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JAPONICA GLOVER-ARMONT,

APPELLANT,

VS.

JOHN CARGILE; CITY OF NORTH
LAS VEGAS, A MUNICIPAL
CORPORATION EXISTING UNDER
THE LAWS OF THE STATE OF
NEVADA IN THE COUNTY OF
CLARK;

RESPONDENTS.

Electronically Filed
May 23 2017 08:58 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL FROM ORDER GRANTING RECONSIDERATION OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

AND

APPEAL FROM ORDER GRANTING SUMMARY JUDGMENT
EIGHTH JUDICIAL DISTRICT COURT, CLARK COUNTY, NEVADA
HONORABLE WILLIAM KEPHART, DISTRICT JUDGE

APPELLANT’S APPENDIX

ADAM GANZ, ESQ.
Nevada Bar No. 6650
MARJORIE HAUF, ESQ.
Nevada Bar No. 8111
DAVID T. GLUTH, ESQ.
Nevada BarNo. 10596
GANZ & HAUF
8950 W. Tropicana Ave., Ste. 1
Las Vegas, Nevada 89147
Tel: (702) 598-4529
Fax: (702) 598-3626

Attorneys for Appellant

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CLERK OF THE COURT

OPPS
MARJORIE HAUF, ESQ.
Nevada Bar No. 8111
IDA M. YBARRA, ESQ.
Nevada Bar No. 11327
GANZ & HAUF
8950 W. Tropicana Ave., Ste. 1
Las Vegas, Nevada 89147
Tel: (702) 598-4529
Fax: (702) 598-3626

Attorneys for Plaintiff

-o0o-

DISTRICT COURT
CLARK COUNTY, NEVADA

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

CASE NO.: A-13-683211-C
DEPT NO.: XIX

**OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT**

DATE OF HEARING: 02/02/16
TIME OF HEARING: 9:00 A.M.

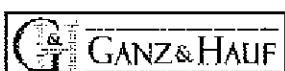
COMES NOW, Plaintiff, JAPONICA GLOVER-ARMONT, by and through her attorney
of record, MARJORIE HAUF, ESQ., of the law firm of GANZ & HAUF and hereby files her
Opposition to Defendants' Motion for Summary Judgment.

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1 This Opposition is made and based upon the following Points and Authorities, the attached
2 exhibits, all pleadings and papers on file, and any oral argument adduced by this Court at the time
3 of hearing of this matter.

4 Dated this 11th day of January, 2016.

5 GANZ & HAUF

6
7 Ida Ybarra
8 MARJORIE HAUF, ESQ.
9 Nevada Bar No. 8111
10 IDA M. YBARRA, ESQ.
11 Nevada Bar No. 11327
8950 W. Tropicana Ave., Suite 1
Las Vegas, Nevada 89147
Attorney for Plaintiff

12 **I. STATEMENT OF FACTS**

13 This case involves a motor vehicle crash that occurred on November 5, 2012. Plaintiff,
14 Japonica Glover-Armont, was driving, eastbound on Cheyenne approaching the intersection of 5th
15 Street in North Las Vegas, Nevada. Defendant, John Cargile, while driving a vehicle owned by his
16 employer, Defendant, City of North Las Vegas, was driving northbound on 5th Street in North Las
17 Vegas, when Defendant John Cargile attempted to cross the intersection on a red light without his
18 siren causing an impact with Plaintiff's vehicle. As a result of the crash, Plaintiff sustained
19 \$23,711.69 in medical damages.

20
21 On June 10, 2013, Plaintiff filed a Complaint against Defendants alleging negligence,
22 vicarious liability, negligent entrustment and negligent hiring, training and supervision.

23 On August 7, 2014, Plaintiff's deposition was taken. During her deposition, Ms. Glover-
24 Armont testified that Defendant Cargile did not have his sirens on at the time of the crash.¹

25
26 On October 1, 2014, Defendant, Cargile's deposition was taken. During his deposition,
27 Mr. Cargile stated that at the time of the crash, he had his lights and sirens on as he approached the
28

¹ See, Deposition of Japonica Glover-Armont, 24:24-25:9, attached hereto as Exhibit I.

1 intersection.² In fact, Mr. Cargile agreed that a driver in an emergency vehicle must never enter
2 an intersection on a red light until the intersection is safe even if he has his lights and sirens on.
3 Mr. Cargile testified:³

4 Q. Do you also agree that a driver of an
5 emergency vehicle, regardless whether or not they're
6 running with lights and sirens or lights or sirens,
7 must not enter an intersection on a red light until
8 they're sure that it's safe to do so?

9 A. Yes.

10 Q. Why do you believe that these are
11 important -- just very basic safety rules?

12 A. I refer to it as driving with due care.
13 That's just it. It's trying to minimize or limit the
14 risk to all the drivers on the roadway by yet being
15 able to expedite our response time to those that are
16 in need.

17 On October 1, 2015, investigating officer, Jim Byrne's deposition was taken. Officer
18 Byrne also testified that an emergency driver must never enter an intersection on a red until the
19 intersection is safe to enter. Officer Byrne also testified this is important because the majority of
20 collisions occur between an emergency vehicle and another vehicle when the emergency vehicle
21 enters on a red light. Officer Byrne testified:⁴

22 Q. Do you also agree that a driver in an
23 emergency vehicle must never, even if he is running
24 with his lights and sirens, must not enter an
25 intersection on a red until the intersection is safe
26 to enter?

27 A. Correct.

28 Q. That last particular rule, why is that
important in your area of work?

A. Because that's where the majority of the
collisions occur, between -- interaction between an
emergency vehicle and another vehicle.

Q. Can you give me a little bit more
understanding of what you mean by that?

A. Generally, when one enters an intersection
against the light, there is going to be other traffic

² See, Deposition of John Cargile at 35:13-15, attached hereto as Exhibit 2.

³ Id. at 23:13-25.

⁴ See, Deposition of Jim Byrne at 15:22-16:16, attached hereto as Exhibit 3.

1 flowing, depending on what time of the day. Some
2 heavier, some lighter. But it's still incumbent on
3 the operator of the emergency vehicle to ensure that
4 he can enter that intersection and travel through it
5 safely.

6 Officer Byrne further testified that if Defendant Cargile did not have his sirens on, then he would
7 be in violation of North Las Vegas' policy. Officer Byrne testified:⁵

8 Do you know North Las Vegas's policy
9 regarding running Code 3? Is it required that they
10 run with both lights and siren?

11 A. Yes.

12 Q. And had Sergeant Cargile not been running
13 both lights and siren, he would have been in violation
14 of that policy?

15 A. Had he not, yes.

16 On December 22, 2015, Defendants filed a Motion for Summary Judgment alleging
17 discretionary immunity pursuant to NRS 41.032(2). Plaintiff now files her Opposition to
18 Defendants' Motion for Summary Judgment.

19 II. LEGAL ARGUMENT

20 A. Summary Judgment is only appropriate when there are no genuine issues of material 21 fact and the movant is entitled to judgment as a matter of law.

22 Rule 56 of the Nevada Rules of Civil Procedures allows for summary judgment only when
23 "there is no genuine issue as to any material fact and the moving party is entitled to a judgment as
24 a matter of law." The Nevada Supreme Court has consistently and unambiguously defined the
25 appropriate standard for summary judgment, holding that: "Summary judgment is only appropriate
26 when, after review of the record viewed in light most favorable to non-moving party, there remain
27 no genuine issues of material fact and moving party is entitled to judgment as a matter of law."
28 *Harrington v. Syufy*, 113 Nev. 246, 248, 931 P.2d 1378, 1379 (1997). "In ruling on a motion for
summary judgment, all of non-movant's statements must be accepted as true, and the trial court
may not pass on the credibility of affidavits." *Id.* at 1379. "Properly supported factual allegations

⁵ See, Exhibit 3 at 44:9-16.

1 and all reasonable inferences of the party opposing summary judgment must be accepted as true;
2 however, conclusory statements along with general allegations do not create issue of material
3 fact.” *Michael v. Sudeck*, 107 Nev. 332, 334, 810 P.2d 1212, 1213 (1981).

4 The non-moving party may not build a case on “the gossamer threads of whimsy,
5 speculation, and conjecture.” *Wood v. Safeway, Inc.*, 121 Nev. 724, 732, 121 P.3d 1026, 1031
6 (2005). Instead, it must forth specific facts demonstrating the existence of a genuine factual issue.
7 *Id.* at 731-732. A genuine issue of fact exists only when a rational jury could return a verdict for
8 the nonmoving party. *Id.* at 731. The non-moving party must show more than a “metaphysical
9 doubt as to the operative facts” to avoid summary judgment. *Id.*, citing *Matsushita Electric*
10 *Industrial Co. v. Zenith Radio*, 475 U.S. 574, 586 (1986). Summary judgment is intended to pierce
11 the pleadings and decide, based upon the uncontroverted facts, whether the moving party is
12 entitled to judgment as a matter of law. *Dredge Corp. v. Husite Co.*, 78 Nev. 69, 87-89, 369 P.2d
13 676, 686-687 (1962).

14
15
16 Defendants have asked this Court to decide questions of fact, which are outside its purview.
17 As there is sufficient evidence to establish genuine factual issues on these questions, Defendants are
18 not entitled to summary judgment.

19 **B. Defendants’ Motion for Summary Judgment must be denied because there is a**
20 **genuine issue of material fact as to whether Defendants are immune from liability**
21 **under NRS 41.032(2).**

22 Defendants argue that they are entitled to discretionary immunity as its basis for summary
23 judgment. However, in North Las Vegas, an emergency vehicle running through a red light
24 without sirens is not discretionary.

25 NRS 41.032(2) provides complete immunity from claims based on a state employee’s
26 exercise or performance of a discretionary function or duty:

27 ///

28 ///

1 Based upon the exercise or performance or the failure to exercise or
2 perform a discretionary function or duty on the part of the State or any
3 of its agencies or political subdivisions or of any officer, employee or
immune contractor of any of these, whether or not the discretion
involved is abused.

4 Since NRS 41.032(2) mirrors the Federal Tort Claims Act ("FTCA"), the Nevada Supreme Court
5 in *Martinez v. Maruszczak*, 168 P.3d 720, 726 (Nev. 2007), adopted the *Berkovitz-Gaubert* test in
6 order to determine which acts are entitled to discretionary-function immunity and stated:

7 We therefore adopt the *Berkovitz-Gaubert* approach and clarify that to
8 fall within the scope of discretionary-act immunity, a decision must
9 (1) involve an element of individual judgment or choice and (2) be
10 based on considerations of social, economic, or political policy. In
11 this, we clarify that decisions at all levels of government, including
12 frequent or routine decisions, may be protected by discretionary-act
13 immunity, if the decisions require analysis of government policy
concerns. However, discretionary decisions that fail to meet the
second criterion of this test remain unprotected by NRS 41.032(2)'s
discretionary-act immunity. *Id.* at 445-447.

14 When a case presents a close question as to whether the alleged conduct falls within the
15 statute, the Courts must favor a waiver of immunity. *Hagblom v. State Director of Motor Vehicles*,
16 1977, 571 P.2d 1172, 93 Nev. 735.

17 **1. Defendant Cargile's actions are not discretionary.**

18 Defendants argue that Defendant Cargile's actions of entering an intersection on a red light
19 is discretionary. However, although it might be discretionary to enter an intersection on a red light,
20 it certainly is not discretionary to enter without lights or a siren. That is, once the choice is made
21 to enter the intersection on a red light, lights and sirens must be used.
22

23 Consistent with the North Las Vegas policy testified to by both Defendant Cargile and
24 responding Officer Byrne, NRS 484B.700 provides:

25 **1. The driver of an authorized emergency vehicle or an**
26 **official vehicle of a regulatory agency, when responding to an**
27 **emergency call or when in pursuit of an actual or suspected**
28 **violation of the law or when responding to but not upon returning**
from a fire alarm, or a vehicle escorting a funeral procession,
may:

1 (a) Proceed past a red or stop signal or stop sign, but only
2 after slowing down as may be necessary for safe operation.

3 (b)

4 2. The privileges granted in subsection 1 apply only when the
5 vehicle is making use of:

6 (a) Audible and visual signals; or

7 (b) Visual signals only, as required by law. (Emphasis added).

8 Further, the Nevada Legislature has specifically waived any immunity resulting from the
9 failure to drive with due care. The plain language of NRS 484B.700 (4) is unambiguous:

10 **The provisions of this section do not relieve the driver from the
11 duty to drive with due regard for the safety of all persons and do
12 not protect the driver from the consequences of the driver's
13 reckless disregard for the safety of others. (Emphasis added).**

14 In the case of *William v. City of North Las Vegas*, 1975, 541 P.2d 652, 91 Nev. 622, the
15 Supreme Court of Nevada held that the City was not immune from liability with regards to the
16 death of a person who was electrocuted while working on a billboard because the City violated
17 city ordinances when a power line was located too close to the billboard. The Supreme Court of
18 Nevada held that governmental immunity did not protect the City with regard to its duty to act
19 with care. *Id.*

20 In the case of *Johnson v. Brown*, 75 Nev. 437, 345 P.2d 754, 755 (1959), the Supreme
21 Court of Nevada held that a firefighter was not driving with due care when he was driving a fire
22 engine truck in response to an emergency call. The firefighter was driving beyond the speed limit,
23 ran a stop sign and crashed into another vehicle. As such the Supreme Court of Nevada held that
24 the firefighter was liable to the plaintiff. *Id.*

25 The Supreme Court of Nevada also evaluated the actions of an ambulance driver who,
26 without sirens, entered an intersection and crashed into plaintiff. *Avery v. Gilliam*, 1981, 625 P.2d
27 1166, 97 Nev. 81. The Supreme Court of Nevada reversed and remanded the case for a new trial
28 and held that a verdict that was in favor of the defendants was "manifestly and palpably contrary
to the evidence." *Id.*

1 Here, under NRS 484B.700, Defendant Cargile is not relieved of his duty to drive with due
2 care and is still responsible for the consequences of his reckless disregard for the safety of others.
3 Just because he is driving an emergency vehicle and responding to an emergency, does not relieve
4 him of the responsibility to drive with his lights and sirens on when entering an intersection on a
5 red light. Defendant Cargile's failure to do so constitutes his failure to act with due care. As such,
6 Defendants' Motion must be denied.
7

8 Further, it is a question of fact as to whether or not Defendant Cargile had his sirens and
9 lights on as he testified that he did and Plaintiff testified that he did not. It is simply up to a jury to
10 decide this question of fact. Therefore, a genuine issue of material fact exists and Defendants'
11 Motion must be denied.
12

13 **2. If Defendant Cargile's decision to run a red light without lights and sirens is**
14 **discretionary, it is not based on considerations of social, economic or political**
15 **policy.**

16 The purpose of both the FTCA and Nevada's waiver of sovereign
17 immunity is 'to compensate victims of government negligence in
18 circumstances like those in which victims of private negligence would
19 be compensated...**The discretionary-act immunity under the FTCA**
20 **necessarily protects only those decisions "grounded in social,**
21 **economic, and political policy...**This approach is taken by the
22 majority of the state courts utilizing the FTCA framework for waiver
23 of immunity and comports with "our strict construction of limitations
24 on the state's waiver of sovereign immunity. *Id. at 443.*

25 In *Martinez*, the Nevada Supreme Court ruled that "certain acts, although discretionary, do
26 not fall within the discretionary-function exception's ambit because they involve 'negligence
27 unrelated to any plausible policy objectives.'" *Id. at 446.* The Court gave an example that a
28 government employee who falls asleep while driving her car on official duty is not protected
by the exception because her negligent judgment in falling asleep "cannot be said to be based
on the purposes that the regulatory regime seeks to accomplish." *Id.* The purpose of enacting
this exception was "to prevent judicial 'second-guessing' of legislative and administrative
decisions grounded in social, economic, and political policy through the medium of an action in

1 tort.” *Id.* Therefore, “if the injury-producing conduct is an integral part of the governmental
2 policy-making or planning, if the imposition of liability might jeopardize the quality of the
3 governmental process, or if the legislative or executive branch’s power or responsibility would be
4 usurped, immunity will likely attach under the second criterion.” *Id.*

5 Further the Nevada Supreme Court in *Martinez* performed an analysis of the *Berkovitz-*
6 *Gaubert* test and opined that:
7

8 ...the decision to create and operate a public hospital and the college of
9 medicine are the type of decisions entitled to discretionary-function
10 immunity, because those decisions satisfy both prongs of the
11 *Berkovitz-Gaubert* test; namely, they involve elements of judgment
12 and choice, and they relate to social and economic policy. But, while
13 a physician’s diagnostic and treatment decisions involve judgment and
14 choice, thus satisfying the test’s first criterion, those decisions
generally do not include policy considerations, as required by the
test’s second criterion. ***In this case, as Dr. Martinez did not engage
in policy-making decisions in this treatment of Mr. Maruszczak, he
is not entitled to immunity from suit under NRS 41.032(2).***
[Emphasis added.]

15 *Id.* at 447. Thus, given that Nevada’s waiver of sovereign immunity is to be broadly applied, the
16 Court concluded that Dr. Martinez’s proposed interpretation of discretionary-act immunity would
17 violate the intent of the Legislature in enacting NRS 41.031. *Id.* See *Butler v. Bayer*, 123 Nev.
18 450, 168 P.3d 1055 (2007) (prison officials decisions coordinating an inmate’s release were not
19 based on considerations of public policy, therefore, the prison officials were not entitled to
20 discretionary-act immunity under NRS 41.032(2); *Perrin v. Gentner*, 177 F. Supp. 2d 1115 (D.
21 Nev. 2001) (Plaintiff offered sufficient evidence that Officer Gentner may have violated a clearly
22 established constitutional right to be free from unreasonable seizures, the Court finds that Officer
23 Gentner is not entitled to qualified immunity); *Garcia v. United States*, 826 F.2d 806, 809 (9th Cir.
24 1987) (“While law enforcement involves exercise of a certain amount of discretion on the part of
25 individual officers, such decisions do not involve the sort of generalized social, economic and
26 political policy choices that Congress intended to exempt from tort liability.”) (citing *Caban v.*
27
28

1 *United States*, 671 F.2d 1230 (2nd Cir. 1982)); *Nguyen v. State*, 1990 OK 21, 788 P.2d 962, 964-65
2 (Okla. 1990) (noting that the majority of states utilizing the FTCA immunity framework provide
3 discretionary-act immunity for initial policy and planning decisions, but not for “operational level
4 decisions made in the performance of policy.”); *Petersen v. State*, 100 Wn.2d 421, 671 P.2d 230,
5 240 (Wash. 1983) (noting that discretionary-act immunity is an “extremely limited exception,” and
6 applies only to basic policy decisions).

7
8 Here, Defendant Cargile’s negligent action of running a red light without his sirens on in
9 no way, shape or form are related to “an integral part of the governmental policy making or
10 planning” and does not “jeopardize the quality of the governmental process” in apprehending
11 criminals in society.

12 Although Defendants argue that Defendant Cargile was responding to a call of a fight and
13 shots fired, it is as unreasonable for a police officer to knowingly enter a red light without any
14 awareness for oncoming traffic, and without sirens as it was for the *Martinez* example of a
15 defendant falling asleep. As with *Martinez*, it is not justifiable under the discretionary immunity
16 statute. Under Defendant’s rationale, a police officer would never be responsible for his negligent
17 actions.
18

19 Defendant Cargile himself testified that a driver in an emergency vehicle must never enter
20 an intersection on a red light until the intersection is safe even if he has his lights and sirens on.⁶
21 Investigating officer, Officer Jim Byrne, testified during his deposition that if Defendant Cargile
22 entered an intersection on a red light, without ensuring it was safe, he would be in violation of
23 North Las Vegas’ policy. Certainly, this policy is intended to protect the community from harm.
24 This is especially important because Officer Byrne testified that the majority of collisions occur
25 between an emergency vehicle and another vehicle when the emergency vehicle enters an
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⁶ See, Exhibit 2 at 23:13-25.

1 intersection and runs the light.⁷ Defendant Cargile's actions "cannot be based on the purposes that
2 the regulatory regime seeks to accomplish," therefore, no immunity can be found. The action of
3 choosing to run a red light without sirens and without any concern for the safety of others cannot
4 be determined to be "grounded in social, economic, and political policy," as required for immunity
5 to apply.
6

7 In fact, Defendant Cargile's actions and decision to run the red light without concern for
8 the safety of oncoming traffic are no different than falling asleep at the wheel and causing a
9 collision. Defendant Cargile cannot be protected for his actions. Defendant Cargile's actions do not
10 comport with the second criterion for immunity to apply in this case; therefore, Defendant Cargile
11 has no immunity and a genuine issue of material fact exists.
12

13 Defendants' Motion cites to various non-binding case law authority which has nothing to
14 do with the facts and circumstances involving this case. The *Randsdell v. Clark County*, 124 Nev.
15 847, 192, P.3d 756 (2008), case dealt with the abatement of a homeowner's personal property due
16 to complaints that the homeowner's property was a nuisance. After removal of the property, the
17 Court found the actions of the county were motivated by discretionary procedures of the abatement
18 process and furthered the environmental, health and economic policies supported by the code and
19 statutory authority. The *Randall* case did not involve the individual actions of the county
20 employees, but rather, the overall public policy for abatement. In this case, Defendant Cargile
21 decided to make choices of judgment in the operational levels of his duties by failing to put his
22 siren on and look for oncoming traffic as he drove through a red light, which is not an act covered
23 by discretionary immunity.
24

25 Another case Defendant cites to is *Gonzalez v. Las Vegas Metropolitan Police Department*,
26 2013, which is an unpublished opinion and is vastly distinguishable from the present case. In
27 *Gonzalez*, the Las Vegas Metropolitan Police Department arrested plaintiff at least 11 times based
28

⁷ See, Exhibit 3 at 15:22-16:16.

1 on an defective warrant. The plaintiff was not the correct wanted man and filed a complaint
2 against Las Vegas Metropolitan Police Department. The court in *Gonzalez* held that the police
3 officers' actions of detaining and/or arresting plaintiff involved public policy considerations which
4 established discretionary-function immunity from suit. This matter does not involved a
5 misidentified wanted person. This specific case entails a police officer that failed to put his lights
6 and sirens on before entering the intersection on a red light, in direct violation of both policy and
7 statute. Nothing about entering the intersection on a red light supports immunity from Defendant
8 Cargile's reckless disregard for the safety of others.

10 Defendant also cites to the unpublished case of *Seiffert v. City of Reno*, 2014 WL 605863
11 (2014), in which a Reno police officer placed caution tape across a bicycle path to secure
12 pedestrian traffic in an area where a dead body was found. The plaintiff was injured when he
13 crashed his bicycle without adequate warning into the caution tape. The court in *Seiffert* held that
14 the decision to place caution tape involves public safety and policy which is sufficient enough to
15 warrant discretionary immunity. The present case does not involve a police officer blocking off an
16 intersection to protect others from a crime scene. Rather, this case involves a police officer,
17 Defendant Cargile, who negligently failed to put his sirens and lights on prior to entering an
18 intersection on a red light. Therefore, the *Seiffert* case is inapplicable to this matter.

21 3. The City is Responsible for Defendant Cargile's actions.

