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 4 COMMONWEALTH OF MASSACHUSETTS
 5 NORFOLK, SS. SUPERIOR COURT
 6 CIVIL ACTION NO. 02-01159A
 7 MARCIA RHODES, HAROLD RHODES,)
 8 Individually, HAROLD RHODES on)
 9 behalf of his Minor Child and)
 10 Next Friend, REBECCA RHODES,)
 11 Plaintiffs)
 12 v.)
 13)
 14 CARLO ZALEWSKI, DRIVER LOGISTICS,)
 15 PENSKE TRUCK LEASING CORP., and)
 16 BUILDING MATERIALS CORPORATION OF)
 17 AMERICA d/b/a GAF MATERIALS CORP.)
 18 Defendants)
 19 v.)
 20)
 21 JERRY MACMILLIAN'S PROFESSIONAL)
 22 TREE SERVICE, INC.)
 23 Third-Party Defendant.)
 24
 DEPOSITION of MARCIA RHODES, a witness
 called on behalf of the Defendant, Building
 Materials Corporation Of America, d/b/a GAF
 Materials Corp., taken pursuant to the
 Massachusetts Rules of Civil Procedure, before
 Robin Picariello, Registered Merit Reporter and
 Notary Public, at the Radisson Hotel, Milford,
 Massachusetts on Wednesday, August 4, 2004
 commencing at 1:20 p.m.
 C.J. REPORTING (978) 409-9090

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PROCEEDINGS

1 MARCIA RHODES, having been duly
2 sworn that her testimony would be the truth, the
3 whole truth, and nothing but the truth, testified
4 as follows in answer to direct interrogatories by
5 MR. POLLOCK:

6 MR. POLLOCK: Mrs. Rhodes indicated she
7 does not have a photo ID with her. Mr. Pritzker
8 has kindly vouched for her identity, I'm fine with
9 that. I have no objection. I'm perfectly
10 satisfied that she is who she says she is.

11 MR. PRITZKER: I am Frederick Pritzker
12 and I've known Mrs. Rhodes since a few days after
13 the accident. I've had enough interaction with
14 her that I confirm she is who she says she is.

BY MR. POLLOCK:

15 Q. Mrs. Rhodes, my name is Russell Pollock. I'm a
16 lawyer with a law firm called Campbell Campbell
17 Edwards and Conroy. We represent one of the
18 parties in your lawsuit named Building Materials
19 Corp., doing business as GAF. There is nothing
20 I'd rather do less on this earth than ask you
21 questions today about your accident and your
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1 Q. And I'll try to remind you. Try to let me finish
2 my questions before you respond only because she's
3 trying to get down a question, answer, question,
4 answer. Okay?

5 A. Yeah.

6 Q. And if you need to take breaks every twenty
7 minutes, every fifteen minutes, every ten minutes,
8 or you want to talk to your counsel, or you just
9 want fresh air, for any other reason, that is
10 perfectly acceptable. Take as many breaks as you
11 need. Okay?

12 A. Okay.

13 Q. Can you state for us your full name?

14 A. Marcia Ann Goldy Rhodes.

15 Q. Did you ever go by any nicknames or other names
16 ever?

17 A. No.

18 Q. What was your name before you married Mr. Rhodes?

19 A. Marcia Ann Goldy.

20 Q. How do you spell Goldy?

21 A. G-O-L-D-Y.

22 Q. Have you ever given a deposition before?

23 A. Yes.

24 Q. How many?

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1 injuries and your background, but I'm going to
2 need to do just that. If at any time you don't
3 hear any of my questions --

4 A. I have my wrong glasses on.

5 Q. Okay.

6 A. Sorry.

7 Q. Not at all.

8 A. It just dawned on me, it's darker in here than --

9 Q. All set?

10 A. Go ahead.

11 Q. If at any time you don't hear any of my questions,

12 just let me know and I'll repeat the question or

13 I'll ask the court reporter to do it. If you

14 don't understand any of my questions, just let me

15 know and I'll just try to break it down or ask a

16 better or clearer question. If you don't know an

17 answer or don't remember something, it's perfectly

18 acceptable for you to tell us that. Is that okay?

19 A. Yeah.

20 Q. Everything you do to communicate to us has to be

21 verbally in the form of words so the court

22 reporter can type it out. She's unable to type

23 out a shrug, a nod or a gesture. Okay?

24 A. I'll try to remember that.

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1 A. Hold on a second.

2 THE WITNESS: Have I --

3 MR. PRITZKER: Not with me you haven't.

4 THE WITNESS: Oh, not with you.

5 A. Then I haven't.

6 BY MR. POLLOCK:

7 Q. All right. It's hard to remember sometimes. Have

8 you ever given testimony in any type of forum

9 before?

10 A. No.

11 Q. Have you ever given any kind of written --

12 MR. PRITZKER: Excuse me a second. May I

13 consult with the witness, please?

14 MR. POLLOCK: Sure.

15 (Witness conferred with counsel)

16 A. Oh, okay, I did. Yes, to your question.

17 Q. You've testified under oath before?

18 A. Yes.

19 Q. Was that in relation to this accident or this

20 matter?

21 A. Yes.

22 Q. And when was that?

23 A. At Carlo Zalewski's trial, criminal trial.

24 Q. Did you testify as a witness at that trial?

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- 1 A. Yes.
 2 Q. Did you give any other statements such as an
 3 impact statement --
 4 A. Yes.
 5 Q. -- or anything other of that nature? Have you
 6 given any other --
 7 MR. PRITZKER: Just for clarification and
 8 I won't do this to substantive questions --
 9 MR. POLLOCK: That's fine.
 10 MR. PRITZKER: -- but the impact
 11 statement is the only statement that she's given
 12 in court under oath.
 13 BY MR. POLLOCK:
 14 Q. Is that accurate?
 15 A. Yes.
 16 Q. Have you given any kind of other written statement
 17 about the events or recorded statement about the
 18 events of the accident to anybody else?
 19 A. No.
 20 Q. As you sit here, are you taking any medications,
 21 drugs or anything that could prevent you from
 22 listening to my questions, understanding them and
 23 giving us truthful responses?
 24 A. No.

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- 1 Q. Plus a basement?
 2 A. Finished -- well, now it's not a finished
 3 basement, but it was a finished basement.
 4 Q. Just so I understand, it's a two-family house and
 5 at one point in time had a finished basement? X
 6 A. (Witness nods head).
 7 Q. Is that a yes?
 8 A. Yes.
 9 Q. What's down there now? You mentioned it's no
 10 longer finished.
 11 A. We had to remodel and the whole new remodeled area
 12 is not finished.
 13 Q. I take it you remodeled the house to accommodate
 14 your injuries?
 15 A. Exactly.
 16 Q. And when did that occur?
 17 A. I think they started in April of last year and
 18 finished in probably October.
 19 Q. Those are approximate months, right?
 20 A. Yeah.
 21 Q. But they did at some point last year modified your
 22 house?
 23 A. Yeah, they added onto it.
 24 Q. I was going to ask, can you describe for us the
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- 1 Q. What is your date of birth?
 2 A. June 22nd, 1955.
 3 Q. And what is your current address?
 4 A. 11 Janock, J-A-N-O-C-K, Road, Milford, Mass..
 5 Q. And how long have you lived at 11 Janock Road in
 6 Milford?
 7 A. Twenty one years.
 8 Q. Is that a house that you own?
 9 A. It's a house.
 10 Q. Do you and your husband own that house?
 11 A. Yes.
 12 Q. You're both owners together?
 13 A. Yes.
 14 Q. And is that where you lived at the time of the
 15 accident?
 16 A. Yes.
 17 Q. Could you describe for us that property? It's a
 18 one-family house?
 19 A. Yes.
 20 Q. Is it --
 21 A. It's a Garrison colonial.
 22 Q. I was about to ask, is it a colonial or ranch.
 23 Two floors?
 24 A. Yeah.

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- 1 type of modifications that were performed?
 2 A. They eliminated all the small doorways and made
 3 larger doorways. They created a bedroom for me on
 4 the first floor and a bathroom for me on the first
 5 floor. And then, as I said, the underneath part,
 6 the basement part is not finished.
 7 Q. I don't understand that. They took a finished
 8 basement and what did they do with it?
 9 A. They added on a whole area outwards. We had like
 10 three-quarters of -- two-thirds of an acre of
 11 land, so they went out from the back of the house.
 12 They just added on another, like, half a house.
 13 The basement which is underneath the part where my
 14 bedroom and everything is is not completed, it's
 15 just storage space now.
 16 Q. And they put some type of an addition coming out
 17 from there?
 18 A. Right.
 19 Q. What's in the addition?
 20 A. There's a family room, my bedroom and my bathroom.
 21 Q. And that's on the same level as the first floor of
 22 the house?
 23 A. Yes.
 24 Q. Did they put in ramps and the like as well?
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- 1 A. No.
 2 Q. Are there any steps that you need -- were in the
 3 house --
 4 A. Well, there is ramps. There's a ramp in the
 5 garage for me to get into the house that way.
 6 There's a small ramp on the porch outside the
 7 house for me to get down that way.
 8 Q. Do you have any access to the second floor of the
 9 house at all?
 10 A. No.
 11 Q. So they didn't put a lift or an elevator or
 12 anything of that nature?
 13 A. No.
 14 Q. What's upstairs?
 15 A. There's four bedrooms and a bathroom.
 16 Q. Were the bathrooms on the first floor of the house
 17 modified for you?
 18 A. Yes.
 19 Q. How so?
 20 A. They had to totally enlarge the current bathroom
 21 that was down there, which was a half a bath and
 22 they had to enlarge it so it would accommodate the
 23 toilet and accommodate a roll-in shower, so they
 24 made it about two-thirds bigger. We lost garage
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- 1 Q. And hired all the subspecialties?
 2 A. Right.
 3 Q. And as you sit here, you just don't know that
 4 fellow's identity; correct?
 5 A. Yes.
 6 Q. Do you know how much it cost to do all that?
 7 A. I think we're talking about the vicinity of
 8 \$650,000. X
 9 Q. For the total reconstruction of the house?
 10 A. Yes.
 11 Q. Which would include everything you described for
 12 us?
 13 A. Yes.
 14 Q. Is there anything aside from the renovation of the
 15 house that is included within that approximate
 16 number you gave us?
 17 A. No, but there are further additions that we added
 18 to that as we got along. My husband wants to put
 19 in an elevator so I can get down to the basement
 20 floor where I'll have a gym and I'll have an area
 21 to do my work, that's what's going to go into the
 22 area that's not finished yet.
 23 Q. And just so I fully understand, there was an
 24 unfinished part of the basement that was never
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- 1 space doing that, that's where the space came
 2 from.
 3 Q. Aside from making that bathroom two-thirds bigger
 4 or accommodating it for you, was another bathroom
 5 installed?
 6 A. Yes, in the new addition.
 7 Q. Who performed that construction work?
 8 A. I really couldn't tell you.
 9 Q. There was a contractor I take it hired that
 10 submitted designs and a general contractor?
 11 A. Well, I can tell you the -- I can't even tell you
 12 his last name. I was going to say I can tell you
 13 the architect's name, I only know him by his first
 14 name.
 15 Q. So there was an architect that did all the plans?
 16 A. Exactly.
 17 Q. What's that fellow's first name anyway?
 18 A. Manny.
 19 Q. And is he someone that specializes in that type of
 20 construction?
 21 A. I don't know.
 22 Q. And I take it a general contractor was hired that
 23 did all the work?
 24 A. Right.
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- 1 finished --
 2 A. Right.
 3 Q. -- that that's what you're talking about is going
 4 to become a gym and an area to do work?
 5 A. Well, originally the part that wasn't finished was
 6 just a little area where we kept the washing
 7 machine and the dryer. Now, 'cause I've never
 8 seen the basement, so I don't know, I'm telling
 9 you what was relayed to me --
 10 Q. Fair enough.
 11 A. -- is a very large area of just, you know, empty
 12 space. It's going to have a gym and it's going to
 13 have a work station.
 14 Q. The part of the basement that was finished was
 15 used for the build out?
 16 A. I don't know. I would think so. Visually, I
 17 would think so, but --
 18 Q. Okay. And the part of the house that you spend
 19 your time would be the first floor and the new
 20 addition?
 21 A. Right.
 22 Q. And your husband wants an elevator in there so you
 23 can also use the basement?
 24 A. Right.
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- 1 Q. Aside from it being a notion that he'd like to do
2 it in the future, is there any present plans to
3 actually put the elevator in?
4 A. Yes, he's got the architect working on it.
5 Q. Aside from the elevator, are there any other
6 present plans for additional construction in the
7 future to the house?
8 A. Not that I can think of.
9 Q. And the elevator will just go down to the
10 basement, not up to the second floor?
11 A. Well, he said it would go down to the basement. I
12 didn't -- I don't think it was meant to go up to
13 the second floor.
14 Q. Do you have any target date for when that's going
15 to be completed?
16 A. No.
17 Q. Do you have any estimate of what they're talking
18 about for cost?
19 A. No.
20 Q. The \$650,000 renovation or thereabouts that has
21 been done, would paid for that?
22 A. I believe we did.
23 Q. Who handled that part of the financing?
24 A. Harold, my husband.

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- 1 present, have you and Mr. Rhodes ever lived apart?
2 A. Been what?
3 Q. Lived apart or separated.
4 A. No.
5 Q. From the time you were married to the present, had
6 you and Mr. Rhodes ever seen a marriage counselor
7 for any reason?
8 A. Yes.
9 Q. When did that start?
10 A. We started seeing a family counselor before the
11 accident because we have a teenage daughter.
12 MR. PRITZKER: Just answer the questions.
13 Q. I've got a job to do which is to follow up on
14 these issues. Your lawyer has a job to do to make
15 me follow up on these issues.
16 A. Oh.
17 Q. You mentioned it was before the accident. Can you
18 give me like either a year or a part of a decade
19 when that started?
20 A. I really can't.
21 Q. When your daughter was a teenager?
22 A. It might have been the year before she turned
23 teenager. It might have been when she was twelve.
24 Q. She's how old now?

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- 1 Q. Do you know whether he had to take out a loan or
2 how that worked?
3 A. I really don't know.
4 Q. How are you doing?
5 A. Fine.
6 Q. All right. I want to talk for a little while
7 about your marriage and those types of issues.
8 How long have you been married to Harold Rhodes?
9 A. Twenty one years.
10 Q. So you got married in early eighties?
11 A. '83.
12 Q. And prior to getting married, how long had you
13 known him?
14 A. A year.
15 Q. Generally, where did you meet?
16 A. We met at Natick Village in Natick, Mass., at the
17 swimming pool.
18 Q. Those are the apartments off of 135?
19 A. Yes.
20 Q. Is that where you were living at the time?
21 A. Yes.
22 Q. He had a place over there, too?
23 A. Yes.
24 Q. From the time you were married in 1983 to the

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- 1 A. She's sixteen now.
2 Q. So in the neighborhood of five years or so ago?
3 A. Yeah.
4 Q. Who was the family counselor that you saw?
5 A. Linda Eisenberg.
6 Q. And where does she work out of?
7 A. Out of Holliston.
8 Q. And could you describe for us the issues that led
9 to you seeing a family counselor?
10 A. Becca was having a lot of trouble in school
11 adjusting to working with other kids, socializing.
12 Q. For how long had you seen Ms. Eisenberg?
13 A. We still see her. Well, I don't see her.
14 Q. All right. Do you know what her credentials are;
15 if she's a psychologist, psychiatrist, a
16 therapist, social worker?
17 A. I think she's a licensed social worker. I'm not
18 sure.
19 Q. And were there reasons that you went to her solely
20 because of the problems that your daughter was
21 having?
22 A. We were having trouble as a family communicating.
23 Q. What do you mean by that?
24 A. My daughter has a mind of her own and whenever my

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- 1 husband would make any suggestion for something
2 she should do, she was very rebellious about it.
3 Q. Were there issues between your husband and
4 yourself that also led you to go see a family
5 counselor?
6 A. Yes. We were also not communicating very well.
7 Q. Can you describe for us or give us an estimate of
8 how often you went for sessions with her?
9 A. Every -- it was either every other or every
10 Sunday, I can't really remember.
11 Q. And has that schedule, I guess, been constant from
12 when you started to the present?
13 A. Yes.
14 Q. You mentioned earlier that you don't go to her any
15 longer?
16 A. Well, I go occasionally when Harold asks me to go.
17 He's seeing her now as his social worker,
18 whatever. Occasionally issues will come up that
19 are marriage issues or family issues and then
20 he'll ask me to come and I'll go. It doesn't
21 happen very often.
22 Q. Has Ms. Eisenberg treated you for issues that have
23 arisen because of your injuries?
24 A. Yes.

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- 1 A. I'd say it's been an ongoing issue. I mean --
2 Q. Was that something Ms. Eisenberg helped you and
3 your husband with?
4 A. Yes.
5 Q. Did you see anybody else for those issues?
6 A. No.
7 Q. And you mentioned it was kind of an empty threat.
8 Had you sought counseling -- strike the question.
9 You mentioned it was an empty threat,
10 but had you actually sought representation --
11 A. No. No.
12 Q. And to your knowledge, had your husband?
13 A. No.
14 Q. I think I asked this, but I forget whether I did.
15 Had you seen anybody else aside from Ms. Eisenberg
16 for those problems you were having, you and your
17 husband?
18 A. I have my own counselor.
19 Q. Who's that?
20 A. Jill McAnulty.
21 Q. She's a social worker, too?
22 A. She's actually a doctor, Jill McAnulty, but she's
23 using -- she's doing a psychologist function.
24 Q. When had you started treating with, I guess I
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- 1 Q. When I say you, the family?
2 A. (Witness nods head).
3 Q. Has she addressed those issues?
4 A. Yes.
5 Q. From the time you and Mr. Rhodes were married
6 until the present, have either of you contemplated
7 parting or divorce?
8 A. Yes.
9 Q. When did that arise?
10 A. Just when we get in fights.
11 Q. Did that predate the accident?
12 A. Yes.
13 Q. Have those issues arisen after the accident?
14 A. Not those issues.
15 Q. When you mentioned that those kinds of issues came
16 up when you'd fight, is that something that you
17 were thinking about or your husband was thinking
18 about, or both?
19 A. I think it was just an empty threat that we used
20 to let the other one know that we were really
21 angry.
22 Q. Can you estimate for us about how long or short
23 before the accident that those types of issues
24 came to a head?

