because I think I have an idea of what you  
3 said earlier.

4           A     Okay.

5           Q     So when you returned to KIPP after dropping  
6 your daughter off at her school, were the police already  
7 at KIPP?

8           A     Yes. Of course.

9           Q     Okay. And were the -- did you see the police  
10 and my client at the exit gate of the KIPP school?

11          A     I saw them and I walked to them.

12          Q     Okay. Tell us what you said to the police  
13 when you came back to KIPP?

14          A     Okay. When I -- when I -- I got back to KIPP,  
15 and I walked to your client and -- and the police. And  
16 the police told me, the first thing she said, where is  
17 your ID card? Which I identify myself. And she now  
18 said, because she's an officer, a female police officer.

19               And she said to me, do you know she's a lady?  
20 Do you know -- do you know you can go to jail? And I  
21 said, why -- why -- on what ground are you threatening  
22 me with jail? I didn't run away. I told her, I'm going  
23 to drop my kid in school, and when I do, I'll come back  
24 here. So that was what I said to her.

25               And the next thing, she already drafted the

1 citation and handed -- handed it over to me. She never  
2 asked me any question. And we were no longer at the  
3 accident scene.

4 Q Right. Okay. So the officer did not ask you  
5 your version of how the collision occurred, right?

6 A No. Because I never knew what he -- she must  
7 have discussed with your client.

8 Q Okay. As you were approaching the police  
9 officer and my client when you first got back to KIPP,  
10 did you see them speaking?

11 A I wouldn't say I saw them speaking. All I did  
12 was I just walked straight to them. I don't know.

13 Q Okay. Did my client say anything to you when  
14 you approached her and the police officer when you came  
15 back to KIPP?

16 A She didn't say anything to me.

17 Q Okay.

18 A One more -- one more thing I just remember.

19 Q Sure.

20 A When -- when -- the -- the police was  
21 threatening me, and said -- she then said, don't you  
22 know she's a lady? Tell her sorry. I said -- I said,  
23 Will sorry be able to solve the issue? Okay. Sorry,  
24 madam. That was what I said. And your client never  
25 respond.

1           Q     Okay.  So when you came back to KIPP and were  
2     talking to the police, the police told you to apologize  
3     to my client?

4           A     That's what she said.

5           Q     Okay.  And you said, sorry.  You said, if that  
6     will fix the situation, I'm sorry?

7           A     Yeah.  Because she told -- the female officer  
8     told me, don't you know she's a woman.  Tell her sorry.

9           Q     Okay.

10          A     So -- because she was trying to use the  
11     feminine authority over me because she's a police  
12     officer.  That's -- I don't know.  Like I said earlier,  
13     she was threatening me, don't you know you can go to  
14     jail?  I don't know whatever they must have discussed  
15     before my arrival there.

16          Q     Understood.  Okay.  Do you recall giving a  
17     recorded statement to your insurance company after the  
18     collision at any time?

19          A     Yeah.  I told you I went.  I (indiscernible -  
20     simultaneous speech) 1:06:10.

21          Q     Sir, listen to the question though.  Do you  
22     recall giving a recorded statement to your insurance  
23     company after the collision?  Recorded?  If you know.

24          A     I -- I -- can't remember.  But I told you I  
25     went to the insurance company where the (indiscernible -

1 simultaneous speech) 1:06:35.

2 Q Right.

3 A -- photographs and --

4 Q Right. Yeah. That's not what I'm asking.

5 Okay. So after the collision, I understand you went to  
6 your insurance company, an office of your insurance  
7 company, correct?

8 A Yes.

9 Q Okay. Did you speak to your insurance company  
10 on the phone at any point after that day?

11 A Yeah. I did.

12 Q Okay. So do you recall them giving you a  
13 warning or letting you know that this call is being  
14 recorded, or anything like that before you discussed the  
15 collision?