22 Lastly, Defendant argues that the City is immune from liability as well. Defendants argue
23 that they are immune from liability for the causes of action of vicarious liability and negligent
24 hiring, training and supervision. Defendants cite to *Village Development Company v. Filice*, 90
25 Nev. 305, 310, 526 P.2d 83, 86 (1974), for the proposition that the City is not vicariously liable for
26 Defendant Cargile's actions. However, the *Village Development Company* case is vastly
27 distinguishable from the present case in that it involved plaintiffs, who are lot purchasers, whose
28 home was destroyed by a flood. The plaintiffs sued the vendor and the employer, who was the

1 vendor's agent, and the Court held that when there is evidence of the agent's negligence, vicarious
2 liability applies. Here, there is nothing in which Defendants can point to which absolves the City
3 of liability under NRS 484B.700. Also, Defendants have not pointed to any facts which absolves
4 the City from being vicariously liable. As such, the City is not immune from liability and
5 Defendants' Motion must be denied.

6
7 **III. CONCLUSION**

8 Based on the foregoing, Defendants' Motion for Summary Judgment must be denied as a
9 genuine issue of material fact exists.

10 Dated this 14th day of January, 2016.

11 GANZ & HAUF

12 Ida Ybarra
13 MARJORIE HAUF, ESQ.
14 Nevada Bar No. 8111
15 IDA M. YBARRA, ESQ.
16 Nevada Bar No. 11327
17 8950 W. Tropicana Ave., Suite 1
18 Las Vegas, Nevada 89147
19 Attorney for Plaintiff
20
21
22
23
24
25
26
27
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on this date, I served the foregoing
OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT on all parties to
this action by Wiznet and U.S. Mail:

Christopher Craft, Esq.
Deputy City Attorney
2250 Las Vegas Blvd Ste 810
North Las Vegas, NV 89030

Dated this 11th day of January, 2016.

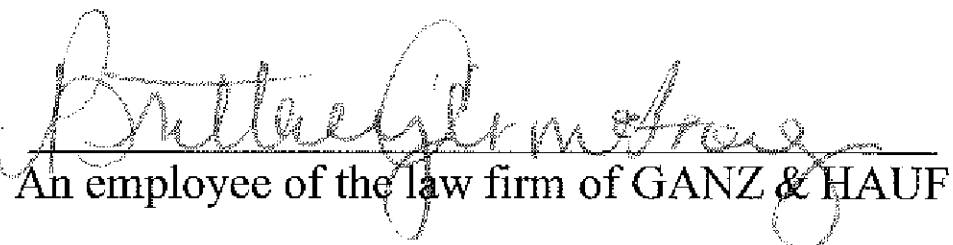

An employee of the law firm of GANZ & HAUF

EXHIBIT 1

DISTRICT COURT

CLARK COUNTY, NEVADA

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

Case No. A-13-683211-C

JOHN CARGILE; CITY OF NORTH

LAS VEGAS, a Municipal

Corporation existing under

the laws of the State of

Nevada in the County of

Clark; DOES I through X,

inclusive; and/or ROE

CORPORATIONS I through X,

inclusive,

Defendants.

DEPOSITION OF JAPONICA FELISHA GLOVER-ARMONT

Taken on Thursday, August 7, 2014

At 2:08 p.m.

At 2250 Las Vegas Boulevard North

Suite 810

North Las Vegas, Nevada 89030

Reported by: Susan Lee Naylor, RPR, RMR, CCR #513

1 APPEARANCES

2 For the Plaintiff: ADAM GANZ, ESQ.
 3 Ganz & Hauf
 4 8950 West Tropicana Avenue
 Suite 1
 Las Vegas, NV 89147

5
 6 For the Defendants: CHRISTOPHER D. CRAFT, ESQ.
 Deputy City Attorney
 2250 Las Vegas Boulevard North
 Suite 810
 North Las Vegas, NV 89030

10 I N D E X

11	Witness	Page
12	JAPONICA FELISHA GLOVER-ARMONT	
13	(By Mr. Craft)	3
14	(By Mr. Ganz)	35

16 E X H I B I T S

17	Number	Description	Page
18	A	Police Report	14
19	B	Photograph	15
20	C	Photograph	18
21	D	Plaintiff's Response to Interrogatories	24
22	E	CourtView Printout	30

1 (Rule 30(b)(4) was waived.)

2 JAPONICA FELISHA GLOVER-ARMONT

3 was called as a witness, and having been first duly
4 sworn, testified as follows:

5 EXAMINATION

6 BY MR. CRAFT:

7 Q Could you please state and spell your full
8 name for the record?

9 A Japonica Felisha Glover-Armont,
10 J-A-P-O-N-I-C-A, F-E-L-I-S-H-A, G-L-O-V-E-R, hyphen,
11 A-R-M-O-N-T.

12 Q We met earlier. My name is Chris Craft. I
13 am one of the attorneys for the City of North Las Vegas
14 and Officer Cargile in this lawsuit. Have you ever had
15 your deposition taken before?

16 A No.

17 Q Okay. I'll explain the process a little
18 bit. A deposition is our opportunity to ask you
19 questions about your knowledge as it relates to this
20 case. You are under oath. Even though this setting is
21 informal, the oath carries as much weight as if we were
22 in a court of law. Do you understand?

23 A Yes.

24 Q Along with us is a court reporter who will
25 take down everything that we say. So she can do that,

1 we have to be careful not to talk over each other. We
2 have to wait until the other one is done speaking
3 before we start talking. Similarly, she can't take
4 down gestures like shaking your head or nodding, so we
5 have to use yes or nos, not uh-huh or uh-uh, things
6 like that. Do you understand?

7 A Yes.

8 Q After we're done, the reporter is going to
9 put everything that's said today in a booklet in a
10 written form, and you will be sent a copy. You will
11 have the opportunity to review it, and if there's
12 anything you feel the need to correct, you can correct
13 it.

14 One caveat with that. If you make a material
15 change such as changing an answer from the light was
16 green to the light was red, I will be able to comment
17 on that at trial, and it may affect your credibility.
18 Do you understand?

19 A Yes.

20 Q If there's anything I ask that you don't
21 understand, or you need me to rephrase the question,
22 just let me know. If you need to take a break for any
23 reason, let me know. It's not an endurance contest.
24 We will do our best to accommodate you. I would ask
25 that you not take a break while a question is pending,

1 so if I ask you a question, you suddenly say, "Time
2 out, I need to leave the room," then come back for an
3 answer. Answer the question, and then take the break.
4 Does that make sense?

5 A Yes.

6 Q Okay. Now and then your attorney may object
7 to a question that I ask for whatever reason. Unless
8 you're specifically instructed not to answer, you will
9 still have to answer. If you forget what the question
10 was during his objection, just ask me to restate it, or
11 we will have the reporter read it back. Is that fair?

12 A Yes.

13 Q All we need today is your best recollection
14 based on your knowledge. Don't guess, but you can
15 estimate. The difference is, for example, if you can
16 estimate how long this table is. But if I ask you to
17 guess about the table in our conference room and you
18 haven't seen it, that would be a guess. Do you
19 understand the difference?

20 A Yes.

21 Q Don't be mad at me. I have to ask everyone
22 this. Are you under any medication, drugs or alcohol,
23 or anything else that would affect your memory or your
24 ability to testify here today?

25 A No.

1 Q Is there reason that we can't go forward?

2 A No.

3 Q Are you currently employed?

4 A Yes.

5 Q By whom?

6 A Review-Journal.

7 Q How long have you been employed with that

8 company?

9 A About four years.

10 Q And what is your job?

11 A I'm a contractor.

12 Q Can you --

13 A I'm a carrier.

14 Q Okay. Can you briefly describe what that

15 job entails?

16 A Delivering papers to all their commercial

17 locations.

18 Q Okay. So not residential; not from house to

19 house?

20 A No.

21 Q Got it. Does that job include loading your

22 vehicle with newspapers?

23 A Yes.

24 Q Do you do that yourself?

25 A Yes. Well, I have help. Sometimes the

1 people in the dock help. Well, they issue you the
2 papers, and they will help you load if you need them to
3 help you load.

4 Q Briefly explain how that works.

5 A You back into the dock, and there's guys on
6 the top of the dock. We're down below. And if we're
7 getting ten bundles, then he will stack ten bundles up
8 on the dock. If you need help with those bundles, he
9 will come down and help you load the vehicle.

10 Q Okay. Do the bundles vary in size from time
11 to time?

12 A Yes.

13 Q What's the smallest the bundle usually is?

14 A Six papers.

15 Q Okay. But it can be up to a larger amount?

16 A Up to 40, 50.

17 Q Okay. So the amount of papers you're going
18 to be having in your car on any particular day is going
19 to vary?

20 A Yes.

21 Q And that was true at the time of the
22 accident, too?

23 A Yes.

24 Q Okay. At the time of the accident, how many
25 days a week were you working?

1 A Seven days a week.

2 Q Is that still the case?

3 A Yes.

4 Q At the time of the accident, what were the
5 usual hours that you were working from start to finish?

6 A Get to the warehouse around 12:00, between
7 12:00 and 12:30, and I'm done around somewhere by 5:00.

8 Q That's midnight to 5 a.m.?

9 A Basically.

10 Q Okay. Is that the same schedule you have
11 now?

12 A Yes.

13 Q Okay. At the time of the accident, did you
14 have any other jobs?

15 A Yes.

16 Q What was that?

17 A Co-owner of a commercial janitorial company.

18 Q But not currently?

19 A No.

20 Q Okay. What was your job position with that
21 company?

22 A Co-owner. I did -- we, me and my partner,
23 we split the duties. So cleaning, customer service
24 issue, whatever the business entailed.

25 Q And the company was 3-D Vision,

1 Incorporated, doing business as 3-D Janitorial?

2 A Yes.

3 Q And at the time of the accident, what were
4 your hours that you were working with 3-D Vision?

5 A I would go out -- it varied. It wasn't an
6 everyday job, because, like I said, my partner and I
7 split the jobs. And at the time, we didn't have very
8 many contracts, so maybe on Saturday, if he didn't feel
9 like going out.

10 Q Okay. Did you work at 3-D Vision on the day
11 prior to the accident?

12 A Yes.

13 Q What hours did you work that day?

14 A Normally, if I work, it's, like around from
15 six o'clock, sometime after 6:00. We have to wait till
16 the buildings are closed.

17 Q Okay.

18 A And so anytime after six o'clock.

19 Q So you started work the day before the
20 accident at six o'clock p.m.?

21 A Yeah. If -- if the building is on service
22 to be cleaned that day, yes.

23 Q Okay.

24 A The buildings aren't cleaned every day. At
25 that time, we only had contracts that did like three

1 days a week cleaning, three days a week and two days a
2 week.

3 Q So you started at 6:00. When did you finish
4 that night?

5 A Maybe about 8:00.

6 Q Okay. And you said typically, you'd arrive
7 at Review-Journal to pick up the papers at about
8 midnight?

9 A Oh, between 12:00 and 12:30 we'd get there,
10 but it doesn't mean we'd get done at the time we'd
11 arrive. It was based on after we'd wait for them.

12 Q Do you recall what you did that night
13 between your job with 3-D Vision and when you picked up
14 the papers?

15 A Go to bed.

16 Q Do you recall the location where you were
17 working for 3-D Vision that day?

18 A I don't remember which building.

19 Q Maybe I can cut to the chase this way. Do
20 you recall how much sleep you got that evening prior to
21 picking up the newspapers?

22 A Anywhere from -- my average time to lay down
23 is about 9 p.m., so about three hours.

24 Q Other than your sleep, which you estimate to
25 be from 9:00 to midnight that night, in the 24 hours

1 prior to the accident, did you get any other sleep?

2 A Yes.

3 Q What was that?

4 A I'll take a nap during the day. I can't say
5 exactly what time during the day I took it. I always
6 take daily naps.

7 Q Okay. When you get done with newspapers at
8 5 a.m., what is your usual routine at that time, at the
9 time of the accident?

10 A Go home, get something to eat, and go to
11 bed.

12 Q Okay. So how long would you usually be able
13 to sleep, on a typical day?

14 A Varies. Maybe about four hours.

15 Q Okay. So not charging you with a perfect
16 memory, but to your best recollection, the day before
17 the accident, you got about four hours' sleep in the
18 morning after you were out, possibly took a nap if you
19 could, and had sleep from 9:00 to midnight that night?

20 A Yes.

21 Q Okay. Previously, we had sent out some
22 interrogatories for you to answer, just written
23 questions, and you gave us answers. In response to one
24 of our questions about the incident and what had
25 happened before, during and after, you answered that

1 around two o'clock or three o'clock a.m., you were
2 traveling east on Cheyenne Avenue, going through a
3 green light at the Fifth Street intersection. Is that
4 your recollection of what you were doing?

5 A Yes.

6 Q And at that time, where were you coming
7 from?

8 A MLK and Cheyenne.

9 Q What was there?

10 A It's a Chevron, or Get 'N Go was the name of
11 the gas station.

12 Q And you were dropping off newspapers there?

13 A Yes.

14 Q Okay. At the time you were on Cheyenne
15 approaching Fifth Street, can you characterize -- how
16 many newspapers did you have in your car?

17 MR. GANZ: Volume, as opposed to just
18 individual papers.

19 THE WITNESS: Oh, let's see. My backseat
20 should have been full, so -- because I'm still pretty
21 much in kind of the middle of my route, so my backseat
22 should have still been full. I'm not sure. Because
23 the papers vary from day to day, one I may have 300
24 papers, next day I may only have 200. So the papers
25 vary from day to day, so I'm not sure.

1 (Interruption at door.)

2 MR. CRAFT: Guest appearance by one of our
3 city attorneys.

4 BY MR. CRAFT:

5 Q Did you have newspapers stacked up in the
6 front seat?

7 A Yes.

8 Q About how many were in the front seat?

9 A I'm not sure. Maybe halfway, because as I
10 use them, I unstrap and put some more in the front, so
11 it changes as I deliver.

12 Q Okay. Did you also have newspapers in the
13 trunk?

14 A I don't think I had in the trunk, but I'm
15 not 100 percent sure. I don't remember how many
16 bundles I had that night.

17 Q Remember the estimate versus guess. Could
18 you give me a good estimate of how many pounds of
19 newspapers you had in your car at that time?

20 A Pounds? Maybe a hundred pounds.

21 Q Okay. As you approached the intersection on
22 Cheyenne as it approached Fifth Street, just describe
23 what you saw.

24 A It's just morning, dark. I'm going down
25 Cheyenne. I am approaching the green light. As I go

1 through the light, I look to my right, and that's where
2 I see the police truck at, and it's getting ready to
3 hit me.

4 Q Okay. How far were you from the actual
5 intersection when you first saw the vehicle, the police
6 car?

7 MR. GANZ: Objection. Vague.

8 THE WITNESS: Excuse me?

9 BY MR. CRAFT:

10 Q How far were you from the intersection when
11 you first saw the police car?

12 MR. GANZ: Also assumes facts.

13 THE WITNESS: I was maybe -- I don't know.
14 Maybe 50 to a hundred feet, maybe. I'm not 100 percent
15 sure, because I'm just traveling through the green
16 light. So maybe 50 to a hundred feet, maybe, maybe a
17 little bit more than that.

18 BY MR. CRAFT:

19 Q At the time of the accident, did you have
20 your headlights on?

21 A Yes.

22 (Exhibit A was marked.)

23 BY MR. CRAFT:

24 Q Handing you what's been marked Exhibit A,
25 have you ever seen this before?

1 A Police report? Yeah, I have. I think I
2 have a copy of it.

3 Q Okay. On the second page of the report
4 during the narrative portion, in the very top paragraph
5 where it says, "Both drivers stated that Vehicle No.
6 1" -- that would be your vehicle -- "had a green
7 traffic signal, and the Vehicle 2" -- the police car --
8 "had a red traffic signal. Vehicle 2's operator
9 reported that Vehicle 1 was traveling without the
10 vehicle's headlights on at this time (during the hours
11 of darkness), as the vehicle approached the
12 intersection," do you agree with that statement or
13 disagree?

14 A I disagree.

15 Q Why is that?

16 A Because my car, that car I had then was a
17 1995 Cavalier, and if you don't turn the headlight --
18 if you don't turn the lights on, the dashboard is
19 completely dark. So my dashboard was not completely
20 dark.

21 Q Okay. So your recollection is because your
22 dashboard was lit up, that meant that your headlights
23 were on?

24 A Yes.

25 (Exhibit B was marked.)

1 BY MR. CRAFT:

2 Q I am handing you a photograph that was
3 produced in discovery in this case. Does this
4 photograph actually represent the interior of your car
5 at the time of the accident?

6 A Yes.

7 MR. GANZ: I'm going to object to vague.
8 You mean at the time of impact? Talking about
9 afterwards? What are we talking about?

10 MR. CRAFT: After the accident.

11 MR. GANZ: Is that how you understood the
12 question?

13 THE WITNESS: Yes.

14 MR. CRAFT: Okay. We didn't have time to
15 take a picture of the inside of her car prior to the
16 accident. I understand that.

17 MR. GANZ: I thought you were saying at the
18 time of the accident.

19 MR. CRAFT: I understand. Fair enough.

20 BY MR. CRAFT:

21 Q Does this depict the switch that you used to
22 turn your headlights on and off?

23 A Yes.

24 Q Is it correct that the switch, at this time,
25 is in the off position?

1 A Yes.

2 Q Does that change your recollection as to
3 whether or not you had your headlights on prior to the
4 accident?

5 A No.

6 Q Why not?

7 A Because the officer that was sitting beside
8 me reached in, turned off my car, and apparently he
9 must have turned the headlights off, too, because he
10 was telling me -- I was -- I remember holding my head,
11 and -- because I was really groggy, kind of like, from
12 the impact. I hit my head on the steering wheel. And
13 he kept saying, "You need to turn your car off."

14 So I didn't turn my car off. I didn't touch
15 the headlights. But I know my headlights were on,
16 because my dashboard was lit up.

17 Q Okay. You said he "must have" reached
18 over -- and I'm paraphrasing. I don't have exact
19 memory. You said he "must have" reached over to turn
20 off the headlights. Did you see him actually do that?

21 A No. I don't recall. I remember him
22 reaching in to turn the car off --

23 Q Okay.

24 A -- you know, but like I said, I was holding
25 my hands to my face and holding my head and doing --

1 and nodding my head and rocking back and forth with my
2 head, so I don't know what all. He was kind of talking
3 to me. I can't remember what was said. I remember him
4 saying something like, "Are you okay?" but, you know, I
5 remember him asking that the car needed to be turned
6 off.

7 Q Okay. So he got in -- we're jumping around
8 a little bit. But the officer who was at the accident,
9 driving the police car, got in your car on the
10 passenger side?

11 A No, he didn't get in. He was on the
12 passenger side. He opened the driver's side door, and
13 he asked -- he says, "Are you okay?" you know. And I'm
14 moaning and holding my head. And then he says, "You
15 need to turn the car off."

16 But I didn't turn the car off, because I was
17 still holding my head. At that point, I don't remember
18 if he turned the car off or who did what. But there
19 was some other officers that did show up, not -- I
20 mean, almost instantly after he, you know, got out and
21 came around or whatever. So I don't know. I know I
22 did not touch the headlights, and I did not turn my car
23 off.

24 Q Okay.

25 (Exhibit C was marked.)

1 BY MR. CRAFT:

2 Q Next photo I'm marking as Exhibit C. Can
3 you describe what you're seeing in the photograph?

4 A Yes. I see where he hit my car.

5 Q So this is the police vehicle and your car
6 after the accident?

7 A Yes.

8 Q Okay. What color is your car?

9 A It's, like an aqua green.

10 Q It's listed as blue, isn't it?

11 A Well, aqua blue. Yeah.

12 Q But this is what you would say is an
13 accurate representation of the vehicles after the
14 accident?

15 MR. GANZ: Objection. Vague as to time.

16 THE WITNESS: Yeah.

17 BY MR. CRAFT:

18 Q We may have touched on this, but when did
19 you first realize there was a police car at the
20 intersection of Cheyenne and Fifth Street at the time
21 of the accident?

22 A What do you mean, when?

23 Q At what point? On Cheyenne, where was your
24 vehicle when you first noticed that there was a police
25 car there?

1 A When I was entering into the intersection.

2 Q At that time, how fast were you going?

3 A Maybe about -- I'm going downhill, so maybe
4 about 40, 45.

5 Q On Exhibit A, the police report, if you go
6 to the last page which is page CNLV 7, in the bottom
7 right-hand corner, a speed analysis was done to
8 estimate your speed as being 47 miles an hour. Is that
9 correct that that's what that says?

10 A Yes, that's what it says.

11 Q Okay. Do you have any reason to believe
12 that's not accurate?

13 MR. GANZ: Objection. Foundation.

14 THE WITNESS: I'm not sure. I mean, I don't
15 remember what was on my speedometer.

16 BY MR. CRAFT:

17 Q Okay. But specifically, do you have any
18 reason to believe that's not an accurate estimate of
19 your speed?

20 MR. GANZ: Same objection.

21 THE WITNESS: I don't know.

22 BY MR. CRAFT:

23 Q When you were approaching the intersection,
24 were the streetlights operational?

25 A Yes, but that area's kind of dark because of

1 that huge hill that is to the right-hand side of the
2 lane in which I'm traveling. It's a huge hill there at
3 that corner of Fifth and Cheyenne, and it's just kind
4 of dark up there. It's a little park or something, a
5 little golf course or something. It's kind of dark in
6 that intersection.

7 Q Going back to the report, page 2, bottom
8 right-hand corner CNLV 2, on the next-to-the-last
9 paragraph, says "Vehicle 1" -- that's your vehicle --
10 "right front impacted the front of Vehicle No. 2" --
11 the police car -- "causing damage to both vehicles."

12 Is it your understanding that the police
13 report's indicating that your vehicle hit the police
14 car?

15 A That's what this says.

16 Q Do you agree with the statement?

17 A No.

18 Q Can you explain why?

19 A Because I was already in the intersection
20 when he hit me.

21 Q Is it your testimony that while you were
22 driving through the intersection, both cars were
23 moving, and his hit you in the side?

24 A Yes.

25 Q Okay. On the same page, third paragraph

1 down from the top, the report says -- and I am reading
2 from this -- "V No. 1's operator stated that she saw V
3 No. 2's emergency lights activated as she approached
4 the intersection but did not hear the vehicle's siren."

5 First of all, is that correct that's what it
6 says?

7 A Yes.

8 Q Do you agree with that statement? Let me
9 rephrase that. Did you state to the officer that was
10 making this report that you saw Vehicle No. 2, the
11 police car's, emergency lights activated as you
12 approached the intersection?

13 A I saw him as I entered the intersection.

14 Q Okay. And you saw his emergency lights
15 activated?

16 A Yes.

17 Q So this is an accurate statement of what you
18 had told the officer?

19 MR. GANZ: That's not what she said, so be
20 careful there. She says as she entered. This says
21 "approached." That's why she didn't agree with that.

22 MR. CRAFT: She didn't say she didn't agree
23 with that.

24 BY MR. CRAFT:

25 Q Now we're just debating over what you said,

1 so let's start over and leave the attorneys out of it
2 for a moment.

3 MR. GANZ: Leave the what out?

4 MR. CRAFT: The attorneys.

5 BY MR. CRAFT:

6 Q Is this an accurate statement?

7 A No.

8 Q Why not?

9 A Because I was already in the intersection
10 when I saw him -- or let me rephrase that. I was -- as
11 I was coming into the intersection, I looked to my
12 right, and that's when I saw him. So I'm coming --

13 Q And as you said -- sorry. Go ahead.

14 A I'm coming into the intersection, and he's
15 coming northbound. And when I looked, that's when I
16 saw him to my -- when I looked to my right, that's when
17 I saw him.

18 Q Okay. When you first saw the police vehicle
19 on Fifth Street, what was your immediate reaction?
20 What did you do?

21 A Slam on my brakes.

22 Q Can you estimate how much time it took
23 between when you first saw the vehicle there and when
24 you were able to apply the brakes?