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- 1 should call her Dr. McAnulty?
2 A. After the accident.
3 MS. PINKHAM: Russ, if I could interrupt.
4 Pressure relief.
5 Q. Take your time.
6 A. I can answer.
7 Q. We can wait.
8 (Discussion held off the record)
9 BY MR. POLLOCK:
10 Q. You started seeing Dr. McAnulty after the
11 accident?
12 A. Yes.
13 Q. And who recommended that you see her?
14 A. I don't remember.
15 Q. Are you the only one in the family that's seeing
16 her?
17 A. Yes.
18 Q. Can you describe for us what she's treating you
19 for? What are the issues that she deals with you
20 for --
21 MR. PRITZKER: Objection. I instruct you
22 not to answer.
23 Q. Do any of the issues that she sees you for have to
24 do with any of the injuries you suffered in the
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- 1 accident?
 2 A. Yes.
 3 Q. Does she treat you for coping with the depression,
 4 frustration and grief that you feel because of the
 5 injuries you suffered in the accident?
 6 MR. PRITZKER: I will allow Mrs. Rhodes
 7 to answer that general question, but understand
 8 that we're not going to delve into this. And you
 9 know the plaintiff's position on this.
 10 MR. POLLOCK: I will ask my questions,
 11 you can instruct her whatever you want to instruct
 12 her.
 13 MR. PRITZKER: That's fine. You can
 14 answer that if you want to.
 15 A. I forgot the question already.
 16 Q. I'm going to let the court reporter field this
 17 one.
 18 MR. POLLOCK: Could you repeat the
 19 question.
 20 (Record read)
 21 A. Yes.
 22 Q. Does she treat you for other things as well?
 23 A. No.
 24 Q. How often do you see her?
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- 1 Q. All right. How often does she assist you?
 2 A. She comes in five days a week, comes in at 8 and
 3 leaves at 4.
 4 Q. That would be Monday to Friday, I take it?
 5 A. Monday to Friday. Sometimes she comes in on the
 6 weekends in the morning, but mostly she doesn't.
 7 Q. Do you know what company she's from or
 8 organization?
 9 A. Griswold.
 10 Q. And for how long have you had a nursing assistant
 11 for eight hours a day, Monday to Friday?
 12 A. It's been a year - it was a year in March.
 13 Q. So since, approximately, March of '03?
 14 A. Well, actually, I had someone before Peggy
 15 started. Peggy started that March. Before that,
 16 I had another girl, Lydia, I had her from when I
 17 got back from the accident, which would be April
 18 'til March.
 19 Q. Obviously you and Mr. Rhodes have a daughter
 20 together?
 21 A. Yes.
 22 Q. Is she your only child together?
 23 A. Yes.
 24 Q. What is her date of birth?
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- 1 A. Every other Thursday.
 2 Q. How long are those sessions?
 3 A. Fifty minutes.
 4 Q. And where is her office located?
 5 A. In Milford.
 6 Q. How do you get there?
 7 A. Van, somebody drives me.
 8 Q. This is your family's van?
 9 A. The van we had converted for wheelchair.
 10 Q. Somebody drives you, drops you off and then comes
 11 to get you after the session?
 12 A. Exactly.
 13 Q. Is that somebody you hire or somebody from the
 14 family?
 15 A. It could be either Harold or my caregiver, Peggy.
 16 Q. Who's Peggy? What's her last name?
 17 A. I can't pronounce - it's African. I think it's,
 18 A-N-A-Y-U-N-D-A.
 19 Q. Is she a nurse?
 20 A. She's a CNA, certified nurses' assistant.
 21 Q. Nurses' assistant?
 22 A. Yes.
 23 Q. Something along that nature anyway?
 24 A. Yes.
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- 1 A. 4/8/88.
 2 Q. And you said she's sixteen?
 3 A. Sixteen.
 4 Q. She lives with you at the house?
 5 A. Oh, yeah.
 6 Q. She was living with you there at the time of the
 7 accident?
 8 A. She was in school.
 9 Q. I mean locally.
 10 A. But she was there.
 11 Q. You said, Oh, yeah. I guess she makes her
 12 presence known, huh, as teenagers do.
 13 A. Yes.
 14 Q. Did you or Mr. Rhodes ever have any other
 15 children?
 16 A. No.
 17 Q. Where did you grow up?
 18 A. Whippany, New Jersey.
 19 Q. I want to talk for a little while about your
 20 family. Any brothers or sisters?
 21 A. One older sister.
 22 Q. Have you ever had any other brothers or sisters?
 23 A. No.
 24 Q. What's your sister's name?
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00029

- 1 A. Susan.
- 2 Q. Does she go by Goldy?
- 3 A. She goes by -- Susan Mackay, M-A-C-K-A-Y.
- 4 Q. And how did you find your way up to Massachusetts from Whippany, New Jersey?
- 5 A. I went to school up here, college up here.
- 6 Q. Had you lived up here prior to starting college?
- 7 A. No.
- 8 Q. Where did you go to college?
- 9 A. I went to Dean Junior College and then I went to Babson College.
- 10 Q. Over in Wellesley, Babson?
- 11 A. Yeah.
- 12 Q. And how old is your sister?
- 13 A. Fifty one.
- 14 Q. Are your parents still alive?
- 15 A. Yes.
- 16 Q. And what are their names?
- 17 A. Moe and Elayne, E-L-A-Y-N-E.
- 18 Q. Where do they reside?
- 19 A. They live in Port St. Lucie, Florida.
- 20 Q. They're retired there, I take it?
- 21 A. Yes.
- 22 Q. Before that, they were in New Jersey?
- 23 A. Yes.
- 24 Q. Before that, they were in New Jersey?

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00031

- 1 A. Right.
- 2 Q. Did you get any type of a degree, certificate or a license from that school?
- 3 A. I got an Associate in business.
- 4 Q. Did you go directly on to Babson?
- 5 A. Yes.
- 6 Q. Did you earn a degree from that school?
- 7 A. I got a degree in marketing, management and accounting.
- 8 Q. Did you get a Bachelor's of Arts from there, a BA?
- 9 A. Yeah, I guess.
- 10 Q. And your major -- what was your major?
- 11 A. I tripled majored.
- 12 Q. So do you have a degree in each of those different fields?
- 13 A. Well, they give you one diploma.
- 14 Q. But your majors were marketing, management and accounting?
- 15 A. Accounting, marketing and management.
- 16 Q. Did you go on for any other education when getting out of Babson?
- 17 A. I was given a fellowship to teach and attend Northeastern.
- 18 Q. University?

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00030

- 1 A. Yes.
- 2 Q. Does your sister live down in New Jersey?
- 3 A. No, my sister lives down the Cape in Falmouth.
- 4 Q. Did she also go to school up here?
- 5 A. No.
- 6 Q. Your parents, can you either tell me their approximate ages or their dates of birth?
- 7 A. My father just turned seventy five, my mother's seventy three.
- 8 Q. And you mentioned a little bit about your educational background. Where did you go to high school?
- 9 A. Whippany Park High School.
- 10 Q. And what year did you graduate?
- 11 A. 1973.
- 12 Q. Did you go right to Dean Junior College?
- 13 A. No, I took a year off.
- 14 Q. What did you do for that year?
- 15 A. I worked and I studied airline school, correspondence course.
- 16 Q. Did you work in the airline industry at all?
- 17 A. No.
- 18 Q. So sometime in 1974, '75 is when you started Dean Junior College?

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00032

- 1 A. Yeah.
- 2 Q. Over in --
- 3 A. Boston.
- 4 Q. Near the Museum of Fine Arts?
- 5 A. Huh?
- 6 Q. Near the Museum of Fine Arts over there?
- 7 A. Yeah.
- 8 Q. All right. Who gave you the fellowship?
- 9 A. They did. Northeastern did.
- 10 Q. Did you get any types of degree from there?
- 11 A. No.
- 12 Q. For how long did you attend Northeastern?
- 13 A. One year.
- 14 Q. What did you study there?
- 15 A. Graduate school, business.
- 16 Q. Do you know when you graduated from Babson, what year that was?
- 17 A. '78.
- 18 Q. And then you went right on to that fellowship program at Northeastern?
- 19 A. Yes.
- 20 Q. Why did you stop going?
- 21 A. I hated it.
- 22 Q. That's a good reason.

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00033

- 1 A. Too many people.
- 2 Q. Aside from that education at Northeastern, had you
- 3 gone for any other further education?
- 4 A. Yes, I took classes at Babson.
- 5 Q. Graduate classes?
- 6 A. Graduate classes at Babson.
- 7 Q. Anywhere else?
- 8 A. Pardon?
- 9 Q. Have you attended classes anywhere else --
- 10 A. No.
- 11 Q. -- except for what you've told us?
- 12 A. No.
- 13 Q. Did you get any other degrees, certificates or
- 14 licenses after you graduated from Babson?
- 15 A. No.
- 16 Q. Did you ever serve in the military?
- 17 A. No.
- 18 Q. Let's talk about your employment background for a
- 19 little while. Are you currently employed?
- 20 A. No.
- 21 Q. When was the last time you had any type of
- 22 employment or earned income as they call it?
- 23 A. I had my own business up until the accident.
- 24 Q. What was the name of that business?

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00035

- 1 Q. Do your thing.
- 2 (Discussion held off the record)
- 3 BY MR. POLLOCK:
- 4 Q. Did any of your business take place on line --
- 5 A. No.
- 6 Q. -- or was it all going to shops and --
- 7 A. It was all shops.
- 8 Q. -- and estate sales? Had you always gone by the
- 9 name Euneek Antiques and Collectibles?
- 10 A. Yes.
- 11 Q. And that started back in the early nineties?
- 12 A. '90.
- 13 Q. Can you estimate for us how much you earned in
- 14 that capacity?
- 15 A. I can't estimate because we would just plow --
- 16 anything earned would go right back into
- 17 inventory. So if I had to estimate how much I
- 18 earned -- I would say the retained earnings is the
- 19 same as the inventory. And the inventory is
- 20 probably, I would say probably around \$50,000.
- 21 Q. Is that the current retained inventory or
- 22 generally when you would do business, your
- 23 inventory was around \$50,000?
- 24 A. That's accumulated over the -- since 1990.

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00034

- 1 A. It's Euneek, E-U-N-E-E-K, Antiques and
- 2 Collectibles.
- 3 Q. And were you actually engaged in that business up
- 4 until the accident occurred?
- 5 A. Exactly.
- 6 Q. And what was Euneek Antiques and Collectibles?
- 7 A. Just a typical antique and collectibles dealer
- 8 buying at auctions or estate sales and renting
- 9 spaces in stores to display my merchandise.
- 10 Q. How long had you been an antiques dealer?
- 11 A. Since 1990.
- 12 Q. Had you worked for any other companies as an
- 13 antiques dealer before --
- 14 A. No.
- 15 Q. -- striving on your own?
- 16 A. No.
- 17 Q. Was Euneek Antiques and Collectibles incorporated?
- 18 A. No.
- 19 Q. Was it any type of partnership?
- 20 A. No.
- 21 Q. Just a sole proprietorship --
- 22 A. Right.
- 23 Q. -- that you ran?
- 24 A. Right.

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00036

- 1 Q. In your capacity as an antiques dealer, did you
- 2 have any insurance or benefits that you had
- 3 through the company?
- 4 A. No.
- 5 Q. What did you do before you became an antiques
- 6 dealer?
- 7 A. Actually, I had two things going on. I had my own
- 8 accounting consulting business and I also was
- 9 teaching college.
- 10 Q. Where were you teaching?
- 11 A. Mount Ida in Newton, Mass..
- 12 Q. What were you teaching over at Mount Ida?
- 13 A. What was I teaching? Any business course that
- 14 needed to be taught.
- 15 Q. Was that full time or part --
- 16 A. Part time.
- 17 Q. For how long had you taught there?
- 18 A. Probably from 1990 to -- no, it would be before
- 19 1990. Let me think about it. 1986 is when I
- 20 started and I stopped in 1990 when I started the
- 21 business.
- 22 Q. I don't know the different hierarchy. Were you an
- 23 associate professor or staff? What was your
- 24 title, professor?

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00037

- 1 A. Yeah.
- 2 Q. Instructor?
- 3 A. Just a teaching -- instructor.
- 4 Q. You mentioned that you had an accounting practice
- 5 as well?
- 6 A. Yes. I would go into a company and help them go
- 7 from a manual system to a computerized system.
- 8 Q. You had, I take it, some special knowledge in how
- 9 to do accounting work by computer?
- 10 A. Yeah.
- 11 Q. That's something you'd learned in school?
- 12 A. No, something I learned on the job.
- 13 Q. Where did you learn that?
- 14 A. Depending on the company, each company had
- 15 different software, so I learned it from whichever
- 16 client I was working with.
- 17 Q. And you taught them how to do it?
- 18 A. Yeah.
- 19 Q. Did that accounting practice have a name?
- 20 A. Accounting Plus.
- 21 Q. Is that also a sole proprietorship?
- 22 A. Yes.
- 23 Q. You were the sole proprietor?
- 24 A. Yes.

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00039

- 1 A. Yes.
- 2 Q. Do you know where he currently -- what company
- 3 he's currently assigned to or what's he --
- 4 A. He's not working right now. He hasn't worked
- 5 since the accident.
- 6 Q. When you say he hasn't worked since the accident,
- 7 let me ask you this, am I correct that he was --
- 8 worked for himself; correct?
- 9 A. Right.
- 10 Q. He was an independent marketing consultant?
- 11 A. Right.
- 12 Q. He would offer services to any company that needed
- 13 marketing consultant services?
- 14 A. High tech.
- 15 Q. High tech companies. At the time of your
- 16 accident, he was working -- he was hired by high
- 17 tech companies to do that kind of work?
- 18 A. He was working for somebody, but --
- 19 Q. But he hasn't offered his services to any other
- 20 company since the time of the accident? X
- 21 A. Correct.
- 22 Q. And why not?
- 23 A. Because he's become my caregiver. It's a twenty
- 24 four hour a day job.

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00038

- 1 Q. And how long did you do that for?
- 2 A. Let's see. I started that in 1983 and then I
- 3 switched to antiques in 1990.
- 4 Q. How did you get involved in antiques?
- 5 A. Just a general interest.
- 6 Q. How did you learn what was valuable and what's
- 7 not?
- 8 A. I had a mentor.
- 9 Q. Who's that?
- 10 A. Charlie Ruddock.
- 11 Q. That's just a friend that's local?
- 12 A. Local woman who's been doing it for thirty five
- 13 years.
- 14 Q. At the time of the accident, did you have any
- 15 other source of income that you -- your own source
- 16 of income aside from the antiques business?
- 17 A. No.
- 18 Q. Am I correct that your husband was the primary
- 19 wage earner at that time?
- 20 A. Yes.
- 21 Q. And he was working as an independent marketing
- 22 consultant?
- 23 A. Yes.
- 24 Q. Is that what he still does?

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00040

- 1 Q. What do you do for income?
- 2 A. We don't.
- 3 Q. Are you receiving -- aside from medical benefits
- 4 or insurance -- strike the question.
- 5 (Witness conferred with counsel)
- 6 A. We liquidated a mutual -- not mutual fund,
- 7 municipal bonds that we had, we've been living off
- 8 of the municipal bonds.
- 9 Q. When did you liquidate those bonds?
- 10 A. I don't know. My husband handled them. I mean,
- 11 it was done in a series. It wasn't done all at
- 12 once and then waited.
- 13 Q. And is that still going on, the bonds are getting
- 14 liquidated --
- 15 A. Yes.
- 16 Q. -- and that's how you survive?
- 17 A. Yes.
- 18 Q. Who accumulated the bonds, was it you or your
- 19 husband or both?
- 20 A. Well, my husband made all the financial, you know,
- 21 investments.
- 22 Q. Aside from the municipal bonds, is there any other
- 23 income that you have either through Social
- 24 Security or any type of benefits --

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00041

- 1 A. No.
- 2 Q. -- that you live on?
- 3 A. No.
- 4 Q. Do you know what the amount of those municipal
- 5 bonds are, either the total or the individual
- 6 or --
- 7 A. No, I don't.
- 8 Q. Your husband handles all that?
- 9 A. Yes, exactly.
- 10 Q. I understand. My wife handles all that. Aside
- 11 from his -- strike the question.
- 12 Am I correct that he hasn't worked in
- 13 any type of capacity at all since the accident? X
- 14 A. Correct.
- 15 Q. So he essentially provides around the clock care
- 16 for you?
- 17 A. Yes.
- 18 Q. And he works in conjunction with the nursing
- 19 assistant?
- 20 A. Yes.
- 21 Q. Are there others that also assist in your care?
- 22 A. We have a visiting nurse come in.
- 23 Q. What's that individual's name?
- 24 A. Michelle Cory.

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00043

- 1 Q. The accident occurred in Medway?
- 2 A. Yes.
- 3 Q. You had a valid Massachusetts driver's license,
- 4 true?
- 5 A. Yes.
- 6 Q. And for how long had you driven a car?
- 7 A. That particular car?
- 8 Q. How long have you had your license for?
- 9 A. Oh, since I was sixteen.
- 10 Q. Had you had any prior accidents?
- 11 A. Yes.
- 12 Q. How many?
- 13 A. Two.
- 14 Q. Generally what was the timeframe of those two
- 15 prior ones?
- 16 A. They were within five years of the big one.
- 17 Q. Those two prior accidents, were you injured in any
- 18 way?
- 19 A. No.
- 20 Q. Did you seek any type of medical treatment, even
- 21 to just get checked out for either of those prior
- 22 accidents?
- 23 A. Yes.
- 24 Q. Where had you been checked out?

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00042

- 1 Q. Do you know what facility she comes from?
- 2 A. VNA, visiting nurses.
- 3 Q. How often does Nurse Cory come in?
- 4 A. She comes in -- normally she comes in once a
- 5 month. When there is an injury or episode, she
- 6 comes in more frequently.
- 7 MR. BOYLE: I'm sorry. I didn't hear the
- 8 last part of your answer.
- 9 THE WITNESS: When there's an episode or
- 10 injury, she comes in more frequently.
- 11 BY MR. POLLOCK:
- 12 Q. Are there any other caregivers that come in?
- 13 A. No.
- 14 Q. Let's talk about the accident for a little while.
- 15 January 9th of 2002 was the date?
- 16 A. Yes.
- 17 Q. Can you tell us what day of the week that was?
- 18 A. I believe it was a Wednesday.
- 19 Q. Can you describe for us what the weather was like?
- 20 A. Clear, cold.
- 21 Q. And you were on Route 109?
- 22 A. Yes.
- 23 Q. The accident occurred in Medway?
- 24 A. Pardon?

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00044

- 1 A. Cape Cod Hospital, I guess. I'm not sure of the
- 2 name of the hospital down there.
- 3 Q. Did you go get checked out for both of those
- 4 accidents?
- 5 A. No.
- 6 Q. So the one that you got checked out for at Cape
- 7 Cod Hospital, whatever it's called, when was that?
- 8 Can you give us a year?
- 9 A. It would have been the year before the accident.
- 10 Q. I take it that happened down on the Cape?
- 11 A. Yes.
- 12 Q. I don't think you'd go out of your way to go to
- 13 Cape Cod Hospital, but --
- 14 A. Yeah.
- 15 Q. Can you tell us generally what happened generally
- 16 in that --
- 17 A. I veered off the road and hit a little wooden
- 18 fence that they had, decorative fence that was
- 19 there. And the policemen came and they told me
- 20 that the rule of law was I had to go to the
- 21 hospital to get checked out because I had had an
- 22 accident and a policeman had come and so I
- 23 believed him, so I went to the hospital and got
- 24 checked out.

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00045

- 1 Q. They didn't admit you, I take it. You weren't
2 admitted to the hospital?
- 3 A. No.
- 4 Q. How did you get to the hospital for that accident?
- 5 A. I don't remember. I don't really remember.
- 6 Q. What town did that occur in?
- 7 A. I want to say Mashpee.
- 8 Q. No other -- do you know what road that occurred
9 on?
- 10 A. No.
- 11 Q. No other car involved?
- 12 A. No, no other car.
- 13 Q. Do you know why you swerved off the road?
- 14 A. I think I was avoiding an animal.
- 15 MR. JOHNSON: I'm sorry. I didn't hear
16 that one.
- 17 THE WITNESS: Avoiding --
- 18 MR. POLLOCK: Avoiding an animal.
- 19 MR. JOHNSON: Okay. Thank you.
- 20 BY MR. POLLOCK:
- 21 Q. Where did the other accident occur?
- 22 A. In Upton.
- 23 Q. When was that --
- 24 A. No, wait a minute. Uxbridge, sorry. That would
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00047

- 1 A. No.
- 2 Q. Anybody else in the car with you?
- 3 A. Huh?
- 4 Q. Was anybody else in the car with you?
- 5 A. No.
- 6 Q. At the time of the January 9th, 2002 accident, you
7 were on Route 109 in the eastbound direction?
- 8 A. Yes.
- 9 Q. Where were you coming from at the time?
- 10 A. Coming from my house.
- 11 Q. Where were you going to?
- 12 A. The Holliston store.
- 13 MS. PINKHAM: It's time for pressure
14 relief.
- 15 MR. POLLOCK: Why don't we take a minute
16 any way.
- 17 (Short recess taken)
- 18 BY MR. POLLOCK:
- 19 Q. I think you said you were going to the store in
20 Holliston?
- 21 A. Yeah, the Holliston store, Antiques Plus.
- 22 Q. What's Antiques Plus?
- 23 A. It's an antiques and collectibles store.
- 24 Q. Did you --
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00046

- 1 have been two years before. It would have been
2 1997.
- 3 Q. And can you just describe for us briefly what
4 happened there?
- 5 A. Yes. We were in a long line because the bicycle
6 riders who were riding for AIDS were riding
7 through the town and so they were holding up
8 traffic and the 18 wheeler that was behind me
9 forgot that I was there and went to pull up and
10 just smacked the end of my car and pushed me into
11 the van that was in front of me. The car was
12 considered totaled and that's when I got the car
13 that had the accident.
- 14 Q. And you were not either taken to the hospital
15 or -- strike the question.
- 16 You were not taken to the hospital
17 for that accident?
- 18 A. No.
- 19 Q. Did you go to your primary care physician for that
20 accident?
- 21 A. No.
- 22 Q. Didn't treat at all?
- 23 A. No injuries.
- 24 Q. Anybody in the car injured?
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00048

- 1 A. I rented out space there.
- 2 Q. All right. You rented out space from that store
3 that you would sell your own antiques at?
- 4 A. Exactly.
- 5 Q. Just so I understand the business, you'd get
6 antiques either at estate sales or markets or what
7 have you, you'd buy them and sell them at stores
8 like Antiques Plus?
- 9 A. Yes.
- 10 Q. Is that a place you'd rented space for for some
11 time?
- 12 A. Yes.
- 13 Q. Who's the owner over there?
- 14 A. I don't remember her name anymore. It's not the
15 same owner anymore.
- 16 Q. And how did that work? Did you actually pay her a
17 certain amount per month or it was on consignment?
18 How did it work?
- 19 A. I paid a rental fee each month for the space. I
20 was responsible for servicing that space. They
21 would ring up the sales and then at the end of
22 each month, I'd get a check for -- and an
23 explanation as to where the sales came from.
- 24 Q. So part of that store was basically yours, for
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00049

