

**In The Matter Of:**  
*Matthew W. Johnson v.*  
*Akron Metro Regional Transit Authority, et al.*

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*Matthew W. Johnson*  
*November 4, 2014*

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**Daniel M. Horrigan, Summit County Clerk of Courts**

**Sandra Kurt, Summit County Clerk of Courts**

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IN THE COURT OF COMMON PLEAS

SUMMIT COUNTY, OHIO

MATTHEW W. JOHNSON,

Plaintiff,

JUDGE PARKER

-vs-

CASE NO. CV2013-12-5734

AKRON METRO REGIONAL  
TRANSIT AUTHORITY, et al.,

Defendants.

- - - -

Deposition of MATTHEW W. JOHNSON, taken as if  
upon cross-examination before Holly C. Calcei, a  
Registered Merit Reporter, Certified Realtime  
Reporter and Notary Public within and for the  
State of Ohio, at the offices of Amer Cunningham,  
Co., L.P.A., 159 South Main Street, 11th Floor,  
Akron, Ohio, at 9:13 a.m. on Tuesday,  
November 4, 2014, pursuant to notice and/or  
stipulations of counsel, on behalf of the  
Defendants in this cause.

- - - -

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23  
24  
25

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CROSS-EXAMINATION  
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BY MR. COTTER

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*Sandra Kurt, Summit County Clerk of Courts*

1 MATTHEW W. JOHNSON, of lawful age, called by  
2 the Defendants for the purpose of  
3 cross-examination, as provided by the Rules of  
4 Civil Procedure, being by me first duly sworn, as  
5 hereinafter certified, deposed and said as  
6 follows:

7 CROSS-EXAMINATION OF MATTHEW W. JOHNSON

8 BY MR. COTTER:

9 Q. Good morning. You and I just met. My name is  
10 Chris Cotter. I represent the defendants in this  
11 case and I'm going to ask you a few questions. I  
12 don't think it's going to take a long time.  
13 We're going to talk about the accident, we'll  
14 talk about your injuries, we'll talk about some  
15 of your -- any past injuries, past claims. I've  
16 got an outline I've prepared and we'll just kind  
17 of go through that. I'll get some background  
18 information at the beginning.

19 I'm sure your attorney walked you through  
20 kind of how this works and some of the mechanics.  
21 Be sure to listen to my question and answer out  
22 loud. It's easy in conversation, you might say  
23 uh-huh or uh-uh, but you want to say yes or no,  
24 you know, depending on the question, so make sure  
25 we're using words.

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*Sandra Kurt, Summit County Clerk of Courts*

1 We want to make sure we're not interrupting  
2 each other. That goes for both of us. I'll wait  
3 for you to finish your answer before I start my  
4 next question; likewise, wait for me to finish my  
5 question before you answer. Because a lot of  
6 times you'll know what I'm going to ask and you  
7 may be tempted to just answer it right away, but  
8 for our court reporter, it's easier for her to  
9 take everything down if we go one at a time.

10 Let's start with your full name.

11 A. Matthew W. Johnson, M-A-T-T-H-E-W.

12 Q. What does the W stand for?

13 A. Wesley, W-E-S-L-E-Y.

14 Q. What's your date of birth?

15 A. 4/28/1980.

16 Q. What's your current address?

17 A. 1875 Krumroy, K-R-U-M-R-O-Y, Road, Akron 44312.

18 Q. What is at that address? Is it an apartment, a  
19 condo, a house?

20 A. A house.

21 Q. How long have you lived at that address?

22 A. Oh, man. 30 years.

23 Q. 30 years, okay.

24 Is that the house you grew up in?

25 A. Mm-hmm.

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*Sandra Kurt, Summit County Clerk of Courts*

1 MR. MORRISON: You have to say yes

2 or no.

3 A. Yes, yes. I'm sorry.

4 Q. All right. Your first test.

5 Who lives at that address with you currently?

6 A. My parents.

7 Q. What are their names?

8 A. Marsha and Gary.

9 Q. Anyone else?

10 A. My sister and my nephew.

11 Q. What's your sister's name?

12 A. Stacy Johnson.

13 Q. And your nephew is Stacy's son?

14 A. Yes.

15 Q. What's his name?

16 A. Matt.

17 Q. How old is he?

18 A. I don't know. 3 maybe, 4. Maybe turned 4. I

19 don't know. He's young.

20 Q. Have you ever been married before?

21 A. No, sir.

22 Q. And you're not currently married?

23 A. No.

24 Q. Do you have any children?

25 A. Yes.

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*Sandra Kurt, Summit County Clerk of Courts*

1 Q. What is your child's name?

2 A. Chayse Matthew Johnson, C-H-A-Y-S-E.

3 Q. And how old is Chayse?

4 A. 12.

5 Q. Who is Chayse's mother?

6 A. Elizabeth Martin.

7 Q. Does she live in the area still?

8 A. Cuyahoga Falls. We have shared parenting.

9 Q. What is your highest level of education?

10 A. Some college.

11 Q. Okay. How about as far as completed, where did  
12 you complete high school?

13 A. Springfield High School, Akron Springfield,  
14 however you want to say it.

15 Q. And then where did you go for college?

16 A. Tri-C.

17 Q. Let me ask this: When did you graduate from high  
18 school?

19 A. 1998.

20 Q. You started at Tri-C the next year?

21 A. No.

22 Q. When did you start at Tri-C?

23 A. Oh. 2005 or '6, I can't remember what year.

24 Q. And how -- did you complete a year?

25 A. One class away from graduation.

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*Sandra Kurt, Summit County Clerk of Courts*



1 Q. Oh, okay. What was your area of study?

2 A. In construction management.

3 Q. I want to ask you about your employment  
4 background. It's not a quiz, I'm not asking you  
5 to recall with precise detail, but just to get a  
6 sense of your employment.

7 When you graduated from high school in 1998,  
8 what was your employment at that point?

9 A. Everybody worked at a pizza shop when they come  
10 out of high school, right?

11 Q. Makes perfect sense.

12 A. I was at Gionino's Pizzeria when I was in high  
13 school.

14 Q. Which one?

15 A. On Canton Road, the one in Lakemore, Springfield  
16 area.

17 Q. Yep.

18 How long did you work there?

19 A. Oh, man, I worked there for them, because I was  
20 still delivering for, you know, on and off, I  
21 probably worked there for four or five years on  
22 and off.

23 Q. And did you have other employment within those  
24 four or five years?

25 A. Yeah, I worked at Montrose Ford '98 to 2000.

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1 Q. What did you do for Montrose Ford?