25 A Maybe a couple of seconds, maybe.

1 Q Going back to page 2, same page, third
2 paragraph on the bottom says, "Vehicle No. 1 left
3 approximately 110 feet of four-wheel skid marks in an
4 attempt to avoid a collision with Vehicle No. 2."

5 Do you have any reason to doubt the report as
6 far as saying how long the skid marks were?

7 A I don't know.

8 (Exhibit D was marked.)

9 BY MR. CRAFT:

10 Q Marking Exhibit D, have you seen that
11 document before?

12 MR. GANZ: Or a copy of it?

13 THE WITNESS: A copy of it, I guess. Yes.

14 BY MR. CRAFT:

15 Q And what is this?

16 A It's the questions, I think.

17 Q Is it your responses to defendants' first
18 set of interrogatories?

19 A Is it what?

20 Q Plaintiff's response to defendants' first
21 set of interrogatories, just reading the title of it on
22 the first page.

23 A Oh, yeah.

24 Q Looking forward to your answer to
25 Interrogatory No. 2, "Please describe in detail the

1 incident that is the subject of the lawsuit," basically
2 a summary of your side of the story. In your answer to
3 Interrogatory No. 2 on page 3, the last sentence, you
4 say, "The officer did not have his sirens on, and
5 plaintiff could not see his lights flashing due to the
6 hill obstructing her view."

7 As you sit here today, is that an accurate
8 statement?

9 A Yes.

10 Q And explain how the hill obstructed your
11 view of the officer's lights flashing.

12 A This hill was huge, so there was no vision,
13 period, to the right of you as you're approaching this
14 hill. And the hill starts -- I don't know how many
15 feet back from the light, but it starts, and it
16 inclines, and it goes to a peak, so there's no vision
17 of anything to the right of you. You can't, even if
18 you wanted to -- like people do a right-hand turn on a
19 light, you would have to completely stop, ease up, ease
20 up, and look around this hill. So it totally obstructs
21 anything to the right of you, and that's what was to
22 the right of me from the direction he was coming.

23 Q Okay. So you're not talking about the hill
24 that Cheyenne is, like coming -- talking about the hill
25 where you're coming down Cheyenne. You're talking

1 about something on the right?

2 A Yeah. The hill was to my right, so I'm
3 heading east toward the 15, he's heading north. So I'm
4 heading east, he's heading north, so I couldn't see
5 him, and he couldn't see me. He couldn't have seen me
6 because of the hill.

7 Q Okay. Thank you for clarifying that. And
8 you said that he did not have his sirens on. Is it
9 your understanding that he had some sort of duty to
10 have his sirens on?

11 A I was told that all police officers had to
12 have their sirens on when they're in a hurry, or I grew
13 up being told that, so I don't know.

14 Q But you don't have any knowledge of any
15 Nevada laws to the contrary?

16 A I don't know anything about Nevada laws.

17 Q So to paraphrase -- and not to put words in
18 your mouth, but is it fair to say that your position
19 is, you don't dispute that the police car had its
20 lights activated, but because of the hill being there,
21 you couldn't see them in time to react?

22 A I didn't see him or hear him.

23 Q Okay. Is that a fair summary of what you're
24 saying?

25 A Yes.

1 Q Thank you. Was the road that you were
2 driving on slick or wet or otherwise slippery, to your
3 recollection?

4 A No.

5 Q So you've been working for the
6 Review-Journal since June of 2010; is that correct?

7 A Yes.

8 Q That was about two and a half years prior to
9 the accident?

10 A Yes.

11 Q Almost on a daily basis, you were driving
12 with your car with varying amounts of newspapers?

13 A Yes.

14 Q On any occasion where your car was filled
15 with newspapers -- let me rephrase that.

16 On any occasion where your car had the amount
17 of newspapers roughly equal to or more than the amount
18 the day of the accident, did you have any occasion to
19 slam on your brakes for any reason?

20 A Not that I can recall, no.

21 Q In this case, did your car slow as you
22 expected it to, or did it take longer to stop than you
23 expected?

24 A I don't know. I just slammed on brakes.

25 Q Okay. I think I know where this is going,

1 but do you believe that the added weight of your
2 newspapers made it harder for your car to stop in time
3 to avoid the accident?

4 A No.

5 Q Following the accident, did you have any
6 conversation with the police officer who was driving
7 the police car that was involved in the collision?

8 A You said after?

9 Q Yes.

10 A Or during?

11 Q After the accident.

12 A The only police officer that I spoke to was
13 the one that came to the hospital.

14 MR. GANZ: He means at the accident scene.

15 BY MR. CRAFT:

16 Q That's what I meant.

17 A Just the one that opened the door and said,
18 "Are you okay?"

19 Q And he also instructed you to turn off your
20 vehicle?

21 A Yes.

22 Q Do you recall any other conversation with
23 that individual?

24 A No.

25 Q To your knowledge, were there any other

1 witnesses to the accident aside from you and the
2 officer that was involved?

3 A No.

4 Q Were you issued a citation for this
5 accident?

6 MR. GANZ: Again, you meant at the scene?
7 She did mention the one at the hospital that I got her
8 off on. You were talking about at the scene still,
9 right?

10 MR. CRAFT: I was.

11 MR. GANZ: Okay. I didn't mean to cut you
12 off earlier, but she did say she had a conversation
13 with somebody at the hospital.

14 MR. CRAFT: No. I appreciate that.

15 BY MR. CRAFT:

16 Q Do you recall who the officer was that you
17 spoke with at the hospital?

18 A No.

19 Q Do you recall the conversation that took
20 place?

21 A Yes.

22 Q What was the conversation, basically?

23 A He came to the emergency room where I was
24 laying down in the bed, and he informed me that I was
25 being cited for the accident, failure to stop for an

1 emergency vehicle or something.

2 And I said to him, "How can I stop for
3 something I didn't see or hear?"

4 And he said to me, you know, that, "We don't
5 have to have our sirens on."

6 And I refused to sign the thing. I was
7 like, "It wasn't my fault."

8 And he says, "You need to sign this."

9 And, you know, at that point, I just shut
10 up, and I just signed the citation.

11 Q Do you remember what you were cited for?

12 A Failure to stop for an emergency vehicle. I
13 think that's what it was. I'm not sure.

14 (Exhibit E was marked.)

15 BY MR. CRAFT:

16 Q Handing you what's been marked as Exhibit E,
17 I doubt you've ever seen this. I'll represent to you
18 it's a printout from CourtView 2000 regarding the
19 citations for this incident. Is it correct that it
20 states your full name as Japonica -- probably
21 misspelled -- Felicia Glover-Armont?

22 A Yes.

23 Q If you'd flip to the third page, it gives a
24 chronology of your case -- I'm sorry. If you go to the
25 fourth page, there is a bunch of listings for

1 November 12, 2012. There's a number of them at the
2 bottom, basically the second one from the bottom. Do
3 you see what Charge No. 1 is where it says, "Headlamps
4 not illuminated when required"?

5 A Yeah, I see it.

6 Q And then rolling up to about the middle of
7 the same where it says Charge No. 2 is "Failure to
8 yield an emergency vehicle," is that correct? That's
9 what it says?

10 A Which one, now?

11 Q Let me point to you. We're in regards to
12 Charge No. 2. It says, "Fail, yield to emerg."

13 A Okay. Yes. I see that.

14 Q Do you recall that those were the two
15 charges that were made against you?

16 A I guess. I just knew about this other one.
17 I didn't realize there was an additional charge.

18 Q Okay. If you go back to the third page
19 which is later on, there is a couple of entries for
20 December 13, 2012 at the bottom. Charge No. 1 at the
21 very bottom says, "Headlights not illuminated when
22 required," and says, "Pled nolo."

23 Do you know what "pled nolo" means?

24 A No.

25 Q Do you know what nolo contendere means?

1 A No.

2 Q Do you recall making a plea with respect to
3 that citation?

4 A No. My attorney went for me. I didn't go
5 to the hearing.

6 Q You didn't go to the hearing?

7 A No.

8 Q Same thing -- sorry. Does the same thing
9 apply to -- well, second to the bottom where it says
10 Charge No. 2, "Failed to yield to emergency vehicle,"
11 is that correct that you didn't show up at that
12 hearing?

13 A No.

14 Q Did you know that you had pled nolo
15 contendere to that charge?

16 A I wasn't sure exactly what all was said at
17 the hearing.

18 Q You were aware the hearing was going
19 forward?

20 A Yes. I knew that my attorney had handled it
21 for me, and she just told me that --

22 MR. GANZ: No talking about the conversation
23 you had with your attorney.

24 THE WITNESS: I'm sorry. She told me she
25 handled it.

1 MR. GANZ: Attorney discussions, anything
2 she told you is privileged, okay? So you don't need to
3 divulge that.

4 MR. CRAFT: I'll try to be careful.
5 Sometimes we step into these, and I probably could have
6 guessed where that was going.

7 MR. GANZ: That's okay.

8 BY MR. CRAFT:

9 Q Is it your understanding how these citations
10 were eventually disposed of? Were you found guilty?
11 Do you have any knowledge of what happened?

12 A I know that I had to make payment
13 arrangements on -- and that the charge was lessened so
14 that I would not receive any points on my license.

15 Q Did you ever dispute the charge that you
16 were driving without your headlights on at night?

17 A I didn't realize it was there.

18 Q And I understand that you paid fines on
19 charges that were made against you without knowing what
20 those charges were?

21 MR. GANZ: Objection. Misstates. She had a
22 representative handling it for her. That's what she
23 said.

24 (Testimony read.)

25 MR. CRAFT: I understand that you paid fines

1 on charges without knowing what those charges were.

2 MR. GANZ: I'm going to object. I believe
3 it's argumentative.

4 THE WITNESS: I paid, you know -- yeah. I
5 just paid what I was told to pay.

6 BY MR. CRAFT:

7 Q Going back to the interrogatories, your
8 response to Interrogatory No. 3 asking about the
9 complaint -- which was obviously drafted by an
10 attorney -- you asserted that the defendant, John
11 Cargile, the police officer, was negligent and failed
12 to use due care. In response, you said that Cargile
13 breached his duty when he failed to use due care by
14 failing to use his sirens. Is that correct, your
15 response?

16 A Yes.

17 Q Is that still your response to that
18 interrogatory?

19 A Yes.

20 Q Okay. Just to clarify one response you gave
21 earlier, I believe you indicated that -- and again, I'm
22 paraphrasing. I'm not trying to put words in your
23 mouth. You had indicated it's your understanding that
24 there's no way Officer Cargile could have seen your car
25 coming unless he pulled forward into the intersection.

1 Is that a fair statement?

2 A Yes.

3 MR. CRAFT: I have no further questions.

4 EXAMINATION

5 BY MR. GANZ:

6 Q Did you go to trial on that citation?

7 A No.

8 Q Was there a judge and a hearing and a trial
9 that was taking place, and you were found guilty of
10 anything?

11 A I wasn't there.

12 MR. GANZ: All right. Nothing further.

13 MR. CRAFT: Thank you.

14 (The deposition concluded at 2:54 p.m.)

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1 CERTIFICATE OF REPORTER

2
3 STATE OF NEVADA)
) ss.
4 COUNTY OF CLARK)

5 I, Susan Lee Naylor, CCR #513, RMR, a Certified
6 Court Reporter licensed in the State of Nevada, do
7 hereby certify: That I reported the taking of the
8 deposition of the witness, Japonica Felisha
9 Glover-Armont, commencing on August 7, 2014 at
10 2:08 p.m.

11 That prior to being examined the witness was by me
12 duly sworn to testify to the truth. That I thereafter
13 transcribed my said shorthand notes into typewriting
14 and that the typewritten transcript of said deposition
15 is a complete, true and accurate record of the
16 testimony provided by the witness at said time.

17 I further certify that (1) I am not a relative or
18 employee of an attorney or counsel of any of the
19 parties, nor a relative or employee of an attorney or
20 counsel involved in said action, nor a person
21 financially interested in the action, and (2) that
22 transcript review pursuant to NRCP 30(e) was not
23 requested.

24 IN WITNESS WHEREOF, I have hereunto set my hand in
25 my office in the County of Clark, State of Nevada, this
26 20th day of August 2014.

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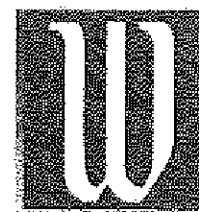
Susan Lee Naylor, RPR, RMR, CCR #513

EXHIBIT 2

Glover-Armont v. Cargile, et al.

Deposition of:
Officer Jim Byrne

October 1, 2014



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A P P E A R A N C E S

FOR THE PLAINTIFF:

ADAM GANZ, ESQ.
GANZ & HAUF
8950 West Tropicana Avenue
Suite 1
Las Vegas, Nevada 89147

FOR THE DEFENDANTS:

CHRISTOPHER D. CRAFT, ESQ.
DEPUTY CITY ATTORNEY
Civil-NLV
2250 Las Vegas Boulevard, N
Suite 810
Las Vegas, Nevada 89030

I N D E X

WITNESS

EXAMINATION

OFFICER JIM BYRNE:

(BY MR. GANZ) 3, 58

(BY MR. CRAFT) 56

E X H I B I T S

Number	Description	Page
Ex. 1	CV	5
Ex. 2	Notes, Citation, Speed Workup	6

1 (Upon inquiry by the reporter prior to the
2 commencement of the proceedings, Counsel present
3 agreed to waive the reporter requirements as set
4 forth in NRCP 30(b)(4) or FRCP (b)(5), as
5 applicable.)

6 OFFICER JIM BYRNE,

7 having been first duly sworn, was
8 examined and testified as follows:

9 EXAMINATION

10 BY MR. GANZ:

11 Q. Can you please state and spell your name for
12 the record?

13 A. Jim Byrne, B-Y-R-N-E.

14 Q. And you are a police officer?

15 A. Yes.

16 Q. For the North Las Vegas Police Department?

17 A. Correct.

18 Q. Have you ever had your deposition taken
19 before?

20 A. Many times.

21 Q. How many times? Approximately.

22 A. Over a hundred easy.

23 Q. Have those been related to accident
24 investigations?

25 A. Correct.

1 Q. Do I need to go through the admonitions with
2 regards to a deposition, or do you feel comfortable
3 with dispensing with that?

4 A. You can dispense with it.

5 MR. GANZ: I'm backwards here. I thought we
6 had Cargile's first. Am I wrong?

7 MR. CRAFT: Incorrect, yeah. You had Byrne,
8 1 o'clock, and Cargile, 3:30.

9 MR. GANZ: You are correct. I apologize.
10 See if we can start with that, then.

11 Q. (BY MR. GANZ) Can you give me your current
12 business address?

13 A. 3755 West Washburn, North Las Vegas 89032.

14 Q. You've brought with you a file, I see?

15 A. I brought both my CV in case you wanted it
16 as well as the case file for the accident.

17 Q. I don't know that you've been listed as an
18 expert in this case.

19 MR. GANZ: Has he or has he not?

20 MR. CRAFT: He's going to be kind of a gray
21 area. A lot of people are fact witnesses for what he
22 saw at the accident, but he also has expertise as far
23 as general accident reconstruction, what happened,
24 that sort of thing.

25 MR. GANZ: Is he going to be designated as

1 an expert witness?

2 MR. CRAFT: See what he says. I would say
3 probably, yes. Some of his testimony is going to be
4 something a layperson would not know.

5 MR. GANZ: Typically you wouldn't bring a CV
6 to a --

7 THE WITNESS: I've been certified as an
8 expert. So I always bring CVs to depositions because
9 inevitably they want to know the training and such.

10 Q. (BY MR. GANZ) I'll go ahead and attach that
11 as Plaintiff's Exhibit 1 and go through that a little
12 bit later.

13 Anything else related to this case, you
14 said, other than the accident report you brought?

15 A. Speed workup, citation associated with it,
16 and then just some field notes.

17 Q. Do you mind if I make copies of those and
18 attach those as well?

19 A. Please.

20 Q. I obviously don't need the report. If I can
21 get the notes and the speed workup, that would be
22 great.

23 MR. GANZ: I'll be right back.

24 (Exhibit 1 was marked)

25 (Recess was taken)

1 MR. GANZ: I'm going to go ahead and mark as
2 Plaintiff's Exhibit 2 the other documents you brought
3 with you that I had made copies of.

4 Copy for counsel.

5 MR. CRAFT: Thanks.

6 (Exhibit 2 was marked)

7 Q. (BY MR. GANZ) Have you reviewed anything
8 else in preparation for your deposition testimony?

9 A. No. This is the only documents that were
10 available to me at this moment.

11 Q. Have you had any conversations with anybody
12 about your deposition testimony?

13 A. Just the City's counsel.

14 Q. And as an expert, I'm entitled to know about
15 your conversations you've had with him. Was there
16 substantive conversations about your testimony?

17 A. No. It was about 10, 15 minutes. We were
18 talking about what I had for the deposition on this
19 date.

20 Q. What else did you talk about?

21 A. Just basically the speed workup, the
22 citation that was issued, and what, if any,
23 recollection I had of talking to Vehicle No. 1's
24 operator at the hospital.

25 Q. The first thing is with regards to the speed

1 workup and review of your notes, is there anything
2 that you believe to be inaccurate with regards to your
3 speed workup from your original workup that you did?

4 A. No.

5 Q. No changes in reviewing it from what you did
6 originally?

7 A. Correct.

8 Q. With regards to your memory of this event,
9 do you have an independent recollection of this event?

10 A. Yes.

11 Q. Do you have an independent recollection of
12 my client?

13 A. Yes.

14 Q. Can you give me a description of her?

15 A. Well, it wouldn't be fair because I've seen
16 the driver's license because I wanted to make sure
17 I -- they spelled her name wrong. But I remember
18 seeing her at the hospital only because I had to go
19 there and talk to her and she was laying down on a bed
20 in one of the waiting rooms at North Vista. And she's
21 a black female.

22 Q. At the time that you saw her -- you have an
23 independent recollection of going to the hospital, you
24 said?

25 A. Yes. Followed up with her. Issued cites at

1 the hospital.

2 Q. Did you ever take a statement from her?

3 A. No.

4 Q. At the time that you -- strike that.

5 At the time that you saw her at the
6 hospital, had you already done your speed workup and
7 your preliminary report at the time?

8 A. No.

9 Q. What information, if any, did you get from
10 her?

11 A. I went there and told her that I was
12 investigating her collision with our vehicle and that
13 I was here to issue two citations and then if she had
14 anything she wanted to add to what was told to me at
15 the scene, and she said no. Basically there was
16 nothing there that stands out. I just told her that I
17 was issuing her two citations and that neither was an
18 admission of guilt, innocence, and gave her a copy of
19 the citation as well as the case number for her to
20 follow up on.

21 Q. Did she have -- strike that.

22 Did you make any notes of your conversation
23 with her at all?

24 A. No.

25 Q. Other than what you just told me, do you

1 have any recollection of your conversation with her at
2 all?

3 A. No.

4 Q. Did you record the conversation at all?

5 A. No.

6 Q. Have you done any additional supplements to
7 the original accident report that you did?

8 A. No.

9 Q. I'm bouncing back and forth in my notes
10 because I had screwed up on the order of the witnesses
11 here today.

12 A. Not a problem.

13 Q. So I have some questions back and forth that
14 I planned -- I want to see if we can get some general
15 background from you if I can.

16 How long have you worked with the
17 North Las Vegas Police Department?

18 A. Twenty years this last August.

19 Q. Your current title?

20 A. Traffic investigator.

21 Q. How long have you had that title?

22 A. I've been with the traffic bureau now for --
23 first year was patrol, second year was SWAT -- 18
24 years.

25 Q. That's as a traffic investigator or just

1 within the traffic --

2 A. Traffic bureau, traffic officer. I'm the
3 fatal investigator for the department.

4 Q. Eighteen years as fatal investigator?

5 A. Basically right from the get-go. You get
6 the training. You get right online.

7 Q. At least in this particular instance, your
8 agency investigates its own City vehicle accidents; is
9 that correct?

10 A. Officer-involved collisions, yes.

11 Q. I know that some other agencies have outside
12 agencies -- in other words, Henderson may have Metro
13 or somebody else investigate an officer-involved
14 collision. Is it a policy of North Las Vegas one way
15 or the other or is it just it never really came up?

16 A. The policy is we investigate our own. The
17 only department I know that goes outside is NHP.
18 Otherwise, Henderson and Metro do their own. The law
19 changed just recently where other agencies are asked
20 to have outside agencies investigate fatal collisions.
21 However, there's caveats to that that if you can show
22 that your officers or your detectives are more trained
23 or have better training, then you can still take the
24 lead on the investigation.

25 Q. How many officer-involved collisions have

1 you investigated for the North Las Vegas Police
2 Department over your 18 years, if you can give me an
3 estimate?

4 A. I would say just maybe 20, 25. We don't get
5 a lot of them, fortunately.

6 Q. Of those 20 or 25, do you have a memory of
7 the officer being at fault for those collisions, any
8 of those collisions?

9 A. Yeah. There's been several. The last one
10 would have been I want to say last year at the
11 intersection of Craig and MLK where -- no. There was
12 contributing factor. But, no, he wasn't at fault.
13 No, I can't remember the last time.

14 Q. But it's your testimony that you believe
15 that there has been accidents where the officer was at
16 fault that you investigated?

17 A. I believe so, but I can't think of one right
18 off the top of my head.

19 Q. Let's go through some of your training, if
20 you would. I assume that you've done Northwestern 1
21 and 2?

22 A. Northwestern 1, 2, and 3.

23 Q. When did you complete Northwestern 1?

24 A. It's on the resume. I want to say '95.

25 Q. I forgot you gave that to me. Thank you.

1 A. Only because I don't remember off the top of
2 my head.

3 Q. I don't blame you.

4 I didn't see Northwestern 1 and 2 on here.
5 Maybe you can help me out there. I saw 3 just
6 recently.

7 A. Because they just came online with that.
8 That's their first year that they did it. Right
9 there. '99. At the bottom.

10 Q. '99? Okay. Eighty hours. And then
11 Northwestern 2 was '99, in August. You did another
12 40 hours?

13 A. Right. TAR 1 is just basically a
14 continuation of vehicle dynamics and Tech AI. TAR 2
15 becomes more specialized where we talk about
16 commercial vehicles, pedicyclists, bikes, motorcycles.
17 Then from there, you got to go into the specialized
18 training. It basically wets your whistle.

19 Q. The third one that you just recently did,
20 what was the difference between that?

21 A. It just keeps moving on there. We talked
22 about Monte Carlo analysis of crashes. You do an
23 Excel analysis of crashes.

24 Q. Did -- strike that.

25 Did you do any training at North Las Vegas

1 Police Department?

2 A. Yes.

3 Q. With regards to accident reconstruction?

4 A. Yes.

5 Q. What other type of training do you provide
6 over there?

7 A. I started teaching Tech 1, Tech 2. I've
8 taught pedicyclist collisions and coinstructing on a
9 CDR analyst and the operator part of it. Basically
10 anything and everything right now. Then I tried to
11 list -- just recently I've been asked to list it in
12 the CV. Like I instructed vehicle dynamics on July of
13 last year. Did it again in May for Las Vegas, for
14 Metro.

15 Q. I don't think you actually gave me your
16 rank.

17 A. Just police officer. We don't have fatal
18 detectives here.

19 Q. I didn't know if they did ranks as far as
20 sergeant --

21 A. No. I'm not a sergeant, no.

22 Q. Is it fair to say that once you issued the
23 citation -- strike that.

24 Is it fair to say that once you did your
25 final report that you have not done any additional

1 work on this accident crash?