- 1 your stuff?
- 2 A. Yeah, a small part.
- 3 Q. They essentially sold the stuff for you?
- 4 A. Yes.
- 5 Q. You'd price it --
- 6 A. I'd price it, they rung it up, they took in the
- 7 money.
- 8 Q. How much time would you actually spend there at
- 9 the store?
- 10 A. That wasn't the only store I was in.
- 11 MR. PRITZKER: Just answer the questions.
- 12 A. Usually it would take me about an hour.
- 13 Q. You'd go to that store every day to --
- 14 A. No.
- 15 Q. How often would you go?
- 16 A. A little bit more than once a week.
- 17 Q. And you'd go and check on the inventory for an
- 18 hour or so?
- 19 A. Put in new inventory.
- 20 Q. And there was other places you displayed your
- 21 items as well?
- 22 A. Yes.
- 23 Q. Where else?
- 24 A. Showcase Antiques in Sturbridge and Farmhouse
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00051

- 1 Q. And you bought it new after that other accident?
- 2 A. Right. Exactly.
- 3 Q. Was that a two door or a four door?
- 4 A. It was a four door.
- 5 Q. Were you wearing your seatbelt?
- 6 A. Oh, of course.
- 7 Q. Do you always wear your seatbelt?
- 8 A. Yes.
- 9 Q. Can you describe for us what you remember from the
- 10 minute or even the last before the accident at the
- 11 time of the collision?
- 12 A. I was driving down 109 towards Holliston, I was
- 13 stopped by a policeman. There was a big piece of
- 14 machinery on our side of the road, the eastbound
- 15 lane and they were alternating traffic and it was
- 16 our turn to stop. So I was the first car, so I
- 17 stopped. And I glanced in my rearview mirror and
- 18 I saw that there was this large truck coming at me
- 19 and that he wasn't going to stop, so I turned my
- 20 wheels to the right. But then after that, you
- 21 know, I couldn't get out of the way fast, he hit
- 22 me and I went into the wooded area that runs along
- 23 the side of 109.
- 24 Q. Okay. You mentioned there was an officer there.
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00050

- 1 Antiques in Wellfleet.
- 2 Q. And how often would you get to those outposts --
- 3 A. Showcase Antiques I'd probably get to once a
- 4 month, and Wellfleet, the same.
- 5 Q. And you'd also spend about an hour there?
- 6 A. At least -- more like two hours at those stores.
- 7 Q. And you'd also be in touch with the owners of
- 8 those stores by phone --
- 9 A. Yes.
- 10 Q. -- periodically?
- 11 A. Can I --
- 12 Q. Yeah, sure.
- 13 (Witness conferred with counsel)
- 14 BY MR. POLLOCK:
- 15 Q. Can you describe for us what the road conditions
- 16 were like just before your accident?
- 17 A. Clear.
- 18 Q. Was there any snow, ice, rain or precipitation on
- 19 the road?
- 20 A. No, not that I recall.
- 21 Q. What vehicle were you in at the time?
- 22 A. Toyota Corolla.
- 23 Q. What year was it, do you remember?
- 24 A. 1997.
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00052

- 1 I take it he was controlling the traffic?
- 2 A. Right. There were actually two.
- 3 Q. That's one of my questions. How did the officer
- 4 signal for you to stop?
- 5 A. He held his hand up (indicating).
- 6 MR. JOHNSON: Can I go -- did you say
- 7 there were actually two?
- 8 THE WITNESS: I believe there were two,
- 9 yeah.
- 10 MR. JOHNSON: Okay.
- 11 BY MR. POLLOCK:
- 12 Q. Do you know where the other officer was?
- 13 A. The other end of the big piece of machinery.
- 14 Q. So the officer, I guess that was -- I'm not
- 15 putting words in your mouth. The officer had
- 16 stopped you, the other guy would have been waving
- 17 the other traffic on?
- 18 A. Exactly. And stopping them when it was our turn.
- 19 Q. Did you actually see that other officer?
- 20 A. I think I did.
- 21 Q. How far were you from the officer when he put up
- 22 his hands for you to stop?
- 23 A. Probably about three quarters of a car length.
- 24 Q. How fast were you traveling when he told you to
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00053

- 1 stop?
 - 2 A. Probably about 25 miles an hour.
 - 3 Q. I think you said this during your description, but
 - 4 were there any cars in front of you --
 - 5 A. No.
 - 6 Q. -- when the traffic was stopped?
 - 7 A. No, I was the first one.
 - 8 Q. Were there cars -- strike the question. After you
 - 9 stopped, were there cars coming in the opposite
 - 10 direction?
 - 11 A. Yes.
 - 12 Q. Do you have any memory as to whether it was a
 - 13 steady flow of traffic or --
 - 14 A. Oh, it was a line that got held up and was being
 - 15 allowed to pursue 109 west.
 - 16 Q. So a pretty heavily trafficked road?
 - 17 A. (Witness nods head).
 - 18 Q. Right?
 - 19 A. Yes.
 - 20 Q. And they were letting one lane of cars go by at a
 - 21 time?
 - 22 A. Yes.
 - 23 Q. Were there any other types of spotters or
 - 24 signalers aside from the two officers?
- C.J. REPORTING (978) 409-9090

00055

- 1 indicating that there was construction ahead or --
 - 2 A. No.
 - 3 Q. -- tree service ahead or anything of that nature?
 - 4 A. No.
 - 5 Q. Were there any cones out in the street that you
 - 6 saw?
 - 7 A. I don't remember seeing any.
 - 8 Q. For how long had you been stopped when the truck
 - 9 struck you?
 - 10 A. Not even a minute.
 - 11 Q. Now, you mentioned to us that you did see the
 - 12 truck coming in your rearview mirror?
 - 13 A. Yes.
 - 14 Q. Can you estimate for us how long you were stopped
 - 15 before you noticed the truck coming down in your
 - 16 rearview mirror?
 - 17 A. I basically just stopped. Less than a minute. I
 - 18 just --
 - 19 Q. Can you estimate for us how long it was when you
 - 20 saw the truck to the point where he struck you?
 - 21 A. Ten seconds.
 - 22 Q. How did you --
 - 23 MR. BOYLE: Sorry. Could you repeat the
 - 24 question.
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00054

- 1 A. I don't remember any.
 - 2 Q. Do you know what the big piece of machinery that
 - 3 you spoke of was?
 - 4 A. Well, I found out it was a tree trunk remover.
 - 5 Q. Stump grinder?
 - 6 A. Yeah.
 - 7 Q. How did you find that out?
 - 8 A. Subsequent reading about the case.
 - 9 Q. What subsequent reading are you referring to?
 - 10 A. I'm referring to information that I received from
 - 11 my lawyer.
 - 12 Q. All right. Did you see any of the people that
 - 13 were performing the stump grinding or the tree
 - 14 service?
 - 15 A. I could see two people.
 - 16 Q. Where?
 - 17 A. They were bending over -- again, I didn't know it
 - 18 was a tree stump at the time. But they were
 - 19 bending over a tree stump. I thought they were
 - 20 doing roadwork.
 - 21 Q. And your memory is there were two tree people
 - 22 there?
 - 23 A. Two people.
 - 24 Q. Two people. Were there any signs in the street
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00056

- 1 MR. POLLOCK: Let me let the court
 - 2 reporter do it because I might mess it up.
 - 3 (Record read)
 - 4 MR. BOYLE: Thank you.
 - 5 (Discussion held off the record)
 - 6 BY MR. POLLOCK:
 - 7 Q. How did you know from looking in your rearview
 - 8 mirror that the truck was not going to stop?
 - 9 A. Because he was coming full speed.
 - 10 Q. From the time you saw the truck in your rearview
 - 11 mirror and you realized he wasn't going to stop
 - 12 and the time of the accident, did you do anything?
 - 13 A. I turned the wheels really hard to the right.
 - 14 Q. Did you manage to move, accelerate the car?
 - 15 A. No, I didn't have time.
 - 16 Q. From the time you saw the truck in your rearview
 - 17 mirror to the time of the collision, did the truck
 - 18 perform any type of a maneuver at all?
 - 19 A. No.
 - 20 Q. Could you see the driver?
 - 21 A. No.
 - 22 Q. You mentioned the large piece of equipment that I
 - 23 think you learned was some type of stump grinder
 - 24 or some kind of that nature, was that making any
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00061

- 1 Q. The paramedics that came, do you know what company
2 they were from --
3 A. No.
4 Q. -- what unit?
5 MS. PINKHAM: It's actually time for a
6 pressure relief.
7 (Pause)
8 BY MR. POLLOCK:
9 Q. I know from reading your interrogatories there
10 was -- after the accident you couldn't move from
11 the waist down; correct?
12 A. Yes.
13 Q. You couldn't move from above the waist?
14 A. Yes.
15 Q. Do you know when you lost the ability -- when
16 during the accident sequence you lost that ability
17 to move?
18 A. When the car stopped.
19 Q. After the accident, can you describe for us what
20 happened next? Who came over to the car first?
21 A. After the accident -- well, there were obviously
22 policemen on the scene, so the policeman that had
23 stopped me came to the passenger side, I guess to
24 let me know that they were there. I asked him to
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00063

- 1 A. Something.
2 Q. You had asked him to call your husband?
3 A. Yes.
4 Q. You'd given him your home phone number?
5 A. Yes, I did. Well, I gave him my husband's phone
6 number.
7 Q. So you gave the office or a cell number?
8 A. He has an office number.
9 Q. You mentioned that somebody came over, Don't be
10 afraid, we're going to be using the jaws of life?
11 A. Yes.
12 Q. Who was that?
13 A. I don't know.
14 Q. Do you remember when the EMTs arrived?
15 A. No.
16 Q. Do you remember the fire department arriving?
17 A. No.
18 Q. Do you remember the jaws of life actually getting
19 used?
20 A. No.
21 Q. Aside from the police officer you spoke of, your
22 husband coming to the car, do you remember anybody
23 else coming to the car?
24 A. No.

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00062

- 1 call my husband, I gave him the phone number.
2 They called my husband, he came down. Somewhere
3 in the interim before that they told me not to be
4 scared because they were going to use the jaws of
5 life. He popped his head in, told me he was there
6 and that's all I remember.
7 Q. When you say "he popped his head in," your husband
8 arrived at the scene?
9 A. Right. Correct.
10 Q. Was he working at home at the time?
11 A. Yes, he was.
12 Q. So you had seen him, I guess, shortly before the
13 accident when you left the house?
14 A. Right.
15 Q. Just to break that down for a moment. The first
16 person that came to the car was the policeman that
17 put his hand up and stopped you?
18 A. Yes.
19 Q. He came around, you said, the passenger side?
20 A. Yes.
21 Q. Do you know why he didn't go to the driver's side?
22 A. No.
23 Q. And he told you, Don't worry, we're here,
24 something to that nature?
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00064

- 1 Q. And from the moment of the accident until when
2 your husband arrived, can you estimate for us how
3 long that was?
4 A. Probably about fifteen minutes.
5 Q. When you say "probably about fifteen minutes" --
6 A. Well, it seemed like an eternity.
7 Q. But are you working that through by your memory or
8 is it based on some other reason why you think
9 it's fifteen minutes?
10 A. No, based on my memory.
11 Q. It seemed like about fifteen minutes?
12 A. (Witness nods head).
13 Q. Is that a yes?
14 A. Yes. Sorry.
15 Q. When he came over to you, do you remember what
16 window he came to?
17 A. He went to the passenger side as well.
18 Q. Anybody come in the car with you at any point?
19 A. He leaned his head in.
20 Q. What's the next thing you remember after your
21 husband mentioning that he was there on the scene
22 with you?
23 A. I told him to shoot me full of drugs.
24 Q. I take it you were requesting that because you
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00057

- 1 noise?
 2 A. I had the windows up so I really don't know.
 3 MR. PRITZKER: Just answer the question.
 4 Q. Did you have the radio on?
 5 A. Yes.
 6 Q. What were you listening to, if you remember?
 7 A. Actually, it was a cassette.
 8 Q. Do you know what it was?
 9 A. It was probably Mozart.
 10 Q. Were you on the phone at all?
 11 A. No.
 12 Q. Just so we're clear, you don't know whether that
 13 stump grinder was making noise and operating or
 14 not because the windows were up and you had
 15 something on the cassette --
 16 A. Correct.
 17 Q. -- you were listening to? Did you hear any types
 18 of horns before the accident?
 19 A. No.
 20 Q. Did you hear any screeching or skidding or any of
 21 those types of sounds?
 22 A. No.
 23 Q. Did you hear anything else before the impact?
 24 A. No.

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00059

- 1 A. I don't really -- it was --
 2 MR. PRITZKER: If you don't remember --
 3 A. No, I don't remember.
 4 Q. You started to explain. Do you have any memory of
 5 where that stump grinding machine was located?
 6 A. It was on the right side of the road. It didn't
 7 take up the whole road.
 8 Q. Was it partially in the road?
 9 A. I don't know.
 10 Q. Does 109 have what they call a fog line on it?
 11 A. I don't know what that is.
 12 Q. Have you ever seen a yellow or white line on the
 13 side of the road?
 14 A. No.
 15 Q. Well, in your mind, in your memory, have you
 16 ever -- do you know what I'm talking about when I
 17 say there's a solid line on the side of a road?
 18 A. Yes.
 19 Q. Can you remember whether 109 had --
 20 A. No, I can't.
 21 Q. -- a line like that? Okay. Were there any other
 22 trucks or equipment that you associated with that
 23 tree service there at the scene?
 24 A. No.

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00058

- 1 Q. I think you mentioned when the truck struck your
 2 car, you were pushed off to the side of the road?
 3 A. It made the car go like that (indicating).
 4 Q. When you say "it made the car go like that," it
 5 made the car --
 6 A. Go right.
 7 Q. -- travel in a --
 8 A. Travel in a south direction. The right lane --
 9 the eastbound lane is woods all up and down the
 10 right lane, so I ended up driving into the woods.
 11 Q. So it pushed you -- so I can explain what this is
 12 (indicating) is, it pushed you into a clockwise
 13 arch --
 14 A. Yes.
 15 Q. -- into the side of the road? Was your car forced
 16 into any trees?
 17 A. I really don't remember.
 18 Q. Let me ask you this, did the car come to a stop by
 19 its momentum or because it struck something, or
 20 both?
 21 A. I really don't remember.
 22 Q. You spoke of that machine. Do you know where that
 23 was located in the road? Was it on the road, off
 24 the road, both?

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00060

- 1 Q. When the truck struck your car and your car went
 2 into the woods, did the truck follow into the
 3 woods behind it?
 4 A. I don't know.
 5 Q. Did you go unconscious at any point?
 6 A. Medical treatments that they administered rendered
 7 me unconscious. I wasn't unconscious when the
 8 accident happened. It wasn't until the paramedics
 9 showed up.
 10 Q. Okay. So from the time of the accident until the
 11 time the paramedics showed up, you were conscious
 12 that whole time?
 13 A. (Witness nods head).
 14 Q. Is that correct?
 15 A. Yes.
 16 Q. I know it's tough. What did the paramedics do
 17 that made you unconscious?
 18 A. I asked them for drugs. I was in a lot of pain.
 19 I had asked them to call my husband. He came, I
 20 said he was in charge. I wanted drugs. They gave
 21 me -- that's all I remember.
 22 Q. So in your memory, they administered some type of
 23 pain medication that knocked you out?
 24 A. Yes.

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00065

- 1 were in pain at the time?
 2 A. Yes.
 3 Q. What was hurting you?
 4 A. My -- the whole chest area (indicating).
 5 Q. You spoke of getting medication, being knocked
 6 out. Did that occur while you were in the vehicle
 7 or out?
 8 A. It would have been in the vehicle.
 9 Q. When I say vehicle, did that occur while you were
 10 in your automobile still?
 11 A. Yes.
 12 Q. So at some point paramedics arrived, they -- did
 13 you say they injected a medication into you?
 14 A. I don't -- they must have. I know I got
 15 medication.
 16 MR. PRITZKER: Just tell him what you
 17 remember.
 18 Q. Yes. Let me see if I can get just your memory.
 19 You did get medication. Do you know how that was
 20 administered? Do you remember how that was
 21 administered?
 22 A. No, I don't know how.
 23 Q. But something they administered to you, they
 24 knocked you out?

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00067

- 1 A. My mother told me.
 2 Q. When you came to, your next memory, what facility
 3 were you at?
 4 A. UMass. General.
 5 Q. So you were still at the University of
 6 Massachusetts --
 7 A. Yeah.
 8 Q. -- Memorial Medical Center?
 9 A. Yeah.
 10 Q. It's got a bunch of names. Can you describe for
 11 us what your condition was when you came to six
 12 weeks later?
 13 A. I had -- I guess it was a breathing tube or
 14 something down my throat. I was uncomfortable,
 15 somebody came in, took out the breathing tube.
 16 And then I don't remember much of that following
 17 week either.
 18 Q. I've got a copy of your supplemental answers to
 19 defendant, Penske's first set of interrogatories,
 20 let me hand this to you.
 21 MR. POLLOCK: I meant to make other
 22 copies of this, but I forgot.
 23 Q. Let me just hand it to you. Can you just confirm
 24 that these are indeed your supplemental answers to
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00066

- 1 A. Yes.
 2 Q. Your memory is that happened while you were still
 3 in your automobile?
 4 A. Yes.
 5 Q. Do you remember anything else from being at the
 6 scene other than what you described for us?
 7 A. No.
 8 Q. When did you come back to?
 9 A. Six weeks later.
 10 Q. Am I correct that you have no memory of what
 11 happened during that first six weeks after the
 12 accident?
 13 A. Exactly.
 14 Q. And is that because of -- strike the question. Do
 15 you know why that is so?
 16 A. I was told they -- they induced a coma like state
 17 so that they could allow my body to start healing
 18 without me moving around.
 19 Q. And you said they told you that. Your physicians
 20 told you that?
 21 A. Yeah.
 22 Q. Your doctors? Do you know who that was?
 23 A. My mother.
 24 Q. Your mother told you that?

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00068

- 1 interrogatories?
 2 MS. PINKHAM: Is that Penske
 3 interrogatories?
 4 MR. POLLOCK: Yes, they're the first set
 5 of supplemental answers.
 6 (Pause)
 7 MR. PRITZKER: What's the question?
 8 MR. POLLOCK: I just asked her to confirm
 9 that those are indeed her answers.
 10 MR. PRITZKER: Can you confirm that those
 11 are your answers?
 12 THE WITNESS: Yeah.
 13 BY MR. POLLOCK:
 14 Q. Is that your signature there either on the last or
 15 the next to last page?
 16 A. Yup.
 17 Q. And I take it before you signed them, you would
 18 have read through these?
 19 A. Yes.
 20 Q. You made sure they were truthful, accurate and
 21 complete before you signed them?
 22 A. Yes.
 23 Q. And that would be true of the other
 24 interrogatories that you signed, too?
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00069

- 1 A. Yes.
 2 Q. And the only reason why I even gave it to you
 3 because it does have sort of a more lengthy
 4 description of your care in it which you might
 5 refer to as we go along.
 6 MR. POLLOCK: Why don't you mark those as
 7 Exhibit 1.
 8 (Exhibit No. 1 marked
 9 for identification)
 10 BY MR. POLLOCK:
 11 Q. You don't know which ambulance or fire department
 12 took you to the hospital?
 13 A. No.
 14 Q. You were initially taken to UMass. Memorial
 15 Medical Center?
 16 A. No, I was told I was originally taken to Milford
 17 Whitinsville Hospital.
 18 Q. Do you know how long you spent there?
 19 A. No.
 20 Q. You were at some point transferred over to UMass.
 21 Memorial?
 22 A. Yes.
 23 Q. You spent about a month there?
 24 A. (Witness nods head).