2 A. I sold cars.

3 Q. Anything else during those first four to five  
4 years?

5 A. No. I started at Goodyear when I was still  
6 working at the pizza shop.

7 Q. What did you do for Goodyear?

8 A. I was at retail. I started out as a general  
9 service, moved up to a general maintenance  
10 technician and then ended up being an assistant  
11 service manager, service manager.

12 Q. Which location?

13 A. I was at the Green location and then at one point  
14 I transferred to the Summit Mall location.

15 Q. Summit Mall?

16 A. Yes.

17 Q. What are the years, approximately, for Goodyear?

18 A. Oh, boy. I'm going to say '99 to '06 maybe.

19 Q. When you finished with Goodyear, what was the  
20 next employment?

21 A. Nyman Construction.

22 Q. What construction?

23 A. Nyman, N-Y-M-A-N.

24 Q. What did you do for Nyman?

25 A. I was a union carpenter.

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*Sandra Kurt, Summit County Clerk of Courts*

1 Q. How long did you work for Nyman?

2 A. Six years.

3 Q. Till about 2012?

4 A. No. Till -- yeah, till almost the end of 2011,  
5 when we started getting slow and got laid off.

6 Q. What did you do after Nyman?

7 A. I didn't work for awhile. There was a little bit  
8 of a gap and then I went to, my friends owned  
9 Mars Auto & Truck Parts in Mogadore, a little  
10 salvage yard.

11 Q. When did you start work there?

12 A. August of '12, I think.

13 Q. So from the end of 2011 to August '12 you were  
14 off work, you weren't employed?

15 A. Yeah, I wasn't working at all.

16 Q. And what did you say the name of the salvage yard  
17 was?

18 A. Mars Auto & Truck Parts.

19 Q. M-A-R-S?

20 A. Yes.

21 Q. What did you do for Mars?

22 A. Sold. Salesman.

23 Q. What did they sell? Is it used cars?

24 A. No. Used like auto parts, transmissions,  
25 engines.

1 Q. Okay. Gotcha.

2 All right. How long did you work at Mars?

3 A. Approximately a year.

4 Q. Till about August 2013?

5 A. Yeah.

6 Q. What did you do next?

7 A. Oh, come on, we don't need to go there, do we?

8 Q. What's that?

9 A. I worked at a strip club.

10 Q. All right. Now it comes out.

11 Which one?

12 A. Evolution.

13 Q. And what was your role there?

14 A. I was deejaying and head of security.

15 Q. How long did you work there?

16 A. Approximately a year.

17 Q. Till about this past August?

18 A. Yeah, and then I started at AAMCO Transmission &

19 Total Car Care. That's where I'm at currently.

20 Q. When did you start with AAMCO?

21 A. This August.

22 Q. What do you for AAMCO?

23 A. Store manager.

24 Q. And which one is it?

25 A. The one in Green.

1 Q. Do you know the address by chance?

2 A. 3421 South Arlington.

3 Q. During this time, have you received any type of  
4 certifications or training? And I don't just  
5 mean, you know, the on-the-job training when you  
6 start a job, but any kind of certifications that  
7 would assist you in getting employment or getting  
8 a raise, something like that?

9 A. I can't remember what they were all called, but I  
10 had all kinds of awards and certifications when I  
11 was at Goodyear.

12 Q. At Goodyear?

13 A. Yeah. I mean, I can't exactly -- I don't want to  
14 be wrong and say since I'm under oath, but I  
15 remember I had several awards and get certified  
16 to -- for certain types of tires and stuff like  
17 that and certain procedures.

18 Q. How about -- I'm sorry.

19 A. That's okay.

20 Q. How about any type of certifications related to  
21 work outside of an employer where you would have  
22 maybe sought out some sort of schooling or  
23 correspondence course or some sort of summer  
24 class or something where you'd get some sort of  
25 degree or certification?

1 A. Well, I went through the carpenter's  
2 apprenticeship program, that was part of the  
3 deal. We went to school once every two, three  
4 months.

5 Q. And what was the purpose of the program for you?

6 A. To make you a better carpenter, I assume.

7 Q. Was there any type of certificate or award given  
8 for that?

9 A. Yeah, you got certification afterwards and...

10 Q. Anything else?

11 A. Not that I can think of.

12 Q. Were you employed at the time of the accident in  
13 January 13, 2012?

14 A. No. I was laid off at the time.

15 Q. Okay. That was part of the period where you were  
16 laid off?

17 A. Yes.

18 Q. Okay. All right. I'm going to kind of switch  
19 gears, ask you about some prior complaints or  
20 claims, prior injuries.

21 Have you ever filed any Workers' Compensation  
22 claims?

23 A. Not that I know of.

24 Q. Okay. Have you ever filed a claim for Social  
25 Security disability benefits?

1 A. I don't even know what that is.

2 Q. Okay. I think that will answer the question.

3 Other than the subject accident, which we'll  
4 talk about today, have you ever had any other  
5 injury causing incidents or accidents, whether a  
6 car accident or a slip and fall or anything along  
7 those lines?

8 A. I cut my hand when I was 16.

9 Q. Okay.

10 A. 17, something like that.

11 Q. How did that occur?

12 A. Being -- my mom got a new vehicle and I was  
13 trying to cut the mud flap to form to her wheel  
14 well and it slipped and I was trying to pull it  
15 out and cut my hand.

16 Q. Okay. Any other motor vehicle accidents?

17 A. I don't think I was ever injured in another motor  
18 vehicle accident that I can remember.

19 Q. Have you been involved in any other motor vehicle  
20 accidents?

21 A. Yeah.

22 Q. How many?

23 A. Two other ones that I can recall. One wasn't  
24 even reported.

25 Q. Okay. Tell me about the first one.

1 A. I bumped into somebody on accident.

2 Q. When was that?

3 A. Oh, man, I can't even remember. I was pulling  
4 out of Taco Bell and I thought she moved and she  
5 didn't and I barely bumped her and she got out,  
6 checked it out, said no big deal and we took off.

7 Q. Did you exchange insurance information?

8 A. No.

9 Q. Okay. You don't know if she was injured or not?

10 A. Nobody was injured.

11 Q. You weren't injured?

12 A. We were going like boop, like a little --

13 Q. Just a --

14 A. Yeah, like, "Whoops, sorry."

15 Q. Okay. Well, how about the other one? You  
16 mentioned two, I think.

17 A. I ran into a lady that was coming down the road,  
18 had her turn signal on, so I thought she was  
19 turning at the street that was a couple feet  
20 back, because there was like two streets right  
21 beside each other and she didn't and so I looked,  
22 thought it was okay to pull out and bumped her as  
23 she drove by.