2 A. Correct.

3 Q. So after you saw her in the hospital, what
4 did you do next in order to complete your report?

5 A. Conducted a speed analysis to make sure -- I
6 looked out there at the scene, and I didn't think she
7 was speeding. However, I wanted to do an analysis to
8 make sure that she wasn't exceeding the
9 50-mile-per-hour speed limit there. She wasn't. Did
10 that. Concluded that. There was no additional
11 charges on her. And then completed the NHP-5 report,
12 including the speed analysis.

13 Q. Did you -- it's dated that the report was
14 reviewed November 5th at approximately 7:56 p.m. Do
15 you remember when you completed it? Looks like it was
16 that same day. But do you know what time?

17 A. No. I normally would have done it right
18 after because the Sergeant Cargile or whomever was
19 going to do the review would have wanted the accident
20 report done as soon as possible.

21 Q. I think it was Salyer.

22 A. He wasn't on the scene. I might have
23 completed this report and he might have reviewed it
24 later that day. But the report was done before I went
25 home so it could be turned over to another supervisor

1 if they needed that information.

2 Q. Why don't you -- let's do this first.

3 Again, I apologize for being disorganized. I'm not
4 usually this bad.

5 Have you spoken to Officer Cargile at all
6 about this collision at any time after the date of the
7 incident?

8 A. Sergeant Cargile? No.

9 Q. Sergeant Cargile. Excuse me.

10 A. No, it's okay. No.

11 Q. Had you at the -- strike that.

12 I want to make sure kind of get some basics
13 with you with regards to vehicle road safety, if you
14 don't mind.

15 Obviously, you would agree, would you not,
16 that a driver should always look where he's going?

17 A. Correct.

18 Q. Would you agree that a driver of an
19 emergency vehicle has a duty to drive at all times in
20 a safe manner?

21 A. Correct.

22 Q. Do you also agree that a driver in an
23 emergency vehicle must never, even if he is running
24 with his lights and sirens, must not enter an
25 intersection on a red until the intersection is safe

1 to enter?

2 A. Correct.

3 Q. That last particular rule, why is that
4 important in your area of work?

5 A. Because that's where the majority of the
6 collisions occur, between -- interaction between an
7 emergency vehicle and another vehicle.

8 Q. Can you give me a little bit more
9 understanding of what you mean by that?

10 A. Generally, when one enters an intersection
11 against the light, there is going to be other traffic
12 flowing, depending on what time of the day. Some
13 heavier, some lighter. But it's still incumbent on
14 the operator of the emergency vehicle to ensure that
15 he can enter that intersection and travel through it
16 safely.

17 Q. With regards to applicable statutes that
18 apply to emergency vehicles, are you familiar with the
19 applicable NRS as well as the North Las Vegas code
20 with regards to emergency vehicles on the roadways?

21 A. The NRS, yes, because I listed it in the
22 accident itself. I did not list the City statute
23 because I didn't use it.

24 Q. Why is that?

25 A. Generally, they are duplicates of the NRSs.

1 Q. You listed, if I'm not mistaken, NRS -- make
2 sure I've got the right number here. What was the NRS
3 that you listed?

4 A. I listed two. Due care and then also listed
5 the violation of 484B.267 for operation of a vehicle
6 upon approach of an authorized emergency vehicle.

7 Q. That was -- and in addition, with regards to
8 the emergency vehicle, you cited to 484A.480; correct?

9 A. No. 484B.267.

10 Q. I'm looking a little bit further down that
11 same paragraph. 484A; right?

12 A. That's -- the subsection of 484A.480 states
13 that for you to have the right to enter the
14 intersection against the traffic signal, you must have
15 use of lights, emergency lights.

16 Q. Right. That's what I was referring to.

17 A. Okay.

18 Q. The actual emergency vehicle, the applicable
19 statute that you cited to for the emergency vehicle,
20 would have been 484A.480; correct?

21 A. Correct.

22 Q. What is your understanding of that statute
23 whether it requires that the emergency vehicle be
24 operating with lights, with siren, or both?

25 A. Just lights. The state just requires

1 lights.

2 Q. Do you believe that that is consistent with
3 the North Las Vegas statute as well?

4 A. It should be. But I can't swear to that.

5 Q. Why don't you -- make sure I'm done with the
6 preliminary stuff. Okay?

7 I did have a question. Does North Las Vegas
8 not use the Opticom technology at all?

9 A. As far as the operation on the motor
10 vehicles?

11 Q. In other words --

12 A. Right, they can change the lights itself.
13 You would have to ask somebody from the City garage.
14 I believe the fire department does and some of their
15 vehicles. But I don't know if the police vehicles are
16 outfitted as such.

17 Q. So you don't know if the vehicle that you
18 drive has such a device?

19 A. My vehicle is a plainclothes vehicle. So it
20 would not have it.

21 Q. What about -- strike that.

22 Why don't you tell me how you learned about
23 this crash.

24 A. I was -- I'm on call 24/7. I was called out
25 I believe by Lieutenant Salyer to respond down to

1 Fifth and Cheyenne to investigate an officer-involved
2 collision involving Sergeant Cargile's patrol truck.

3 MR. GANZ: Off the record.

4 (Discussion off the record)

5 Q. (BY MR. GANZ) So you got the call at what
6 time? Do you remember?

7 A. No.

8 Q. What was the first thing that you did?

9 A. Just got dressed and responded down there.

10 Q. When you showed up at the scene, what do you
11 remember seeing?

12 A. Basically, both vehicles were still in their
13 final rest position. If I remember right, it was just
14 Sergeant Cargile that was there by himself. There was
15 nobody else.

16 Q. No other emergency vehicles at all that you
17 remember?

18 A. No. I think cones were set out. I just
19 remember it was just him waiting on me to show up.

20 Q. At the time that you showed up, then,
21 obviously the plaintiff, Ms. Glover-Armont, was not at
22 the scene, obviously?

23 A. Correct. She had been transported to
24 North Vista Hospital for medical attention.

25 Q. How did you learn that?

1 A. From Sergeant Cargile.

2 Q. So when you -- again, when you arrived, he
3 was the only one there. Is it fair to say that all
4 the information that you received in coming to your
5 conclusions was from Sergeant Cargile?

6 A. Correct.

7 Q. He indicated to you that he was traveling
8 northbound on Fifth with his emergency lights and
9 siren activated? Is that what he told you?

10 A. I believe he said lights and sirens. I know
11 at the minimum the lights were operational.

12 Q. How do you know that?

13 A. Because that's what he told me. He said he
14 was running code. Whether it was lights and sirens --
15 I assumed both.

16 Q. Did he specifically say to you that I had my
17 lights and my siren going?

18 A. I don't believe he did or didn't. I just
19 made the assumption when he said he was running code,
20 he was running lights and sirens.

21 Q. It was your understanding that he was coming
22 north on Fifth Avenue approaching the intersection;
23 correct?

24 A. Correct.

25 Q. And are you familiar with that area?

1 A. Very much.

2 Q. It's a horrible mound just to the west of
3 that street on Fifth Avenue approaching --

4 MR. CRAFT: Objection to the form for
5 horrible.

6 Q. (BY MR. GANZ) Let me rephrase it. He's
7 right.

8 There is an enormous mound of dirt of some
9 sort from either a park or a facility that's just on
10 the corner of that intersection on the southwest
11 corner; is that true?

12 A. Right. And I made mention of it in the
13 narrative.

14 Q. Is it a fair statement that as one
15 approaches that intersection, it's impossible to see
16 beyond that mound until you are literally beyond the
17 stop bar? Is that a fair statement?

18 MR. CRAFT: Object. Be more specific.
19 Approaching the intersection from which direction?

20 MR. GANZ: Good point.

21 Q. (BY MR. GANZ) Coming northbound --
22 approaching the intersection from the south traveling
23 northbound approaching Cheyenne, it's impossible to
24 see the west -- strike that.

25 The west -- it's impossible to see west,

1 which would be the eastbound traffic, until you
2 actually pass the stop bar; isn't that true?

3 A. Correct.

4 Q. Now, from the other perspective, traveling
5 eastbound, if you are unable to see -- strike that.

6 Traveling eastbound, at what point in time
7 would someone be able to see a car traveling
8 northbound on Fifth Avenue?

9 A. A car by itself? Not until they encroach
10 the number 3 travel lane.

11 Q. Do you have any idea -- is that a park there
12 that has that mound in it?

13 A. City View Park. Also attached to a
14 municipal golf course.

15 Q. You concluded from what Sergeant Cargile had
16 told you is that he approached the intersection on a
17 red traffic signal; correct?

18 A. Correct. Both he and Ms. Glover said that
19 she had the green and he had the red.

20 Q. And the information that she had her
21 headlights off that you have indicated in your
22 narrative, that was from Sergeant Cargile; correct?

23 A. Correct. Then when I went to the hospital,
24 I asked her, and she -- I don't remember what she
25 responded. It was enough that -- where I felt I could

1 issue the citation for it.

2 Q. Have you reviewed her deposition testimony?

3 A. No.

4 Q. The information you have in your report that
5 Sergeant Cargile came to a stop and slowly began
6 moving into the intersection, that information was
7 entirely from him; correct?

8 A. That and the physical evidence in the
9 roadway.

10 Q. What physical evidence specifically?

11 A. The fact that the impact from Vehicle 1 --
12 had he been moving, there would have been what we call
13 an offset mark on his part, and there was none. So
14 the fact that he said that he had come to a stop, and
15 there was no physical evidence that would say contrary
16 to that.

17 Q. Anything else?

18 A. No. Just those two.

19 Q. Okay. So after you arrived at the scene,
20 you had a discussion with Sergeant Cargile. What did
21 you do next?

22 A. Did the physical workup on the roadway. Saw
23 the skid marks. Saw the final rest position for both
24 vehicles. Measured both the pre and postimpact
25 skid marks for Vehicle 1. Measured the distance that

1 Vehicle 2 had traveled and basically what the AOI is,
2 area of impact. And then got the information off of
3 both vehicles. Got his driver's license and then had
4 the vehicles removed from the scene and then responded
5 to the hospital follow-up with Ms. Glover.

6 Q. At the time that you arrived, had both
7 vehicles been turned off?

8 A. I believe so.

9 Q. You indicated that you came up with an AOI.
10 What did you document as the AOI? Because I didn't
11 note one.

12 A. Give me a moment.

13 Q. Sure. I don't think that's it. I could be
14 wrong.

15 A. AOI was eastbound Number 3 travel lane.
16 It's in the field notes. 26 five west of east and
17 6.5 feet north of south.

18 Q. So that's in Exhibit -- what we've attached
19 as Exhibit 2 as your notes that you made that day?

20 A. Correct.

21 Q. But that's not documented in the accident
22 report; is that correct? Or am I wrong?

23 A. No. I haven't seen it yet. But that's
24 where I got the AOI. Then I put down -- yeah, refer
25 to the AOI, but I don't see where I put it down as far

1 as the exact AOI.

2 Q. So according to your report, she traveled
3 5.5 feet post AOI?

4 A. Approximately, yes.

5 Q. And, again, how did you determine the AOI?

6 A. From the -- basically, you will have a set
7 of skid marks. Then what you have is -- there was no
8 offset from Vehicle 1. So where there's a difference
9 of the vehicle's approach to departure, that's the
10 offset. That's what we would have designated as AOI.

11 Q. You say "we." Was there anybody else --

12 A. Sorry. Just we as in the department. I.

13 Q. I understand. I just want to make sure I
14 clarify it for the record.

15 A. Uh-huh.

16 Q. Again, your field notes indicate -- strike
17 that.

18 Did you take any pictures of the skid marks?

19 A. No.

20 Q. Did you take any pictures of the lack of
21 offset?

22 A. No.

23 Q. I did note that you did take some pictures,
24 though; correct?

25 A. No.

1 Q. Oh, you didn't take any pictures at all?

2 A. No. When I got there, I asked if CSI was
3 going to respond. Someone had already taken the
4 pictures prior to my arrival. So I've never seen them
5 nor have I had any copies of them provided to me.

6 Q. There was some pictures taken by somebody.

7 A. I think --

8 Q. Sergeant Cargile might --

9 A. One of his staff, one of his officers.

10 Q. These are obviously at a different time.
11 The pictures that I have that appear soon after the
12 collision with pictures of my client and the rescue
13 vehicles still there, the EMS still there, so it looks
14 shortly thereafter, still show the vehicles actually
15 touching.

16 A. Okay.

17 Q. Again, I'm just kind of curious on how you
18 came up with --

19 A. 5.5?

20 Q. Yes.

21 A. Because you are coming from first contact
22 and then how far the vehicle traveled afterwards. So
23 you have an offset. Then you have what part of the
24 vehicle -- right front side impacted the left front
25 side of the sergeant's truck. And then that's an

1 approximate movement of the vehicle post area of
2 impact.

3 Q. You said approximate. It wasn't measured?

4 A. Yeah, it was measured. But we're not using
5 a GPS diagram out there where it's accurate within one
6 or two millimeters. That's why I always say
7 approximate.

8 Q. Which is a good point. You used a roll
9 tape?

10 A. I used a roll tape and a steel tape.

11 Q. That's for all the measurements?

12 A. Correct.

13 Q. Did you ever plot this into a CAD program to
14 recreate the physical findings?

15 A. No, only because I was told that this was
16 considered a minor collision and they weren't going to
17 do a full workup on it.

18 Q. All right. That's not something you can do
19 now; correct?

20 A. Correct.

21 Q. There's missing physical evidence that you
22 would need for that to be accomplished; correct?

23 A. Correct.

24 Q. So, again, I'm just trying to get a sense of
25 how you determined the AOI. Correct me if I'm wrong,

1 but it sounds like you kind of just looked at the
2 vehicles, where they were in their rest position, and
3 backed it up from there. Is that a fair statement?

4 A. The statement -- it's more based on the fact
5 that Sergeant Cargile said that he had not moved prior
6 to the accident. When I looked at the vehicles, both
7 as they were attached and when they were separated,
8 there was no -- if he had kept moving and they hit,
9 then the marks are similar to something like that,
10 depending on speed and weight of the vehicles
11 involved. There was none. This basically is a
12 shearing effect of what Vehicle 1 did to Vehicle 2.
13 There's no -- a sideswipe basically.

14 Q. So it's your belief that and it's your
15 assumption that Sergeant Cargile's vehicle didn't move
16 to the right at all upon impact?

17 MR. CRAFT: I'll object to the form. You
18 said belief and assumption. I know it's like --

19 Q. (BY MR. GANZ) You can answer.

20 A. I was just waiting for him to get the
21 objection. I always cut him off.

22 MR. CRAFT: I'm not sure which one you want,
23 his belief or his assumption.

24 MR. GANZ: Reask my question again. Now I
25 forgot it.

1 (The reporter read the requested
2 portion of the record)

3 THE WITNESS: The vehicle's base, the
4 vehicle's platform consisting of four tires did not
5 shift to the right. The vehicle's upper body, which
6 is a more dynamic stage, can move to the right because
7 the bumper was being sheared, I believe, in this case.
8 So the movement was on top, but not at the platform of
9 the vehicle. Right here. There's no movement of the
10 vehicle to the right to the east from the impact. The
11 movement is up here, which is a dynamic stage based on
12 the suspension. And then the shearing is beginning
13 right there on the left front.

14 Q. (BY MR. GANZ) And it appears as though from
15 these pictures, and correct me if I'm wrong, but at
16 least from that picture you were just pointing at
17 shows the light and a MedicWest vehicle in the
18 background.

19 MR. CRAFT: Is that numbered?

20 MR. GANZ: I don't know which one it is.
21 I'm just trying to get some basic understanding here.

22 Q. (BY MR. GANZ) It appears as though
23 Sergeant Cargile's vehicle impacted the side of her
24 vehicle; isn't that true?

25 A. Well, based on movement of the vehicles,

1 it's going to be Vehicle 1 that impacted Vehicle 2.
2 There's no movement on Vehicle 2 based on my
3 investigation. So Vehicle 1 strikes Vehicle 2.

4 Q. Here's a closer picture. It doesn't appear
5 as though any left fender damage to the police car.

6 A. The damage to the vehicle -- to the police
7 truck was minimum. In fact, we had it driven to the
8 tow yard. The damage to Vehicle 2 required a tow
9 truck.

10 Q. My point was is that it appears, though, the
11 damage was done to the front of his vehicle; correct?

12 A. Left front.

13 Q. But not to the left side of his vehicle?

14 A. I'd have to take a little better look at the
15 pictures. But I believe I just put left front to --
16 Vehicle 1's right front A pillar impacted the front of
17 Vehicle 2, causing damage to both vehicles. And then
18 this for the vehicle itself. It's not marked on
19 the --

20 Q. It's not marked on the diagram and --

21 A. No, it's not marked on Vehicle 2's
22 information sheet. Vehicle 1's information sheet is
23 marked correctly. Vehicle 2 is not marked.

24 Q. Specifically, you are referring to page 5?

25 A. Page 5, first contact and damage areas.

1 Q. And again -- strike that.

2 Also, it's not documented anywhere in your
3 report where the damage occurred on the police
4 vehicle; correct?

5 A. Yeah. I'm more specific on Vehicle 1's
6 impact area than I am on Vehicle 2.

7 Q. My question is did you document anywhere
8 where the damage is located on Vehicle 2?

9 A. Vehicle 2, left front and front. So I'm
10 indicating that the left front quarter panel and the
11 front bumper was compromised.

12 Q. That's in your --

13 A. Field notes.

14 Q. That's Exhibit 2, but not in the --

15 A. Not in the actual diagram. Not in the
16 actual NHP-5 sheet.

17 Q. The traffic accident report?

18 A. Correct.

19 Q. What assumptions did you make to come to
20 your AOI?

21 A. Basically, where the vehicles are at rest,
22 the final rest position for both vehicles, and the
23 fact that Vehicle 2 had not shown any evidence of
24 being moved sideways.

25 Q. You would -- strike that.

1 So the physical evidence that you had
2 mentioned that you noted, skid marks, the final
3 resting point, all that that you had documented, those
4 were -- strike that.

5 Was anything else that you obtained from the
6 physical evidence dependent upon any other assumptions
7 that were provided to you from Sergeant Cargile?

8 A. No.

9 Q. Just so I make sure I got it, the skid
10 marks, obviously, you were able to physically identify
11 and document?

12 A. Correct.

13 Q. That's based upon the physical evidence.
14 The final resting point besides the assumption that
15 they hadn't been moved after the impact, you were able
16 to document that based upon the physical evidence;
17 correct?

18 A. Correct.

19 Q. The pre and postskids are based upon your
20 determination of AOI; correct?

21 A. Correct.

22 Q. Any other physical evidence that you
23 documented that I hadn't mentioned? Is there
24 something I'm missing?

25 A. The only other physical attribute that I

1 looked at was the downloading of the vehicles' black
2 boxes. And neither vehicle was supported for that.

3 Q. I noted some notes about that. I was going
4 to ask you about some additional equipment about that
5 as well.

6 Neither vehicle had any data on the black
7 boxes; is that a fair statement?

8 A. No. What it is is that you have an air bag
9 control module. Now, the manufacturer can install a
10 device, an accelerometer, as well as a recording
11 capability to capture that in case of an accident,
12 depending if it reaches a certain protocol. But in
13 this case, the Cavalier -- GM was really good about
14 it. They started earlier than everybody else. They
15 didn't make their Cavaliers online until '96. This
16 was a '95. So they weren't supported. They had the
17 capability. However, GM, for whatever reason, said,
18 hey, we're not going to start that.

19 Ford, however, had started the Expeditions
20 in 2007. This is a 2008. But, evidently, I believe
21 they went to a different manufacturer. So 2008, 2009,
22 and 2010 were not supported. They had the capability,
23 but Ford just decided, hey, we're not going to mess
24 with that this time.

25 Q. So it wasn't that there was no data and it

1 wasn't that the collision didn't meet any kind of
2 thresholds. It was -- you determined that neither had
3 the equipment to record the accident; correct?

4 A. Yeah, they were not supported for me to do a
5 download.

6 Q. Do you know if the -- strike that.
7 Was the police vehicle equipped with a
8 camera?

9 A. No. None of ours are.

10 Q. Do you know if the intersection had any kind
11 of recording of this incident?

12 A. By law we're not allowed to record at
13 intersections. The cameras up there are basically two
14 parts. They are there to sense the vehicles as far as
15 changing the lights and/or they are used by FAST and
16 in cases like when we do the NASCAR. They can look at
17 the traffic flow, but NRS does not allow us to use as
18 recording devices.

19 MR. GANZ: Didn't know that.

20 MR. CRAFT: I didn't either.

21 Q. (BY MR. GANZ) I've seen some on some news
22 broadcasts every once in a while.

23 A. That's because FAST is streaming it live.
24 But they can't record it.

25 Q. Gotcha.

1 MR. CRAFT: Should that be kept
2 confidential?

3 THE WITNESS: No. Because FAST puts that
4 out there when they -- like when you do the news --
5 when they do the news thing, you will see FAST, and
6 they are streaming it live and giving it to the news
7 people. But they are not allowed to record it by law.

8 Q. (BY MR. GANZ) Interesting. All right. If
9 you don't mind taking me through your -- strike that.

10 Is there anything else that you did after
11 you documented the physical evidence that we just
12 talked about? What did you do next after that?

13 A. Basically then I completed the on-scene
14 investigation and went to the hospital to talk to
15 Ms. Glover.

16 Q. When you went to the hospital, it was your
17 intent to issue her citations based upon your findings
18 at the scene; correct?

19 A. Correct.

20 Q. From there -- we already talked about it
21 earlier -- you went back and you completed your
22 report. After going to the hospital, you completed
23 your report and submitted it for review?

24 A. Correct.

25 Q. Then until you were subpoenaed with this,

1 you probably hadn't thought about this particular
2 incident; correct?

3 A. Correct.

4 Q. Can you take me through your handwritten
5 notes that I have attached as Exhibit 2?

6 A. Not a problem.

7 Q. Four pages there.

8 A. Should only be two. Oh, the speed analysis
9 makes it three.

10 Q. There's four pages. It looks like the first
11 two are notes. Are those all your handwriting on
12 those?

13 A. Correct.

14 Q. The third page is the citation that was
15 issued. And then the last page is the speed workup,
16 4?

17 A. Yes.

18 Q. Looking at those pages there, if you don't
19 mind just reading into the record, if you would,
20 starting with the first page of Exhibit 2, just so we
21 have it. I know you have it on yours. Start with
22 that. Just kind of read so we know what your
23 handwriting says there if you don't mind.

24 A. Want me to read everything?

25 Q. If you don't mind. There's some stuff on

1 there I may not -- I may have some questions for you
2 as you go through it.

3 A. There's a telephone number listed to the
4 upper left followed by -- I believe that's going to be
5 Vehicle 1's plate: 358-VMF. Expiration would be
6 8/29/2013. '95 Chevy Cavalier. Blue in color. Four
7 door. The VIN number. Want me to read the VIN?

8 Q. No.

9 A. The insurance company that's associated with
10 that vehicle was Progressive Northern Insurance with
11 expiration of 1/12. Telephone number associated with
12 that as well as a policy number associated with that.

13 Q. The first number, the 460 number, where did
14 you get that information?

15 A. That I would have probably got from
16 Sergeant Cargile.

17 Q. And the rest of the information, where did
18 you get that from?

19 A. Either from the vehicle's registration
20 and/or insurance.

21 Then to the right is Vehicle 2's
22 information, showing exempt plate, 52316, associated
23 with a 2008 Ford Expedition. It's a unit number,
24 1514, for us and for the City garage to track. A VIN
25 number. Registered owner would be City of North

1 Las Vegas. And then Vehicle 2's driver's info.
2 Sergeant Cargile. Using the 490 south area command as
3 the address and his date of birth and his driver's
4 license number.