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00071

- 1 A. Yes.
 2 Q. -- Rehabilitation Hospital?
 3 A. Right.
 4 Q. Did you treat anywhere between UMass. Memorial
 5 Medical Center and Fairlawn?
 6 A. Not to my knowledge.
 7 Q. Did you go home at all between those two
 8 facilities?
 9 A. I don't understand.
 10 Q. Let me clarify it. Did you go right from UMass.
 11 Memorial to Fairlawn?
 12 A. Yes.
 13 Q. So you didn't spend like a week at home or
 14 anything like that?
 15 A. No.
 16 Q. So they discharged you from one hospital to the
 17 another?
 18 A. Exactly.
 19 Q. You spent about two months at Fairlawn?
 20 A. Yes.
 21 Q. And you received physical and occupational therapy
 22 there?
 23 A. A small amount.
 24 Q. Well, can you describe for us what the type of
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00070

- 1 Q. Does that --
 2 A. Yes.
 3 Q. -- jive with your understanding anyway?
 4 A. Yes.
 5 Q. Your response to the interrogatories, I think it's
 6 Number 2 on that set indicates that you were on a
 7 ventilated breathing machine while at the
 8 hospital. My question is, do you remember being
 9 on the ventilated breathing machine?
 10 A. I remember breathing tube.
 11 Q. When you came to?
 12 A. Yes.
 13 Q. And they removed it?
 14 A. Yes.
 15 Q. Do you know how long you had been on a ventilator
 16 for?
 17 A. No.
 18 Q. Aside from them having to remove the breathing
 19 tube when you came to, do you have any other
 20 memories of being -- having a breathing tube in or
 21 being on a ventilator?
 22 A. No.
 23 Q. You were transferred from UMass. Memorial Medical
 24 Center to Fairlawn --
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00072

- 1 rehabilitation you had there entailed?
 2 A. Well, for the first four weeks, they had -- just
 3 had me go -- I don't know how you're going to
 4 describe this, but they had me just practicing
 5 (indicating) trying to lift myself up. Then once
 6 I was out of isolation and could go into the
 7 physical therapy section, they had us working with
 8 sticks, moving sticks around (indicating), you
 9 know. They had one lifting the -- I don't know --
 10 you know, roll the wheelchair in and then you lift
 11 the weights up that way (indicating), rickshaw
 12 they called it.
 13 Q. All right.
 14 A. That was it.
 15 Q. So you spent about four weeks, I guess, developing
 16 your arms so you could sort of -- using the arms
 17 of a chair, lift yourself up?
 18 A. Well, probably about two weeks.
 19 Q. That was the initial time you spent there was
 20 trying to facilitate your ability to lift yourself
 21 out of a chair with your arms?
 22 A. Or in this case it was off the bed.
 23 Q. Off the bed. You mentioned a period of isolation.
 24 Did that have to do with a staff infection you
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00073

- 1 developed?
 - 2 A. Yes.
 - 3 Q. So they had you quarantined?
 - 4 A. Yes.
 - 5 Q. For how long?
 - 6 A. Most of the visit. It was six weeks – the total
 - 7 visit was six weeks and I was quarantined for
 - 8 four.
 - 9 Q. Did they ever explain to you what the source of
 - 10 the staff infection was?
 - 11 A. No.
 - 12 Q. Then you mentioned exercise you'd do with sticks?
 - 13 A. Yes.
 - 14 Q. That would be to, I guess, develop your upper body
 - 15 to some extent?
 - 16 A. Yes.
 - 17 Q. Can you –
 - 18 A. I can't really – I mean, I know they had – the
 - 19 only one I can remember is going in a rowing
 - 20 motion like that (indicating). That's the only
 - 21 one I can remember.
 - 22 Q. And you also told us about something called a
 - 23 rickshaw where you'd wheel into it and then there
 - 24 were weights that you could –
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00075

- 1 BY MR. POLLOCK:
 - 2 Q. Did you get diagnosed with the staff infection
 - 3 right at the beginning of your time at Fairlawn?
 - 4 A. Yes.
 - 5 Q. Was your stay at Fairlawn extended because you
 - 6 first had that staff infection?
 - 7 A. Yes.
 - 8 Q. Did they do any type of formal physical therapy or
 - 9 occupational therapy there?
 - 10 A. No.
 - 11 Q. Did they work on actual transfers at Fairlawn?
 - 12 A. No.
 - 13 Q. You were released sometime during April of 2002?
 - 14 A. April 16th.
 - 15 Q. Can you describe for us what your physical status
 - 16 was at that point, as far as abilities,
 - 17 inabilities, the like?
 - 18 A. I didn't have any abilities. I mean, I didn't
 - 19 have an electric chair in those days, I had a
 - 20 manual chair. I could maneuver the chair.
 - 21 Q. When you say you could maneuver the chair, you
 - 22 could wheel the manual chair?
 - 23 A. Right.
 - 24 Q. I guess you do that with the sides of the wheels?
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00074

- 1 A. Yes.
 - 2 Q. – lift above?
 - 3 A. Exactly.
 - 4 Q. Was there any other type of rehabilitation aside
 - 5 from those strengthening exercises I'll call them?
 - 6 A. There were balancing exercises. They would put a
 - 7 cone in front and ask you to lean forward and get
 - 8 the cone. That's all I can remember.
 - 9 Q. All right. The time you were battling that staff
 - 10 infection when you were isolated, were you getting
 - 11 exercise and therapy during that period of time as
 - 12 well?
 - 13 A. No.
 - 14 Q. So you were pretty much just quarantined to a
 - 15 room?
 - 16 A. Yes.
 - 17 Q. Were you doing the lift off the bed exercises
 - 18 during that time?
 - 19 A. That would have been – yes, two weeks of that
 - 20 just prior to them saying now I can leave the
 - 21 room, then I went for two weeks to –
 - 22 MS. PINKHAM: It's time for pressure
 - 23 relief.
 - 24 (Discussion held off the record)
- C.J. REPORTING (978) 409-9090

00076

- 1 A. Yes.
 - 2 Q. You could turn them, turn the chair?
 - 3 A. Yes.
 - 4 Q. You could not transfer from bed to chair?
 - 5 A. No.
 - 6 Q. Could not transfer from chair to wheelchair or
 - 7 vice versa?
 - 8 A. No, no transfers.
 - 9 Q. So aside from being able to operate the mechanical
 - 10 wheelchair, you had no other mobility at all?
 - 11 A. Exactly.
 - 12 Q. Could you use the lavatory unassisted at that
 - 13 point?
 - 14 A. I had a fully catheter.
 - 15 Q. As far as bowel routine, that was assisted at that
 - 16 point in time?
 - 17 A. At that point in time, I didn't have the bowel
 - 18 routine going. My husband would have to change
 - 19 me.
 - 20 Q. Was there any talk about keeping you at Fairlawn
 - 21 longer?
 - 22 A. I made it clear that I wanted to be out of there
 - 23 by April 16th. It's my anniversary, my husband
 - 24 and my anniversary.
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00077

- 1 Q. Aside from the date having significance to you
2 personally, why is it you wanted to be out of
3 Fairlawn that quick?
4 A. 'Cause it was a hospital and it was quite a
5 distance from home.
6 Q. Had any of the renovations been done to your
7 house -- strike the question.
8 Had any kind of renovations or
9 accommodations been done to your house at that
10 point in time?
11 A. By the time I came home, the first set of
12 renovations, the increasing the size of the
13 bathroom downstairs had been done.
14 Q. Were the ramps from the garage and the porch into
15 the house done?
16 A. The ramp from the garage into the house, but not
17 the porch.
18 Q. Were the doorways expanded at that point on the
19 first floor anyway?
20 A. Yes.
21 Q. At that point in time, were you able to get from
22 the house outside yourself with your mechanical
23 wheelchair?
24 A. No.

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00079

- 1 Q. Your husband you mentioned does it now pretty much
2 around the clock. And this woman that comes in 8
3 to 4 five days a week, sometimes on weekends, has
4 that increased over time or was it more back when
5 you first got out of Fairlawn?
6 A. We didn't have anybody when I first got out of
7 Fairlawn.
8 Q. So the visiting nurses would just come in
9 periodically and help you with -- strike the
10 question.
11 The visiting nurses would come in
12 periodically. Was there a separate occupational,
13 physical therapist that would come in as well?
14 A. Yes.
15 Q. So you had visiting nurses, you had physical
16 therapists?
17 A. Yes.
18 Q. Was there also an occupational therapist?
19 A. Yes.
20 Q. And there was also a social worker?
21 A. Right.
22 Q. Who's the social worker?
23 A. I don't remember her name.
24 Q. Do you remember who the physical therapist was at
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00078

- 1 MS. PINKHAM: Actually, for
2 clarification, she testified she had the manual
3 wheelchair first.
4 MR. POLLOCK: What did I say?
5 MS. PINKHAM: Mechanical.
6 MR. POLLOCK: Yeah, I meant the manual.
7 I'm sorry. I meant the manual before, too.
8 BY MR. POLLOCK:
9 Q. Were you able to get outside from inside with your
10 manual wheelchair when you got home from Fairlawn?
11 A. Yeah.
12 Q. Did you have any home assistance from nurses or
13 medical care providers at that point?
14 A. Yes, we had a lot of visiting nurse visits and
15 occupational therapy, physical therapy. And then
16 they have like a social worker.
17 Q. All right. I'm going to break that down a little
18 bit. When you first got home from Fairlawn, you
19 mentioned there was visiting nurses that would
20 come and help you periodically. Can you describe
21 for us how often they would attend to you?
22 A. I really can't. They seemed to be there a lot.
23 But I know that the bulk of the responsibilities
24 fell on my husband.

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00080

- 1 that point in time?
2 A. I just know her first name is Kelly.
3 Q. And she would try to do rehabilitation exercises
4 with you?
5 A. Yeah.
6 Q. And what was the occupational therapist doing?
7 A. More individual movements, you know, getting to
8 things and using them.
9 Q. Helping you with sort of daily kind of chores and
10 things you'd have to do for yourself?
11 A. Yes, things that I'd do for myself.
12 Q. And the physical therapist was doing more
13 exercises with you?
14 A. She was doing exercises.
15 Q. And the visiting nurse was making sure your
16 medical condition was coming along?
17 A. Right.
18 Q. I know again from the interrogatory that you were
19 hospitalized for a gallbladder issue during May of
20 2002?
21 A. Yes.
22 Q. You spent about two weeks -- strike the question.
23 How long were you in the hospital for the
24 gallbladder, Milford Hospital?
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00081

- 1 A. In the hospital, I was there for about five days.
- 2 Q. They took out your gallbladder?
- 3 A. Yeah.
- 4 Q. I know there's a name for that procedure, I can't
- 5 remember what it was --
- 6 A. They did the -- they didn't use the new method,
- 7 they had to take it out.
- 8 Q. They had to actually open you up?
- 9 A. -- they had to do an incision because it was
- 10 gangrene.
- 11 Q. Did they explain to you why you had a gangrenous
- 12 gallbladder?
- 13 A. Yes, they did.
- 14 Q. What did they say?
- 15 A. They told me that when you have a major shock to
- 16 the body, the brain automatically rushes the blood
- 17 to the most vital organs and then the secondary
- 18 organs of which the gallbladder was one does not
- 19 get the flow of blood it needs and consequently
- 20 gangrene sets in.
- 21 Q. So they removed the gallbladder and I guess other
- 22 tissues that were affected as well?
- 23 A. Right.
- 24 Q. Did that change your diet?

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00083

- 1 on?
- 2 A. 1,200 calories a day.
- 3 Q. And does that last to the present?
- 4 A. Yes.
- 5 Q. After you had your gallbladder removed you spent a
- 6 couple of weeks at Whittier Rehabilitation
- 7 Hospital?
- 8 A. Right.
- 9 Q. Why did you go to Whittier instead of back to
- 10 Fairlawn?
- 11 A. Whittier was closer to home, it was in
- 12 Westborough, it was also a nicer facility.
- 13 Q. And can you describe for us what the nature of
- 14 your rehabilitation was at Whittier?
- 15 A. Again, they tried to help me learn how to transfer
- 16 from chair to bed, bed to chair. The hole that
- 17 they make in you -- when they take out your
- 18 gallbladder, they have a hole that they put on the
- 19 side, that opened up and it was bleeding and that
- 20 caused us to not have physical therapy. So, I had
- 21 marginal physical therapy.
- 22 Q. Was it your original intention to stay there
- 23 longer than two weeks?
- 24 A. No.

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00082

- 1 A. Oh, yeah.
- 2 Q. How so?
- 3 A. Well, I found out you're not supposed to eat
- 4 certain foods when you don't have a gallbladder,
- 5 like fried foods.
- 6 Q. Any other dietary accommodations that you had to
- 7 make because of the gallbladder?
- 8 A. Healthy foods.
- 9 Q. So I guess they advised you to lower the fat
- 10 intake since your gallbladder was removed?
- 11 A. Yeah. But they didn't tell me what the fat intake
- 12 was.
- 13 Q. Okay. Did you have to modify your dietary
- 14 consumption because of the other injuries aside
- 15 from the gallbladder?
- 16 A. Yes.
- 17 Q. How so?
- 18 A. I've had to be on a program to lose weight that I
- 19 gained from the medication that I received during
- 20 the hospital visit and the rehab visits.
- 21 Q. Did they tell you what medications were promoting
- 22 weight gain?
- 23 A. No.
- 24 Q. And what type of dietary program did they put you

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00084

- 1 Q. And that was actual two weeks inpatient?
- 2 A. Yeah.
- 3 Q. And that was more for a transfer issues than
- 4 exercise like at Fairlawn?
- 5 A. Transfer was about the only physical therapy that
- 6 I tried, yeah.
- 7 Q. But that was somewhat curtailed because of your
- 8 wound?
- 9 A. Right.
- 10 Q. When you were released from Whittier, could you
- 11 transfer from bed to chair?
- 12 A. No.
- 13 Q. What about from chair to chair?
- 14 A. No.
- 15 Q. You were still using a manual wheelchair at that
- 16 time?
- 17 A. Yes.
- 18 Q. Did they try to keep you in a manual wheelchair to
- 19 promote upper body strength?
- 20 A. No.
- 21 Q. Why didn't you have an electric wheelchair at that
- 22 point?
- 23 A. Because I don't think we knew about -- enough
- 24 about it. And we didn't know enough about what my

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00085

- 1 condition was going to be.
- 2 Q. Had your mobility improved at all from when you
- 3 were released at Fairlawn to when you were
- 4 released from Whittier?
- 5 A. No.
- 6 Q. Same condition?
- 7 A. Same condition.
- 8 Q. Was your bowel and bladder regimens the same when
- 9 you were released from Fairlawn?
- 10 A. They taught me digital stimulation bowel program
- 11 at Whittier.
- 12 Q. Just so I understand, by using digital stimulation
- 13 you kind of planned your bowel movements?
- 14 A. Exactly.
- 15 Q. Did you go to that type of a bowel program --
- 16 A. Yes.
- 17 Q. -- after they taught you that?
- 18 A. Yes.
- 19 Q. Was your home nursing assistant and physical and
- 20 occupational therapy the same as it was when you
- 21 were released from Fairlawn at that period of
- 22 time?
- 23 A. Yes.
- 24 Q. So you had your are VNAs coming in periodically;

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00087

- 1 Fairlawn?
- 2 A. Right.
- 3 Q. So you were only treated with that particular
- 4 social worker that one time?
- 5 A. That one time, yeah.
- 6 Q. Your interrogatory response indicates that after
- 7 you left Whittier, you underwent intensive
- 8 physical therapy, is I think the phrase there.
- 9 What did you mean by that? What was the physical
- 10 therapy like when you left Whittier?
- 11 A. When I left Whittier, a lot of upper body
- 12 strength. They were all -- everything was geared
- 13 towards upper body strength.
- 14 Q. That was all in home?
- 15 A. Yes.
- 16 Q. So you didn't go to a particular location --
- 17 A. No.
- 18 Q. -- to use equipment and the like?
- 19 A. No, just in home using cans of soup actually that
- 20 weighed one pound.
- 21 Q. Strengthening exercises?
- 22 A. Exactly.
- 23 Q. And your physical therapist would come in and help
- 24 you with that?

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00086

- 1 correct?
- 2 A. (Witness nods head).
- 3 Q. You had your occupational therapist and a social
- 4 worker?
- 5 A. The physical therapist had to come in when I got
- 6 back from the hospital -- I developed bursitis and
- 7 tendinitis from wheeling the chair, the carpeting
- 8 I guess was too thick and the physical therapist
- 9 had to come in and administer a series of
- 10 ultrasounds.
- 11 Q. I was actually going to get to that. The
- 12 ultrasound therapy was in home?
- 13 A. Yes.
- 14 Q. And it was administered by the physical therapist?
- 15 A. Yes.
- 16 Q. And that was for the bursitis and tendinitis?
- 17 A. Exactly.
- 18 Q. But at that point in time did you have the VNA
- 19 coming in --
- 20 A. Yes.
- 21 Q. -- the occupational therapist, the physical
- 22 therapist and the social worker?
- 23 A. The social worker only came in once.
- 24 Q. She only came to you once when you got out of

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00088

- 1 A. Yes.
- 2 Q. Do you know who that individual was that --
- 3 A. That was Kelly.
- 4 Q. And you attribute the tendinitis and bursitis to
- 5 the carpeting in the house being too high?
- 6 A. Yeah, the carpeting -- we had to put new carpeting
- 7 in.
- 8 Q. Now, in your interrogatories, at least in the set
- 9 I'm reading from but I bet the response is the
- 10 same, you have a sentence in here, it says, I
- 11 continued physical therapy in October 2002 and by
- 12 November 2002 I could maneuver my wheelchair
- 13 around the house but still had difficulty making
- 14 transfers. My question is, were you able to use
- 15 the wheelchair in the house before October of
- 16 2002?
- 17 A. Yes, the interim period between coming home from
- 18 Fairlawn and having the gallbladder surgery.
- 19 Q. So you were able to -- inside your house anyway
- 20 you could use the manual wheelchair?
- 21 A. Yes.
- 22 Q. You could go out of the house through the garage
- 23 anyway where the ramp was?
- 24 A. Yes.

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00089

- 1 Q. Were you able to do those things when you first
2 got out of Fairlawn?
3 A. I don't remember.
4 Q. Were you able to do those things when you got out
5 of Whittier?
6 A. Eventually.
7 Q. All right. I saw you looking over there trying to
8 concentrate and I didn't want to interrupt your
9 thought if you were.
10 A. No.
11 Q. Your reference in your interrogatories reference
12 level one, two and three pressure source. What
13 are those things?
14 A. Deep -- well, three is the worst, they're deep
15 abrasions of the skin. The forth level is when
16 the abrasion goes down into the bone and there's
17 nothing they can do for you after that happens.
18 So I was at level three from December to October
19 the following year. And I was stuck in bed for
20 that whole time.
21 Q. Just so I understand, from December of '02 through
22 October of '03 you had level three pressure
23 source?
24 A. Yes.

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00091

- 1 and vice versa?
2 A. No.
3 Q. Did you ever achieve the ability to go by yourself
4 from wheelchair to commode?
5 A. No.
6 Q. Can you describe for us why that is so, What the
7 problem is being unable to do those things?
8 A. Well, the problem -- originally the problem was
9 that I had a blood clot in my left leg that blew
10 it up to be about five times normal size and it
11 was very heavy and I couldn't move that leg. So
12 during the transfer, it was, you know, procedure,
13 this is how you do it. But I really didn't get
14 the chance to do it because I couldn't lift my own
15 -- my left leg.
16 Q. Has the blood clot swelling issue subsided?
17 A. Yes.
18 Q. Did they --
19 A. They put --
20 Q. -- a drain in?
21 A. -- a green filter or something they call it.
22 Q. Filter, yes. That's what I meant. To prevent
23 clots from trapping?
24 A. Right.

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00090

- 1 Q. What part of your body?
2 A. Rearend.
3 Q. And why did they occur?
4 A. I don't know.
5 Q. Do you know when they occurred, what period of
6 time?
7 A. Well, December.
8 Q. Could you explain for us if you can why it was bed
9 rest as something that would help that as opposed
10 to not being in bed and getting off of your --
11 A. Well, the idea was not putting any pressure on the
12 open wounds and the only way we could do that was
13 for me to be lying in bed on my side. So I would
14 lie in bed from side to side.
15 Q. And that was for a period of ten or eleven months?
16 A. Yes.
17 Q. Were you allowed out of the bed at all during that
18 timeframe?
19 A. I don't really remember.
20 Q. At some period of time did you achieve the ability
21 to transfer from bed to wheelchair?
22 A. No.
23 Q. Did you at any period of time achieve the ability
24 to go from wheelchair to a different type of chair

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00092

- 1 Q. Did the swelling in the leg go down?
2 A. Eventually.
3 Q. And do you know what timeframe that occurred in?
4 A. No. It was a long time.
5 Q. Can you describe for us what tampered your ability
6 to make those transfers after the blood clot leg
7 swelling issue subsided?
8 A. Well, I found that through the weight that I've
9 gained from medication, I didn't have the physical
10 strength to transfer myself onto the board and
11 slide down the board -- we have a special board
12 for transferring, it's called a BZ board and it
13 moves down, so you just sit on it and it moves
14 down so you don't have to do the moving down, you
15 just slide down it. That's what I'm using for
16 transfer now.
17 Q. From bed to chair?
18 A. From bed to chair, chair to commode or shower, I
19 use the sliding board.
20 Q. You need to use that with somebody?
21 A. Yes.
22 Q. The board -- actually, just so I understand in my
23 head, the board actually slides with you or is it
24 a board you slide down?