24 Q. Where did that occur?

25 A. Over by Akron Road over by 93, Canal Fulton,



1 Manchester area.

2 Q. When did it occur?

3 A. Oh, man. I don't know. It had to be when I was  
4 still working at Goodyear because I still had my  
5 Honda Accord.

6 Q. Were you injured in that accident?

7 A. No. Nobody was injured. It was just a little  
8 tap, nothing serious.

9 Q. Was it the same deal where you got out and  
10 talked?

11 A. We did exchange insurance and we did have the  
12 police come.

13 Q. So there was a report generated?

14 A. Yeah. Lawrence Township came out.

15 Q. What was it again?

16 A. I think Lawrence, North Lawrence or whatever  
17 they're called. The people out there by  
18 Manchester.

19 Q. Any other incidents not motor vehicle accidents,  
20 but any other injury causing incidents, slip and  
21 falls or...

22 A. I ran through a storm door when I was eight years  
23 old.

24 Q. Okay.

25 A. David Hasselhoff was my hero.

1 Q. Anything else?

2 A. That's it.

3 Q. Have you ever filed a personal injury claim or a  
4 personal injury lawsuit like the present lawsuit,  
5 and of course not including this one?

6 A. No.

7 Q. And what I mean by that is a lawsuit where you  
8 claim you were injured by some incident.

9 A. Not that I can think of.

10 Q. No? Okay.

11 Have you ever made a claim regarding personal  
12 injuries without filing a lawsuit, where you made  
13 a claim against another person or against an  
14 insurance company arising out of your injuries?

15 A. Not that I can remember. I've never been in  
16 something like this before, so I don't think so.

17 Q. Have you ever been a party to a civil lawsuit,  
18 not a criminal lawsuit, but a civil lawsuit as a  
19 defendant where someone was suing you?

20 A. No, sir.

21 Q. Have you ever filed for bankruptcy?

22 A. No.

23 Q. Do you have any chronic illnesses, diseases or  
24 conditions such as diabetes, hypertension, sleep  
25 apnea, anything like that?

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*Sandra Kurt, Summit County Clerk of Courts*

1 A. I have sleep apnea and high blood pressure.

2 Q. Okay. How long have you had high blood pressure,  
3 to your knowledge?

4 A. Ever since I've been a Browns fan. So my whole  
5 life probably.

6 Q. Okay.

7 A. No, I don't know. It was diagnosed, it was  
8 diagnosed, it was -- like went hand-in-hand when  
9 I found out I had sleep apnea, so really I've  
10 probably had it for awhile and just didn't know.

11 Q. When were you diagnosed with sleep apnea?

12 A. In '10, 2010.

13 Q. Which doctor diagnosed you?

14 A. Dr. Wages, Joel -- not Joel, that's his son.  
15 Duane Wages.

16 Q. What kind of treatment have you done for sleep  
17 apnea?

18 A. I mean, I just make sure I take my blood pressure  
19 medicine every day and have my CPAP machine  
20 that's really attractive.

21 Q. Yeah, those things are great, aren't they?

22 A. I go right to sleep, I don't care.

23 Q. Do you use it regularly?

24 A. Oh, yeah. Even if I'm taking a nap.

25 Q. What's the high blood pressure medication?

1 A. Man, I didn't think you were going to ask that.

2 I always get them mixed up. I think amlodipine  
3 and Hyzaar.

4 Q. There's two?

5 A. Yeah, I have to take one that brings it down and  
6 one that keeps it there or whatever. That's how  
7 they explained it to me.

8 Q. And do you take those daily?

9 A. Before I go to bed, because they make me drowsy.

10 Q. You mentioned -- okay. You mentioned high blood  
11 pressure and sleep apnea.

12 Any other conditions or diseases or medical  
13 conditions?

14 A. Not that I can think of.

15 Oh, asthma, I have asthma. Exercise induced.

16 Q. I saw something, I think I saw something in the  
17 records about anxiety?

18 A. Yeah, I have anxiety, too. I was just about to  
19 say that.

20 Q. And what's that -- who diagnosed anxiety?

21 A. Wages.

22 Q. Or how did that arise?

23 A. Wages.

24 Q. I'm sorry?

25 A. Dr. Wages.

1 Q. Dr. Wages?

2 A. Yeah.

3 Q. And what's, according to the doctor at least,  
4 what's the cause of the anxiety?

5 A. I don't know. It just started happening, like I  
6 get weird feelings and that's what he said it  
7 was.

8 Q. Hmm. Was this around the same time as the sleep  
9 apnea or is it separate?

10 A. It was separate. I was still a carpenter, so it  
11 had to be between 2006 and 2010.

12 Q. Is that something that's resolved?

13 A. I don't take medication for it anymore because I  
14 don't like the way it made me feel. I'm not  
15 really a big prescription drug person.

16 Q. What meds or med were you taking?

17 A. Celexapro {sic}.

18 Q. Any other treatment for anxiety that your doctor  
19 recommended?

20 A. No.

21 Q. Or that you've undergone?

22 A. Nope.

23 Q. Okay. On the date of the accident, that January  
24 13, 2012, before the accident happened, were you  
25 on any medications that day?

1 A. Nope. I take all my medications at night.

2 Q. All right. I ask everyone these next couple  
3 questions, so don't be offended.

4 Have you ever been charged with a felony  
5 criminal offense?

6 A. No.

7 Q. Have you ever been charged with a misdemeanor  
8 criminal offense involving theft, dishonesty or  
9 fraud?

10 A. No.

11 Q. Have you ever received any traffic citations?

12 A. Yeah.

13 Q. Let's talk about those.

14 How many citations?

15 A. I don't know. How far back you want to go?

16 Q. How many are we talking about?

17 A. I mean, I've had speeding tickets and...

18 Q. Do you know how many?

19 A. I was young. I don't have any points on my  
20 license now.

21 Q. Okay. Well, let me, just to help us, let's go  
22 back to the most recent traffic citation for any  
23 reason.

24 A. Over three years ago. I can't remember when.

25 August sticks in my mind for some reason. I just

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1 don't remember what year.

2 Q. Okay. And how did that ticket arise?

3 A. Speeding. 77 north by Copley.

4 Q. How fast were you going?

5 A. 77 in a 65.

6 Q. Did you pay the speeding ticket, I take it?

7 A. I went down and paid it right away.

8 Q. Yeah.

9 How about the one before that? So going  
10 backwards in time.

11 A. Most of mine are speeding tickets. I really  
12 don't know when they all were. I mean, I didn't  
13 -- I can't tell you really dates. Most of mine  
14 are speeding tickets.