5 Q. That "460," is that your handwriting as well
6 on top there?

7 A. Yeah.

8 Q. Just looks a little different. I didn't
9 know if somebody else wrote that.

10 A. No, it's mine.

11 Q. If you could read starting with the
12 '95 Chevy.

13 A. I was going to do a download. Then I
14 researched to see if they were available for me to
15 download. I wrote the notes that the '95 Chevy is not
16 available until '96. Then I put down the 2008
17 Expedition wasn't supported either. But I wrote down
18 additionally that 2007 was and then it didn't come
19 back into effect until 2011, '12, and '13.

20 Q. The next, are those some of your
21 measurements?

22 A. Vehicle 1, 110 feet pre AOI. 5.5 post AOI.
23 It's a downhill grade. So it's negative 3, which I
24 also associate with a 1.7 degree downhill.

25 Q. So the grade, where did you get that

1 information from?

2 A. I have a smart level that I bring out to the
3 scene.

4 Q. The 1.7 is the --

5 A. Degrees. You can translate 3.0 to 1.7 and
6 vice versa.

7 Q. You said that says "5.5." It looks like a
8 5.6.

9 A. Five feet six inches.

10 Q. Five feet six inches. Gotcha. Okay. Then
11 Vehicle 1, the next paragraph there.

12 A. Vehicle 1's right front to Vehicle 2's left
13 front and front. Vehicle 1's A pillar area is the
14 impact area. And then the AOI would be the eastbound
15 travel lane, number 3 travel lane, and then 26.5 west
16 of east. 6.5 north of south. And I used the
17 southeast corner as the reference point.

18 Q. So using the southeast corner as a reference
19 point, it says 26.51; is that correct?

20 A. No. 26 five. That's just to indicate a
21 foot notation.

22 Q. It's a little long.

23 A. Yeah.

24 Q. So 26 five inches west of east --

25 A. Correct.

1 Q. -- and 6.5 --

2 A. North of south.

3 Q. It was your determination that the area of
4 impact occurred in the third lane within the eastbound
5 travel on Cheyenne; correct?

6 A. Correct.

7 Q. That would be -- just to make sure for the
8 record purposes -- third lane would be the southmost
9 travel lane; correct?

10 A. The protocol for travel within state of
11 Nevada per NHP-5 is number 1, number 2, number 3,
12 3 being closest to the curb, 1 being closest to the
13 center.

14 Q. Then you had a smaller piece of paper from a
15 notebook, looks like, that you also took some notes on
16 as well; correct?

17 A. No. That's not my handwriting other than
18 the corrective lenses part of it. Somebody wrote that
19 down. Could have been Sergeant Cargile or one of his
20 officers got that information the engine that
21 responded, the MedicWest unit responded, where they
22 were taking Ms. Glover, the information on Ms. Glover,
23 her name, date of birth, social security, height,
24 weight, color hair, color eyes with a driver's
25 license. Then when I looked up the driver's license

1 to make sure it was valid, I wrote down corrective
2 lenses, she was required to have, and then her address
3 and a phone number which I believe would be associated
4 with Ms. Glover and then the other numbers below I
5 don't know. Sorry, that would have been the case
6 number and the time that sarge called it out.

7 Q. Sergeant Cargile?

8 A. Yeah.

9 Q. You don't know whose handwriting this is?

10 A. No.

11 MR. GANZ: Counsel, do you have any problem
12 afterwards if we redact her social out of that? I
13 didn't realize her social was in there.

14 MR. CRAFT: No problem.

15 Q. (BY MR. GANZ) The next page is a citation
16 that you issued?

17 A. Correct.

18 Q. Does it indicate on there what time she
19 signed off on it or that you generated it or anything
20 like that? That says issued date and time at 4:41 in
21 the morning.

22 A. Right. That would have been probably the
23 time that I saw her at the hospital.

24 Q. Is there any indication in your report to
25 indicate what time you arrived at the scene?

1 A. No. That would have been with the radio
2 notes. I would call out when I was en route, and I
3 would call out when I arrived.... But there's no place
4 for us to put that on the report.

5 Q. Because I have an arrival time on the bottom
6 right there of 1:53. Is that somebody else's arrival
7 time?

8 A. Where's that?

9 Q. Page 1 of the report.

10 A. What happens is -- that's the -- when it's
11 the first officer there. Since he's involved, he
12 calls it out. At 1:55 it's dispatched -- 0153, and
13 arrival time the same. All numbers are the same.

14 Q. Got it. There's a citation in here for
15 failure to -- for her not having her headlights on;
16 correct?

17 A. Correct.

18 Q. That information was entirely taken from
19 Sergeant Cargile; correct?

20 MR. CRAFT: Objection. Misstates his prior
21 testimony.

22 THE WITNESS: Yes, and then when I talked to
23 her at the hospital. I don't remember anything that
24 would say that it was not accurate. That's why I
25 issued the citation.

1 Q. (BY MR. GANZ) I asked you earlier about
2 your memory of that conversation. We didn't talk
3 about the headlights at all. Do you remember
4 specifically asking her that?

5 A. I remember going there asking her what her
6 recollection of the accident was, how fast she thought
7 she was going. Basic questions. And then the fact
8 that Sergeant Cargile had said that she was running
9 without headlights. Again, I didn't keep any notes of
10 that. If I wrote the cite, then I was comfortable
11 writing cite for that.

12 Q. My point is -- it's not your testimony that
13 she admitted that she was running without her
14 headlights, is it?

15 A. No.

16 Q. You just don't have a memory one way or the
17 other?

18 A. Right.

19 Q. Assuming you didn't get that information
20 from her, the only other source of that information
21 would have been Sergeant Cargile; correct?

22 A. Correct.

23 Q. You didn't do any kind of hot shock?

24 A. No lamp analysis was done.

25 Q. Do you know if a lamp analysis could have

1 been done?

2 A. I don't remember if the headlights were
3 fractured. If they were fractured, then, yes, that
4 could have been done.

5 Q. But you don't have any memory one way or the
6 other?

7 A. No.

8 Q. When -- strike that.

9 Do you know North Las Vegas's policy
10 regarding running Code 3? Is it required that they
11 run with both lights and siren?

12 A. Yes.

13 Q. And had Sergeant Cargile not been running
14 both lights and siren, he would have been in violation
15 of that policy?

16 A. Had he not, yes.

17 Q. Did you do any kind of analysis about how
18 fast or maybe you have some general understanding of
19 how fast an officer would have to go in order to
20 outrun his siren? Do you know what I'm asking?

21 A. It's usually can you outdrive your
22 headlights and your emergency lights and your siren.
23 Every vehicle has a different range, depending where
24 they put the siren and what type of siren they have
25 and what pattern they are running on the siren.

1 Because there's all different kinds of patterns.

2 Q. Did you do any kind of analysis in this case
3 about that issue?

4 A. No.

5 Q. You mentioned a couple times -- referred to
6 Sergeant Cargile. Is he a supervisor of yours?

7 A. No. Patrol supervisor.

8 Q. He's a --

9 A. Patrol supervisor.

10 Q. Has he ever been a supervisor of yours?

11 A. No.

12 Q. Have you ever worked with him in the same
13 detail?

14 A. No.

15 Q. Did you do any kind of measurements on the
16 angles of impact at all?

17 A. No.

18 Q. Did you do any kind of analysis of the speed
19 of Sergeant Cargile's vehicle?

20 A. No.

21 Q. Were you made aware of any witnesses to the
22 accident?

23 A. No.

24 Q. Did you come up with any kind of
25 calculations with regards to delta-Vs in this case?

1 A. No. I wasn't asked to provide one.
2 Normally I would do that with a more -- what we call
3 colinear impact. A sideswipe, it's hard to get a
4 delta-V on it. You can get one if you can associate a
5 delta-V with one or both vehicles. I didn't do one on
6 this one, nor was I asked to do it.

7 Q. Is that something you would be able to do
8 from the information you have now?

9 A. No.

10 Q. Just again I want to make sure I understand
11 your opinion as to what kind of impact occurred here.
12 Is it your opinion that the Vehicle 1 impacted the
13 left front of the police vehicle? In other words,
14 when I say "left front," I'm talking about the left
15 fender, front of the wheel.

16 A. Based on how I wrote the field notes, yes,
17 the left front and front. I'm saying that it caught
18 part of the left front. Could be associated with the
19 quarter panel or just the bumper itself.

20 Q. But it's not your opinion that the police
21 vehicle hit the side of Vehicle No. 1?

22 A. Correct.

23 Q. Would that change your analysis if that did
24 occur that way?

25 A. No, because the only thing I do is with -- I

1 have what we call a strike and a target vehicle.
2 Usually the striking vehicle -- I usually will list it
3 Vehicle No. 1 just so I keep them straight.
4 Vehicle 2, the not-at-fault vehicle -- I mean, the
5 bullet vehicle would be the at-fault vehicle. Target
6 vehicle would be the not-at-fault vehicle. I usually
7 keep that. It's not a hundred percent rule by any
8 means.

9 Q. From what I'm gathering, did you find that
10 Sergeant Cargile had any fault in causing this
11 collision?

12 A. No. I didn't put him down for any partial
13 culpability because I thought that he had his lights
14 and sirens on. Vehicle 1's operator said she saw the
15 lights, didn't hear the siren. However, he abided by
16 what the NRS stated he was required to do. Then in
17 addition, the fact that she saw the lights -- that's
18 what I put down. She failed to use due care upon
19 approaching the intersection. I didn't cite her for
20 it, but -- she also -- basically, had she not locked
21 up the vehicle -- she doesn't have ABS brakes. So
22 she's not able to maneuver out. So she locks up the
23 vehicle. That vehicle is just basically -- she's
24 going right towards his vehicle based on the
25 nomenclature of the roadway and the crown of the

1 roadway. There's just no way to avoid that there.
2 He's inching out to do -- I thought he was doing his
3 due diligence to make sure he could clear. Then when
4 he felt he saw the vehicle come headlights -- no
5 headlights, he stopped. Then it was on her now to
6 proceed safely by or come to a stop prior to the
7 intersection. She did neither.

8 Q. The fact that you just indicated that he was
9 inching out, again, that is completely from
10 Sergeant Cargile; correct?

11 A. Correct.

12 Q. There's no physical evidence to indicate
13 that one way or the other, is there?

14 A. Not to support that, no.

15 Q. Did you rely on any particular journal,
16 article, or any kind of publication that you would
17 rely on in coming to your opinions at all?

18 A. Just based on previous training. Nothing
19 particular.

20 Q. It wasn't like you went out and got a
21 specific article or text that you had in coming to
22 your conclusions in your report; correct?

23 A. Correct.

24 Q. Did you ever come up with the weight of the
25 vehicles?

1 A. No. Because, again, this was considered a
2 minor collision and not a full workup was asked for or
3 done.

4 Q. Your speed workup, if you don't mind, take
5 you through your speed workup. Your concluding
6 opinion was is that she was traveling at how fast
7 prior to braking?

8 A. At the application of the skid marks she was
9 doing approximately 47 miles per hour. That's
10 conservative in nature.

11 Q. You have speed number 1 in miles per hour,
12 and then you have speed number 2 under formula inputs.

13 A. Right. Speed number 1 is just based on the
14 5.5 coming back from the first contact between the
15 vehicles and her sliding to stop. That would show
16 approximate impact speed of 10 miles per hour on her
17 vehicle acting on his vehicle. Then if you take it
18 back, then there's another 46 miles per hour. But
19 it's not what we call a linear equation. You can't
20 add the two. It's a speed workup that requires a
21 square root, and that's what brings it to 47.

22 Q. What did you use -- what assumptions did you
23 make in coming to these opinions?

24 A. The drag factor for the area. And .65 is
25 relatively conservative. I've done speed workup out

1 there for fatalities, and I've gotten up to .7, .75,
2 depending on the vehicle and the braking system. So I
3 usually use .65 when I don't do any skid test or drag
4 factor. That's benefit derived by the operator. Then
5 I did measure the downhill grade and took that into
6 account.

7 Q. So the drag factor of .65 was used as a
8 result of the fact that it was a downhill slope with a
9 3 percent grade?

10 A. Correct.

11 Q. Any other assumptions?

12 A. No.

13 Q. Those are the formulas you used or put into
14 the computer that came up with your speeds?

15 A. Correct. I do it by hand as well, and then
16 I confirm it by the program itself.

17 Q. At least from this analysis, it was your
18 opinion that she was traveling at least at 10 miles an
19 hour plus at the time of the impact?

20 A. Correct.

21 Q. Did you -- strike that.

22 I don't know if I just said this, but that
23 was at the time of impact; correct?

24 A. Correct. The first contact -- interaction
25 between the two vehicles.

1 Q. And we don't know what Sergeant Cargile's
2 speed was at the time of impact or any other time;
3 correct?

4 MR. CRAFT: Objection. Misstates his prior
5 testimony.

6 THE WITNESS: The assumption was based on
7 that it was zero for him.

8 Q. (BY MR. GANZ) Have we covered all of your
9 opinions that you've outlined in your report?

10 A. I believe so.

11 Q. Is there any other opinions that you have
12 that are not contained in your report?

13 A. No, sir.

14 Q. Any other conversations that you had with
15 Sergeant Cargile or Ms. Glover-Armont that you have
16 any memory of from any point in time?

17 A. I don't believe I ever spoke to her after
18 the visitation at the hospital. And I'm not on the
19 Collision Review Board, so I don't believe I ever had
20 spoke with sarge about this afterwards.

21 Q. Tell me -- I don't know what a Collision
22 Review Board is. Can you tell me about that?

23 A. Just that the department reviews any and all
24 crashes between officers and the public.

25 Q. Did they do that in this case?

1 A. I believe so. I believe they do them all,
2 all of them.

3 Q. Were you asked to testify at that particular
4 hearing?

5 A. No.

6 Q. Do they produce reports or is this something
7 that goes in someone's file?

8 A. I believe it's treated like an IA
9 investigation, but not exactly as an IA. It's a
10 confidential thing. They don't publish what their
11 findings were, nor would they tell me.

12 Q. You mentioned earlier that the police
13 vehicle was driven away.

14 A. Yes.

15 Q. Sounded like you had some basis for the --
16 or knowledge about where it was taken and what was
17 done there. Can you tell me a little about that?

18 A. Just automatically any vehicles involved in
19 a collision are taken to the garage so that mechanics
20 can check them out, make sure that no damage has been
21 done that would impair its safety.

22 Q. But you didn't partake in that, particularly
23 in this case, did you?

24 A. No.

25 MR. GANZ: I don't think I have anything

1 else. Look at my notes real quick. Okay?

2 MR. CRAFT: Sure.

3 Q. (BY MR. GANZ) I just want to go through the
4 accident report and see if there's anything I missed
5 here. It says roadway character. It says straight
6 and level. Doesn't actually indicate a grade or a
7 hillcrest. Why would you have noted that under there
8 on page 1?

9 A. Because the program has certain default
10 values. I believe I put it --

11 Q. You did on the first page. You noted the
12 slope.

13 A. Right. It has default. Instead of putting
14 it over here, I put it over on the roadway grade so
15 that I can show that it was measured and what the
16 downhill slope was. If you look here, there's no
17 boxes filled in here because if there's anything that
18 happens in the intersection, then these boxes are left
19 blank. It has certain default and protocol values
20 built into it.

21 Q. You have this as an angle collision. How
22 come?

23 A. Because the protocol says that if it's not
24 head on, it's not rear end, and it doesn't involve a
25 collision with a nonvehicle, that's how you list it.

1 It's not a true sideswipe because that would be the
2 vehicle is like this or like this. So anything other
3 than that, other than colinear is considered an angle.

4 Q. I noted in your narrative that you indicated
5 that he was -- that Sergeant Cargile was responding to
6 a shots fired call with a confirmed victim. Why is
7 that important that he was responding to a call with a
8 confirmed victim?

9 A. It shows the premise why he was running
10 code. He wasn't going to lunch or running late to see
11 somebody. He was actually responding to a call that
12 required Code 3 activation. It didn't have to be put
13 in there. A lot of times the parties involved in
14 this -- insurance companies, this is the only document
15 they will see. So I try to put as much in here so
16 that they have a better understanding of what
17 happened.

18 Q. Do you believe that the hill that you had
19 identified in here had any contributing factor to
20 causing this collision in any way?

21 A. Yes.

22 Q. Tell me how.

23 A. Because it required the operation of the
24 Vehicle 2 to move into the travel lane, eastbound
25 travel lane, to clear the eastbound travel lanes.

1 Q. And also because Vehicle 1 couldn't see him
2 until he was actually into the intersection; correct?

3 A. Correct.

4 Q. Paragraph -- it's like the third paragraph
5 down. Says, Vehicle 1's operator stated.

6 A. Right.

7 Q. That's from your conversation with her?

8 A. Conversation at the hospital.

9 Q. It says in here that Vehicle 1's operator
10 stated that she saw Vehicle 2's emergency lights
11 activated as she approached the intersection but did
12 not hear the vehicle's siren.

13 A. Right. She said she saw the lights, but she
14 doesn't remember hearing the siren.

15 Q. It says she did not hear the vehicle's
16 siren; correct?

17 A. More definitive, yeah, did not hear it.

18 Q. And although Sergeant Cargile said that he
19 had his sirens on?

20 A. I believe that's what he told me. I think
21 the term he used, he was running Code 3. To me, I
22 take that as lights and sirens. You would have to be
23 more definitive with Sergeant Cargile on that one.
24 That's how I took it.

25 Q. Assuming that Ms. Glover-Armont had her

1 lights on, would your opinions in this accident have
2 changed?

3 A. No. To me that wasn't a contributing factor
4 on her part. And the sergeant had recognized the
5 vehicles without the lights on. That wasn't a
6 contributing part on his. He saw the vehicle. He was
7 just pointing out that there was no lights.

8 MR. GANZ: Thank you very much. I
9 appreciate your time.

10 MR. CRAFT: I might have a couple follow-up.

11 EXAMINATION

12 BY MR. CRAFT:

13 Q. Normally I wouldn't, but just to clean up a
14 couple things.

15 When you visited Ms. Glover-Armont at the
16 hospital, you indicated to her that you were citing
17 her for driving without her headlights; correct?

18 A. Yes.

19 Q. When you said that, did she deny driving
20 without her headlights?

21 A. No. My recollection was that she did not
22 say anything that deterred me from citing her. So she
23 wasn't definitive. It would have been something that
24 she had to be definitive in saying -- no, I had my
25 headlights on. The sergeant was wrong. It was more

1 like, I don't remember or I might not have had them
2 on. Something on that basis where I felt comfortable
3 issuing that cite.

4 Q. As far as the scene of the accident, were
5 there any skid marks from Sergeant Cargile's vehicle
6 as he was moving forward?

7 A. No.

8 Q. Was there any other indication that he had
9 locked up his brakes or skidded to a stop at the area
10 of impact?

11 A. No.

12 Q. Had Cargile's vehicle been moving forward at
13 the time of impact, how would the scene have looked
14 different?

15 MR. GANZ: Objection. Assumes facts.

16 THE WITNESS: As I stated earlier, had he
17 been moving forward, the offset would have been
18 definitive for both vehicles and they would have moved
19 off based on his vehicle being heavier than her
20 vehicle and she was sliding to a stop. It would have
21 put the vehicles out more eastbound, if not northeast.

22 MR. GANZ: My objection was not assumes
23 facts. It should have been incomplete hypothetical.
24 I apologize.

25 Q. (BY MR. CRAFT) But that was not the case;

1 correct?

2 A. Correct.

3 Q. If you had felt that Cargile was at fault
4 for this accident, would you have cited him?

5 A. No. By policy we don't cite. It's referred
6 to the chief and then to the city attorney.

7 Q. But you didn't feel that he was at fault for
8 this accident?

9 A. No. I would have put in here if I felt he
10 had partial culpability. I've done that with other
11 officer-involved accidents. I put in there if they
12 have some culpability. Never black and white always.

13 MR. CRAFT: I have no further questions.
14 Thank you.

15 FURTHER EXAMINATION

16 BY MR. GANZ:

17 Q. The skid marks -- you said there weren't any
18 skid marks for the Cargile vehicle, but you didn't
19 document that there were not skid marks either, did
20 you?

21 A. With the absence of them, I wouldn't have
22 stated that. I looked for them, just made sure that
23 he didn't slide into the stop, but there was no skid
24 marks. So if there's none, I would have not noted it.

25 Q. My point is you used skid marks in order to

1 come up with her speed workup.

2 A. Correct.

3 Q. You didn't do a speed workup for him;
4 correct?

5 A. Correct.

6 Q. So there wasn't a notation of absence of
7 skid marks either is my point.

8 A. No, I did not make mention of that, no.

9 Q. You ever been in that area without -- during
10 about that period of time as far as the intersection
11 of Fifth and Cheyenne?

12 A. Yes.

13 Q. Is it even possible to drive without your
14 headlights on?

15 A. Coming into that, yes, because it's well lit
16 there. It's darker going westbound. Eastbound is
17 more well lit because you have a business over here to
18 your northeast. You're coming into the Flying J,
19 which is now the Morton Travel Center, and there are
20 headlights -- there are streetlights and lamps
21 available that were working at that time. So it would
22 have been more lit than normal. It's the fact if you
23 were going westbound. It's extremely dark.

24 Q. But where she was at when -- as she was
25 approaching the intersection, at least 110 feet back,

1 if not further before she recognized that there was a
2 potential hazard, there's no streetlights over there,
3 is there?

4 A. There is space larger. They are elongated
5 further from each other. So it's a darker area.

6 Q. You indicated that -- again, I just want to
7 make sure I got this right.

8 Had he been partially culpable, you would
9 have sent it off to the captain as well as the city
10 attorney's office?

11 A. It would have went to my supervisor and then
12 it would have went up the chain.

13 Q. You have, if I remember your testimony
14 earlier -- about the 20, 25 or so City vehicle
15 collisions, you have never found a City vehicle a
16 hundred percent culpable; is that a fair statement?

17 A. Yes.

18 Q. So you've never had to do that process?

19 A. No.

20 MR. GANZ: Okay. Thank you very much.

21 MR. CRAFT: Thank you for your time.

22 THE WITNESS: You're welcome.

23 (The deposition was concluded
24 at 2:33 p.m.)

25 * * * * *

1 CERTIFICATE OF DEPONENT

2 I, OFFICER JIM BYRNE, deponent herein, do
3 hereby certify and declare the within and foregoing
4 transcription to be my deposition in said action,
5 subject to any corrections I have heretofore
6 submitted; and that I have read, corrected, and do
7 hereby affix my signature to said deposition.

8
9
10
11 _____
12 OFFICER JIM BYRNE, Deponent

13 Subscribed and sworn to before me this

14 _____ day of _____, _____.
15
16
17

18 STATE OF NEVADA)
19 COUNTY OF CLARK)
20
21
22
23
24
25

Notary Public

1 CERTIFICATE OF REPORTER

2
3 I, Marnita J. Goddard, CCR No. 344, a
4 Certified Court Reporter licensed by the State of
5 Nevada, do hereby certify:

6 That I reported the deposition of the
7 witness, OFFICER JIM BYRNE, commencing on Wednesday,
8 October 1, 2014, at the hour of 1:05 p.m.;

9 That prior to being examined, the witness was
10 by me first duly sworn to testify to the truth, the
11 whole truth, and nothing but the truth; that I
12 thereafter transcribed my related shorthand notes into
13 typewriting and that the typewritten transcript of
14 said deposition is a complete, true, and accurate
15 record of testimony provided by the witness at said
16 time.