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00093

- 1 A. It's a big kidney shaped thing with a big slit
2 down the middle and a big round Lazy Susan. You
3 sit on the Lazy Susan and it slides up and down.
4 Q. I see. So the transfer problems at this point are
5 a strength issue?
6 A. Yes.
7 Q. Because of the weight gain due to the medication?
8 A. Yes.
9 Q. And before that the blood clots?
10 A. Right.
11 Q. And your hope is to be able to achieve the ability
12 to do those transfers in the future?
13 A. Yes.
14 Q. That's a goal you're striving for?
15 A. Big goal.
16 Q. Now, I read also in your interrogatory response
17 that during March and April 2003 there were times
18 when you fell during transfers?
19 A. I fell in February of that year doing a bathroom
20 transfer. It didn't dawn on me that I might have
21 broken my legs. I just -- I fell and the
22 caretaker and I got me back up into the chair and
23 we just went on with that.
24 Q. Did that occur also in April, did another fall
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00095

- 1 by the ankle?
2 A. They broke by the ankle.
3 Q. Then when you fell again later, where the bones
4 were knitting together by the ankle, that rebroke?
5 A. Right.
6 Q. Were there any other falling incidents?
7 A. No. But I also had from that first incident I had
8 broken my left knee, too.
9 Q. The tibia and fibia were right leg?
10 A. Yes.
11 Q. And the left knee is what you just told us?
12 A. Mm-hmm.
13 Q. So those falls occurred when you were being
14 assisted by a home health --
15 A. Yes.
16 Q. Who was that? Do you know who that --
17 A. Lydia.
18 Q. That was Lydia. What period of time did Lydia
19 assist you or work with you?
20 A. She came in sometime in, I guess it would have
21 been November when I got out of bed from the
22 pressure sores and she left in February.
23 Q. She was with you about three, four months?
24 A. Yeah.
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00094

- 1 occur?
2 A. In April -- that was after April. In April I had
3 what they thought was some kind of infection and
4 they were giving me the penicillin through the
5 arm -- through the hand, you know, three times or
6 whatever medicine they use. It wasn't getting
7 better so they decided to take x-rays of it to see
8 if it was a blood clot or something and they
9 discovered that my legs were both broken.
10 Q. There was another falling incident after that one?
11 A. After that, there was one falling incident, yes.
12 Q. When was that?
13 A. I don't remember how much after it was.
14 Q. Did you suffer an injury from that?
15 A. Yeah, I -- the bottom break, the break in -- where
16 my ankle is, it -- I moved the break so that where
17 it had been filling in, it needed to now refill
18 in.
19 Q. During the first fall, what bones were broken in
20 your leg?
21 A. Well, the fibia, tibia, I think.
22 Q. The two lower leg bones?
23 A. Yeah.
24 Q. Was there also an ankle fracture or did they break
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00096

- 1 Q. Did she not being with you anymore have anything
2 to do with this issue?
3 A. Yes. When my husband found out that I had broken
4 my legs, he made it clear to Griswold that he did
5 not want her to come back.
6 Q. Why don't we take a two-minute break.
7 (Short recess taken)
8 BY MR. POLLOCK:
9 Q. Let's talk for a little while about your medical
10 condition postdating these interrogatories which I
11 think were late 2003.
12 Had you had any kind of falls or
13 broken bones since that second episode where your
14 ankle was rebroken?
15 A. No.
16 Q. Have you been hospitalized again since leaving
17 Whittier?
18 A. No.
19 Q. Just so I understand what your inpatient
20 hospitalizations were. You spent obviously a
21 period of time at UMass. Memorial right after the
22 accident; you spent a couple of months at
23 Fairlawn; I think there was some additional time
24 either at UMass. -- was it UMass. or Milford where
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00097

- 1 you had the gallbladder?
- 2 A. Milford.
- 3 Q. And another two weeks at Whittier for
- 4 rehabilitation?
- 5 A. Right.
- 6 Q. Were there any other times that you were actually
- 7 admitted to the hospital --
- 8 A. No.
- 9 Q. -- for these injuries?
- 10 MR. PRITZKER: There was the initial day
- 11 that I'm sure you just omitted, the day of the
- 12 accident.
- 13 MR. POLLOCK: Yes.
- 14 Q. Do you know whether you actually spent the day at
- 15 that -- what hospital did you tell me you first --
- 16 A. Milford.
- 17 MR. PRITZKER: Milford.
- 18 A. I really don't know.
- 19 Q. But if you did, those were the hospitalizations --
- 20 A. Right.
- 21 Q. All right. Thank you. Can you describe for us as
- 22 best you can what your current abilities are, your
- 23 inabilities, routine and pain that you're having
- 24 currently, as best you can?

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00099

- 1 the juncture pain like?
- 2 A. It starts as a sharp pain but it doesn't go away,
- 3 like, right away. But then I take Percocet and I
- 4 don't know at the point how long it would last
- 5 because then it works, the Percocet works.
- 6 Q. It's in a different part along the equator?
- 7 A. Yeah. It's different times, different places, but
- 8 it's always around the same place, around the
- 9 equator.
- 10 Q. When you say it's different parts, is it sometimes
- 11 in the front, sometimes in the back?
- 12 A. Yeah, that's what I mean.
- 13 Q. But it's always around the juncture where the
- 14 movement --
- 15 A. Exactly.
- 16 Q. -- and the nonmovement is?
- 17 A. Exactly.
- 18 Q. Have they described the cause of that pain?
- 19 A. That's what the doctor explained to me, juncture
- 20 pain is common in paraplegic cases, that I would
- 21 be having it for the rest of my life and there's
- 22 really nothing I can do about it, except give me
- 23 Percocet.
- 24 Q. You spoke about muscle spasms. That's in your

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00098

- 1 A. Ability-wise, I still can't transfer myself, which
- 2 is, you know, a big goal. Pain-wise, I have what
- 3 they call -- the doctor called juncture pain, the
- 4 place where the -- the part that still feels --
- 5 meets with the part that doesn't, I get pains, you
- 6 know, not always in the same place. I call it the
- 7 equator, around the equator and I take Percocet
- 8 for those. And I get back spasms, muscle spasms,
- 9 I take Valium for those.
- 10 Q. You can't transfer from -- you established you
- 11 can't transfer from bed to chair, chair to chair
- 12 or wheelchair to commode?
- 13 A. Right. No transfers. I can't do any transfers on
- 14 my own.
- 15 Q. Has anybody communicated when you're going to be
- 16 able to do that? It's out there, but did anybody
- 17 tell you when?
- 18 A. When I lose weight. When I lose enough weight,
- 19 maybe I'll be able to then.
- 20 Q. But no real target date for when that's going to
- 21 occur?
- 22 A. No.
- 23 Q. You spoke of juncture pain. Can you describe for
- 24 us, is it a sharp pain; is it a dull ache? What's

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00100

- 1 back?
- 2 A. Yeah, that's in the back, the back muscles.
- 3 Q. How often does that occur?
- 4 A. That happens with less frequency, but it's more
- 5 intense, it's more painful. I take Valium for
- 6 that and it relaxes the muscle.
- 7 Q. The juncture pain, can you tell us what frequency
- 8 that that is; is it daily, weekly, monthly?
- 9 A. More than one time during a week. Two or three
- 10 times during a week.
- 11 Q. And the back spasms, what frequency does that
- 12 occur?
- 13 A. We got it down to about once every -- about once a
- 14 month now.
- 15 Q. Does the Valium help it?
- 16 A. The Valium, well, that's the thing, I don't know
- 17 if I have the spasms because I take the Valium and
- 18 it works. So I don't know if I didn't take the
- 19 Valium, would I be having muscle spasms.
- 20 Q. Let me ask you this; you take the Percocet when
- 21 you feel the juncture pain; correct?
- 22 A. Right.
- 23 Q. That's not something that you take periodically
- 24 to --

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00101

- 1 A. To avoid?
 - 2 Q. Yeah.
 - 3 A. No, I don't do it in anticipation of the pain. I
 - 4 wait until the pain to do that.
 - 5 Q. Do you take the Valium when you get the spasms or
 - 6 are you sort of on a Valium regiment?
 - 7 A. I'm on a Valium regiment.
 - 8 Q. How much Valium do you take and how often?
 - 9 A. I take Valium every night but I don't know what
 - 10 milligram it is.
 - 11 Q. Whatever pill they give you milligrams --
 - 12 A. Yeah, they give one pill with a V in the middle of
 - 13 it.
 - 14 Q. Okay. Currently do you have a manual wheelchair
 - 15 or an electric, or both?
 - 16 A. Yes, I do have a manual wheelchair and then this
 - 17 electrical wheelchair.
 - 18 Q. The one you have with you today is the electrical?
 - 19 A. Yes.
 - 20 Q. When do you use which one and why?
 - 21 A. I use the manual one for body strength. The
 - 22 electric wheelchair I use pretty much to get
 - 23 around outside, any time I'm outside the house.
 - 24 Q. For how long have you had the electric wheelchair?
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00103

- 1 Q. Every day?
 - 2 A. Every day.
 - 3 Q. And that's to evacuate your bowel?
 - 4 A. Exactly.
 - 5 Q. And when that's done, you can go about your day?
 - 6 A. Yes.
 - 7 Q. Do you require assistance for that?
 - 8 A. No, I don't require assistance for that, just the
 - 9 transfer to the toilet and off the toilet.
 - 10 Q. For how long have you been able to perform the
 - 11 bowel regimen yourself after you've been
 - 12 transferred?
 - 13 A. Well, I started after I left Whittier and then
 - 14 there was a whole period of time that I was laid
 - 15 up and then -- so then it started once I wasn't in
 - 16 bed anymore, then it started again.
 - 17 Q. So when you were laid up, someone would assist you
 - 18 with that; correct?
 - 19 A. Yes, it was because of the pressure source.
 - 20 Q. And during that period of time did someone assist
 - 21 you with your bowel program?
 - 22 A. Well, two people transferred me. The idea was not
 - 23 let me slide, so they would pick me up and then
 - 24 put me in the chair. The bowel program, we didn't
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00102

- 1 A. I really can't remember. It seems like forever.
 - 2 Q. You started out with a manual one?
 - 3 A. I started out with a manual one.
 - 4 Q. At some point you got an electric one?
 - 5 A. There were insurance issues and then eventually
 - 6 they saw it my husband's way and they approved an
 - 7 electric wheelchair.
 - 8 Q. Do you know what that cost, by the way, the
 - 9 electric wheelchair?
 - 10 A. No, I don't.
 - 11 Q. Has it been the same one you've always had?
 - 12 A. Yes, the same one.
 - 13 Q. And is it something where you control with a
 - 14 joystick or some type of a lever?
 - 15 A. Yeah, it's got a joystick right here (indicating).
 - 16 Q. Can you describe what your current bowel regiment
 - 17 is about?
 - 18 A. My current bowel regiment takes about four hours
 - 19 every morning.
 - 20 Q. Are you on the digital stimulation program?
 - 21 A. Yes, I am.
 - 22 Q. And it takes you anywhere from an hour to four
 - 23 hours?
 - 24 A. No, it takes me at least four hours.
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00104

- 1 really pursue it because, again, I'd be sitting
 - 2 and that was the one place they didn't want me to
 - 3 be putting any stress. So the caregiver or my
 - 4 husband, whoever would change me.
 - 5 Q. Do you still have the fully catheter for the
 - 6 bladder?
 - 7 A. Yes.
 - 8 Q. And are you able to periodically change the bag
 - 9 fully --
 - 10 A. The nurse comes in once a month and -- oh, you
 - 11 mean empty it?
 - 12 Q. Yes.
 - 13 A. I empty it every day.
 - 14 Q. The nurse comes in once a month to reinsert the
 - 15 catheter?
 - 16 A. Yeah, put a new one in.
 - 17 Q. That's a monthly program?
 - 18 A. Right.
 - 19 Q. Are you able to clean the area where the catheter
 - 20 enters your body yourself?
 - 21 A. Yes.
 - 22 Q. Do you do that daily or weekly? How often?
 - 23 A. I do it daily. I can't see what I'm doing, but I
 - 24 do it.
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00105

- X 1 Q. Had you ever been evaluated at any point for what
2 they call a VOCARE bladder system?
3 A. No.
4 Q. Had you ever heard that mentioned before?
5 A. No.
6 MS. PINKHAM: Time for a pressure relief.
7 (Pause)
8 Q. All right. Can you tell us what medications
9 you're currently taking? When I say "currently,"
10 not right now this second, but generally what do
11 you have by way of prescription in case you need
12 it?
13 A. Time out.
14 Q. Sure.
15 (Witness conferred with counsel)
16 A. Do you want a printout of my medications?
17 Q. If that's the way you keep them, sure.
18 (Discussion held off the record)
19 BY MR. POLLOCK:
20 A. No, that's not it. Maybe I don't have it. I
21 thought I did, but I don't. I'll do as best I can
22 what I remember.
23 Q. Yes, what you remember.
24 A. Okay. Prozac, Cylert, Wellbutrin, Zyprexa,
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00107

- 1 Q. As well as the Bipolar?
2 A. Yes.
3 Q. Are you taking the Prozac for any other
4 psychological issues aside from the Bipolar and
5 the ADHD?
6 A. No.
7 Q. Do you know what the dosage you're currently
8 taking of the Prozac --
9 A. No.
10 Q. -- and what was it was beforehand?
11 A. No.
12 Q. You just know it increased?
13 A. Yeah.
14 Q. When did it go up?
15 A. Well, it went up after I got home after the
16 accident, about -- I think May -- no, that would
17 have been -- yeah, the following May. I started
18 to see a new doctor for medication, she prescribed
19 that I take two instead of one.
20 Q. Can you estimate for us how long after the
21 accident that was?
22 A. No, I can't remember.
23 Q. You spoke of something called Cylert?
24 A. Cylert.
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00106

- 1 usually some kind of antibiotic for UTIs, Valium,
2 Percocet and then one name I don't know, but it
3 deals with bowel program. I feel like there's
4 more, but I can't remember any others.
5 Q. Okay. The first one you spoke of was Prozac.
6 What do you take the Prozac for?
7 A. Bipolar disorder.
8 Q. That's something you had taken before the
9 accident?
10 A. Yes.
11 Q. Still continues on?
12 A. Yes.
13 Q. Has the dosage changed after the accident?
14 A. Yes, it did. It increased.
15 Q. Why has it increased?
16 A. I don't know. I mean, I go to my doctor and I
17 tell her my feelings and how things are going and
18 then she decides to increase it or decrease it.
19 Q. Are you taking the Prozac for any other
20 psychological issues or disorders aside from
21 Bipolar?
22 A. Well, I imagine it affects the ADHD.
23 Q. ADHD is something you had before the accident?
24 A. Yes.
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00108

- 1 Q. What's Cylert and why do you take it?
2 A. Cylert is time released Ritalin.
3 Q. And for what are you taking the Cylert?
4 A. ADHD.
5 Q. Had you taken Cylert before the accident?
6 A. Yes.
7 Q. And you're taking it currently for that as well?
8 A. Yes.
9 Q. Do you take the Cylert for anything aside from the
10 ADHD?
11 A. No.
12 Q. Has your dosage been the same since before the
13 accident to the present?
14 A. Yes.
15 Q. By the way, who prescribes the Prozac and the
16 Cylert?
17 A. Dr. Clark.
18 Q. Psychiatrist?
19 A. Yeah.
20 Q. I should say, is Dr. Clark a psychiatrist?
21 A. (Witness nods head).
22 Q. Is that a yes?
23 A. Yes.
24 Q. Wellbutrin, what are you taking that for?
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00109

- 1 A. I believe it's for the ADHD.
 2 Q. Had you ever taken Wellbutrin before the accident?
 3 A. Yes.
 4 Q. Has the dosage been the same before and after?
 5 A. No, it's been increased -- this one I happen to
 6 know, 300 milligrams.
 7 Q. 300 milligrams now?
 8 A. Yeah.
 9 Q. Do you know what it was before the accident?
 10 A. 100 milligrams.
 11 Q. When did that increase go into effect?
 12 A. That increase was fairly recent. I don't remember
 13 exactly, but it's a fairly recent change.
 14 Q. Are you taking the Wellbutrin, aside from ADHD,
 15 are you taking that for depression as well?
 16 A. I don't really know. I'm assuming it's for the
 17 ADHD. I don't know really know for a fact that
 18 she's not using it for both disorders.
 19 Q. That's Dr. Clark as well --
 20 A. Dr. Clark, yeah.
 21 Q. -- that prescribes it?
 22 A. Yeah.
 23 Q. Do you take Prozac and Cylert and Wellbutrin
 24 daily?

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00111

- 1 your doctor tells you you have a urinary tract
 2 infection?
 3 A. They actually don't want me taking antibiotics
 4 because they're afraid I'm going to build up a
 5 resistance to the antibiotics. So the one that
 6 I'm on now I just got prescribed maybe last week
 7 or the week before a urologist that we saw. If
 8 I'm a symptomatic, then I'm fine. If I have
 9 symptoms, then they will prescribe some kind of
 10 antibiotic.
 11 Q. Who's the urologist that you started seeing that
 12 started prescribing the new antibiotic?
 13 A. I don't know which one's there. Dr. Nierman I
 14 think is the urologist.
 15 Q. He's a new physician you're seeing?
 16 A. Yeah, I've never seen him before the accident.
 17 Q. Where is he out of?
 18 A. Milford. Actually, Hopedale. Sorry.
 19 Q. And just so I understand, they don't want you
 20 taking prophylactic antibiotics because they just
 21 won't work anymore?
 22 A. No, they're afraid that they won't be there when I
 23 need them down the road for infections that
 24 they're sure I'm going to be getting as a result

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00110

- 1 A. Yes.
 2 Q. You spoke of Zyprexa?
 3 A. Zyprexa, yeah.
 4 Q. What is Zyprexa?
 5 A. I'm not really sure. I'm not sure which disorder
 6 it's addressing. I just know that I take it at
 7 night.
 8 Q. Did you take Zyprexa before the accident?
 9 A. No.
 10 Q. Just after?
 11 A. Just after the accident.
 12 Q. Is it your understanding that it's a medication
 13 for a psychological disorder rather than physical?
 14 A. I believe so.
 15 Q. Is Dr. Klauth the one that prescribes that as
 16 well?
 17 A. Yes.
 18 Q. Do you know what dosage you're taking?
 19 A. No.
 20 Q. Is it once a night?
 21 A. Yes, two pills once a night.
 22 Q. You spoke of an antibiotic?
 23 A. That changes.
 24 Q. Do you take that when you get the feeling or when

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00112

- 1 of having a fully catheter full time inserted. So
 2 they want me to avoid the antibiotics as much as
 3 possible except when I have a fever or some kind
 4 of symptom that has to be treated. Otherwise,
 5 they just let the UTIs run their course.
 6 Q. Got you. And then when you get those symptoms,
 7 they'll prescribe an antibiotic?
 8 A. Actually, I don't really get any symptoms because
 9 I have no feeling down there, so I don't know I
 10 have a UTI. My husband will check the bag every
 11 day and if he sees any kind of -- anything that's
 12 not normal, then, you know, he'll contact the
 13 doctor, or it might be Dr. Krauth who's my GP, my
 14 regular doctor and they'll say, does she have a
 15 temperature, is she sick. He'll say, no. Then
 16 they'll say, just let it run it's course. But I
 17 don't feel it like a normal woman would when they
 18 have a urinary tract infection. I know I've had
 19 them before, you know, once or twice. It's very
 20 uncomfortable.
 21 Q. So the symptom you'll get that will trigger the
 22 antibiotics if the infection gets to a point where
 23 you're having a fever --
 24 A. Yeah.

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00113

- 1 Q. -- or some sort of physical difficulty that you'll
2 feel?
3 A. Yeah.
4 Q. It's Dr. Krauth, your physiatrist that will
5 prescribe --
6 A. No.
7 Q. I messed up. Which doctor will prescribe the
8 antibiotic?
9 A. Dr. Krauth will prescribe my antibiotic, she's my
10 GP, yeah. It's, K-R-A-U-T-H.
11 Q. And you mentioned Valium, those are for the muscle
12 spasms?
13 A. That's from Dr. Krauth.
14 Q. Do you take Valium for any other conditions
15 besides the back spasms?
16 A. No.
17 Q. I think I asked you, are you taking that regularly
18 to try to head off those things?
19 A. Every day. I just thought of another drug,
20 Restoril, that comes from Dr. Clark.
21 Q. Do you know how much Valium you take every day?
22 A. No.
23 Q. You spoke of Percocet, that's also from Dr.
24 Krauth?

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00115

- 1 Q. For that issue, the bowel issue?
2 A. For that issue, yeah.
3 Q. Do you know who you're scheduled to see in Boston?
4 A. No.
5 Q. Do you have any other appointments with any other
6 medical care providers beside that one?
7 A. Yeah, sure. I usually average one or two -- not
8 including the psychologist, one or two
9 appointments a week.
10 Q. I'm going to get to that, let me finish the
11 medications. You spoke of Restoril. What do you
12 take Restoril for?
13 A. To sleep.
14 Q. Had you taken Restoril at any point before the
15 incident?
16 A. No.
17 Q. Who prescribed the Restoril, Dr. Clark?
18 A. Dr. Clark.
19 Q. How often do you take the Restoril?
20 A. At night.
21 Q. Each night?
22 A. Every night, yeah.
23 Q. Does it help you sleep?
24 A. Yes, it does.

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00114

- 1 A. Yes.
2 Q. That's only when you're feeling the juncture pain?
3 A. Right. But it's two or three times a week.
4 Q. Does that help control the pain?
5 A. Yeah.
6 Q. Because you haven't gotten overly immuned to that
7 at this point?
8 A. As soon as I feel any pain, I know what it is, so
9 I take a Percocet.
10 Q. Does it work?
11 A. Oh, yeah.
12 Q. You spoke to a medication that's related to your
13 bowel program?
14 A. Yeah.
15 Q. Do you know what that does or why?
16 A. I don't know anything -- I don't know. Just
17 Dr. -- we saw -- I can't even think of his name.
18 Crimaldi. Dr. Crimaldi prescribed it. It's
19 supposed -- I think it's supposed to make my
20 system function faster so that I'm not sitting on
21 the toilet for four hours every morning. So far
22 it hasn't worked, so we're going to be seeing a
23 specialist, a bigger specialist in Boston next
24 week.