15 Q. And besides speeding tickets?

16 A. Or window tint.

17 Q. Window tint violation?

18 A. Yeah. Never got a violation.

19 Q. Was that part of the speeding ticket or was that  
20 separate?

21 A. I never got a violation, I just got pulled over  
22 for it.

23 Q. Okay. Any other traffic citation issues?

24 A. Ran a couple stop signs.

25 Q. Two separate occasions?

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*Sandra Kurt, Summit County Clerk of Courts*

1 A. Yeah. One was when I was still in high school.

2 Q. And of all these traffic citations, most recent  
3 was the one you said about three years ago, three  
4 years ago from today?

5 A. Yeah, I think it was like August of '11 or '12.  
6 August sticks out for some reason, because my  
7 sister is my insurance agent so she's always  
8 keeping me in the loop on points.

9 Q. She's probably not too happy with all the --

10 A. No, she's glad. I don't have any points now  
11 finally, so...

12 Q. All right, sure.

13 Any other citations we haven't talked about  
14 yet?

15 A. That's all I can think of.

16 Q. All right. Let's shift to the injuries that  
17 you're claiming as a result of the accident that  
18 were caused by the accident.

19 Why don't you tell me, just, you know, as far  
20 as a list, what injuries are you claiming you  
21 sustained as a result of the January 2012  
22 accident.

23 A. My shoulder was injured, my left shoulder. It  
24 was bruised. I hit my chest. I can't really  
25 remember if I hit my head or not. I had facial



1 pain, but, you know, whatever, I don't know. But  
2 most of the pain really was in my neck area, my  
3 shoulder and down into my back. I hit my right  
4 knee on the dashboard. I believe that's about  
5 it.

6 Q. What part of your back? Up here? Was it your  
7 lower back? Was it your middle back?

8 A. Well, it's hard to explain. Like the most part  
9 of the pain was in my neck, but then it trickled  
10 down into my back and I forget what the doctor  
11 said was wrong with my back, but some kind of  
12 disk or something. I don't know what that means.

13 Q. Okay. That's fair.

14 So the pain was in your neck and it radiated  
15 down your back?

16 A. Yeah, that's a good word to use.

17 Q. And can you pinpoint? I mean, is it your lower  
18 back or right in the middle?

19 A. Yeah, like right where you bend the most and  
20 stuff like that, probably from going like that.

21 Q. Okay. Let's talk about the neck pain.

22 A. Mm-hmm.

23 Q. Are you currently treating with a doctor for your  
24 neck?

25 A. No.

1 Q. When was the last time you treated with a doctor  
2 for your neck?

3 A. I believe in '13.

4 Q. Do you have any appointments scheduled with a  
5 doctor to treat for your neck?

6 A. No.

7 Q. Would it be fair to say at this point you don't  
8 have any pain or discomfort in your neck or your  
9 back?

10 A. I have pain every day.

11 Q. Every day?

12 A. Every day.

13 Q. As far as the frequency of the pain, I know you  
14 said every day.

15 Is it constant every day or does it come and  
16 go?

17 A. I fall asleep with an ice pack on my neck every  
18 night or I can't sleep.

19 Q. Okay. And so that's the end of the day.

20 How about throughout the day?

21 A. Tough it out.

22 Q. Do you feel the pain during the day?

23 A. Oh, yeah. I'm always going like, trying to, you  
24 know, rub behind, like right behind there, I  
25 always try to rub it myself, and what am I going

1 to do?

2 Q. How would you rate the intensity of the pain on a  
3 scale of one to ten, ten being the most intense?

4 A. It's uncomfortable. I would say it's a seven.

5 Q. Okay.

6 A. I'm a big tough guy, so, I mean, it's hard for me  
7 to rate pain.

8 Q. Anything else you do to try to alleviate the  
9 pain? Do you take any medication?

10 A. Every once in awhile I'll take a Tylenol or  
11 something, but that's about it.

12 Q. Given the fact you still have ongoing pain with  
13 your neck, is there a reason you're not currently  
14 treating with a doctor?

15 A. I'm not trying to rack up any more medical bills.

16 Q. Well, I appreciate that, but did your doctor tell  
17 you there was nothing more he could do for you or  
18 what was the plan when you stopped treating with  
19 him?

20 A. Dr. Markarian told me that there could be a time  
21 where I might need surgery and this and that, but  
22 as far as right now, that's pretty much all he  
23 could do or whatever, and all the appointments  
24 with pain management and all those people and,  
25 you know, stuff like that ran out, so it was just

1 like, kind of just threw me out the door and sent  
2 me on my way. I realize that I could go to the  
3 hospital any time I wanted to and get looked at  
4 again, but I don't know, not worth it to me, I  
5 guess.

6 Q. Did the doctor recommend surgery or did he say it  
7 might be a possibility?

8 A. No. He made a comment in the room that "You  
9 don't need surgery now, but I'm not going to say  
10 you don't need it in five to ten years."

11 Q. Okay.

12 A. And that was three years ago. Almost three years  
13 ago.

14 Q. Are any of your activities, your job, things you  
15 do on a day-to-day basis affected by the neck  
16 pain?

17 A. Yeah, but I deal with it.

18 Q. Okay. There's nothing you don't do because of  
19 the neck pain?

20 A. There's a lot of stuff I don't do. I mean, I  
21 don't -- when I'm relaxing at home, I can't sit  
22 certain ways because it affects my neck and stuff  
23 like that.

24 Q. Are there any activities that you did before the  
25 accident that you can no longer do because of the

1 neck pain?

2 A. I don't golf as much because all the (indicating)  
3 hurts, but...

4 Q. Okay. Anything else?

5 A. I haven't picked up a basketball in three years.  
6 There's a lot of stuff I can't do, but I'm not  
7 complaining.

8 Q. Let's talk about the left shoulder.

9 Let me just ask this: Are you currently  
10 treating with a doctor for any of your injuries  
11 from the accident?

12 A. No.

13 Q. No, okay.

14 The left shoulder, is that pain that's  
15 resolved today?

16 A. No. I mean, everything comes and goes.

17 Q. Is it part -- is it affiliated with the neck pain  
18 where it radiates to your left shoulder or is  
19 that separate?

20 A. It goes like down into the shoulder from this  
21 side of my neck.

22 Q. So the discussion we've had about your neck is,  
23 would you be answering the same way if we talked  
24 about the left shoulder? I mean, is it, do you  
25 consider it sort of a radiating?