17 I further certify (1) that I am not a
18 relative or employee of an attorney or counsel of any
19 of the parties, nor a relative or employee of any
20 attorney or counsel involved in said action, nor a
21 person financially interested in the action, and (2)
22 that pursuant to NRCP 30(e), transcript review by the
23 witness was not requested.

24 IN WITNESS WHEREOF, I have hereunto set my
25 hand in my office in the County of Clark, State of
Nevada, this _____ day of _____, 2014.

Marnita J. Goddard, RPR, CCR No. 344

EXHIBIT 3

Glover-Armont v. Cargile, et al.

Deposition of:
Sergeant John Cargile

October 1, 2014



500 South Rancho Drive, Suite 8A
Las Vegas, Nevada 89106
Telephone **702.474.6255**
Facsimile 702.474.6257

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1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

3
4 JAPONICA GLOVER-ARMONT,)

5)
6 Plaintiff,)

7 vs)

Case No. A-13-683211-C

8 JOHN CARGILE; CITY OF NORTH)

9 LAS VEGAS, a Municipal)

Corporation existing under the)

10 laws of the State of Nevada in)

the County of Clark; DOES I)

11 through X, inclusive; and/or)

ROE CORPORATIONS I through X,)

inclusive,)

12 Defendants.)

13
14
15 DEPOSITION OF SERGEANT JOHN CARGILE

16 Taken on Wednesday, October 1, 2014

17 At 3:49 p.m.

18 At 8950 West Tropicana Avenue, Suite 1

19 Las Vegas, Nevada

20
21
22
23
24
25 Reported by: Marnita J. Goddard, RPR, CCR No. 344

A P P E A R A N C E S

FOR THE PLAINTIFF:

ADAM GANZ, ESQ.

GANZ & HAUF

8950 West Tropicana Avenue

Suite 1

Las Vegas, Nevada 89147

FOR THE DEFENDANTS:

CHRISTOPHER D. CRAFT, ESQ.

DEPUTY CITY ATTORNEY

Civil-NLV

2250 Las Vegas Boulevard, N

Suite 810

Las Vegas, Nevada 89030

I N D E X

WITNESS

EXAMINATION

SERGEANT JOHN CARGILE:

(BY MR. GANZ)

3

E X H I B I T S

Number

Description

Page

(No Exhibits Were Marked)

1 (Upon inquiry by the reporter prior to the
2 commencement of the proceedings, Counsel present
3 agreed to waive the reporter requirements as set
4 forth in NRCP 30(b)(4) or FRCP (b)(5), as
5 applicable.)

6 SERGEANT JOHN CARGILE,
7 having been first duly sworn, was
8 examined and testified as follows:

9 EXAMINATION

10 BY MR. GANZ:

11 Q. Can you state and spell your name for the
12 record?

13 A. Sure. My name is John Cargile. It's
14 J-O-H-N. My last name is C-A-R-G-I-L-E.

15 Q. It's my understanding you are a sergeant for
16 the North Las Vegas Police Department; is that
17 correct?

18 A. Correct.

19 Q. Have you ever had your deposition taken
20 before?

21 A. No.

22 Q. I'm going to go through some basic, general
23 ground rules of a deposition. You may have had the
24 opportunity to speak to counsel about a deposition.
25 Let me back up.

1 Have you ever testified at court before?

2 A. Yes. Plenty of times.

3 Q. More than a hundred?

4 A. I don't know. It's fairly close to that.

5 I've been on 14 years; so quite a lot.

6 Q. Criminal is a little different than civil in
7 the sense that we do discovery and depositions and I
8 can see why you wouldn't have necessarily had to do
9 some depositions before, but it's the same oath that
10 you took in any one of those other matters. You
11 understand that; right?

12 A. Right.

13 Q. Obviously, we're a little more informal here
14 today. But it still carries with it the same
15 requirements for truth and veracity as it would in a
16 more formal setting with a judge and jury. Do you
17 understand that?

18 A. Uh-huh. Yes.

19 Q. Some of the basics of a deposition. You
20 gave just a good example of one. When you said
21 "uh-huh," those types of things don't show up real
22 good on the record. So I may correct you or I may ask
23 you, "Is that a yes? Is that a no?" It's not meant
24 to be rude. It's just meant to get a clear record.
25 Okay?

1 A. Okay.

2 Q. So we need to make sure we're answering
3 audibly to the questions. Otherwise, the
4 court reporter can't take down everything we have to
5 say. Head shakes and nods and those types of things
6 don't show up real well. Okay?

7 A. Got it.

8 Q. At a later date, you are going to have the
9 opportunity to review your deposition transcript.
10 Have you ever reviewed a deposition before?

11 A. No.

12 Q. What about any depositions in this case?
13 You haven't obviously seen Ms. Glover-Armont
14 deposition?

15 A. No.

16 Q. Deposition will be put together in a booklet
17 format, usually in two to three weeks. We're not in
18 any hurry in this particular case. It will be the
19 normal course of time where she'll put it together in
20 a booklet format or electronic, depending on how you
21 get it. It will read like a play. Almost like a
22 script. Like you might have read -- if you've ever
23 read any one of those things where it will be a
24 question, then an answer, then a question and then an
25 answer. In doing so, we need to make sure that we're

1 following some basic rules so she can get a good
2 record. Okay?

3 A. Okay.

4 Q. The first is that we don't talk over each
5 other. The reason is because she can't literally take
6 down two people talking at the same time. It doesn't
7 show up real good in the transcript. Secondly, it
8 will look real choppy in that play I was talking
9 about. It will be part of a question, part of an
10 answer, part of a question. Really looks kind of
11 choppy. Okay?

12 A. Okay.

13 Q. Plus although you may know or think you know
14 what I'm going to ask you, it may be something totally
15 different than what you expected, and I want to make
16 sure I get your best testimony. Okay?

17 A. Okay.

18 Q. That deposition transcript, when it gets put
19 together in a booklet format, you are going to have an
20 opportunity to review it and make any changes that you
21 want to it. You can make any changes whatsoever to
22 the transcript. You will be making those changes
23 under oath just like you are here today. Okay?

24 A. Okay.

25 Q. So I do need to caution you that if you need

1 to make any material change to that deposition, it may
2 affect your credibility later on. Okay?

3 A. Okay.

4 Q. What I mean is you are under oath here
5 today. You will be under oath when you correct the
6 deposition transcript, if you need to make any
7 corrections. And at some point in time either one of
8 us, actually, may comment on the fact that you said
9 something under oath one day and then another day when
10 you were under oath you said something different. Do
11 you understand?

12 A. Right.

13 Q. I don't want to make you nervous about
14 making corrections. We obviously want your best
15 testimony. So you want to be as correct as you can.
16 Certainly, as we go through the deposition here today,
17 if you do need to make any changes or corrections to
18 something you've already testified to, feel free to
19 make those questions today and say, you know what,
20 20 minutes ago when you asked me that question, I
21 really didn't understand what you meant, and I need to
22 change it or whatever you need to do. Okay?

23 A. Okay.

24 Q. So it's a little bit different than it is in
25 court. It's a little bit more of a fact-finding

1 mission, to be perfectly honest with you. We're
2 asking questions that we don't know the answers to
3 here. Typically when you are at trial, whoever is
4 asking you the questions typically knows what you're
5 going to say. Of course, the defense sometimes will
6 do a fact finding, but the reality is it is not good
7 lawyering in front of a jury or judge. It's not
8 always good to not know the answer to your questions.
9 We try to ask you those questions here today so I can
10 at least understand what your testimony is going to be
11 later on if we ever get to that stage. Okay?

12 A. Okay.

13 Q. If you have any questions as we go through
14 here, you don't understand my question -- I sometimes
15 talk a little fast -- if it doesn't make any sense to
16 you whatsoever based upon the circumstances -- let's
17 say I'm talking about the direction and I get it wrong
18 or something like that, doesn't make any sense, make
19 sure you correct me, and I'll make sure I try to ask
20 intelligent questions that can be answered. Okay?

21 A. Okay.

22 Q. I will assume, however, if you answer a
23 question, that you understood it. Is that a fair
24 assumption?

25 A. Yes.

1 Q. So, in other words, it's my obligation to
2 make sure I ask questions that make sense and your
3 obligation to answer the question as best as you can.
4 If you don't understand a question, don't answer it.
5 Okay?

6 A. Okay.

7 Q. What documents have you reviewed in
8 anticipation for your deposition testimony today?

9 A. I have reviewed the traffic accident report
10 that was filed from the night of the accident.

11 Q. Anything else?

12 A. No. This is pretty much it.

13 Q. Other than your attorney -- and you
14 understand that the City attorney is representing you;
15 correct?

16 A. Correct.

17 Q. Other than your attorney -- just to make it
18 clear, abundantly clear, if I ever ask a question that
19 calls for an answer that has to do with a conversation
20 you had with your attorney, I don't want to hear the
21 answer. Okay?

22 A. Okay.

23 Q. That is attorney-client privilege. I'm not
24 looking to gather -- looking to break that privilege
25 with your attorney. Okay? That's completely

1 privileged and I don't need to know it. However, if
2 it is something that you've learned from another
3 source or if I ask the question in a way that doesn't
4 elicit necessarily the conversation, it might be your
5 impression about something, I don't need to know the
6 source. I just want to know your impression. Make
7 sense?

8 A. Okay.

9 Q. Other than your attorneys or anybody from
10 his office, have you spoke to anybody about your
11 deposition testimony?

12 A. No.

13 Q. When was the last time that you spoke to the
14 investigating officer?

15 A. Officer Byrnes?

16 Q. Yes.

17 A. The only time I've spoken to him was the
18 night of the accident. Him and I have not conversed
19 directly about this since.

20 Q. Okay. Do you guys see each other on
21 occasion in other settings, just don't talk about this
22 particular incident?

23 A. Yes. I still see him out on -- typically
24 it's if he's called out to fatal scenes.

25 Q. In doing those investigations of fatal

1 scenes, are you a supervisor of his at that point?

2 A. No. I'm usually just a supervisor of the
3 first responding officers to the scene.

4 Q. Just kind of give you a heads up how we're
5 going to proceed here today so you understand. I'm
6 going to go through a little bit about your
7 background, a little bit of your training. I'm going
8 to go through some questions that we've asked you
9 already via some written questions. I don't know if
10 you remember doing those. But we're going to go
11 through some of those. Then we're going to take you
12 through the incident itself specifically and then just
13 kind of get some general opinions about -- excuse me,
14 general facts about what happened in the accident.
15 Okay?

16 A. Okay.

17 Q. Starting off with your background, how long
18 have you lived in the Las Vegas area, whether it be
19 North Las Vegas or Las Vegas?

20 A. I've lived here -- it's going to be 20-plus
21 years now. I'm going to say around 22. I was in the
22 military '89, '90, '91. So it was around, I believe,
23 the '92 to '93 time frame, right around there, is when
24 I moved here.

25 Q. Which branch of the military?

1 A. Air Force.

2 Q. Were you active military?

3 A. Yes.

4 Q. Were you honorably discharged?

5 A. Yes.

6 Q. What was your rank in the military?

7 A. I left the military as an E-7 and then went
8 into the reserves. But the reserves was in the Army
9 reserves.

10 Q. Are you still a reservist?

11 A. No.

12 Q. As an E-7, what were some of your duties in
13 the Air Force?

14 A. I spent the last six and a half years in a
15 specialized assignment which, believe it or not, is a
16 classified assignment that I did -- that I worked out
17 here for. I believe the Air Force shows me as
18 working at -- my last duty station is Edwards
19 Air Force Base in California.

20 Q. But physically you were here in Las Vegas?

21 A. Physically I was here in Las Vegas, yes.

22 Q. Or Nellis.

23 A. Yes.

24 Q. Creech. Some of those.

25 Can you give me generally the area of work

1 that you did in the Air Force? Again, I don't want
2 to --

3 A. I was an Air Force intel officer. My
4 specifics, for the most part, was I was a worldwide
5 responder who supervised linguists in their chosen
6 field.

7 Q. What about as an Army reservist?

8 A. As an Army reservist, I was assigned to
9 civil affairs. They call it 38 Alpha. I was a civil
10 affairs officer.

11 Q. What does that entail?

12 A. Civil affairs is just -- it's an airborne
13 unit that would, if deployed in country, would meet
14 with foreign dignitaries to help set up schools,
15 water, that type of thing.

16 Q. And I don't want to know your exact address
17 because as a police officer I'm not -- I don't know if
18 I'm entitled to it or not, but I don't really need it.
19 So I don't want it, but what general vicinity of the
20 town do you live in?

21 A. I live in Henderson.

22 Q. How long have you -- have you lived all the
23 20 years out there?

24 A. No. I lived the first few years up on
25 Sunrise Mountain when I was in the military, right

1 behind the base. Then when I became a police officer,
2 I moved out to Henderson.

3 Q. Can you give me a brief history of your
4 educational background?

5 A. I have a bachelor's degree in criminal
6 justice and I have a bachelor's degree in
7 communications.

8 Q. From where did you matriculate for your
9 criminal justice degree?

10 A. My criminal justice is through here through
11 the University of Phoenix. My communications degree
12 is -- it's joint. It's through the Air Force, through
13 Boise State University.

14 Q. What year did you get your communication
15 degree?

16 A. That was when I was still in -- I want to
17 say around '94.

18 Q. And the University of Phoenix degree?

19 A. That was more recent. That was, I believe,
20 2006. 2005, 2006. Right around there.

21 Q. Have you -- strike that.

22 We already talked about your current
23 employment with North Las Vegas Police Department.
24 How long have you worked for the North Las Vegas
25 Police Department?

1 A. I've worked for them for 14 years.

2 Q. Prior to that was that the Air Force?

3 A. Yes. I will take that back. I had one job
4 in between the Air Force and here. I was the regional
5 manager for Respond, Incorporated, which is an armored
6 car company.

7 Q. The fourteen years that you have worked for
8 the North Las Vegas Police Department -- I don't
9 presume you came right in as a sergeant.

10 A. No.

11 Q. Take me through your job titles and also the
12 departments that you were in.

13 A. Uh-huh.

14 Q. Within the 14 years.

15 A. Started out in patrol, like all new officers
16 do. I left -- excuse me. I was -- became a field
17 training officer and then left patrol for the police
18 academy. Was at the police academy for three and a
19 half years. Left there for narcotics. Was in
20 narcotics for a short duration of time. I can't even
21 remember the exact dates on that, but it was very
22 short after that. I came back into patrol as a field
23 training officer and then was promoted as sergeant. I
24 was promoted to sergeant -- I believe the exact date
25 was November of 2011. Almost three years.

1 Q. You are a sergeant in patrol?

2 A. I'm a sergeant in patrol right now. I'm
3 currently the administrative sergeant in the Northwest
4 Area Command.

5 Q. When you did the narcotics stint, were you
6 involved in the DEA task force in narcotics or were
7 you --

8 A. No. Just for the police department.

9 Q. As a detective?

10 A. It's patrol. They call you an investigator
11 by title, but there's no other -- there's no other
12 things. Not like Metro does with different titles.
13 We have just -- as an investigator. They have three
14 individual officers assigned to the different task
15 force.

16 Q. If you know, approximately how many police
17 officers are employed by North Las Vegas Police
18 Department?

19 A. Currently right now I believe we have -- I
20 think it's 282 is roughly commissioned officers. It's
21 going to be fairly close to that.

22 Q. How many -- were you a sergeant on the date
23 of this incident?

24 A. Yes, I was.

25 Q. In November of 2012, how many sergeants were

1 within that police force?

2 A. Currently, right now, we have 26 sergeants
3 assigned to our department. The number is going to be
4 fairly close. At the time there might have been
5 around 27 or 28 assigned.

6 Q. As I understand the structure -- I don't
7 know how many, but I understand that you go from a
8 police officer to a sergeant to lieutenant to --

9 A. Captain.

10 Q. -- captain to chief?

11 A. Correct.

12 Q. One chief; correct?

13 A. One chief.

14 Q. How many captains?

15 A. Three captains. One chief. We have
16 11 lieutenants, I believe, now and 26 sergeants.

17 Q. Excellent. Thank you. Do you or have you
18 ever done accident reconstruction?

19 A. No.

20 Q. Do you anticipate giving any kind of
21 accident reconstruction opinions in this case?

22 A. No.

23 Q. Ever done the Northwest 1 or 2 accident
24 reconstruction courses?

25 A. No, I have not. I've only received the

1 basic course in the academy.

2 Q. Can you kind of give me a general
3 overview -- I know currently you are in the admin
4 position. Were you -- you were obviously not in admin
5 in November 2012; correct?

6 A. Correct.

7 Q. Tell me kind of generally what your job
8 entailed in November of 2012.

9 A. November 2012 I was assigned as the sergeant
10 and I was the 2012 south -- I was the grave B
11 sergeant.

12 Q. What did that entail?

13 A. I supervised 11 to 13 patrol officers. Our
14 workdays for grave B are on Saturday, Sunday, Monday,
15 Tuesday night going into the mornings. So basically
16 Sunday, Monday, Tuesday, Wednesday mornings.. That's
17 the first shift of the squad. I supervised them from
18 10:30 at night until 8:30 in the morning.

19 Q. More generally, can you tell me -- I think I
20 know the answer. But just to make sure that I'm not
21 just reading into things, you're supervising their
22 activities. What kind of activities are we talking
23 about?

24 A. Just their day-to-day activities out on the
25 street. Whatever -- obviously, I can't be with every

1 officer all the time. A lot of times it's as officers
2 request my assistance, whether it be guidance for
3 appropriate charges or actions that they are taking.
4 Or if we have dynamic scenes that start to grow,
5 whether or not they should be entering a house, not
6 entering a house, those type of things.

7 Q. When we're talking about patrol officers,
8 we're talking about the front line officers responding
9 to calls --

10 A. Calls for service, correct.

11 Q. Not talking about traffic investigators?

12 A. Correct.

13 Q. Or traffic officers responding to traffic
14 accidents?

15 A. Correct, no. Patrol officers do respond to
16 the traffic accidents when our motor officers are not
17 available. So we do go to them. If it's anything
18 that is a serious injury, substantial bodily harm,
19 then more officers will be called out.

20 Q. I assume you participate or have
21 participated in a safety orientation when you were
22 hired at North Las Vegas?

23 A. Correct. Reference to officer safety or
24 driving safety?

25 Q. Driving safety.

1 A. Driving safety, yes. It's our EVOC,
2 emergency vehicle operations course.

3 Q. Do you remember how long that course was?

4 A. That course is a one-week-long course that
5 consists of practice driving, then scored driving, and
6 a written examination.

7 Q. I asked Officer Byrne whether or not the
8 North Las Vegas police cars were equipped with the
9 Opticom devices to control traffic signals. He did
10 not know, necessarily. Do you know if --

11 A. Some vehicles do have them; some don't. It
12 just depends upon the function of the vehicles. But
13 not all vehicles have them.

14 Q. Did your vehicle that you were driving
15 November 5th, 2012, that was involved in this crash
16 have one?

17 A. No. My understanding is I don't believe any
18 of the supervisor vehicles have those.

19 Q. Have you ever been in a car accident prior
20 to this one? Not talking specifically about
21 on-the-job accidents but a car accident prior to this
22 one.

23 A. Yes, I have been in a vehicle accident. My
24 vehicle accidents have all been on duty. Prior to
25 that, I have never been involved in an accident.

1 Q. So how many vehicle wrecks have you been in?

2 A. I have been involved in three.

3 Q. Take me through the most recent one.

4 A. The most recent one is this one.

5 Q. November 5th, 2012?

6 A. Yes.

7 Q. Then the one prior to that?

8 A. The one prior to that I was -- I don't know
9 the exact date. I was the passenger in the vehicle
10 when we were struck.

11 Q. Approximate year?

12 A. I was still -- just came out. Roughly say
13 around 2007. Then I was only involved in one more.
14 That was when I first came on the department. That
15 was -- I was the driver. That was 2001, maybe early
16 2002.

17 Q. What were the circumstances surrounding that
18 incident in 2001?

19 A. That one was driving lights and sirens to an
20 officer-involved shooting, where the officer had
21 called out shots fired and requested assistance. I
22 was actually driving on Cheyenne. It was at Cheyenne
23 and Commerce, the intersection of Cheyenne and
24 Commerce, in front of the Silver State -- I'm going to
25 say disposal yard. Their trash receptacle yard. I

1 was right in front of that one.

2 Q. What happened?

3 A. That one was I was eastbound. Had turned
4 into the middle travel lane. I had green lights to
5 go, but traffic was stopped. And the vehicle hit
6 debris out of the roadway from the trash receptacle
7 that was pulled out. My vehicle hit debris, struck
8 the median, the three-foot concrete median that was
9 in. Then the front of my car ended up striking the
10 rear of a car that was stopped in the number 1 travel
11 lane.

12 Q. That incident was fairly close to this
13 incident, wasn't it?

14 A. No. Years apart. That was in 2001.

15 Q. I meant distancewise.

16 A. Locationwise, yes. This one was Cheyenne
17 and North Fifth. My first accident was Cheyenne and
18 Commerce.

19 Q. So less than a half mile away.

20 A. Oh, yes. Yes.

21 Q. Maybe even a couple blocks; right?

22 A. I don't know the exact distance, but right
23 from there it drops down the hill to North Fifth. But
24 they are fairly close.

25 Q. Any -- there haven't been any other --

1 strike that.

2 There haven't been any other wrecks after
3 this incident; correct?

4 A. Correct.

5 Q. I want to go through some basic kind of
6 safety rules and concepts with you if I can.

7 Do you agree that drivers of vehicles should
8 never needlessly endanger others in the road?

9 A. Yes.

10 Q. Do you agree that drivers of emergency
11 vehicles have a duty to drive safely at all times?

12 A. Yes.

13 Q. Do you also agree that a driver of an
14 emergency vehicle, regardless whether or not they're
15 running with lights and sirens or lights or sirens,
16 must not enter an intersection on a red light until
17 they're sure that it's safe to do so?

18 A. Yes.

19 Q. Why do you believe that these are
20 important -- just very basic safety rules?

21 A. I refer to it as driving with due care.
22 That's just it. It's trying to minimize or limit the
23 risk to all the drivers on the roadway by yet being
24 able to expedite our response time to those that are
25 in need.

1 Q. Have you ever responded to fatalities with
2 either vehicle crashes or vehicle and pedestrians or
3 anything like that?

4 A. Yes. Both.

5 Q. How many times have you done that?

6 A. It's a much smaller number. I would
7 probably say less than 25 throughout the career. But
8 have responded to both.

9 Q. With regards to North Las Vegas Police
10 Department policy with regards to running -- first of
11 all, when you use the terminology "Code 3," what does
12 that mean?

13 A. Code 3 for us is responding to calls for
14 service in which they require us to expedite our
15 response, which means driving faster than we normally
16 do. To be able to do so, then we run with our lights
17 flashing and our sirens activated.

18 Q. I know what Code 4 is. That's usually a
19 call sign to say that everything is safe.

20 A. Safe, yes.

21 Q. And there's no exigent circumstances.

22 A. Correct.

23 Q. Is there a Code 1 and a Code 2?

24 A. No Code 2. There is a Code 1 and a Code 3.
25 Those are both referred to driving. Code 3 is lights

1 and sirens. Code 1 is just normal driving, obeying
2 the traffic laws.