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00116

- 1 Q. I want to try to get an idea of what medical care
2 providers you're currently seeing on some type of
3 a routine basis. You mentioned a person you have
4 an appointment with next week in Boston to assist
5 you with the bowel program. Do you know the name
6 of that doctor?
7 A. No.
8 Q. Do you know where that doctor practices from?
9 A. No, I don't.
10 Q. Do you know what that doctor's specialty is?
11 A. Spine injury and bowel program.
12 Q. Management?
13 A. Yeah.
14 Q. You mentioned a psychologist. Are you currently
15 treating with a psychologist?
16 A. That's Jill.
17 Q. Jill McNulty?
18 A. Yeah. I see her every other week.
19 MR. PRITZKER: Just answer the question.
20 Q. One appointment every other week?
21 A. (Witness nods head).
22 Q. For how long? I mean, how long do they last?
23 A. Fifty minutes.
24 Q. I think I asked you that earlier. Does anybody
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00117

- 1 come into the home now? You mentioned the one
2 nurse.
3 A. Well, the visiting nurse still comes in once a
4 month or more frequently if there's another
5 medical issue.
6 Q. When the visiting nurse comes in, she examines
7 you?
8 A. Yes.
9 Q. What does she do?
10 A. When she comes in once a month, she's changing the
11 catheter. When she comes in like she did this
12 week, it's because I've got pressure sores on my
13 foot and she has to check them, tell us how -- the
14 best way to treat them.
15 Q. You mentioned there's a woman that comes in 8 to
16 4, Monday to Friday, occasional weekends?
17 A. Right.
18 Q. She helps you with what? What does she do?
19 A. She's the one when I do transfers -- she's the one
20 that helps me do the transfers. She cleans me up,
21 you know, she does all the household things that I
22 would normally be able to do if I could walk.
23 Q. Now, if she does those things, what does your
24 husband do with respect to formal care?
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00119

- 1 Q. And what does she do?
2 A. She just checks up on my whole situation. If
3 there's a specific problem, she'll look into that
4 specific problem. But overall, she's just
5 monitoring my progress.
6 Q. For how long have you been seeing her on a two
7 month basis?
8 A. On a two month basis, I really couldn't tell you.
9 Q. Is there any plan to reduce the frequency of those
10 treatments?
11 A. Not that I know of.
12 Q. You mentioned Dr. Krauth is your --
13 A. My GP.
14 Q. GP. How often do you see that doctor?
15 A. I see her once every three months.
16 Q. Is there any plan to reduce that?
17 A. It's up to her.
18 Q. Had you always been seeing her once every three
19 months --
20 A. No.
21 Q. -- since the accident?
22 A. Oh, since the accident?
23 Q. Yes.
24 A. I saw her more frequently than that. It's now
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00118

- 1 A. He monitors everything like a hawk.
2 Q. Can you estimate for us how much time he spends a
3 day with that monitoring?
4 A. Well, I would say he's checking me out twenty four
5 hours a day.
6 Q. What does he monitor?
7 A. First thing he'll look for is pressure sores.
8 He'll look -- he'll basically monitor any area
9 that I can't see or feel. You know, check the
10 urine; check, in this case, the pressure sores in
11 my foot; I have an aircast, so he puts on the
12 aircast for me.
13 Q. When do you have aircasts and why?
14 A. I have them on all the time, protect my legs
15 because I bang into things.
16 Q. What else does he monitor?
17 A. Well, he monitors my mental health.
18 Q. Okay. What other medical care providers do you
19 currently treat with on any kind of regular basis?
20 A. Well, I see Dr. Roaf, R-O-A-F.
21 Q. She's your physiatrist?
22 A. Physiatrist, right.
23 Q. How often do you treat with Dr. Roaf?
24 A. I think I see her once every two months.
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00120

- 1 decreased down to once every three months.
2 Q. And before the accident, was it yearly --
3 A. Once a year.
4 Q. -- except as needed?
5 A. Yeah, once a year.
6 Q. Who else do you see for treatment?
7 A. I mentioned Dr. Crimaldi already. Dr. Nierman.
8 Dr. --
9 Q. Well, how -- go ahead.
10 A. Dr. Lieberman, he's a skin doctor.
11 Q. How often do you see Dr. Crimaldi?
12 A. I was seeing him once every four weeks and he's
13 now handed the case over to this person in Boston
14 that we're supposed to go see.
15 Q. How long had you seen him once every four weeks?
16 A. About six months, I think.
17 Q. And Dr. Nierman's the urologist?
18 A. Right.
19 Q. You've seen him once so far?
20 A. No, I've seen him lots of times.
21 Q. Oh, okay. With what frequency do you see him?
22 A. About once every six weeks.
23 MS. PINKHAM: It's time for a pressure
24 relief.
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00121

- 1 (Pause)
- 2 Q. For how long are you supposed to elevate yourself
- 3 during the reliefs?
- 4 A. I do it to a count of twenty.
- 5 Q. And that's just to promote circulation?
- 6 A. Yeah, move me around so that I'm not constantly
- 7 sitting in the same place and getting pressure
- 8 sores.
- 9 Q. How long have you been doing it every twenty
- 10 minutes?
- 11 A. Since I've -- since the accident.
- 12 Q. For how long have you been seeing Dr. Nierman
- 13 every six weeks?
- 14 A. I don't remember when we started with him.
- 15 Q. Has it always been every six weeks?
- 16 A. Yeah, I think so.
- 17 Q. Is there any plan to reduce that or increase it?
- 18 A. I don't know. I really don't know.
- 19 Q. You also spoke of Dr. Leiberman who's a skin
- 20 doctor?
- 21 A. Yeah.
- 22 Q. For how long have you been treating with him?
- 23 A. That's just whenever there's skin damage.
- 24 Q. Are there any other medical care providers you see
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00123

- 1 out and lowers to the ground?
- 2 A. The van itself, the rearend of the van will lower
- 3 itself down to the ground.
- 4 Q. And that allows you to wheel directly into the
- 5 van?
- 6 A. What it does is reduces the angle. I cannot wheel
- 7 myself in the manual chair into the van.
- 8 Obviously I can wheel myself out because it's
- 9 downhill.
- 10 Q. Right.
- 11 A. The electric chair, obviously I can do both.
- 12 Q. You said the rear of the van kneels down. Do you
- 13 get in and out through the rear, the back of the
- 14 van?
- 15 A. No.
- 16 Q. You get in and out through the side?
- 17 A. Side.
- 18 Q. But it lowers enough so you can do that at least
- 19 with the electric wheelchair?
- 20 A. Right.
- 21 Q. And the easy lock system is when you're driving,
- 22 you're locked into place --
- 23 A. Yeah.
- 24 Q. -- or when somebody's driving, you're locked into
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00122

- 1 for any physical or psychological ailments
- 2 currently?
- 3 A. I can't think of any. That doesn't mean there
- 4 aren't.
- 5 Q. Now, I know you mentioned the specialized van that
- 6 transports you. When did you first get a van?
- 7 A. My husband had it customized while I was in the
- 8 hospital at Whittier.
- 9 Q. Have you had that same van ever since?
- 10 A. Yes.
- 11 Q. And when you say it's customized, can you describe
- 12 for us how it's customized to accommodate you?
- 13 A. It's got a ramp that -- and the van kneels, it
- 14 lowers itself down and then the ramp lowers down
- 15 and I just go up the ramp. And there's what's
- 16 called an easy lock system underneath the
- 17 wheelchair that locks into a metal box that's
- 18 bolted to the floor of the van.
- 19 Q. So I take it you get in and out of the van through
- 20 a side door?
- 21 A. Yeah.
- 22 Q. Is that behind the driver or the passenger?
- 23 A. It's behind the passenger.
- 24 Q. And there's some type of a mechanism that comes
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00124

- 1 place?
- 2 A. Exactly.
- 3 Q. I understand that you have no movement from the
- 4 waist down; is that right?
- 5 A. Right.
- 6 Q. In relation to your belly button, for example, is
- 7 it from the belly button down or is it higher than
- 8 that down? Can you describe it for us?
- 9 A. It's right about there. It's a little low.
- 10 Q. From that point up, do you have full movement of
- 11 your neck, arms --
- 12 A. Yes.
- 13 Q. -- and torso?
- 14 A. Yes.
- 15 Q. Do you still hold a driver's license?
- 16 A. No.
- 17 Q. At some point it expired?
- 18 A. Yes.
- 19 Q. Have you explored the potential of getting a motor
- 20 vehicle you can operate yourself?
- 21 A. The van is equipped for me to learn how to drive.
- 22 I am taking driving lessons now. So it's got an
- 23 easy lock system on both the passenger side and
- 24 the driver's side and the chair -- the regular
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00125

- 1 seat can be taken from one side to the other so I
2 can either be a driver or a passenger.
3 Q. Can you describe how it's been modified so you can
4 use it?
5 A. What they did is they put the easy lock system in
6 both the driver's section and the passenger's
7 section. So when I go in, if I'm a passenger,
8 then the chair that comes with the car, the van is
9 in the driver's seat, it can be -- not easily, but
10 it can be taken out and put into the passenger's
11 side and then I just wheel into the driver's side
12 where there's an easy lock.
13 Q. Okay. The easy lock that you're in if somebody
14 else is driving, where do you lock into place,
15 right where the front seat passenger would be?
16 A. Yeah.
17 Q. And when you get the ability to drive, the
18 driver's seat can come out and you can lock there
19 as well?
20 A. Right.
21 Q. And has it been already modified with hand
22 controls?
23 A. Oh, yeah. I'm taking driving lessons.
24 Q. So you're taking driving lessons using that van?
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00127

- 1 teacher?
2 A. With my husband, yes.
3 Q. Do you have any type of, like, learner's permit?
4 A. I have a learner's permit, yeah.
5 Q. So is there a specialized state of Massachusetts
6 learner's permit for people that need to learn how
7 to operate the hand controls --
8 A. Yes.
9 Q. -- in the vehicle?
10 A. Yes.
11 Q. You've gotten one of those learner's permits?
12 A. Right.
13 Q. Do you know how long ago you got that?
14 A. When I started with Mr. Whitehouse, they are the
15 ones who have to process the learner's permit.
16 Q. The fellow that you're taking the driving lessons
17 with is Mr. Whitehouse?
18 A. Yeah, Adaptive Driving.
19 Q. Where is his facility out of?
20 A. It's out of Dedham.
21 Q. What type of company is that?
22 A. They teach people who are now either para or
23 quadriplegic how to drive.
24 Q. His company does just that?
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00126

- 1 A. Yes.
2 Q. For how long have you been taking driving lessons?
3 A. I really don't know. I guess maybe three months.
4 Q. And, I take it, there's a -- is there a wheel on
5 the steering wheel that allows you to maneuver the
6 wheel?
7 A. A knob.
8 Q. A knob. All right. And there's hand controls for
9 the accelerator and the break?
10 A. Right.
11 Q. That comes out from the floor, I take it?
12 A. Yes.
13 Q. Do you have any estimate as to when you'll be able
14 to get a driver's license and operate that vehicle
15 yourself?
16 A. Well, when I say I've been seeing him for three
17 months, I see him -- I try to see him at least
18 once a week. But there are not a lot of teachers
19 who teach this, so it's very hard to get
20 appointments.
21 MR. PRITZKER: I think the question is
22 what your expectation is --
23 A. I expect another two months.
24 Q. Do you practice that on your own without your
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00128

- 1 A. Just that.
2 Q. All right.
3 A. And there's only two others in the state that do
4 it.
5 Q. And you've been doing that for about three months?
6 A. (Witness nods head).
7 Q. Correct?
8 A. Yes.
9 Q. And you've gotten a learner's permit through his
10 organization to do that --
11 A. Right.
12 Q. -- so you can practice with your husband?
13 A. Right.
14 Q. And you would expect to practice and learn from
15 him for another two months?
16 A. Right.
17 Q. And is there a Massachusetts driving test that you
18 then have to pass?
19 A. I believe so. I believe I have to take the
20 written and the driving test.
21 Q. Good luck. That will be a big day.
22 Are there any hobbies or interests or
23 other type of evocations that you pursue
24 currently?
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00129

- 1 A. No. And this is a major source of trouble. I
2 can't do antiques or collectibles anymore, it
3 requires physicality, which I don't have. I
4 haven't been able to find something to fill the
5 void.
6 Q. Have you tried different types of hobbies that
7 just haven't satisfied you?
8 A. Yes. I've tried different kinds of needle work,
9 painting, writing.
10 Q. Have you tried any type of on-line antiques?
11 A. I tried eBay. EBay's a crapshoot. It really is.
12 I've had success, I've sold things and some things
13 didn't sell. But as I said, it's so
14 unpredictable. And the nature of the antiques
15 that I have, you have to be able to take a picture
16 of the antiques and put it up on the computer.
17 Sounds easy, isn't. Isn't easy at all, at least
18 not for me, especially since I can't -- most of
19 the antiques or collectibles that I have are
20 either in storage or upstairs and I don't know --
21 I don't even know what we have in the house any --
22 still, I don't remember what my inventory is.
23 Q. Is that something you're going to continue to try
24 to pursue in the future?

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00131

- 1 your house, first of all?
2 A. Yes.
3 Q. How would you get them back to your house?
4 A. Put them in the car.
5 Q. So you would actually, with the assistance of the
6 home owner, actually put them in the car and get
7 them home?
8 A. I never bought anything bigger than a small table.
9 I don't deal in furniture or those kind of --
10 anything breakable I try to stay away from. So
11 I --
12 Q. So you'd actually go get it and put it in your
13 car?
14 A. I'd go get it and put it in my trunk. I lost a
15 lot of antiques in the accident because I had them
16 in the trunk.
17 Q. Have you actually tried to go to estate sales and
18 the like since the accident?
19 A. No. But I have contacted the company -- one of
20 the companies that I regularly used to go to and
21 asked them to e-mail me when there's an estate
22 sale that it's wheelchair accessible. They
23 haven't done so yet.
24 Q. What's the company that you're referring to?

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00130

- 1 A. I'm trying to liquidate it now. I don't think I
2 can continue with the antique and collectible
3 business because I can't get inventory in a cost
4 effective way.
5 Q. Were there hobbies and other enjoyments aside from
6 the antiques that you engaged in before the
7 accident?
8 A. No.
9 Q. So antiques was your thing?
10 A. That was my thing.
11 Q. And you tried to do it since then but you just
12 haven't been able to do it effectively?
13 A. Right.
14 Q. And am I correct the problem is you can't go out
15 and eyeball the antiques any longer?
16 A. I can't get into the homes.
17 Q. Where they're selling the antiques?
18 A. Where the estate sales are. It means I have to
19 get my inventory through auction which is more
20 expensive and less profitable to the point where
21 it's not worth pursuing.
22 Q. When you would go into the homes and buy the
23 antiques before the accident, how would you get
24 those items back to your -- would you work out of

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00132

- 1 A. Whistle Stop.
2 Q. Aside from Ms. McNulty, Dr. McNulty, are you
3 treating with any other psychological care
4 provider since the accident?
5 A. Well, Dr. Clark.
6 Q. Dr. Clark and Dr. McNulty?
7 A. Yes.
8 Q. Does Dr. Clark treat you for any psychological
9 disorder aside from the Bipolar or the ADHD?
10 MR. PRITZKER: Objection. I instruct you
11 not to answer.
12 Q. Got to listen to him.
13 A. He's my boss.
14 Q. During these questions, let me finish my question
15 to give him time to interpose an objection if he
16 wants to.
17 Does Dr. Clark treat you with issues
18 related to your grief, frustration or depression
19 because of your physical injuries?
20 A. Yes.
21 MR. PRITZKER: I instruct you not to
22 answer. I told you to wait a minute.
23 A. Well, too late.
24 Q. Yes, just take a moment. Let him --

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00133

- 1 Does Dr. McAnulty treat you for your
2 Bipolar or ADHD?
3 MR. PRITZKER: I instruct you not to
4 answer.
5 Q. Does Dr. McAnulty treat you for issues related to
6 your grief, frustration or depression because of
7 your physical condition?
8 MR. PRITZKER: I instruct you not to
9 answer.
10 Q. Are you seeking covery in this case for your
11 grief, frustration and depression related to your
12 physical condition?
13 A. I don't understand the question.
14 MR. PRITZKER: I will state for the
15 record that she is.
16 Q. Did you ever treat with Dr. McAnulty before the
17 accident?
18 A. No.
19 Q. Have you treated with Dr. Clark before the
20 accident?
21 A. No.
22 Q. Did you treat with any psychological care
23 providers before the accident?
24 MR. PRITZKER: You can answer.
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00135

- 1 A. Twice a month.
2 Q. Right. Have you taken any vacations since the
3 accident?
4 A. No. Well, successfully, no.
5 Q. When you say "successfully," can you describe the
6 efforts that you've made to vacation?
7 A. We tried to go down to the Cape as a family like
8 we used to do before the accident. The hotel
9 claimed to be wheelchair accessible but wasn't.
10 Q. Which place was that?
11 A. I don't even remember anymore.
12 Q. When is it you tried to go down to the Cape?
13 A. We've tried a number of times. We've tried about
14 three times.
15 Q. When did you first give it a shot? How long after
16 the accident?
17 A. Oh, it was probably -- I really can't remember. I
18 don't remember. I just remember it didn't work.
19 Q. You tried it three times and it didn't work each
20 time?
21 A. We -- the third time we were successful.
22 Q. When was that third time?
23 A. That was about a month ago.
24 Q. And where did you go?
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00134

- 1 A. Yes.
2 Q. Who?
3 A. Dr. Aspel, A-S-P-E-L.
4 Q. When did you first start treating with Dr. Aspel?
5 A. 1984.
6 Q. Have you treated with any others --
7 A. No.
8 Q. -- before the accident? Have you treated with Dr.
9 Aspel after the accident?
10 A. No.
11 Q. Why did you stop treating with Dr. Aspel?
12 MR. PRITZKER: I instruct you not to
13 answer.
14 Q. With what frequency did you see Dr. Aspel before
15 the accident?
16 THE WITNESS: Can I answer that?
17 MR. PRITZKER: Yes.
18 A. About once every two weeks, three weeks.
19 Q. Following the accident, with what frequency did
20 you treat with Dr. Clark?
21 A. I saw Dr. Clark about once every six weeks.
22 Q. And I think you told us the frequency for Dr.
23 McAnulty with after the accident, but could you
24 remind me?
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00136

- 1 A. Wellfleet.
2 Q. Where did you stay?
3 A. Wellfleet Motor Lodge.
4 Q. Right on Route 6?
5 A. Yes.
6 Q. And how long did you go for?
7 A. Just overnight.
8 Q. Before the accident, do you recall when your last
9 vacation was? How often would you vacation before
10 then?
11 A. We would go to the Cape for two weeks every year
12 and then Becca and I would go to the Cape just the
13 two of us, once in July and once in August.
14 Q. Did you say Beth and I or --
15 MR. PRITZKER: Becca.
16 Q. Becca.
17 A. Becca.
18 Q. Does your daughter participate in your health
19 care?
20 A. No.
21 Q. Can you describe for us how the accident has
22 affected your interaction or relationship with
23 your husband?
24 A. With my husband?
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00137

- 1 Q. Yes.
 2 A. He's gone from being a husband to being a
 3 caregiver. It's completely different.
 4 Q. Do you know whether he's seeing anybody, any type
 5 of psychological care provider to help him cope
 6 with those issues?
 7 A. He sees Dr. Eisenberg.
 8 Q. That was the family counselor you spoke of
 9 earlier?
 10 A. Yes.
 11 Q. Can you describe for us how the injuries you
 12 suffered in the accident have affected your
 13 relationship with your daughter?
 14 A. Well, I can't parent my daughter. I can't get
 15 upstairs. She -- her room and her office are on
 16 the second floor and I can't go up there and see
 17 if she cleaned her room, see if she changed the
 18 sheets or see if she did any of the other chores
 19 and it makes me very ineffective as a parent. We
 20 also miss the stuff we used to do together. We
 21 used to go out a lot together to stores or flea
 22 markets, yard sales and we don't do any of that
 23 anymore.
 24 Q. Did I hear you correctly that you said her room
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00139

- 1 rooms.
 2 Q. Do you communicate with people that are in your
 3 condition?
 4 A. No, I don't.
 5 Q. Is that something you ever tried doing?
 6 A. Yes, I did. At Whittier they have a support
 7 group --
 8 MR. PRITZKER: Just answer the question.
 9 A. Yes, I did.
 10 Q. When did you try to do that?
 11 A. When I was -- after I left Whittier.
 12 Q. And why is it that you just don't do that any
 13 longer?
 14 A. Because the support group is almost all men and
 15 they have upper body strength and they can't
 16 relate to the problems that women have as
 17 paraplegics.
 18 MS. PINKHAM: It's time for pressure
 19 relief.
 20 (Pause)
 21 A. Go ahead.
 22 Q. Has your daughter treated with Dr. Eisenberg as
 23 well, with Mr. Eisenberg as well for the issues
 24 and problems you've had together?
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00138