1 A. I think they feed off of each other, yeah.

2 Q. Okay. How about your right knee?

3 A. Right knee hurts every day.

4 Q. Because of the injury you sustained in the  
5 accident?

6 A. I believe so.

7 Q. Okay. Had you ever had any issues with your  
8 right knee beforehand?

9 A. Nope, never.

10 Q. Any pain in your neck before?

11 A. I've never had any of these problems before.

12 Q. Okay. For your neck, your knee, your left  
13 shoulder?

14 A. No.

15 Q. Lower back or mid back?

16 A. (Witness indicating).

17 Q. Do you take anything for the right knee?

18 A. I ice it. I just every night when I get home, I  
19 bought those ice packs from Wal-Mart that have  
20 the straps on them so I can sit there and still  
21 do something while I'm doing it and I ice it  
22 every night when I get off of work, heat it, ice  
23 it, heat it, just so I can get up and go to work  
24 the next day.

25 Q. Did you stop treating with the doctor for your

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1 neck at the same time you stopped treating for  
2 your knee?

3 A. I mean, yeah. I mean, it all subsided around the  
4 same time.

5 Q. Okay. You mentioned chest pain or you hit your  
6 chest in the accident?

7 A. I hit my chest on the steering wheel.

8 Q. Is that pain you still have today?

9 A. I don't have any pain there now. It was like a  
10 contusion.

11 Q. Okay. That's something that resolved within a  
12 week or two?

13 A. Yeah, it cleared up.

14 Q. Same thing with your head; you said you might or  
15 might not have a head injury?

16 A. I get migraines all the time because the pain  
17 goes from my neck up through my head. So, I  
18 mean, yeah, that's still there, if that's what  
19 you're asking.

20 Q. Yeah, and you think that's related to the neck  
21 pain?

22 A. Oh, it comes all the way from my neck, yeah.

23 Q. Okay. And so you get headaches?

24 A. Yes.

25 Q. I think you said before you don't know if you hit

1 your head in the accident.

2 A. I don't remember.

3 Q. Okay. Did you lose consciousness?

4 A. No, I didn't lose consciousness, because I  
5 remember I hit my shoulder on the door and like  
6 when I was jolting around, I hit my chest on the  
7 steering wheel and hit my knee on the dashboard,  
8 but I don't know if I hit my head or not.

9 Q. Okay.

10 A. If I did, I might have grazed the window when I  
11 was hitting my shoulder, I don't know.

12 Q. All right. Let's switch gears again and talk  
13 about the incident.

14 This happened on a Friday; is that your  
15 recollection?

16 A. January 13th?

17 Q. Yeah.

18 A. Friday the 13th.

19 Q. Friday the 13th, okay.

20 It was the afternoon, about 1:00?

21 A. About 1:00.

22 Q. 1:20? 1:30?

23 A. 1:20 is when I think I made the report.

24 Q. Where were you coming from?

25 A. My house.



1 Q. Which is the same address we talked about  
2 earlier?

3 A. Yeah.

4 Q. And where were you headed?

5 A. Target.

6 Q. The Target close to where the accident happened?

7 A. Yeah, there's the Target plaza where the, there's  
8 a Chipotle in there and all that stuff, right  
9 there on Arlington.

10 Q. Let's see, you weren't working that day or at the  
11 time of the accident.

12 What was the plan for the rest of the day?  
13 Go to Target, head back home?

14 A. I was going -- my girlfriend at the time lived in  
15 Green, I was going to get her a wireless router  
16 and then taking it to her and putting it in for  
17 her and, of course, I got yelled at because I was  
18 late.

19 Q. Okay. What was your girlfriend's name?

20 A. Oh, does she really need to be in this?

21 Q. Just her name.

22 A. Stephanie.

23 Q. What's her last name?

24 A. Rager.

25 Q. How do you spell that?

1 A. R-A-G-E-R.

2 Q. I take it you're not dating currently?

3 A. No.

4 Q. Does she still live in the area?

5 A. She's too good for me. She's an academic advisor  
6 for Kent State University.

7 Q. Okay. You were alone in the car, right?

8 A. Yeah.

9 Q. You didn't have anyone with you?

10 A. Yeah.

11 Q. What car were you driving?

12 A. An '05 Ford F-150 4X4 four door.

13 Q. Are you the owner of that vehicle?

14 A. Yes.

15 Q. And you were at the time?

16 A. Yes.

17 Q. As you're driving on South Arlington Road -- and  
18 let me back up, because I don't know where your  
19 house is.

20 I know you gave me the address, but do you  
21 take the highway and get off at South Arlington?

22 A. Yeah, it's faster. Go down 224, 77, come down,  
23 come down the ramp, turn right and you're already  
24 in the right turn lane.

25 Q. Okay. I've got some pictures we can look at that

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1 will help us, but that makes sense.

2 So you come from the north --

3 A. Mm-hmm.

4 Q. -- and get off on South Arlington Road --

5 A. Correct.

6 Q. -- right-hand exit.

7 And that puts you in the turn lane?

8 A. Not unless you go in it.

9 Q. No, but, I mean, as you're in that exit coming  
10 off the highway.

11 A. Yeah, you can turn right.

12 Q. You can turn right into that right-hand turn  
13 lane?

14 A. Right.

15 Q. Okay. Was the radio on as you're driving off the  
16 highway turning on to the turn lane?

17 A. Uh-uh.

18 Q. No?

19 A. Oh, I'm sorry. No.

20 Q. There you go.

21 Do you wear glasses or contacts?

22 A. No.

23 Q. Did you have your cell phone in the car with you?

24 A. If I did, I didn't use it.

25 Q. I should back up.

1 Did you own a cell phone?

2 A. Yeah.

3 Q. You had it with you?

4 A. Yes.

5 Q. Just with you in the car that day?

6 A. It was in my console.

7 Q. You keep it in the console thing --

8 A. Yeah.

9 Q. -- the drink holder?

10 A. But my truck is blue tooth, so I don't have to  
11 have it on my --

12 Q. Were you talking at the time?

13 A. No.

14 Q. Talking on the phone?

15 A. No.

16 Q. Weren't using it at all?

17 A. No.

18 Q. This was in the afternoon.

19 What was the weather like that day?

20 A. It was snowing like crazy.

21 Q. It was snowing, coming down?

22 A. Yeah.

23 Q. At the time of the accident?

24 A. Mm-hmm.

25 Q. Was there snow on the ground, too?

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*Sandra Kurt, Summit County Clerk of Courts*

1 A. Yeah.

2 Q. Okay. Was it --

3 A. Covering half the lane that I was in, yeah.

4 Q. Right. Were your windshield wipers on?

5 A. Yes.

6 Q. Going pretty fast, I mean, is it --

7 A. No, it wasn't like that. They were just bigger  
8 flakes.

9 Q. Okay. And were your headlights on?

10 A. Yep.

11 Q. Was it dark?

12 A. Wait, I don't think my headlights were on. I  
13 don't know, though. I have automatic headlights.

14 Q. Oh, okay.

15 A. So I don't know. I don't remember. I never turn  
16 them on.

17 Q. Right, they just come on?

18 A. Physically they come on.

19 - - - -

20 (Thereupon, Defendants' Exhibit 1, Ohio  
21 Traffic Crash Report, was marked for purposes  
22 of identification.)