3 Q. Just curious. Was there a Code 2 at some
4 point in time?

5 A. No. Just they called it -- as far as I
6 know, my whole career, it's just always been Code 1
7 and Code 3.

8 Q. Just curious.

9 A. Then Code 4 came around for just -- response
10 to let people know that everybody was all right.

11 Q. So Code 1 would be a response to a call, no
12 exigent circumstances, meaning no emergency
13 circumstances, and you are to respond to a call but to
14 not run with your lights on, not run with your sirens
15 on and just get there at your earliest convenience?

16 A. Correct. How that Code 1 came about was
17 basically for calls for service that required a Code 3
18 response. Officers would respond on the radio -- they
19 would copy the call and responding Code 3. But as
20 information was updated or, say, other officers
21 arrived there first and they said we're here, we're
22 out, we're Code 4, then the officers that were
23 required to run Code 3 will respond on the radio,
24 okay, I'm now operating Code 1, which is just to let
25 everybody know that now they are not lights and

1 sirens.

2 Q. Is it your -- from your testimony just a
3 minute ago, it's North Las Vegas Police Department
4 policy to run lights and sirens when you are running
5 Code 3?

6 A. Yes.

7 Q. Even when -- strike that.

8 What is your understanding of either the NRS
9 and/or North Las Vegas statute, for better word -- I
10 think it's code -- but code with regards to your
11 authority to be able to go through red lights when you
12 are running Code 3?

13 A. Again, it's with due care. I fully believe
14 the NRS states that in order -- if you're going to be
15 operating where -- I don't know if violating is the
16 correct word, but you're not going by the law, so you
17 are violating laws. You are given that authority to
18 do so as in run a stop sign or go through a red light,
19 that you must have your lights activated. NRS is a
20 requirement to have lights activated, not necessarily
21 lights and sirens. But it also says that by doing so
22 you have the ability to operate within due care,
23 meaning that you cannot go through an intersection
24 without at least trying to visually clear that it's
25 safe for you to do so.

1 Q. There's a couple of NRS provisions that seem
2 to be applicable to this. They all seem to be very
3 similar in nature. Do you agree that it requires that
4 a vehicle to proceed, you know, past or through a red
5 light requires a vehicle to slow down as necessary to
6 proceed with caution and safety through the
7 intersection?

8 A. Yes, it does.

9 Q. Regardless of whether it's NRS or North Las
10 Vegas statute, you agree they are all essentially the
11 same thing. You indicated that the policy is to have
12 lights and siren, but you believe the NRS is only
13 lights or siren?

14 A. Correct.

15 MR. CRAFT: Misstates prior testimony. He
16 said lights or sirens.

17 THE WITNESS: NRS says you must have your
18 lights, but you don't necessarily have to have sirens.
19 But your lights must be activated. Our North
20 Las Vegas policy says lights and sirens.

21 Q. (BY MR. GANZ) That's what I thought I had
22 asked. I'm glad you clarified. Thank you. All
23 right. This accident -- strike that.

24 Before I get to that, I guess -- how often
25 have you been, over the last, you know, ten years have

1 you been to that area where this wreck occurred?

2 A. I drive through that area almost daily when
3 I'm working, at one point or another.

4 Q. Hundreds, if not thousands of times?

5 A. Yes.

6 Q. And has that area's topography, meaning kind
7 of the layout of the area, the buildings and all that
8 stuff, has that changed very dramatically --

9 A. No.

10 Q. -- since November 2012?

11 A. No. Actually, the entire time I've been
12 here in my career the area is not -- it's the same
13 things.

14 Q. As we may have already mentioned, this wreck
15 occurred at the intersection of Cheyenne and Fifth;
16 correct?

17 A. Correct.

18 Q. What was your shift that night?

19 A. I was working graveyard, which I believe is
20 10:30 to 8:30 in the morning.

21 Q. Was that your normal shift during that
22 period of time?

23 A. Yes.

24 Q. How long were you on graveyard for? Are you
25 still on graveyard?

1 A. No. I spent one year on graveyard. This
2 week, it happens to be that I'm back on graveyard,
3 believe it or not. But my current assignment is
4 administrative sergeant. I work day, swing, and
5 grave. I work all shifts.

6 Q. November 2012, where did that fall within
7 your year of working graveyard?

8 A. I was promoted in 2011. So it would have
9 been that February of 2012 I would have gone to
10 graveyard. So that would have been my graveyard
11 shift.

12 Q. How many days a week did you work during
13 that period of time?

14 A. I work four days a week. Yes.

15 Q. Was it a set four days that you normally
16 worked?

17 A. Yes. I worked grave B, B squad, so, again,
18 I came in Saturday night. I was working basically the
19 Sunday morning, Monday morning, Tuesday, and Wednesday
20 morning, for the most part.

21 Q. This wreck occurred about 1:53 in the
22 morning is I believe when you called it in. So I
23 assume it occurred maybe minutes before that.

24 A. Uh-huh.

25 Q. Is that a fair statement?

1 A. Yes.

2 Q. Where were you coming from?

3 A. I was coming from the South Area Command,
4 which is at Lake Mead and Bruce. And I was driving
5 to -- I think the exact is 3260 Fountain Falls, which
6 is basically Cheyenne and Simmons, is where I was
7 heading to.

8 Q. How do you remember that address?

9 A. I remember that it's -- it's an apartment
10 complex that's right there that we respond to quite
11 often back then, especially when I was assigned to the
12 south. It was one that you become frequent with.

13 Q. What's the name of the complex?

14 A. It's called Fountain Falls. And that might
15 not be the current name of the apartment complex
16 today. They tend to change from year to year by
17 ownerships.

18 Q. It was your intended route to take -- take
19 me through your intended path had this accident not --
20 had this not occurred.

21 A. The quickest way for us to get down there as
22 we come on to the west side of town, which is on the
23 west side of the I-15 freeway, the North Fifth Street
24 off of Losee is our easiest way to come up, to only
25 have to come up to the light that's at North Fifth and

1 Cheyenne. So we're trying to get to the area that's
2 used less by the civilian traffic. Then I was going
3 to go westbound on Cheyenne from there. All straight
4 up to Simmons.

5 Q. So it was your intent to make a left on
6 north -- sorry, on Cheyenne and go westbound?

7 A. And go westbound, yes.

8 Q. Is there an alternative route from the --
9 you said we usually take that route. Is there an
10 alternative route that can be taken from the Lake Mead
11 and Bruce Southwest Area Command?

12 A. There's several different ways that you can
13 go. But a lot of times it will depend upon current
14 traffic. If we had other calls or accidents working,
15 based on where you are at, you may take a different
16 route based on that alone. But, yes, you could use
17 Lake Mead or Carey or come across Civic Center and up
18 Cheyenne that way. But several different ways to get
19 there.

20 Q. It appears to me -- strike that.

21 Is there -- strike that.

22 Did you inspect your car prior to getting in
23 the vehicle to head to this call?

24 A. Yes.

25 Q. What did you do to inspect your vehicle?

1 A. Our normal inspection of our vehicle is to
2 make sure that all of our required equipment is inside
3 of the vehicle -- traffic vest, cones. As a
4 supervisor, we have additional equipment that we carry
5 inside the vehicles, which are shields, rams, extra
6 protective equipment for the officers, so forth. So
7 we verify that all of our required equipment is inside
8 the vehicle. Then after that, then we do an
9 inspection of the tires and an external of a vehicle.
10 Then we turn on lights and sirens and make sure
11 everything is operational.

12 Q. Was that done immediately prior to the call,
13 or was that done at the beginning of your shift?

14 A. At the very beginning of the shift.

15 Q. You were kind of indicating a -- some kind
16 of writing. Is there some kind of form that you fill
17 out to do that?

18 A. No, we don't do a form. We have a vehicle
19 log that is on -- an electronic vehicle log. Once you
20 complete your inspection, you type in on the vehicle
21 log that vehicle check was okay and that the gas card
22 is in the vehicle. That's usually what's put inside
23 the log.

24 Q. Is that something that is kept for a period
25 of time?

1 A. I believe -- it's kept for I believe for
2 three months. Right after that you can see it and
3 then electronically up for a year and then it's gone.

4 Q. Anything else that you did regarding your
5 inspection?

6 A. No. Once inspection is complete, then
7 that's it. We put ourselves in service.

8 Q. I understand that you said that you were at
9 the southwest command. Were you at a desk at the time
10 you received the call? What were you doing? Do you
11 remember?

12 A. Don't specifically. I know I was down at
13 the South Area Command. I believe I was talking with
14 other officers when the call first started coming out.
15 But just based on the information of the call as it
16 starts to come out, I immediately jumped in my vehicle
17 and started heading in that general direction.

18 Q. My understanding is that there was -- well,
19 what is your memory of what kind of call was made?

20 A. The call that was in is that there was a
21 fight that was going on inside the complex with
22 several juveniles, that it was still active. And then
23 there was shots fired at the complex which of course
24 that generated people to start going, which at that
25 point, the two primary officers and myself being the

1 supervisor are now automatically dispatched to the
2 call to have to respond. I believe shortly within the
3 very first few seconds of that call coming out, then
4 the dispatch claimed that they had a victim down to a
5 gunshot wound and people were requesting medical to
6 respond as well.

7 Q. Ultimately, you never made it to that call;
8 is that correct?

9 A. Correct.

10 Q. Do you have an understanding of what exactly
11 occurred that night, if there was any kind of
12 convictions from that, anything like that?

13 A. No, not off the top of my head I don't
14 remember. Basically once I was en route and involved
15 in the accident, my job was just to notify them that I
16 was involved so that another supervisor could get
17 en route to the call to be able to get on scene.

18 Q. Who was the other supervisor at the time?

19 A. Tell you the truth, I'm not sure. I think
20 there were a couple of supervisors that were on. I
21 believe Sergeant Semper was on up north and I believe
22 Sergeant Fay was still there. But I believe
23 Sergeant Semper actually responded on scene. But I
24 would have to go verify who actually got there.

25 Q. I was just curious.

1 And you don't remember what ultimately
2 occurred, whether or not the victim was found -- I'm
3 sorry, the --

4 A. Victim was found. I know an arrest was
5 made. I don't know like what the outcome was whether
6 or not the suspect had received time or anything like
7 that.

8 Q. Okay. You obviously didn't have anybody
9 else in your vehicle at the time; correct?

10 A. Correct.

11 Q. Can you describe in detail how this wreck
12 occurred?

13 A. Basically, I was running lights and sirens
14 going which would be northbound on Fifth Street as I
15 approached Cheyenne, the intersection with Cheyenne.
16 I was preparing to make a left-hand turn and go
17 westbound on Cheyenne. As I approached the
18 intersection, there was nobody on my side of the
19 street. I do remember that there was vehicles
20 directly across because we did have a red light for
21 east and westbound traffic. There was vehicles that
22 were stopped on the other side that were traveling
23 south. It would be south on North Fifth. And as I
24 approached, I believe there was some cross traffic as
25 in vehicles had passed through the intersection as I

1 was approaching up to the intersection. At that
2 point, then I came to a stop prior to the intersection
3 as typically we do, because I know there was one or
4 two vehicles -- I don't recall like make or models of
5 vehicles on the other side of the intersection. That
6 we then will do something where we will change. We
7 have four different siren tones that are on our
8 vehicle. What we do is we'll push from button to
9 button to button. It changes the sound, the tone, how
10 loud it goes, in order to make sure everybody that's
11 in the intersection or nearby is gathering their
12 attention to my patrol vehicle. Then I started to --
13 once I believed there was no oncoming traffic on
14 either east or westbound on Cheyenne, I started to
15 encroach into the intersection to get ready to make my
16 left-hand turn. As soon as I started to encroach into
17 the intersection, I heard the vehicle lock up its
18 brakes. And it was to my left. So I noticed it was a
19 small car now that was traveling eastbound on Cheyenne
20 approaching the intersection. Two things occurred to
21 me. I noticed it was a small dark-colored vehicle and
22 it had no headlights or anything on the vehicle as it
23 approached. At that point I stopped as that vehicle
24 was locking up its brakes. There's that point in
25 there where I realized I can't move or go anywhere,

1 but knowing that the vehicle mostly likely was going
2 to end up striking the front of my vehicle. Once the
3 collision occurred, then I called out on the radio to
4 advise them that I was --

5 Q. Let's stop there.

6 MR. GANZ: Do you mind reading back his
7 answer?

8 Q. (BY MR. GANZ) I'm going to have her read
9 that back to you, make sure it's accurate and correct,
10 and if there is something you need to change, let us
11 know afterwards. Okay?

12 A. Okay.

13 (The reporter read the requested
14 portion of the record)

15 Q. (BY MR. GANZ) You heard her read that back?

16 A. Nope.

17 Q. You didn't?

18 A. I heard her read it back. I have one
19 clarification. I will say I know it was a red light
20 to stop north and southbound traffic. I was traveling
21 north. It was green lights that allowed east and
22 westbound traffic through the intersection as I
23 approached.

24 Q. Anything else?

25 A. Huh-uh.

1 Q. Is that no?

2 A. Yeah, that's a no. That's it.

3 Q. Was there anything else you want to add to
4 that, something that you may have missed in your
5 explanation of how the wreck occurred?

6 A. Nope. That's pretty much exactly how it
7 happened.

8 Q. I have some questions for you. You had said
9 that there was some cross traffic at one point in
10 time.

11 A. Correct.

12 Q. Are you talking about cross traffic meaning
13 east and -- eastbound and westbound Cheyenne?

14 A. East and westbound Cheyenne, correct. As I
15 approached still a distance -- I'm going to say
16 several hundred feet away from the intersection, but
17 as I'm approaching, I can see the intersection. I
18 could see cars that had gone through the intersection
19 as I was approaching.

20 Q. You had then said that as you approached the
21 intersection you stopped prior to the intersection.

22 A. Correct.

23 Q. And started changing the tones of your
24 siren; correct?

25 A. Correct.

1 Q. First of all, how long had you stopped
2 before you proceeded into the intersection?

3 A. I would -- probably five to six seconds.
4 It's not a whole lot of time. Once I stopped, then
5 it's just a matter of just visually clearing each
6 intersection as I go.

7 Q. When you stopped prior to approaching the
8 intersection, I want to make sure we have the same
9 definition of an intersection just because it gets
10 very confusing sometimes where the intersection begins
11 and where it doesn't. At least from my perspective.

12 My take on where the intersection occurs is
13 where the stop bar is for the vehicles traveling in
14 that direction. Do you agree with that?

15 A. Correct. From any point from that stop sign
16 into is included into the intersection, which is
17 typically defined by the curbing that is along the
18 road, the roadway.

19 Q. I'm talking about -- if you're looking at an
20 aerial above, there is a stop bar that's before the
21 light where you are supposed to stop waiting for a
22 light.

23 A. Correct.

24 Q. Can we agree that at least for the
25 discussion today even if that's not the technical

1 beginning of the intersection that we use that as a
2 point of reference for now?

3 A. Correct. That's fine.

4 Q. When you say you stopped prior to the
5 intersection and changed your tone, were you stopped
6 behind that stop bar?

7 A. Yes. Stopped behind the line, yes.

8 Q. And I know from traveling that area -- not
9 that often -- but recently in an inspection of the
10 area, I noticed there's this -- for lack of better
11 term there's this big hill that's on the southwest
12 corner of Fifth Avenue just right before the
13 intersection; correct?

14 A. Correct.

15 Q. It actually goes beyond the stop bar,
16 doesn't it?

17 A. The hill?

18 Q. Yes.

19 A. The hill goes, yes, correct, all the way up.

20 Q. When I say it's a big hill, it's a hill -- I
21 don't know, I haven't measured it, but it's probably
22 at least 50 feet in the air; right?

23 A. I would put the hill probably a good 20,
24 25 feet up. I believe that mound that is there is the
25 Las Vegas -- or the North Las Vegas Golf Course. It's

1 a built up tee box that is for the golf course.

2 Q. When you are at that stop bar with that hill
3 on your left, are you able to see -- and I'm talking
4 about stopped right before the stop bar. Are you able
5 to see the eastbound traffic on Cheyenne?

6 A. Yes, for only a certain distance. There's
7 two limiting factors I see on that one. One is the
8 obstruction, the large hill that's on that southwest
9 corner, and two is the limited lighting at night to be
10 able -- how far up the hill you can see.

11 Q. In addition to the hill, there's also trees
12 and stuff there too, isn't there?

13 A. That is inside the fence up on the hill.
14 Lower down, all the way up -- down around by the
15 fencing I don't think there's any trees down there.

16 Q. Forgetting about lighting issues because of
17 being dark, even if it was during the middle of the
18 day with that hill there at the stop bar can you
19 estimate for me how far you could see into the
20 eastbound travel lanes if you're at that stop bar in
21 that one lane?

22 A. That's a tough question, a tough question.
23 There's no lighting there. Typical lighting is
24 150 feet up. It's a good judge for us to be able to
25 see a streetlight -- the next streetlight up from a

1 corner because it's not exact but it's roughly about
2 150 feet for the placement. That gives us usually a
3 good judgment of how far up we can see. In this case,
4 there is no street lighting that is right there. Not
5 until you're much further up the road to the entrance
6 to the little park that sits right there by that
7 golf course.

8 Q. Just so you understand, I'm looking for an
9 estimate. I recognize you haven't maybe have done --
10 doesn't sound like you've done this analysis.

11 A. Right.

12 Q. My question is as you sit here today, what
13 would you estimate how far you could see if you're
14 looking to the left in clear conditions in daylight?

15 A. It's rough being stopped behind the line
16 looking up the street. I'm -- most likely I'm going
17 to say the angle to see eastbound traffic or probably
18 less -- maybe around 150 feet to 200 feet that you
19 could probably see up the roadway.

20 Q. What about specifically for the third travel
21 lane closest to the curb?

22 A. Close to the curb? That's going to be the
23 shortest distance that you're going to be able to see
24 going up the hill. Again, 150 feet. But I'm making a
25 rough guess.

1 Q. Surely you've gone -- traveled eastbound on
2 Cheyenne on that road as well; correct?

3 A. Correct.

4 Q. Can you give me an estimate of how far you
5 believe in a Number 3 travel lane that somebody could
6 see somebody sitting at that stop bar facing
7 northbound on Fifth Avenue if you're traveling
8 eastbound on Cheyenne?

9 A. Eastbound on Cheyenne? It's a little easier
10 to see eastbound than west. And, again, I would have
11 to -- it's like anything else. I'll refer it to such
12 as building clearing and cutting corners. Where I'm
13 sitting to make a left-hand turn, the closer that I
14 sit to that side, it's harder for me to see an angle
15 to get cleared up. Otherwise, somebody who is coming
16 down from the other direction, the distance off
17 between where the travel lanes are -- and I don't know
18 exactly how it is, but, obviously, the further out you
19 go the easier it is for you to see back one way. I
20 don't know the exact term for it, but it's a thing
21 that we use to where one direction you can actually
22 see somebody. But someone looking the other direction
23 actually can't, when you cut off those corners. But
24 it's fairly close. It's not like a huge advantage, if
25 that makes sense.

1 Q. So still in that 150 to 200 feet range?

2 A. Correct. Where you could be -- again, it's
3 tough to say with being exactly there. But sitting
4 where I'm at, somebody could be -- if they are
5 150 feet up this way, they could see this vehicle
6 where this vehicle couldn't see them.

7 Q. Regardless of that, it's still about 150 --

8 A. About 150 feet. Roughly, I would say, in
9 that third lane. As you go further out, you'd be able
10 to see -- I could see a little bit further and then
11 they could also see me.

12 Q. Sure. Would you agree with me that that
13 hill, the fence, and the foliage on that corner
14 obstructs the view of somebody who is sitting in the
15 northbound Fifth Avenue -- obstructs the view of
16 anybody coming eastbound on Cheyenne? Would you agree
17 with that general concept?

18 A. Yeah. All that goes into play. I'd say
19 almost anywhere that that's going to go on there, what
20 you can see, what you can't see. It all makes -- we
21 have -- there's a new state law in reference to I want
22 to say campaign signs because they put them out there
23 and when they are sitting on corners, it obstructs
24 people's views to be able to see clearly in any
25 directions on the roadways.

1 Q. I'm just asking very specifically on this
2 intersection, that hill, foliage, fencing, and trees
3 obstructs the view of somebody who is traveling
4 northbound -- the view of the eastbound travel on
5 Cheyenne is obstructed?

6 A. Yes. That corner does. Whether you are
7 traveling eastbound Cheyenne or northbound on
8 North Fifth, it's going to limit your view.

9 Q. I'm not just talking about a little bit;
10 right? I mean, that's a really big obstruction. I
11 mean, I drove by it. I was fairly impressed with how
12 large that hill was and the amount of obstruction it
13 caused on that area. I mean, it's a tough spot to see
14 around, isn't it?

15 A. It is a tough spot to see around, correct.

16 Q. Because of that, you testified that you had
17 stopped, did your tone change, and then started -- you
18 described yourself as creeping forward a little bit;
19 is that correct?

20 A. Yes.

21 Q. Then you said that you heard a vehicle lock
22 up and then at that point you stopped and realized
23 that there was nowhere that you could go; is that
24 correct?

25 A. Correct.

1 Q. At the point that you heard the vehicle, you
2 were already in the third travel lane for eastbound
3 Cheyenne; correct?

4 A. Correct.

5 Q. How far were you in the travel lane when you
6 first heard the sound?

7 A. As I began to encroach, I'm only a couple of
8 feet. My vehicle is starting to roll forward because
9 I'm getting ready. My anticipation, even though I'm
10 not going to go fast, is that I've started because I'm
11 going to go out and make my left-hand turn across the
12 intersection. Specifically where I was at, I don't
13 know. I know that I had a stop prior to the
14 intersection. There's several feet. Again, without
15 going out there and measuring it -- because of that
16 and because of that spot, it's three to five feet or
17 so behind. So as I was rolling out -- my best example
18 is always to use the curbing that is on the sidewalk
19 that is on the Cheyenne side for the east and west
20 travel. I was fairly close to that or I would say
21 even starting to pass that when I heard the brakes
22 lock up, which immediately drew my attention to my
23 left. Then I stopped.

24 Q. And it's your testimony that you were
25 stopped at the time of impact; correct?

1 A. Correct.

2 Q. So when you heard the vehicle, you
3 immediately applied your brakes?

4 A. Correct.

5 Q. And didn't move any further?

6 A. Correct.

7 Q. So whatever position that the impact
8 occurred, is it fair to say that that's the location
9 that you first heard the vehicle?

10 A. Yeah. Fairly close. I could only probably
11 travel two to three -- I mean, a small amount of feet.
12 My vehicle is in motion when I heard it. I got to
13 stop. At that speed, I'm only going to go a couple
14 feet at most before I get stopped.

15 Q. How fast were you traveling from your point
16 of stopping before the stop bar and the time that you
17 heard the vehicle to the left?

18 A. Couple miles per hour. It was -- basically
19 it was just getting this vehicle into motion and then
20 hearing it and then applying the brakes and stopping.

21 Q. You used the word encroaching into the
22 Cheyenne travel; correct?

23 A. Correct.

24 Q. Is that a term that you used?

25 A. Yes.

1 Q. What you meant by that was that you were
2 already within that Cheyenne travel when you heard the
3 vehicle to the left?

4 A. Encroaching. I was entering the
5 intersection.

6 Q. But you were already in it?

7 A. Yes.

8 Q. When you do your little change in sounds, do
9 you then have to hit another button to be able to have
10 the sound continuous to a specific sound or is it just
11 change it and then it rotates?