16 A I can't remember.

17 Q Okay. Now, after the collision, you did not  
18 call the police, right? My client did. As far as you  
19 know?

20 A Yeah. Your client called the police.

21 Q Okay. All right. And how would you describe  
22 the weather conditions on the day of the collision?

23 A Say again?

24 Q What was the weather like when the collision  
25 occurred?

1           A     I can't remember.

2           Q     Okay. Do you remember if it was raining?

3           A     I can't remember.

4           Q     Okay. What's your typical routine when you're  
5 driving your kids to school? Is it completely quiet in  
6 the car? Are you talking to your kids? Tell me about  
7 that.

8           A     I drove them to school quietly.

9           Q     Okay.

10          A     Without distractions.

11          Q     Okay. So you don't listen to the radio or  
12 anything like that on the way to school?

13          A     No.

14          Q     Okay. Do you sometimes stop and get your kids  
15 breakfast or anything like that on the way to school or  
16 no?

17          A     No.

18          Q     Okay. How much did it cost to repair your  
19 vehicle after the collision?

20          A     I can't remember now. It's a long time.

21          Q     Okay. Do you remember if it was more or less  
22 than \$1000?

23          A     I can't remember now. The long (indiscernible  
24 - simultaneous speech) 1:08:39.

25          Q     Okay. Okay. Do you recall how long it took

1 to repair your car? Was it weeks, days?

2 A I can't remember. It's been a long time,  
3 honestly.

4 Q That's fine. How many citations did you get  
5 from the officer at the scene -- or after this  
6 collision?

7 A Can't remember, honestly.

8 Q Okay. Do you remember getting a ticket for  
9 expired registration?

10 A I can't remember. It's a long time. A long  
11 time.

12 Q Okay. All right. Do you remember how you  
13 resolved the tickets you got?

14 A Yeah. I went to -- I went to the court.

15 Q Okay. Did you hire a lawyer for the tickets?

16 A I went to the court, but I can't remember if I  
17 did. Can't remember.

18 Q Okay. So do you know if you paid the tickets?

19 A I think, of course, if not paid, I -- I would  
20 -- the state wouldn't allow me to use my car.

21 Q Okay. So it's your recollection you did pay  
22 the tickets?

23 A I think so. I think so.

24 Q Okay. You think so. You're not sure though,  
25 right?



1           A     I think I paid.

2           Q     Okay. Do you recall if any of the tickets  
3 were dismissed?

4           A     I can't -- I -- like I said, it's a long time.  
5 I can't -- I have a lot of responsibility in my job, so  
6 I can't keep all those records in my mind.

7           Q     Okay. All right. Have you ever been arrested  
8 before?

9           A     No, sir.

10          Q     Okay. Do you agree that all drivers should  
11 keep a proper lookout while driving?

12          A     Yeah. I think that's the rule.

13          Q     Okay. And do you believe that you were  
14 keeping a proper lookout immediately before this  
15 collision?

16          A     Yes.

17          Q     Okay. Do you agree that all drivers should  
18 not change lanes until safe to do so?

19          A     Yes. (Indiscernible -- audio disruption)  
20 1:11:05.9 safe before I turned.

21          Q     Okay. All right. So earlier I asked you what  
22 my client, you know, did wrong. You know, what she did  
23 to contribute to the collision. And (indiscernible --  
24 audio disruption) 1:11:15 you said you don't know,  
25 right? Could you hear me, sir?

1           A       Say again?

2                       MR. PAYNE:  I'm objecting to form right  
3 there.

4 BY MR. TAYLOR:

5           Q       Do you recall when I asked you earlier what my  
6 client did to contribute to this collision?

7           A       I don't (indiscernible -- audio disruption)  
8 1:11:43.

9           Q       Okay.  You cut out for a second.  Can you hear  
10 us?

11          A       I can hear you now.

12          Q       Okay.  Do you remember earlier when I asked  
13 you what my client did to contribute to this collision?

14          A       I don't know.

15          Q       But do you remember when I asked you that  
16 question earlier?

17          A       Yeah.  I think I remember.

18          Q       Okay.  And what was your answer?

19                       MR. PAYNE:  Objection.  Form.

20                       THE WITNESS:  I don't know.  I don't  
21 know.

22                       MR. TAYLOR:  Okay.

23                       THE WITNESS:  That's what I said.

24 BY MR. TAYLOR:

25          Q       Okay.  So if you don't know what my client did

1 to contribute to the collision, do you take any  
2 responsibility for the collision?