23 - - - -

24 (Thereupon, Defendants' Exhibit 2, Google  
25 Maps aerial photograph, was marked for

1 purposes of identification.)

2 - - - -

3 Q. All right. So let's look at some of these  
4 photos. I've got the police report marked as  
5 Exhibit 1. And this is just to help us, I  
6 literally printed these off of Google Maps. So,  
7 you know, we can take a look at these, and if you  
8 look at these and say, "Chris, it was totally  
9 different," you know, then please tell me. Just  
10 the nature of the lanes and so forth, if this is  
11 not your recollection, I want you to tell me  
12 that.

13 MR. COTTER: And I've got a set  
14 for you, Jack.

15 MR. MORRISON: That's okay.

16 Q. So let's talk about, first of all, I'll show you  
17 Exhibit 2. Make sure I get oriented here.

18 Do you recognize the South Arlington Road?

19 A. Mm-hmm.

20 Q. And were you coming from the --

21 A. Right here.

22 Q. Okay. We're looking at the long side with the  
23 sticker on it?

24 A. Right.

25 Q. Why don't you draw an arrow on the picture where

1 you were coming.

2 A. What do you mean?

3 Q. Like you were coming this way?

4 A. Yeah, I was in this lane. You want me to draw on  
5 this?

6 Q. Yes, draw a line and then an arrow to indicate  
7 which way you were going.

8 Let me put something under you.

9 A. (Witness complying with request).

10 Q. There we go.

11 And is this where you were turning?

12 A. Yes. Well, no, I was supposed to be turning up  
13 here until the guy ran me off the road.

14 Q. So you were planning on turning at the crossroad  
15 past the Burger King?

16 A. Correct.

17 Q. And let me ask you about the snow, because I know  
18 you mentioned that.

19 Where was the snow in the lane --

20 A. About --

21 Q. -- if at all?

22 A. About that much of the lane was covered in snow,  
23 but any motorist would have been able to see that  
24 that was a lane and these were still visible.

25 Q. The arrows were still visible?

1 A. And I had my truck in four-wheel drive.

2 Q. Okay.

3 A. So, I mean...

4 Q. Did you drive on the snow?

5 A. Of course.

6 Q. Okay. Was it icy snow, was it slushy?

7 A. No, it was slushy, easy-to-drive-in snow if you  
8 know what you're doing.

9 Q. Was it piled up or was it just --

10 A. No.

11 Q. How many inches?

12 A. On the road?

13 Q. Yeah.

14 A. Like (indicating). It just started snowing. It  
15 was coming down.

16 Q. You did this (indicating) and she can't type that  
17 up.

18 A. Okay. I would say about an inch.

19 Q. About an inch of snow?

20 A. I would say. I don't know.

21 Q. And you've got some --

22 A. You know where they clean the roads and you get  
23 the leftovers?

24 Q. Mm-hmm.

25 A. It looked like they had cleaned half that lane



1 and it was starting to, you know, go on to the  
2 side or whatever.

3 Q. Were all the leftovers in the lane?

4 A. No.

5 Q. It was up on the curb?

6 A. Correct. But what I'm saying is, half the lane  
7 was cleaned and half of it was snow, but it  
8 wasn't anything that was treacherous if you know  
9 how to drive.

10 Q. Okay. Could a bus drive over this snow?

11 A. Absolutely. Why not? All that weight.

12 Q. Okay. So you're coming up here, there's snow  
13 covering about half the lane you said?

14 A. Mm-hmm.

15 Q. And why don't you just kind of tell me what  
16 happened.

17 A. I'll try, but it happened so fast, I couldn't  
18 believe it was happening. What I remember, I was  
19 in the lane, I was coming up to here. There was  
20 a bus in this lane that was about, I don't know,  
21 do you have any --

22 Q. Do you want a pen?

23 A. -- like something to mark for two cars?

24 Q. Yeah, just do what makes sense to you. Draw the  
25 outline of a car and an X.

1 A. Like I say, I was right here --

2 Q. Yeah.

3 A. -- coming up on him. Now, I'm going about 20,  
4 25. He's going in his bus, the front of it was  
5 like right here, so I'm behind him in a way and  
6 so I'm just moseying on along and all of a sudden  
7 he slows down and starts to turn, so I had no  
8 choice but to go off the road.

9 There was a Burger King sign, which doesn't  
10 show in this thing, about right here. I went off  
11 right here, wiped that sign out, and there was  
12 some bushes that I don't even think are on there  
13 and some rocks and stuff and I'm sitting there  
14 after I tried to regain my composure and started  
15 trying to pump my brakes. I ended up right here.  
16 He ended up behind me.

17 And obviously I was upset, so I tried to like  
18 spin around and face him so I could say, "Hey,  
19 you just ran me off the road." And instead, I  
20 tried to like turn around and I looked at him and  
21 I went like this (indicating). And he just went  
22 like this (indicating) and took off. So that's  
23 my story.

24 Q. When you were stopped here and he was behind  
25 you --

1 A. Yes.

2 Q. -- why didn't you get out then and ask?

3 A. I don't know. I don't know. I have no answer  
4 for that. That's what I said to him earlier, I  
5 don't know why I didn't get out then. I was  
6 trying to like -- because it was cold, number  
7 one, so I was trying to like turn around so I  
8 could just be like right beside him and say,  
9 "Hey, what did you just do?"

10 Q. Okay. Why don't you put a, I mean, I think it's  
11 apparent, but put an M in your car here and a B  
12 on the bus, just so we know.

13 A. (Witness complying with request).

14 Q. Now, when was the first time you saw the bus?  
15 Because you get off the highway and you're coming  
16 into the turn lane.

17 A. I mean, I saw the bus because the bus was ahead.

18 Q. It was ahead of you?

19 A. Yeah.

20 Q. In the center lane?

21 A. Yeah.

22 Q. Was the bus ever in the turn lane?

23 A. I mean --

24 Q. Before he turned?

25 A. No.

1 Q. That was a bad question.

2 A. No, he was not. No, he was not.

3 Q. So there's a time when you get off the highway,  
4 you're in the turn lane.

5 Did you turn immediately into the turn lane  
6 off the highway?

7 A. Yes, because I knew that's what I was doing.

8 Q. Yeah, the Target is right there.

9 A. Right.

10 Q. You saw the bus up ahead in the adjacent lane,  
11 correct?

12 A. Right. He wasn't that far ahead of me at all. I  
13 mean, I don't think he was even going that fast  
14 because by the time I'm going 20, 25, I'm already  
15 catching up to him.