- 1 and her office is upstairs?
 2 A. Yeah.
 3 Q. I mean, study office --
 4 A. We converted one of the bedrooms into an office
 5 for her.
 6 Q. So she can do school work and those types of
 7 things?
 8 A. Right. It's got a computer.
 9 Q. Do you have a computer, by the way?
 10 A. Yes.
 11 Q. So you have the computer you use. And do you have
 12 access to the internet?
 13 A. Yes.
 14 Q. What do you do on your computer?
 15 A. What do I do on the computer?
 16 Q. Yeah.
 17 A. Well, I tried writing. I still have inventory out
 18 in these stores, so I have to keep that up to
 19 date. Then I just surf the web like everybody
 20 else.
 21 Q. Do you communicate with any of these chat rooms
 22 that I seem to hear about a lot?
 23 A. No, I don't do chat rooms. I communicate with my
 24 friends with e-mails, but I don't do the chat
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00140

- 1 A. No, she has her own doctor.
 2 Q. Who is that?
 3 A. Harriett Melrose.
 4 MR. DUGGAN: I'm sorry. I didn't hear
 5 the last name.
 6 THE WITNESS: Melrose.
 7 MR. DUGGAN: Thank you.
 8 BY MR. POLLOCK:
 9 Q. And what type of doctor is Dr. Melrose or care
 10 provider?
 11 A. Licensed social worker.
 12 Q. Where is Dr. Medical located?
 13 A. Milford.
 14 Q. Dr. Eisenberg is located in Milford, too?
 15 A. Holliston.
 16 Q. Holliston. I probably asked you that. I
 17 apologize.
 18 I want to get a briefly -- just get
 19 an understanding of your physical condition before
 20 the accident. Who was your primary care physician
 21 before the accident?
 22 A. Dr. Krauth.
 23 Q. What was your height and weight before the
 24 accident?
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00141

- 1 A. Well, my height is five-four. I don't know what
2 my weight was because before the accident, I
3 didn't weigh myself.
4 Q. I try not to do that also. Were there any other
5 physicians you saw aside from Dr. Krauth? Did you
6 have an OBGYN or a urologist or anything of that
7 nature before the accident?
8 A. She did the OBGYN, of course I have a dentist and
9 an eye doctor.
10 Q. Any other physicians you'd seen before the
11 accident?
12 A. No.
13 Q. Had you ever undergone any surgery in the past?
14 A. Before the accident?
15 Q. Yes.
16 A. When I was ten.
17 Q. What did you do?
18 A. I had a double hernia and an appendicitis.
19 Q. Did they take the appendix out?
20 A. Yes.
21 Q. Where was the double hernia?
22 A. Down in the groin area.
23 Q. Have you ever been diagnosed with any sort of,
24 what I would call a chronic medical condition? To
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00143

- 1 Q. In one of the reports I noticed a person named
2 Kelly Clark. Do you recognize that name?
3 A. That's Dr. Clark.
4 Q. Okay. That's the psychiatrist?
5 A. Yes.
6 Q. And just so we're clear, you're still treating
7 with her at that frequency you described earlier?
8 A. Yes.
9 Q. Are you treating with any podiatrist?
10 A. I have one.
11 Q. Who's that?
12 A. I don't remember.
13 Q. Well, how often do you see your podiatrist?
14 A. I just saw the guy.
15 Q. I guess it's something about podiatrists that are
16 particularly forgettable. But how often since the
17 accident had you seen a podiatrist?
18 A. A few times.
19 Q. And why is it you treated with a podiatrist?
20 A. Well, the most recent was I had an infected toe.
21 And I've been fitted for shoes that you'd wear
22 when you have full therapy, I had to go to a
23 podiatrist for that and to a guy that makes the
24 shoes.
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00142

- 1 give you examples, diabetes, heart disease,
2 anything of that nature?
3 A. No.
4 Q. Were you taking medications for any type of
5 physical problems before the accident?
6 A. No.
7 MR. PRITZKER: Other than the ones you've
8 already asked about, the ADHD, Bipolar.
9 Q. Yes. I'm talking about physical medications
10 before the accident.
11 A. No.
12 Q. Did you belong to any health club or spas before
13 the accident?
14 A. There was one in Milford.
15 Q. Were you a member of that one in Milford?
16 A. I was a member until about a couple of years, you
17 know -- well, a couple of years before the
18 accident.
19 Q. But at the time of the accident, you were not a
20 member of that club?
21 A. No.
22 Q. Were you a member of any country clubs or social
23 clubs?
24 A. No.
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00144

- 1 Q. Do you have any appointments to go back and see
2 that podiatrist?
3 A. Not right now because I have pressure sores on my
4 leg.
5 Q. You mentioned there was some special shoes that
6 you ordered and he treated you for a foot
7 infection, toe infection. Are you supposed to go
8 see the podiatrist for any kind of regular
9 treatment?
10 A. I'm supposed to go see the podiatrist to cut my
11 toenails, but the caregiver does that.
12 Q. Is there any other regular treatment you'd go to
13 the podiatrist for or is it as needed?
14 A. As needed.
15 Q. I saw a reference to a Dr. Steven Williams. Are
16 you seeing a doctor named Steven Williams?
17 A. I think that's the doctor that's the new doctor.
18 Q. The fellow in Boston?
19 A. Yes.
20 Q. And that Dr. Crimaldi recommended him?
21 A. Yes.
22 Q. Are you familiar with an organization called Case
23 Management Associates?
24 A. No.
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00145

- 1 Q. Care Management Associates?
- 2 A. No.
- 3 Q. Out in Newton in Upper Falls?
- 4 A. No.
- 5 Q. I just have a couple of very quick issues I just
- 6 want to go through and then I'm going to turn it
- 7 over.
- 8 Am I correct that you're not making a
- 9 claim for past lost income?
- 10 MR. PRITZKER: That's correct.
- 11 Q. And are you making a claim for future lost income?
- 12 MR. PRITZKER: For the record, we're not
- 13 claiming lost earning capacity.
- 14 MR. POLLOCK: That was my next question.
- 15 Q. Have you spoken to any of the defendants in this
- 16 case directly?
- 17 A. No.
- 18 Q. Have you ever spoken to Mr. Zalewski who is the
- 19 driver of the truck?
- 20 A. Yes.
- 21 Q. When was that?
- 22 A. At the criminal trial.
- 23 Q. Was that when you gave your impact statement or
- 24 aside from that?

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00147

- 1 Q. Do you know how much the family's paid?
- 2 A. No, I don't.
- 3 Q. Has it been payments other than co-pays?
- 4 A. Oh, yes.
- 5 Q. So a significant portion in your mind of your
- 6 medical treatment just wasn't covered by any
- 7 insurance?
- 8 A. (Witness nods head).
- 9 Q. Is that right?
- 10 A. Yes.
- 11 Q. Did you get any of your medical care expenses
- 12 covered by an insurance?
- 13 A. Yes.
- 14 Q. What insurance was that?
- 15 A. United Health Care.
- 16 Q. And your husband was paying into that in his
- 17 capacity as a marketing consultant?
- 18 A. Yes.
- 19 Q. Do you know what the nature of what they covered
- 20 and what they didn't were, any of those details?
- 21 A. No.
- 22 Q. Have you spoken to anyone who claims to have
- 23 witnessed the accident?
- 24 A. One person.

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00146

- 1 A. That was after the impact statement.
- 2 Q. Can you describe that conversation, why and how?
- 3 A. He just came over and apologized.
- 4 Q. Do you remember the words he used?
- 5 A. No.
- 6 Q. Did you say anything back to him?
- 7 A. No, I didn't say anything.
- 8 Q. Did anybody else with you respond to the fellow?
- 9 A. My husband probably had a response, but I don't
- 10 remember.
- 11 Q. And am I correct you've never spoken to anybody
- 12 from GAF or any of these companies directly?
- 13 A. No.
- 14 Q. Just so the record's clear, am I correct that
- 15 you've never spoken to them?
- 16 A. I've never spoken to them.
- 17 Q. All right. It was a bad question on my part. Do
- 18 you know whether you've paid any of your medical
- 19 care expenses directly out of pocket as opposed to
- 20 it being covered by insurance?
- 21 MR. PRITZKER: When you say "your
- 22 pocket," you mean the family's pocket?
- 23 MR. POLLOCK: Yes.
- 24 A. Yes, we have.

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00148

- 1 Q. Who was that?
- 2 A. I don't know the man's name. He happened to be
- 3 one of the subcontractors who worked on the house
- 4 and he happened to be in the other lane when the
- 5 accident happened.
- 6 Q. So this was a person that actually just
- 7 coincidentally came to your house to do some of
- 8 this renovation work?
- 9 A. Right.
- 10 Q. And at some point during you meeting him, he
- 11 mentioned, oh, I was there during that day?
- 12 A. Yes.
- 13 Q. Can you describe for us how that came up?
- 14 A. I think -- it wasn't from me, but he found out
- 15 about the accident and he -- you know, he said,
- 16 oh, I remember that accident and he told us he'd
- 17 seen the accident.
- 18 Q. What did he say?
- 19 A. He said it was a really bad accident. He said he
- 20 didn't believe that I survived it.
- 21 Q. Did he describe for you any of the details, how
- 22 fast the truck was going or breaking or any other
- 23 details aside from that it being a very bad
- 24 accident?

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00149

- 1 A. No.
- 2 Q. I might have asked this, but what was the fellow's
- 3 name?
- 4 A. I don't know. I don't remember his name.
- 5 Q. Did you speak to him only on that one occasion?
- 6 A. Yeah.
- 7 Q. Did he work for the construction company that was
- 8 doing the work or was he one of the plumbers or a
- 9 subcontractor?
- 10 A. I think he was a subcontractor. I don't know what
- 11 kind.
- 12 Q. Do you know what type of work he was doing?
- 13 A. I don't know what he was doing.
- 14 Q. Did your husband ever speak with the fellow?
- 15 A. I'm sure he did.
- 16 Q. Did you record the guy's identity anywhere?
- 17 A. (Witness shook head.)
- 18 Q. No?
- 19 A. No.
- 20 Q. But he did mention he was going in the other
- 21 direction at the time it happened?
- 22 A. Yes.
- 23 MR. POLLOCK: Those are all my questions.
- 24 I usually would go through my notes, but I don't
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00151

- 1 accident, you told us that you were headed
- 2 eastbound on Route 109?
- 3 A. Right.
- 4 Q. And a police officer told you by way of a hand
- 5 signal to stop your motor vehicle, which you
- 6 obeyed; correct?
- 7 A. Right.
- 8 Q. How long had you been on Route 109?
- 9 A. A couple of minutes.
- 10 Q. And this is a road that you're familiar with
- 11 and --
- 12 A. Yes.
- 13 Q. -- traveled before? When was the first time you
- 14 realized there was a tractor trailer behind you?
- 15 A. Almost immediately after I stopped.
- 16 Q. But had you known he was behind you going down
- 17 Route 109?
- 18 A. No.
- 19 Q. Did he have his lights on, do you know?
- 20 A. I don't know.
- 21 Q. Did you have your lights on, do you recall?
- 22 A. No.
- 23 Q. Fair to say it was cloudy that day?
- 24 A. I don't remember it being cloudy.
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00150

- 1 have the opportunity to do that. Those are all my
- 2 questions subject to any of the follow up that
- 3 these other attorneys have. And I really
- 4 appreciate your patience with me.
- 5 MR. PRITZKER: It's 4:33, so let's find
- 6 out what everybody's projections are for time
- 7 period and we'll talk to Mrs. Rhodes about how
- 8 she's feeling.
- 9 MS. WU: I have no questions.
- 10 MR. DUGGAN: 30 minutes maybe.
- 11 MR. PRITZKER: Still at the hour?
- 12 MR. BOYLE: Depending upon what matters
- 13 are covered, up to an hour. Probably less.
- 14 MR. PRITZKER: Let's talk for a minute.
- 15 (Short recess taken)
- 16 (Discussion held off the record)
- 17 CROSS-EXAMINATION
- 18 BY MR. BOYLE:
- 19 Q. Hello, Mrs. Rhodes. How are you?
- 20 A. Okay.
- 21 Q. My name is Lawrence Boyle. I don't think we've
- 22 met before. And I represent Mr. Zalewski and
- 23 Drivers Logistic Services, Inc..
- 24 Going back to the date of the
C.J. REPORTING (978) 409-9090

00152

- 1 Q. This was about 1, 1:15 at the time of the
- 2 accident?
- 3 A. 1:15, yeah.
- 4 Q. Do you remember if it was misty?
- 5 A. No, it wasn't. It was a clear day.
- 6 Q. Do you recall how the police officer was dressed?
- 7 A. No.
- 8 Q. Do you remember if he had any orange sort of glow
- 9 type --
- 10 A. I believe he had one of those smock things that
- 11 they wear when they're --
- 12 Q. Is that based upon a memory of that day or
- 13 something else?
- 14 A. No, that's the guy standing in front of me wasn't
- 15 in complete blue.
- 16 Q. Okay. Other than that, it's a winter day?
- 17 A. (Witness nods head).
- 18 Q. You have to speak audibly.
- 19 A. Pardon?
- 20 Q. You nodded. You have to speak audibly.
- 21 MR. PRITZKER: Well, I'm not sure if that
- 22 was a question. That's okay.
- 23 A. It was winter, yeah.
- 24 Q. Now, you're the first car in line eastbound that
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00153

- 1 stops; correct?
- 2 A. Correct.
- 3 Q. So is it fair to say before the policeman puts his
- 4 hand up, eastbound traffic is flowing and
- 5 westbound traffic is held up?
- 6 A. Correct.
- 7 Q. And so a few hundred feet away from where this
- 8 policeman is, as you looked ahead, eastbound
- 9 traffic is flowing ahead; correct?
- 10 A. They were starting to go.
- 11 Q. Well, you said you were first --
- 12 A. Oh, you mean eastbound in my lane?
- 13 Q. Right.
- 14 A. Yes. They had all gone through and there was a
- 15 break and he stopped me when there was a break.
- 16 Q. Is it fair to say that you had come over a hill
- 17 and then were going down to where the accident
- 18 happened?
- 19 A. I don't understand the question.
- 20 Q. You remember sort of the curvature of the road as
- 21 you were heading down, or the topography?
- 22 A. Yeah, there's a rise and you go down.
- 23 Q. From the entire time that you're approaching that
- 24 police officer until he puts his hands up, was the
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00155

- A. Right.
- Q. But it was somewhat on the road or in the close
- proximity in the edge of the road?
- A. Right.
- Q. When you saw the police officer, how far was he in
- the roadway?
- A. He was on the other side. He wasn't on the
- shoulder side of the road, he was in the middle of
- the road.
- Q. Okay. When did you first see him in that
- position?
- A. Well, as I was driving up, I saw that he was
- standing there.
- Q. What was he doing before he put his hand up to
- tell you to stop?
- A. That's the only thing I remember -- the first
- thing I remember when I saw him was he stopped me.
- Q. Did you notice what was going on in the westbound
- lane as you're driving down 109 heading towards
- this --
- A. There was no activity in the westbound lane and as
- I found out was because he had held that side up
- while the eastbound side went around.
- Q. Did you appreciate what was going on in the
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00154

- 1 traffic flowing eastbound in front of you?
- 2 A. Eastbound, yes.
- 3 Q. So you didn't see a series of eastbound stops,
- 4 westbound goes, eastbound stops?
- 5 A. No.
- 6 Q. So the first time you saw him stop, the eastbound
- traffic is --
- A. That --
- Q. -- for you?
- A. That one time.
- Q. Other than that, as you're traveling down 109, the
- road is clear ahead of you going eastbound?
- A. Correct.
- Q. Did you appreciate what was going on by way of
- activities on the side of the road as you're
- heading eastbound?
- A. Yeah.
- Q. You knew something was going on but you said you
- really didn't know what was going on?
- A. Right. There was a big piece of equipment.
- Q. You thought maybe it was roadwork?
- A. Correct.
- Q. You told us you weren't sure how far on the road
- or off the road he was?
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00156

- westbound lane or was this something that you sort
- of learned afterwards?
- A. No, it's something I -- when I go out of James
- Street, which is the street that connects with
- 109, I usually had a rule that if there was
- traffic, I would go right. If there was no
- traffic, I'd go left. And there was no traffic,
- that's why I went left and then he hit me.
- Q. You lost me on that answer. You're going down 109
- for about how long before you got to the accident
- scene?
- A. Two minutes, a minute. We weren't very far from
- the house at all.
- Q. Quarter of a mile?
- A. Yeah.
- Q. So for a quarter of a mile, as far as you know,
- eastbound is open, flowing ahead of you?
- A. Right.
- Q. And you're not really appreciating what's going on
- in the westbound lane; is that fair to say?
- MR. PRITZKER: Well, I think she just
- answered that but you didn't grasp it.
- Q. Right. Let me keep poking away here.
- A. There wasn't any activity in the westbound lane.
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00157

- I didn't realize why until I stopped.
- Q. So you didn't understand what was the lack of activity in the other lane?
- A. Mm-hmm.
- Q. Did you appreciate that the cars were stopped ahead westbound?
- A. Yes. I saw them and I realized the reason I could make that left turn was because these cars had been stopped.
- Q. You say a left turn. How --
- A. Yeah. When you're coming out of James Street to go towards Medway, you have to go left to go east, so I made a left turn to go east.
- Q. On 109?
- A. On 109.
- Q. Okay. And it was clear because as you looked ahead, cars were stopped?
- A. Yes.
- Q. How many cars were in that westbound lane, ballpark, stopped?
- A. There were at least four or five cars stopped.
- Q. And you say you saw another police officer you thought ahead?
- A. Well, there was some -- there was somebody on the
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00159

- Q. -- when he put his hand up?
- A. No. No, I stopped at three -- he put his hand up before I stopped. I stopped at that three-quarters of a length car between me and this piece of equipment and the policeman where I stopped.
- Q. How far ahead was the policeman, approximately, when you first saw a motion that he was telling you to stop?
- A. He was standing next to the big piece of equipment, standing next to something big. So he would have been -- well, I would have seen him -- I don't know. I don't know how to phrase --
- Q. If you don't have a memory, that's fine. I'm not trying to get you to reconstruct in a sense of what you think may have been. Let me start again and strike that question.
- You said when you first saw the policeman, he was in the middle of the road?
- A. (Witness nods head).
- Q. Correct?
- A. Yeah.
- Q. Now, I thought you just said when he put his hand up, he was close to the machinery?
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00158

- other side of the big machine. I might have assumed it was a police officer. It might have been one of the tree stump guys.
- Q. Did you see how far over the eastbound lane traffic was sort of deviating around this work site as you're driving ahead?
- A. I didn't see them deviate. When I got up to the policeman, eastbound traffic had already cleared the big piece of equipment and he just stopped me. I was like a fresh new group of traffic coming up, that's what I mean.
- Q. So as far as you knew, you're approaching where the police officer was, there was absolutely no deviation in the eastbound lane traffic, it was just flowing ahead?
- A. Yeah, until I saw that that wasn't the case, there was something in the middle -- in the road blocking the way.
- Q. And you learned that, appreciated that more as you got right up closer to the police officer?
- A. Right.
- Q. You said something about he was three-quarters of a car length away --
- A. Right.
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00160

- A. Well, here's the machinery (indicating), and there's the policeman (indicating).
- Q. Okay. How about if I have you draw a diagram just when you first see the policeman -- when you see ahead by way of machinery and the policeman. And it's not to scale, you don't have to worry about the scale.
- A. (Witness complies).
- Q. This is eastbound in this direction (indicating)?
- A. Yes.
- Q. Was the equipment blocking your --
- A. Yes.
- Q. -- eastbound lane?
- A. Right.
- Q. Had it moved?
- A. No -- did what move?
- Q. Well, as I understood it, the equipment -- as you're driving down 109 until a policeman tells you to stop, eastbound lane was open; is that true?
- A. Right.
- Q. And the equipment was sort of off the road?
- A. Yes.
- Q. And now when the policeman puts his hand up and
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- tells you to stop, had the equipment moved at all?
- A. No.
- Q. Why don't you draw the eastbound and westbound lanes of 109 so we have a sense of --
- A. (Witness complies). I'll put an X here (indicating). I thought there was another cop there (indicating).
- MR. BOYLE: I'll tell you what, let's mark this as an exhibit for purposes of the record clarity.
- (Exhibit No. 2 marked for identification)
- BY MR. BOYLE:
- Q. Why don't we start again. Why don't you first just draw an eastbound lane and give yourself three inches in eastbound so you have some spaces to move and then the westbound lane.
- A. (Witness complies).
- Q. Hold on a second. Now you're drawing something. You've got the eastbound lane and the westbound lane?
- A. I haven't done west.
- Q. Okay. That's the eastbound lane?
- A. Right.