3 MR. PAYNE: Objection. Form.

4 THE WITNESS: (Indiscernible -- audio  
5 disruption) 1:12:37.

6 BY MR. TAYLOR:

7 Q What was that? You can answer. What was  
8 that?

9 A I said I can't take responsibility for that,  
10 for whatever she did.

11 Q Okay. So who do you believe is responsible  
12 for this collision?

13 A I don't know. She should know better.

14 Q Okay. So you don't know who's responsible,  
15 but you do feel that you are not responsible for the  
16 collision?

17 A Yes.

18 Q Is that true? That's true?

19 A Yes, sir. Not responsible.

20 Q Okay. All right. Did you get injured in this  
21 collision at all?

22 A Say again?

23 Q Did you get injured in the collision?

24 A No.

25 Q Okay. Did any of your kids get injured?

1           A       No.

2           Q       Okay. How often do you drive? Well, at the  
3 time of the collision, how often were you driving on a  
4 weekly basis?

5           A       I drive every day.

6           Q       Every day. Okay. And is it you that always  
7 takes the kids to school, or does your wife sometimes  
8 take the kids?

9           A       Me.

10          Q       Okay. So in the month of August of 2021, you  
11 were the one taking your kids to school every weekday  
12 morning, true?

13          A       Yes.

14          Q       Okay. And would you say you were familiar  
15 with that stretch of Highway 6 where the collision  
16 occurred?

17          A       Yes.

18          Q       Okay.

19                   MR. TAYLOR: All right. I believe that's  
20 all I have. Thank you, sir. I'll pass the witness.

21                   THE WITNESS: Thank you.

22                   MR. PAYNE: Thank you.

23                   THE REPORTER: Mr. Payne, just to make  
24 sure that the record was understood, you said that you'd  
25 reserve?

1 MR. PAYNE: Yes.

2 THE REPORTER: Okay. Will anyone be  
3 purchasing a transcript?

4 MR. PAYNE: No.

5 MR. TAYLOR: I just want the one that  
6 comes with the order.

7 THE REPORTER: What did you say, Mr.  
8 Taylor?

9 MR. TAYLOR: I want the one that comes  
10 with the order. I don't need like any extras or  
11 anything.

12 THE REPORTER: And Mr. Payne, you said  
13 no.

14 MR. PAYNE: No. Not at this point.

15 THE REPORTER: And will the witness be  
16 reading and signing?

17 MR. PAYNE: No. We'll waive.

18 THE REPORTER: Okay. Okay. Declare off  
19 the record and then I just have some questions regarding  
20 spelling. It is 12:23 p.m. We are off the record.

21 (Proceedings concluded at 12:23 p.m.)

22 (Read and Sign waived.)

23 \* \* \* \* \*

24

25

## 1 CERTIFICATE OF NOTARY PUBLIC

2

3 State of Oregon )

4 County of Clatsop )

5

6 I hereby certify that on the 6th day of February  
7 2024, before me, a RON notary public for the State of  
8 Oregon, PHILIP AGBESE remotely appeared via  
9 videoconference, and prior to testifying, swore an oath,  
10 to tell the truth.

11

12 DATED this 6th day of February, 2024.

13

14

15

16

---

Andrew Adams

17

RON Notary Public

18

State of Oregon

19

Commission No.: 23-3591

20

Commission Expiration: 8/9/2024

21

22

23

24

25

## 1 CERTIFICATE OF REPORTER

2

3 I, Valeria Del Rio, hereby certify:

4 That the foregoing proceedings were taken  
5 before me at the time and place therein set forth;6 That the proceedings were recorded by me and  
7 thereafter formatted into a full, true, and correct  
8 transcript of same;9 I further certify that I am neither counsel  
10 for nor related to any parties to said action, nor in  
11 any way interested in the outcome thereof.

12

13 DATED, this 6th day of February 2024.

14

15

16

17 \_\_\_\_\_  
Valeria Del Rio, CER/CDR-1724

18 Certified Electronic Reporter

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