16 Q. So you're catching up to him.

17 A. And I think he was going slow because he was  
18 probably being cautious because of the weather,  
19 but the guy didn't have his turn signal on.

20 Q. So you didn't see a turn signal?

21 A. No.

22 Q. And you didn't have one on because you're going  
23 straight?

24 A. I had a turn signal on.

25 Q. You had one?

1 A. I'm turning up at the light.

2 Q. Oh, way up here. Okay.

3 So you got your signal on, he doesn't have a  
4 signal on?

5 A. Correct.

6 Q. And is the light red or green up here?

7 A. The light was green up there at the time.

8 Q. And you're going to turn here anyway, though?

9 A. Correct.

10 Q. So you see the bus.

11 When did you start to see it?

12 A. Coming in?

13 Q. Yeah.

14 A. About right here, right before the turn because  
15 as soon as I saw him coming in, I pumped, I  
16 remember I pumped my brakes a second thinking  
17 "What is this guy doing?" And then he didn't  
18 even -- like I thought he would go like right,  
19 like see that he saw me and go right back and  
20 that wasn't the case.

21 Q. Did you honk?

22 A. No, I didn't honk. I took everything I could to  
23 turn my wheel. I hit the curb so hard, that's  
24 when I went like that and went and like bouncing  
25 around like a pinball machine. And I'm just glad

1 I didn't hit the bus, because I know, isn't there  
2 propane tanks on those things or something? I  
3 could have blew up, I don't know.

4 Q. Where was the bus in relation to the snow? You  
5 know, we've got snow in the right-hand turn lane.

6 A. What do you mean where was the bus in relation to  
7 the snow?

8 Q. Well, the bus is in the lane, the center lane,  
9 correct?

10 A. Yes, he's in the left lane.

11 Q. Well, where you've got him marked here, correct,  
12 on Exhibit 2?

13 A. Right, yeah.

14 Q. And there's snow in the turn lane?

15 A. Yes.

16 Q. Is he close to the snow even though he's in the  
17 center lane?

18 A. I mean, if it's half covered, then, yeah, he  
19 would be close to the snow.

20 Q. Is it half covered even as you go into the turn  
21 area here, the middle area?

22 A. Yes.

23 Q. Okay. Is it covered even as you turn? Was it  
24 covered there?

25 A. I don't remember. I don't remember how much snow

1 was covered where.

2 Q. Okay. But as he's turning, is he close to the  
3 snow as he's making his turn?

4 A. Yes.

5 Q. Okay. So tell me, you hit the curb and your  
6 vehicle hits a sign, you said?

7 A. A Burger King sign.

8 Q. What part of your truck hit the sign?

9 A. The right side.

10 Q. Was it the door or was it the mirror?

11 A. Well, it knocked off my mirror and then it put a  
12 big crease down my truck.

13 Q. Okay. So there's a mark from the sign on your  
14 truck?

15 A. Right.

16 Q. Okay. Any other damage?

17 Let's just talk about damage to the vehicle.

18 It hits the curb, it goes up, it hits the sign.

19 What other parts of your vehicle were  
20 damaged?

21 A. Just scratches, and the next day when the -- not  
22 the next day, I don't know when it was, when I  
23 took it to get looked at and there was no snow on  
24 my truck, they saw it was worse than I thought it  
25 was. I thought it was just surface scratches

1 that I saw and then when they cleaned it all up  
2 to look at it in more detail, there was some  
3 dents and dings and stuff like that, some creases  
4 that they had to fix. I think it was like 4 or  
5 \$5,000 worth of damage.

6 Q. Did your vehicle make any contact with the bus?

7 A. No.

8 Q. And so when you saw the bus turning, you moved to  
9 avoid it?

10 A. I reacted the way I thought I should have.

11 Q. And there was no contact with the bus, right?

12 A. Correct.

13 Q. Okay. Were you driving -- as you're in the  
14 right-hand turn lane, are you driving over the  
15 snow in your pickup truck?

16 A. When I -- yeah. When I'm in --

17 Q. Well, was it all four wheels or just two wheels?

18 A. No, just my right wheels.

19 Q. Just your right wheels. Yeah, I am talking about  
20 when you're still in the right-hand turn lane  
21 before you make your turn.

22 A. Right.

23 Q. Okay. And did you have any problems? Are you  
24 slipping or sliding?

25 A. No.



1 Q. Because you've got the four wheel on?

2 A. Got the four wheel on, new tires, good to go.

3 Q. Okay. Tell me about the bus's turn.

4 Is this a situation where it makes a  
5 90-degree turn --

6 A. Heck, yeah, it was.

7 Q. -- or did it merge first into your lane and turn?

8 MR. MORRISON: Let him finish the  
9 question first.

10 A. Oh, I'm sorry.

11 Q. Yeah, it's kind of a nuance, but did it just make  
12 its 90-degree turn or did it merge into your lane  
13 first and then move over?

14 A. It was a 90-degree turn.

15 Q. Just from the center lane into the --

16 A. Yes.

17 Q. -- perpendicular road?

18 A. Yes.

19 Q. Okay. What speed were you going at the time of  
20 the turn?

21 A. I would say approximately 25 miles an hour.

22 Q. And how fast was the bus going? Did you say it  
23 had slowed or stopped?

24 A. It was slowing down and I didn't know it was  
25 going to be because it was trying to turn, but I

1 think it was probably going between 15 and 20  
2 maybe.

3 Q. Before it started slowing?

4 A. Yes.

5 Q. So what happens next when you described stopping  
6 at the stop sign and then attempting to turn  
7 around, and then he goes by you, correct?

8 A. Yeah.

9 Q. And then what happens next?

10 A. I sat there for a minute, didn't know what to do.  
11 I was pretty upset. So I was trying to get all  
12 the numbers off the bus and I didn't have  
13 anything to write them down with, so I was trying  
14 to like mentally remember them and then trying to  
15 call the sheriff at the same time.

16 Q. Did you proceed to follow the bus?

17 A. No.

18 Q. No, I don't know.

19 A. No.

20 Q. You were trying to remember, you said something  
21 about writing numbers down.

22 A. Well, when the bus like just whoop, just took  
23 off, I just looked at all the numbers on the back  
24 real quick so I could tell the officer which bus  
25 it was. And then I went over and told the

1 officer I'd be pulled off into the Target parking  
2 lot area out of the way.