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- A. I see what you mean.
- Q. In other words, before the policeman, if he hadn't put his hand up, you would have had to drive around that vehicle?
- A. Exactly.
- Q. And how much of your car if any would have had to go, if any, onto --
- A. The whole car would have had to go into the other lane.
- Q. So there's a truck in the roadway and blocking to some extent the eastbound lane?
- A. Right.
- Q. Do you know how far out into the roadway the truck was?
- A. I don't remember.
- Q. And was it more than one truck, something like a truck and a trailer or something?
- A. No. I just remember one big piece of equipment.
- Q. Color of the truck, do you know that?
- A. I thought it was yellow.
- Q. Did you see any flashing lights?
- A. No.
- Q. So I assume you saw no police car with flashing lights?

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- Q. What did you just draw?
- A. That's a piece of equipment.
- Q. It's on the eastbound lane?
- A. Yes.
- Q. Okay. Go ahead.
- A. (Witness complies.)
- Q. That's a policeman?
- A. Yeah. I was back to about here (indicating), that's me.
- Q. Now, is that --
- A. And this is all clear (indicating) except for --
- Q. Okay. Don't make any more marks. I'll have to have you do it again. Now, is your car now -- as you drove ahead, you're right behind this piece of equipment, is that --
- A. Yes.
- Q. I thought you said that as you were driving down, the eastbound lane was clear in your lane of traffic?
- A. Right, there was no other cars in front of me.
- Q. But was the road pavement clear so you could just drive down the eastbound lane?
- A. No. No.
- Q. Okay.

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- A. No, I didn't see a police car.
- Q. You didn't see a police car any place?
- A. No.
- Q. And this vehicle had no emergency flashing lights?
- A. No.
- Q. Now, as you're driving down 109, you said, I think, correct me if I'm wrong, a quarter of a mile on 109 east before you'd come to the place of the accident?
- A. Approximately.
- Q. Give or take?
- A. Yeah.
- Q. And as you're driving down 109, did you see any signs that warned you that there was some activity in the roadway ahead?
- A. No.
- Q. Anything that said "reduce speed"?
- A. No.
- Q. Anything that said "prepare to merge to the left"?
- A. No.
- Q. Anything that said to "prepare for stops ahead"?
- A. No.
- Q. And so you didn't know what was going to happen by way of directions from a police officer until you

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- Q. were getting pretty close to him?
- A. Exactly.
- Q. All of a sudden, boom, up goes his hand and you see that's a signal to stop?
- A. Correct.
- Q. And you're back -- I'm not sure I asked you this, I can't remember your answer. When you're driving down the road, about how far ahead is the policeman when his hand goes up?
- A. I don't -- I mean -- it all happened like so fast. I'm not good with distance, so I don't know how to --
- Q. That's okay.
- A. -- how far he was. I mean, I didn't get to this point (indicating) and then his hand went up.
- Q. I understand.
- A. I was probably about at this point (indicating) when I saw his hand go up and I saw the car stopped here (indicating).
- Q. Just for purposes of that diagram, you drew an X at the rear of your car, which is somewhat of an approximation of where you were when the police officer first --
- A. When I saw his hand go up.

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- Q. Do you know what the speed limit on that roadway is, approximately, 40 miles per hour, or is 40 miles per hour?
- A. As I said, I just got on the road.
- Q. Okay. Now, in the westbound lane, would you draw a rough approximation where the first car in the westbound lane is located?
- A. Right about here (indicating).
- Q. Okay. You drew that with a circle in the westbound lane?
- A. Almost even, but not -- he was diagonally to the first car. He wasn't straight on like this (indicating).
- Q. "He" being the policeman?
- A. Yes.
- Q. Now, where are the two workers that you say you saw?
- A. They're over here (indicating).
- Q. You drew two circles right in front of that --
- A. Well, it was -- the front to me. It was the back of the equipment. At the end of this big piece of equipment, there was two people working.
- Q. With your permission, I'm going to write the word "workers" with an arrow --

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617-856 8260
H asked me to review the deposition w/ Boyle

00166

- Q. So you moved about a distance of the length of your car?
- A. Yeah, I moved a little less than that.
- Q. Other than raising his hand, did he do anything else? Did he move left or move right?
- A. I believe he moved -- after he stopped me, I believe he turned to look at the other traffic, the westbound traffic.
- Q. So the policeman now took his eyes off the eastbound traffic?
- A. I think he did.
- Q. And you saw him make no motions of the tractor trailer behind you --
- A. No.
- Q. -- slow down --
- A. No.
- Q. -- or anything like that?
- A. No.
- Q. There was no flagman out there to slow traffic down?
- A. No.
- Q. How fast were you going when the policeman raises his hand and signals you to stop?
- A. Probably about 20, 25 miles an hour.

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Not sure if got them all

00168

- A. Go for it.
- Q. -- where the two circles are. And that's correct?
- A. Yes.
- Q. Did the truck block your view of these two workers?
- A. Well, I saw them bending over what turned out to be a tree stump. But I saw them bending down.
- Q. In otherwords, were they on the inside of the truck so you could see them on the right side of the truck?
- A. I could see them along the shoulder of the road.
- Q. And may I draw an arrow to this individual as the police officer?
- A. Go for it.
- Q. I'll write "police." And this is first westbound car?
- A. Right.
- Q. Stopped, right?
- A. Right.
- Q. And there I'd write "stopped;" is that correct?
- A. Right.
- Q. And this is the workers' truck? You didn't know what it was, but it was the workers truck; correct?

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(B) no Δs in written dep
(C) Δ in diagram

00169

- A. Right.
MR. PRITZKER: She didn't know what it was.
- A. It was a piece of equipment.
MR. PRITZKER: I think she did.
- Q. Is that what you wrote?
A. Yeah, that's "equipped."
- Q. And this X reflects your first position when you saw the police officer raise his hand?
A. Correct.
- Q. I'll just write -- that's the front of your car when he raised his hand?
A. Pardon?
- Q. That's the front of your car --
A. Right.
- Q. -- position when told to stop; is that correct?
A. Right.
- Q. Now, until that police officer raised his hand to tell you stop, that distance, that was the first time you realized that you may have to stop your car in the eastbound lane; correct?
A. Correct.
- Q. There was no traffic signal there; correct?
A. No, nothing.

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- A. Behind me?
Q. Yes.
- A. There wasn't any traffic lights in those days.
- Q. How far back towards 495 do you have to go before you see a traffic light that would have affected the eastbound traffic?
A. You would certainly have to pass my development where I lived.
- Q. Ballpark, how far is that?
A. I don't know. I can't tell you how many --
- Q. Are you talking about more than a mile?
A. Oh, I think so. Not a lot, but certainly more than a mile.
- Q. And this is a road that you had used before?
A. Yes.
- Q. So is it fair to say that people would be commonly going 40 miles per hour over a mile before they came to this accident scene; correct?
A. Yes.
- Q. With no reason apart from the police officer's hand signal to stop their vehicle at this location?
A. Correct.
- Q. Now, did the workmen, other than bending over,
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- Q. There was no stop sign there?
A. No.
- Q. And this is a fairly major road connecting all kinds of towns?
A. Yes, it is.
- Q. It runs all the way up to Route 128; correct?
A. Yeah, I think it does.
- Q. A lot of commercial vehicles use this track?
A. I imagine so.
- Q. It's a big commuter road, for example, people going to work in Boston?
A. Yes.
- Q. And they're going up to 40 miles an hour?
A. Well, I guess so.
- Q. Speed limit just by way of your own knowledge of the roadway?
A. Right. It was a busy road.
- Q. If you're heading down eastbound, when is there a traffic light before this accident scene, if you can remember?
A. Oh, the traffic light would be way down.
- Q. You're talking about miles back?
A. No, going forward you --
- Q. No. If you --

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00172

- they weren't doing anything to try to signal traffic?
A. No.
- Q. And you say you saw somebody else you thought was another policeman. And would you draw the second person that you thought was a policeman location.
A. (Witness complies).
- Q. You drew that with an X?
A. Yeah.
- Q. And may I draw an arrow and say "possible second policeman;" is that --
A. Yes.
- MS. PINKHAM: It's time to do pressure.
- Q. I'll keep referring to this diagram.
MR. BOYLE: Just for clarity on the record, let's mark this as Exhibit 3.
(Exhibit No. 3 marked for identification)
- BY MR. BOYLE:
- Q. Did this person that you thought was this possible second police officer, did you see him moving at all?
A. I thought I saw him waving the other lane to start going.

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- Q. Westbound?
 A. Yes.
 Q. Is that a good memory or something that's sort of faint?
 A. Faint memory.
 Q. Do you recall how that person looked --
 A. No.
 Q. -- by way of appearance?
 A. No, I just -- I feel there was -- I remember a second person being --
 Q. How much distance between policeman number 1 who's giving you the stop signal and possible policeman number 2 at this X diagram, Exhibit No. 3?
 A. He was on the other end of the equipment.
 Q. Could you approximate by way of feet?
 A. No.
 Q. Male or female?
 A. No.
 Q. Okay. And did you notice any vehicles behind you pulling out from any streets --
 A. No.
 Q. -- in the vicinity of that tractor trailer behind you at any time?
 A. No.

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- Q. You're pointing to Exhibit No. 3?
 A. This car was actually at the other end of the equipment.
 Q. So you'd want to move the westbound car?
 MS. PINKHAM: Can you slide that a little closer to her.
 MR. BOYLE: I'm sorry?
 MS. PINKHAM: Can you slide that a little closer to her.
 MR. BOYLE: Yes.
 A. It was more down here (indicating).
 BY MR. BOYLE:
 Q. What you've done now in Exhibit 3 is you just moved the position of the westbound car --
 A. Further back.
 Q. Further back. So it would be, approximately, where that possible --
 A. Right.
 Q. -- second policeman is in that diagram?
 A. Right.
 Q. Is there anything else you'd like to change in the diagram?
 A. I don't think so.
 Q. Okay. Do you know if the police officer was
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- Q. Did you ever notice any traffic behind you in the distance that you were traveling down 109 before you were told to stop?
 A. No.
 Q. Were you paying any attention to what was going on behind you?
 A. No.
 Q. You said you were playing a cassette?
 A. Yeah.
 Q. Tape cassette?
 A. Yeah.
 Q. Do you have any restrictions on your driver's license for eyesight --
 A. Yeah.
 Q. -- for glasses?
 A. For glasses.
 Q. And were you wearing your glasses that day?
 A. Yes, I was.
 Q. Any issues of vision at all that day with you?
 A. No.
 Q. 20/20 eyesight with corrective lenses?
 A. Close. Can I clarify something?
 Q. Yes.
 A. This first car was --

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- wearing any gloves when he put his hand up to tell you to stop?
 A. No, I don't remember.
 Q. We can degree that he wasn't holding a big sign that said "stop" or anything; correct?
 A. No, he stopped me with his hand.
 Q. Did you see him make any motion to anybody behind you like go over and wave to anybody that you thought might have been behind you (indicating)?
 A. No.
 Q. How long was his hand up to tell you to stop?
 A. Just until I stopped, a few seconds.
 Q. A few seconds to tell you to stop and he turns his back on you and starts looking westbound?
 A. Yeah. Well, I wouldn't say he turned his back completely on me. He just turned so he's now diagonally facing them, you know.
 Q. Where is his face facing?
 A. His face is facing that way (indicating).
 Q. When you say "that way" --
 A. His face is north.
 Q. Is he now turning towards westbound traffic?
 A. Yeah.
 Q. So he's sort of looking at you which would face
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- him westbound when he tells you to stop. And you saw him move towards the other traffic lane --
- A. Yeah.
- Q. -- in order to communicate with them?
- A. To go ahead.
- Q. Okay. So he's no longer in your view focused on you --
- A. Right.
- Q. -- his attention is now turned to the other lane?
- A. To the other lane, yes.
- Q. So he's taking no more steps to notify anybody in your lane of what's going on --
- A. True.
- Q. -- or to give them any instructions as to stopping; correct?
- A. That's correct.
- Q. Does he have anything in his hands, flashlight, anything?
- A. I don't remember him having anything.
- Q. Do you recall his build; tall, short, anything like that?
- A. Typical guy.
- Q. A blue uniform?
- A. Blue, with some -- you know, some uniform.
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- A. That's correct.
- Q. And then the accident happened?
- A. That's correct.
- Q. So you had no time to press the gas pedal and move?
- A. Right.
- Q. And you had, I assume, power steering?
- A. Yes.
- Q. And so then just turning the wheel to the right and that was it, then bang?
- A. Right.
- Q. You're talking about, it happened quickly?
- A. Very quickly.
- Q. And you didn't have any chance to look back at what the police officer was doing?
- A. No.
- Q. Now, you were asked how long you were stopped before impact. Would you refresh my memory as to what your memory was?
- A. I wasn't stopped very long.
- Q. You're talking about seconds?
- A. Seconds.
- Q. And the police officer says stop?
- A. Stop.
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00178

- Something that I would stop for.
- Q. So other than turning his orientation to the other traffic lane, did he move --
- A. No.
- Q. -- at all by way of walking left or walking right?
- A. I don't think so.
- Q. When you saw this truck behind you, did you ever see the police officer move?
- A. Well, at that time, I was looking behind me --
- Q. Understood.
- A. -- for that rest -- from the moment I spotted the truck, I was watching him.
- Q. Did you ever have any other observations of what the police officer was doing --
- A. Not what the policeman was doing. I checked out what my options were looking ahead and they were either going into which was now a flow of traffic, or stay where this equipment was, or turn the car -- wheels to the right towards the shoulder and the forest.
- Q. Is it fair to say that because of the quickness in which the truck was approaching your rear, you had no chance by way of time to do anything other than you said you turned the wheel?
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- Q. You stopped immediately?
- A. I stopped.
- Q. A couple of seconds you're sitting there, you look in the mirror, you see this truck coming at such a speed, you say he's not going to stop, turn the wheel and kaboom; correct?
- A. (Witness nods head).
- Q. Fair to say from the time the police officer puts his hand up to you getting hit in the rear, you're talking about it happened pretty quickly?
- A. Fifteen, twenty seconds.
- Q. Could it have been ten seconds?
- A. I don't know because I had time to look to my left, look straight and then look right. I mean, I picked an option as to which way I was going to go.
- Q. Is this before you turned the wheel?
- A. That's what caused me to turn the wheel right because that was the only avenue of -- best avenue getting out of the guy's way was to go right.
- Q. You couldn't go straight because the equipment truck was ahead of you?
- A. The equipment was right there, right in front of me. And then the flow of traffic was now flowing
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next to me, so I couldn't go left because I would have been driving into the flow of traffic which wouldn't be very smart. So I turned the wheel really hard to the right so I had enough time to look left, straight and right.

Q. And you made those observations as fast as you could bearing in mind what you thought was going to happen; correct?

A. Yes.

MR. BOYLE: How are we doing on time?

MR. PRITZKER: Oh.

MS. PINKHAM: It's about a half an hour.

MR. PRITZKER: Five minutes. Clean up what you're doing.

BY MR. BOYLE:

Q. Now, with respect to issues you had before the accident with depression, could you quantify by way of your symptoms before the accident depression and after the accident depression?

A. Yes, I can. Bipolar disorder depression is something that stays with you but -- Bipolar, you go from a depressed state to a state of normal to a manic state in a cyclical sort of form. The depression I have now, I consider it to be two

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Q. And how long had you been going to the CVS in Milford to get your prescriptions before the accident?

A. As -- twenty one years.

Q. Is that the same place you got your prescriptions after the accident?

A. Yes.

Q. 109, Milford?

A. Yes, CVS, 109.

Q. So what was the name of the medication you were taking for the Bipolar before?

A. I was taking Prozac and I was taking Cylert.

Q. And I think you told me that the dosage --

A. Well, the Cylert was for the ADHD.

Q. Okay. With respect to the Prozac --

A. I don't remember what dosage it was.

Q. Understood. But I thought you said the dosage didn't change after the accident, just the Prozac?

A. The Prozac, I thought it did change.

MS. PINKHAM: Objection. I don't think that's an accurate testimony of her testimony.

MR. BOYLE: Okay. You can object. But under the rule, you can not make comments.

BY MR. BOYLE:

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depressions. I separate them; there's the normal depression that I have from Bipolar disorder; then I have a profound depression that I have because of this accident and because I -- you know, what's happened in my life.

Q. Describe the symptoms that you had before the accident and the effect on your life.

A. Oh, well, the idea was it was not supposed to be effecting my life because I was taking medicine for it.

Q. Any symptoms at all?

A. If I didn't take the medicine, yeah, I would be depressed.

Q. This is the Bipolar you had before?

A. Yes, right.

Q. What medication were you taking?

A. Prozac.

Q. What drugstore were you getting your prescriptions?

A. CVS.

Q. What CVS?

A. CVS on 109.

Q. What town?

A. Milford.

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Q. Now, with respect to the Prozac, if you remember, did the dosage change --

A. Yes.

Q. -- after the accident?

A. Yes, it did.

Q. In other words --

A. It increased.

Q. Okay. How many years had you been on Prozac before the accident?

A. I would have started taking the Prozac in 1984.

Q. Was that when you first felt symptoms of the Bipolar depression?

A. That was because depression from having a miscarriage.

Q. In 1984?

A. Yeah.

Q. With respect to the Bipolar condition, when did you first experience symptoms of that condition?

A. Well, as I started talking to the doctor over time, you know --

MR. PRITZKER: I'm instructing you not to disclose any discussions with your doctor.

THE WITNESS: Okay.

Q. What were your symptoms, in other words, emotional

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- symptoms that you felt?
MR. PRITZKER: Ask a question.
- Q. Describe when you first felt emotional problems concerning this Bipolar condition before the accident.
- A. Sadness --
MR. PRITZKER: The question was when.
- A. When? I've always had Bipolar disorder.
- Q. How old were you when you first realized you had Bipolar disorder?
- A. Well, I didn't know what it was called. I mean, when it became official that some doctor actually said something to me?
- Q. Since your childhood?
- A. Yes, it was my childhood.
- Q. And with respect to the attention deficit, also since childhood?
- A. Definitely since childhood.
- Q. So as long as you can remember, you've had symptoms with both?
- A. Right.
- Q. And you started treating with Prozac, however, only in 1984; is that correct?
- A. Yeah.

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- Q. Okay. You didn't weigh yourself today, but -- strike that.
- You say you didn't weigh yourself before the accident. But as I understand your testimony, you have gained weight since the accident because of medication?
- A. Right.
- Q. Can you ballpark how much weight, how much pounds you've put on?
- A. I probably put on, ballpark, between 60 and 75.
- Q. 60 and 75 pounds?
- A. Yeah.
- Q. One of the medical records or one of the records from one of your doctors says, I think, 185 pounds, at least when that was written. Is that, approximately, what your weight is today?
- A. That could be -- no, my weight is 202.
- Q. And have you lost weight on this new diet?
- A. Yes.
- Q. What is the highest it's ever been?
- A. The highest ever or --
- Q. Postaccident.
- A. Postaccident, 217. X
- Q. And how high was it, ballpark, before the
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- Q. So before that, it was basically a problem that was untreated?
- A. Right. Exactly.
- Q. At least no medication?
- A. Right.
- Q. And does the Prozac eliminate the symptoms you have with respect to depression?
- A. Prozac -- they prescribed Lithium which is supposed to boost the Prozac and that -- those two together were helping me manage the depression.
- Q. So is it fair to say that after the accident with medication, the symptoms are under control?
- A. Well, again, there's two different kinds of depression that I feel; depression A is the one I've always felt and, yes, that is more or less under control with medication; depression B, I don't think they can give me a medication for depression B. It's --
- Q. What are the symptoms of depression B?
- A. It's just a profound desperation, despair, I mean, hopelessness.
- Q. Did you have those symptoms at all before the accident?
- A. No.

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- accident, if you know?
- A. It was --
MS. PINKHAM: What timeframe?
MR. BOYLE: Before the accident. Any time frame.
- A. Again, I didn't weigh myself, so I -- I can do it by sizes.
- Q. You're the same --
- A. I was a size 14, 16 and 18, 20. And after the accident, I was into the 22, 24, 26 sizes.
- Q. And now you're back to about where are you today?
- A. I'm a 20, 22.
- Q. Okay.
- MR. PRITZKER: Larry, I think this is probably a good -- you can finish the line if you want and --
- Q. With respect to what we call for the lack of a better term, depression B, what medication are you taking for that, if anything, after the accident?
- A. I don't think they've given me any medication for that.
- MR. BOYLE: Could I have a moment?
(Pause)
MR. BOYLE: We'll suspend now. Thank
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you. Thank you, Mrs. Rhodes.
(Whereupon the deposition was
suspended at 5:14 p.m.)
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**CERTIFICATE
COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX, SS.**

I, Robin Picariello, a notary public in and
for the Commonwealth of Massachusetts, do hereby
certify:

That such testimony is a true and accurate
record of my stenotype notes taken in the
foregoing matter to the best of my knowledge,
skill and ability.

IN WITNESS WHEREOF, I have hereunto set my
hand and seal this day of August, 2004.

ROBIN PICARIELLO
Registered Merit Reporter
Notary Public

My commission expires: April 5, 2007
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JURAT

I, MARCIA RHODES, having read the foregoing
transcript of my testimony, do hereby certify the
same contains a true and accurate record of my
answers to the questions herein set forth together
with correction pages, if any, attached.

Signed under the pains and penalties of perjury
this day of , 2004.

MARCIA RHODES
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