12 A. It just changes. It will continue to
13 change. Whatever I leave it on -- our main siren on
14 our vehicles is called wail, W-A-I-L. Once I start
15 hitting buttons to change, if I leave it on -- if it's
16 the constant or yelp, if I start to drive, it will
17 stay there for say roughly 10 seconds and then it
18 automatically changes back to the main wail without me
19 having to push anything. All I'm doing by pushing the
20 button, again, is just changing the tone or the type
21 of sound that's coming off.

22 Q. Do you know what decibel level the wail is?

23 A. No, I don't. It varies in how loud and the
24 pitch to be able to -- and how frequently it goes. It
25 changes to get people's attention.

1 Q. It's pretty loud, though, isn't it?

2 A. Yes. It's quite loud.

3 Q. And it's your testimony that as the siren is
4 going, you heard squealing of tires to the left?

5 A. Correct.

6 Q. So I think you took us up to the point to
7 where the impact occurred.

8 A. Correct.

9 Q. But before you do that, can you describe for
10 me, first of all, what you remember seeing from the
11 time that you -- obviously, you didn't take your eyes
12 off of the other vehicle once you saw it; correct?

13 A. Correct.

14 Q. You said approximately how far away was it
15 when you first saw it?

16 A. The vehicle was fairly close. I'm going to
17 say it was roughly around the 150 to 200 feet range,
18 right up in there, once I picked up the vehicle. But
19 what drew my attention to it again was the sound of
20 the brakes, of the vehicle being locked up. You could
21 tell it was a vehicle that was in skid at that point.
22 And that's when I finally was able to pick the vehicle
23 up in the darkness.

24 Q. And you didn't take your eyes off of that
25 vehicle once you heard it; correct?

1 A. Right. Once I heard it, yeah, I didn't take
2 my eyes off of it. It was too close.

3 Q. Try to give me the path that it took and
4 describe for me the impact on your vehicle, her
5 vehicle, and what you saw there.

6 A. The impact itself to me felt -- it wasn't
7 hard. It was enough that it moved my vehicle a little
8 bit back and forth. But I don't believe my vehicle
9 actually moved very much, if at all, as in being
10 pushed sideways by the impact. But when I got out of
11 the vehicle, it just appeared very minor in nature at
12 that point. Again, my first recourse was just to call
13 it out and then go to the driver of that vehicle to
14 make sure they were okay.

15 Q. My question, though, is what part of your
16 vehicle hit her vehicle and her vehicle hit your
17 vehicle?

18 A. It was the front of my vehicle, front and
19 the front driver's corner. It was also the front and
20 front passenger corner of her vehicle that met.

21 Q. Would you describe it as -- when you say
22 front of your vehicle, you are talking about your
23 front bumper or are you talking about your quarter
24 panel that is near your wheel?

25 A. It was all the way on the front bumper of

1 the vehicle. Initially, when I heard the locking up
2 of the wheels, caught the attention of the vehicle as
3 it was coming towards me. Where I was stopped at it
4 was one of those -- you knew it was not going to be a
5 head-on or violent impact. To me it was almost still
6 a chance the vehicles could have missed each other.
7 If that's the best way to describe it. You just knew
8 it was going to be very minor or very close. It
9 wasn't going to be a hard impact into one where the
10 vehicles were going to be going in opposite directions
11 of each other, if that makes sense. It was almost
12 like they could have brushed the vehicle.

13 Q. Did you take any evasive action once you
14 heard her vehicle?

15 A. No. I just kept my vehicle on the brake.
16 At that point, I said -- I felt it was going to be
17 minor, but most likely I was going to be struck. So I
18 just maintained my position. There wasn't going to be
19 a whole lot of time for me to do anything else.

20 Q. Was there any evasive action that she could
21 have taken once you saw her vehicle at that point?

22 A. Now, the assumption is what I would have
23 done if I was driving that vehicle? I know what I
24 could have done.

25 Q. Are you critical of her for not taking

1 evasive action, once you were able to see her?

2 A. No, I'm not critical of her not being able
3 to take evasive action. All just depends upon your
4 driving skill, knowing what you could have done or not
5 could have done.

6 Q. So then once the impact occurred, what did
7 you do next?

8 A. Once the impact occurred, I basically put my
9 vehicle into park and got out. I called out on the
10 radio that I was in a traffic accident but that I was
11 uninjured.

12 Q. That's a portable radio?

13 A. Yes.

14 Q. As you're getting out of the vehicle?

15 A. As I was getting out of my vehicle.

16 Basically, all I did was go around the rear of her
17 vehicle. I just looked to make sure no one else was
18 coming, vehicles were stopped, if somebody else was on
19 the roadway. I went to her driver's side, opened the
20 door, and asked her if she was okay.

21 Q. What do you remember her saying?

22 A. I don't remember specifically. She was just
23 like just doing, "I'm sorry. I'm sorry. I'm sorry.
24 I'm so sorry. Are you hurt?"

25 "No, I'm fine. Are you okay?"

1 "I'm fine."

2 I'm not going to say she was elderly. She
3 was older than me. I basically just told her to sit
4 there and relax, it was an accident. I just told her
5 that I was requesting medical to come check her out
6 regardless.

7 Q. Although you don't remember the specific
8 conversation, it's your testimony that you believe
9 that she apologized?

10 A. Yes. Yes. She most definitely -- I can't
11 remember exactly what she said. I just know that she
12 was, again, just apologetic. She kept repeating, "I'm
13 sorry. I'm sorry." That type of a thing.

14 Q. How long until somebody else responded?

15 A. It was fairly quickly. I believe a patrol
16 officer got to me within a few minutes. I would have
17 to go back and try to look at that to know exact, but
18 it was a short amount of time before a patrol officer
19 got there. That was to provide assistance and getting
20 the travel lane behind her blocked off so nobody else
21 would come up and strike her vehicle.

22 Q. Do you remember who first responded?

23 A. I do not know the other officer that
24 responded. I'd have to look. I'm pretty sure it's in
25 there.

1 Q. In where?

2 A. It may be in the traffic accident report.
3 I'm not exactly positive. If not, it's called out.

4 Q. Where do we get that information about who
5 responded and at what time?

6 A. Information would be through our dispatch to
7 know who else responded after the scene. They
8 wouldn't have done anything except for place cones and
9 stuff out there to make sure no one struck the rear of
10 her vehicle. I requested motors to respond.

11 Q. Do you remember how many total responded at
12 any given time?

13 A. There was only -- there was a patrol vehicle
14 that responded to put cones and stuff out behind her
15 vehicle. Then after that it was the motor officers
16 that responded out on scene. I believe there was two.
17 But Officer Byrnes was the lead investigator for the
18 accident.

19 Q. So he was one of the two?

20 A. Yes. The only other ones that responded was
21 our CSI to take photographs of the accident.

22 Q. It's your testimony that CSI came out?

23 A. Yes.

24 Q. And it's your testimony that CSI did an
25 investigation?

1 A. All they do is take photographs. They are
2 there to photograph at the direction of the motor
3 officer, which would have been Officer Byrnes, at his
4 direction.

5 Q. Officer Byrne --

6 A. Byrne.

7 Q. -- testified right before you today. He
8 said that when he showed up to the scene you were the
9 only one there and that CSI wasn't called and he never
10 talked to anybody other than you at the accident
11 scene. Is that different than your memory?

12 A. CSI arrived and took photographs. They'll
13 take photographs of the overall scene. By the time he
14 arrived, the other officer -- because we had a
15 shooting which the victim was down, the other officers
16 could have left the scene. I know when officers
17 showed up that they would just provide cones and stuff
18 to block off traffic to make sure. I would say most
19 likely they would have then left prior to
20 Officer Byrne showing up.

21 Q. You don't -- your memory is, as his is, by
22 the time he got there, my client was gone and
23 everybody else was gone. It was just you still at the
24 accident scene. Is that your same memory?

25 A. Yeah. Correct.

1 Q. Do you know how long it took for
2 Officer Byrne to get there?

3 A. I do not. He had to be called out. I would
4 say 30 minutes at least, which is probably the most
5 likely why the other officer was not on scene when he
6 got there.

7 Q. During that 30 -- strike that.

8 You said that a patrol officer came within a
9 few minutes?

10 A. Yes.

11 Q. Do you remember any other conversations you
12 had with Ms. Glover-Armont prior to that officer
13 coming?

14 A. Do not. It was more about just is she okay?
15 Is she hurt? I had medical coming anyway, making sure
16 she was looked at and checked out. A lot of that, in
17 my mind, had to do with her age and stuff. Sometimes
18 they could be hurt and they don't even realize it. I
19 just wanted to have her checked out. But nothing
20 specific. I believe I did ask her, once that she
21 decided she was going to be transported by the
22 ambulance, that if there was somebody there for her
23 vehicle. The reason why, she delivered newspapers.
24 And she made a phone call to have somebody come to be
25 able to get the newspapers and I believe was going to

1 make her deliveries for her from the vehicle.

2 Q. Do you remember any other conversations that
3 you had at the accident scene with her before she was
4 taken?

5 A. No. My concern was more for her well being.
6 I wasn't -- I didn't get into it like why did you
7 drive? Why did you do this? I didn't go anywhere
8 like that with her.

9 Q. Did you take any pictures yourself?

10 A. Yes, I did.

11 Q. What pictures did you take?

12 A. I took a photo of the inside of the car to
13 show that the -- her headlights were off on the car.

14 Q. When was that photo taken?

15 A. Right after they were removing her out of
16 the vehicle from the scene, which they didn't have to
17 remove her. She got up and stood up and walked over
18 to the gurney.

19 Q. So it was already after the ambulance had
20 come?

21 A. After the ambulance had come. The ambulance
22 was there. I basically stood there with her and
23 remained talking with her, more to keep her calm and
24 stuff, until medical arrived to be able to start
25 asking their questions.

1 Q. How long after did medical come?

2 A. I don't know. I requested them immediately.
3 I requested them. It's also department policy if we
4 were in an accident our dispatchers would immediately
5 get on the phone and request for medical to respond as
6 well.

7 Q. Was it within minutes of the first patrol
8 officer showing up?

9 A. Yeah. They responded fairly quickly. It
10 would have been within a few minutes.

11 Q. At the time that you took this photograph,
12 the vehicle was still on or was it off by then?

13 A. The vehicle was still on. Still on.
14 Sitting there running. It was pretty much exactly how
15 she left it.

16 Q. So it is approximately 10 minutes after the
17 crash and the vehicle is still just running?

18 A. It's still running. There was no damage,
19 enough to any of the vehicles, to warrant like for
20 fire or medical to start turning stuff off. They were
21 just attending to her. The vehicle was on. Do I know
22 specifically if she had clicked it back to turn the
23 engine off or not? I don't 100 percent recall. But I
24 know the keys and everything were in the ignition and
25 it had to be clicked over because like the little dome

1 light that is not very bright and stuff was popped on
2 inside the vehicle.

3 Q. It's your testimony that you did not turn
4 her vehicle off?

5 A. I did not turn her vehicle off, no.

6 Q. Somebody else did?

7 A. Somebody else did. They could have. Again,
8 fire and medical get in there and start talking to her
9 because she was sitting initially when they got there
10 in the driver's seat. I believe she moved her feet
11 out. But she was sitting right there. It's not hard
12 for either her or them to just turn it back one so
13 that the engine stops.

14 Q. Again, no further conversations that you
15 remember other than what we've already talked about?

16 A. No conversation. It was all about her
17 welfare, well being, whether or not she was hurt or
18 injured. I do remember asking her if there was
19 somebody that could come for her newspapers for her
20 route.

21 Q. Did you ever write a written statement
22 regarding how this incident occurred?

23 A. No.

24 Q. Not even as a report to the department at
25 all?

1 A. No. I don't -- no, that would have been
2 Officer Byrne being the investigator.

3 (Phone call interruption) ...

4 Q. (BY MR. GANZ) Do you need to grab that?

5 A. No, that's dispatch. If it's something I
6 have to, they'll follow it up with a text.

7 Q. Do you believe that you could have avoided
8 this crash in any way?

9 A. No.

10 Q. Do you believe you have any fault for
11 causing this crash at all?

12 A. No.

13 Q. No camera in your vehicle; correct?

14 A. No camera in the vehicle.

15 Q. You didn't take any video afterwards either;
16 right?

17 A. No. Did not.

18 Q. Just to be clear, when you entered the
19 Cheyenne roadway, your light for northbound travel on
20 Fifth Avenue was red; correct?

21 A. The traffic light was red, yes.

22 Q. Do you remember anything else about
23 Ms. Glover at all? First of all, ever met her
24 beforehand?

25 A. No. Have not met her beforehand.

1 Q. Could you pick her out of a line-up now?

2 A. Probably not.

3 Q. Do you remember anything about her in the
4 vehicle when you saw her coming at you? Was there
5 anything that you saw her doing or anything like that?

6 A. No. Couldn't really see her, the driver of
7 the vehicle at all, until after the accident. I can
8 only just describe it as dark colored, small sedan.

9 Q. Did you happen to see what happened to her
10 body upon impact at all?

11 A. No, I did not. No.

12 Q. Where is your memory of where the impact
13 occurred within the intersection?

14 A. Just inside the intersection, a few feet
15 inside, in the number -- there's three -- so it would
16 be number 3 travel lane, which is closest to the
17 south.

18 Q. Do you know how wide those lanes are there?

19 A. I believe the standard is 11 to 13 feet in
20 width.

21 Q. If it's -- let's take the average there and
22 make it nice and even, 12. Let's assume that it's
23 12 feet. How far approximately was the impact within
24 the lane itself?

25 A. Three feet.

1 Q. Were you able to appreciate at all about how
2 fast she was going after she applied her brakes at any
3 time?

4 A. Could I estimate how fast she was going
5 based on the --

6 Q. Let me make sure I understand. You didn't
7 see her prior to her applying her brakes; correct?

8 A. Correct. Did not see her.

9 Q. So your only vantage point would be to tell
10 me how fast she was going after she applied her
11 brakes; correct?

12 A. Correct.

13 Q. So can you estimate approximately how fast
14 you thought she was going once she started applying
15 her brakes?

16 A. For me that's tough. Inside the accident
17 kit we have the workup card based on roughly how much
18 skid is out there. Without going back and walking off
19 the skid to -- would I know for sure how fast.

20 Q. I just want to make sure that you are not
21 going to tell the jury that she was going like a bat
22 out of hell going a hundred miles an hour or
23 something.

24 A. Do I think she was speeding? Yes. Do I
25 think she was a hundred plus miles per hour? No. No,

1 I don't.

2 Q. You saw the speed workup done by
3 Officer Byrne?

4 A. No, I have not seen the speed workup.

5 Q. It indicates in the traffic accident report
6 on the very last page that a speed analysis was done,
7 that he believed that she was not exceeding the speed
8 limit prior to braking. His workup was done to
9 indicate she was going approximately 47 miles an hour.
10 Do you have anything to disagree with that?

11 A. No.

12 Q. You would defer to him who did measure the
13 skid and did do the calculations and everything?

14 A. Yes. That's his thing. Again, the only
15 reasons why I was concerned with her about seeing the
16 vehicle -- I will add this -- is that -- the amount of
17 papers, newspapers, and everything that she had. I
18 believe they were the Sunday papers, newspapers,
19 inside of her vehicle. That was my concern. Again,
20 do I think she was going a hundred miles an hour, an
21 excessive amount of speed, no. Definitely did not
22 think she was doing that when I saw her. I was more
23 concerned of the amount of weight and everything
24 inside that vehicle and her ability to be able to stop
25 it, that it could have been more of an impact on her

1 than on me. That's why my concern was for her, the
2 driver.

3 Q. Did you ever check up on her at the hospital
4 to see how she was doing at all?

5 A. No, I did not.

6 Q. Is there anything that you would have done
7 differently? Even though you don't believe that you
8 did anything wrong, was there anything you would have
9 done differently in retrospect?

10 A. No.

11 Q. Prior to Officer Byrne showing up, did you
12 move the vehicles at all?

13 A. No, did not move the vehicles.

14 Q. Were you ever disciplined for this incident?

15 A. No.

16 Q. Was there an internal -- I don't want to say
17 Internal Affairs, but some kind of internal
18 investigation that was done?

19 A. Yes. All traffic accidents go to the
20 Collision Review Board.

21 Q. Collision Review? I didn't know that. I
22 heard it earlier today, but I didn't remember it, to
23 be honest with you.

24 Collision Review, do you testify there?

25 A. You have the option to testify if you want

1 to, but it's not required.

2 Q. Did you in this case?

3 A. No, I did not. I basically just let the
4 accident speak -- what was in the report to speak for
5 itself.

6 Q. Were you supplied with a decision regarding
7 the Collision Review Board?

8 A. Yes.

9 Q. What is your understanding of the outcome of
10 that?

11 A. The outcome, I believe -- I was just found
12 not at fault of the accident. They do have specific
13 terms that they use. I don't remember off the top of
14 my head.

15 Q. Was that something that was placed in your
16 file or anything?

17 A. No, it is not. It is maintained by the
18 motor bureau because Lieutenant Salyer, head of the
19 motors, supervises the Collision Review Board. He
20 maintains all of those on file, I believe. I don't
21 know the exact duration.

22 Q. Have you ever been disciplined while on duty
23 for -- strike that.

24 Have you ever been disciplined for any
25 on-duty activities?

1 A. No. Have not.

2 Q. Did you speak to any kind of expert or
3 consultant about how this accident occurred?

4 A. No. Did not.

5 Q. That prior incident that you were in on
6 Cheyenne as well early on in your career, were you
7 found to have been at fault for that?

8 A. Yes.

9 Q. Can you tell me a little bit about that?

10 A. Basically, without remembering it back
11 before, but it was percentages of being at fault. And
12 a lot of it more to do with hitting the debris in the
13 roadway prior to entering the intersection. Obviously
14 if I could have avoided the debris, then most likely I
15 would not have struck the median and then back into
16 the other vehicle.

17 Q. Were you disciplined for that incident?

18 A. No, I was not disciplined for that. It does
19 go on file, I believe, if you have -- if you have
20 three accidents within a certain time frame, then they
21 can review it. They can send you back to the
22 emergency vehicle operations course to have you drive
23 or stuff like that. That's why it's held.

24 Q. Do you remember any other conversations with
25 anybody else at the scene as you sit here today?

1 A. No. My conversations at the scene were only
2 to her initially, again, with her injuries and stuff,
3 and getting someone to come out and get her newspapers
4 and then with Officer Byrne who basically asked me
5 questions similar to -- what direction I was
6 traveling, where I was at, where I saw her, as far as
7 him investigating the accident.

8 Q. Made any notes or any kind of diary with
9 regards to the incident afterwards? We talked about a
10 formal written statement, but did you go back and
11 write anything up at all?

12 A. No.

13 Q. I think I'm just about done. Just a second.
14 How long was Officer Byrne at the scene?

15 A. I'm not exactly sure. I'm going to say it
16 probably took him an hour or maybe even a little
17 longer for him to do everything.

18 Q. Were you there the whole time?

19 A. Yes, I was there the whole time. My vehicle
20 was drivable. So once he was done and everything,
21 then I drove my vehicle back down to the police
22 department.

23 Q. Her vehicle was --

24 A. Her vehicle was towed.

25 Q. Not before somebody else came and took the

1 newspapers out?

2 A. Newspapers, yes.

3 Q. Do you remember who that person was?

4 A. No, I do not.

5 Q. Did you have any conversations with that
6 person?

7 A. Actually, no. I take that back. I think he
8 came up to me and asked me if it was okay to go ahead
9 and remove the newspapers from the car when he
10 arrived. And Officer Byrne said yes and then I said
11 yes. He removed them. I didn't help him remove them.
12 He took them out of the car and I believe he was going
13 to make deliveries for her. I'm not sure if that was
14 somebody for the Review-Journal or if that was just a
15 friend that did it.

16 Q. You drove your vehicle to the City garage?

17 A. Correct.

18 Q. What did you do at that point?

19 A. We park it in the back lot and we move all
20 of our equipment so we can get into another vehicle.
21 Then that's it.

22 Q. Just about done here. Hold on a second.

23 So it's your memory you only took the one
24 photograph inside the vehicle?

25 A. Inside the vehicle, yes.

1 Q. I know this sounds obvious, but clearly you
2 were working within the course and scope of your
3 employment at the time this incident occurred;
4 correct?

5 A. Correct.

6 Q. Had plaintiff had her lights on -- I
7 understand your testimony that she didn't -- had she
8 had her lights on, would she have done anything wrong?

9 A. Would she have done anything wrong?

10 Q. Yes.

11 A. I believe that if she would have had her
12 lights on, I would have been able to see her and that
13 I would not have encroached into the intersection
14 prior to her arriving into the intersection.

15 Q. So my question is had she had her lights on,
16 did she do anything wrong?

17 A. If she would have had her lights on, I
18 wouldn't have encroached in. She probably would have
19 went right through the intersection and then I would
20 have went behind her.

21 Q. Never made aware of any other person who
22 witnessed it and stuck around and gave you a name or
23 number or anything like that?

24 A. No.

25 Q. The instrumentation in your vehicle you have

1 at the time was radios. I assume you had your cell
2 phone. Computer that's there as well and accessible;
3 correct?

4 A. Correct.

5 Q. Were you distracted at all prior to entering
6 the intersection by looking at any of those devices?

7 A. No.

8 Q. It's your testimony that you were not on
9 your phone or texting or on the radio or your computer
10 within the few minutes before the impact?

11 A. Correct. Yeah, I was not using anything.
12 In this case, I knew the exact address and where I
13 needed to go. So I didn't need the use of all that.
14 Listening to the radio, but I was actually not using
15 it.

16 Q. Last question. You know you are under oath.
17 Do you really like the Dodgers? I mean, really? Just
18 kidding.

19 MR. GANZ: I have nothing further.

20 MR. CRAFT: No questions.

21 (The deposition was concluded
22 at 5:19 p.m.)

23 * * * * *

24

25

1 CERTIFICATE OF DEPONENT

2 I, SERGEANT JOHN CARGILE, deponent herein, do
3 hereby certify and declare the within and foregoing
4 transcription to be my deposition in said action,
5 subject to any corrections I have heretofore
6 submitted; and that I have read, corrected, and do
7 hereby affix my signature to said deposition.

8
9
10 _____
11 SERGEANT JOHN CARGILE, Deponent

12
13 Subscribed and sworn to before me this

14 _____ day of _____, ____.

15
16
17
18 STATE OF NEVADA)
19 COUNTY OF CLARK)
20 SS:

21 _____
22 Notary Public
23
24
25

1 CERTIFICATE OF REPORTER

2
3 I, Marnita J. Goddard, CCR No. 344, a
4 Certified Court Reporter licensed by the State of
5 Nevada, do hereby certify:

6 That I reported the deposition of the
7 witness, SERGEANT JOHN CARGILE, commencing on
8 Wednesday, October 1, 2014, at the hour of 3:49 p.m.;

9 That prior to being examined, the witness was
10 by me first duly sworn to testify to the truth, the
11 whole truth, and nothing but the truth; that I
12 thereafter transcribed my related shorthand notes into
13 typewriting and that the typewritten transcript of
14 said deposition is a complete, true, and accurate
15 record of testimony provided by the witness at said
16 time.

17 I further certify (1) that I am not a
18 relative or employee of an attorney or counsel of any
19 of the parties, nor a relative or employee of any
20 attorney or counsel involved in said action, nor a
21 person financially interested in the action, and (2)
22 that pursuant to NRCP 30(e), transcript review by the
23 witness was not requested.

24 IN WITNESS WHEREOF, I have hereunto set my
25 hand in my office in the County of Clark, State of
26 Nevada, this _____ day of _____, 2014.

Marnita J. Goddard, RPR, CCR No. 344