3 Q. Where were you when you called the police?

4 A. At that stop sign.

5 Q. I mean, was it where you did the turnaround?

6 A. Well, when I tried to turn around, I was just  
7 kind of sitting there in the way, so...

8 Q. Okay.

9 A. I wanted to get out of the way and then...

10 Q. Where did you go to get out of the way?

11 A. Just parked over here somewhere.

12 Q. Over here by the circle there?

13 A. Mm-hmm.

14 Q. Right where the circle is?

15 A. Yep.

16 Q. Generally?

17 A. Like, Target is up right here. I was at the top  
18 of the parking lot.

19 Q. Did you use your cell phone in the car to call  
20 the police?

21 A. Yes.

22 Q. And you reported the best you could what you saw  
23 from the bus?

24 A. Yes.

25 Q. And what happened?

1 A. Yes.

2 Q. And then what happened next?

3 A. Officer came out, took my report and that's about  
4 it.

5 I don't remember his name. You're not going  
6 to ask me, are you?

7 Q. No.

8 A. Okay, good.

9 Q. But I will show you the report and I think it has  
10 his name on there. This is Exhibit 1. I'll hand  
11 this to you. Take a look at it.

12 My first question to you, once you've had a  
13 chance to review it, is whether you've seen that  
14 before.

15 A. (Document review). Sabato. Yep, I remember  
16 writing that.

17 Q. Have you seen the report before today?

18 A. No, not till today.

19 Q. Take a look, flip to the page with your  
20 statement. This is Page 3 of Exhibit 1.

21 You said you did write this main paragraph  
22 here?

23 A. Yes.

24 Q. And is this your signature at the bottom?

25 A. Yes.

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*Sandra Kurt, Summit County Clerk of Courts*

1 Q. And maybe you just did, but take a look at it and  
2 I want to know is it, you still think that's an  
3 accurate description of the accident, or if  
4 there's anything that you want to clarify, let me  
5 know.

6 A. (Document review). Yep.

7 Q. It's accurate?

8 A. Mm-hmm.

9 Q. Yes?

10 A. Yes, sir.

11 Q. And you completed this in that Target parking  
12 lot?

13 A. Yes.

14 Q. In your car?

15 A. Yeah.

16 Q. Wrote it out?

17 A. (Witness indicating).

18 Q. Did you talk with anybody else while you were  
19 waiting or while the police were there?

20 A. I don't know.

21 Q. I mean, sometimes people see an accident and they  
22 stop.

23 Did anybody stop?

24 A. Oh, no. No.

25 Q. Did you ever talk with the bus driver?

1 A. No. It was a (indicating) and a (indicating).

2 Q. You motioned to each other?

3 A. Yeah.

4 Q. After the accident?

5 A. Like after it happened, he just took off.

6 Q. Okay.

7 A. I said, "Well, I'm calling the police."

8 Q. After the accident, have you ever spoken to him?

9 A. No, I don't even know who the guy is.

10 Q. Okay. Now, there's photos that are a part of  
11 this Exhibit 1.

12 Do you know where those came from?

13 Let me ask you this first. I'll have you  
14 take a look at them. Flip through those photos  
15 for me, please.

16 A. (Document review). Looks like my guy that came  
17 out and looked at it.

18 Q. When you say "your guy," you mean the police  
19 officer?

20 A. No, the insurance guy.

21 Q. Oh, okay. Was that at a later date?

22 A. It was when they scheduled it, like the next week  
23 or something they came out.

24 Q. So have you seen these photos before?

25 A. No.

1 Q. Okay.

2 A. Was I supposed to?

3 Q. No, I don't know.

4 But you think these were photos taken at a  
5 later date, not in the Target parking lot?

6 A. Right.

7 Q. Is this, looks like there's a house in the  
8 background.

9 Do you recognize that house?

10 A. That's my neighbor across the street where I used  
11 to live.

12 Q. First of all, is this your truck depicted in the  
13 photos?

14 A. Yeah, they came to my residence to do their  
15 estimate or whatever.

16 Q. Gotcha. So this is your truck depicted in the  
17 photos?

18 A. Yes.

19 Q. And your truck appears to be parked in front of  
20 your house?

21 A. Right.

22 MR. COTTER: Okay. I'll tell you  
23 what, I'm going to mark these photos  
24 separately as Exhibit 3, which we can do  
25 later.

1 Q. All right. So the question is: Did you ever get  
2 to shop at Target?

3 A. No.

4 Q. No?

5 A. Not that day.

6 Q. Because you were late at that point?

7 A. No, I just, at that point I didn't feel like  
8 doing anything.

9 Q. Okay. So the police, you give the report, the  
10 officer leaves.

11 What did you do at that point?

12 A. If I remember, I went to my girlfriend's.

13 Q. So you went over there and --

14 A. She said, "Where is the wireless router?"

15 I said, "You wouldn't believe what just  
16 happened."

17 Q. Gotcha. Okay.

18 A. Actually, you know what, we did go back that day  
19 together. She drove. I didn't feel like driving  
20 the rest of the day.

21 Q. Right. So you and her went to Target to get the  
22 wireless router later that day?

23 A. Yeah.

24 Q. And she drove?

25 A. Yeah. As the day went on, I started getting



1 stiffer and stiffer and woke up and felt like I  
2 was stiff as a rock.

3 Q. The next morning you felt stiff?

4 A. Yeah.

5 Q. When did you first seek medical treatment?

6 A. Well, I'm real stubborn, I'm a male, and I let it  
7 go a couple weeks before I had even called and  
8 asked, you know, "Am I still allowed to go to the  
9 hospital? I don't know what to do, I've never  
10 done this before."

11 And they said, "Absolutely." And that's when  
12 I decided to go, I think on the 31st.

13 Q. January 31st you think it was?

14 A. I just couldn't take the pain no more.

15 Q. What was hurting at that point?

16 A. I mean, my shoulder, my neck, my back, I felt  
17 like I couldn't tell if I had like a chest cold  
18 or if my chest -- I didn't know. I know I hit my  
19 chest, but then it felt like I got hit like a ton  
20 of bricks, just pain everywhere.

21 Q. You weren't working. You weren't employed during  
22 this week or two after the accident, correct?

23 A. Right.

24 Q. Were you doing any activities during that time  
25 period?

1 A. No. Looking for jobs, watching TV, but...

2 I actually had a job lined up that I missed  
3 out on because of the accident.

4 Q. A job that was supposed to start?

5 A. Yes.

6 Q. What was that?

7 A. I was supposed to be a foreman for a construction  
8 company.

9 Q. What company?

10 A. I forget what they're even called now.

11 Q. Who was your contact over there? Was there  
12 somebody that --

13 A. His name was Jason Johnson. He was the owner.

14 Q. What was your date that you were going to start?

15 A. The accident was on a Friday, I was going to  
16 start the next Wednesday. He had a job starting.  
17 He wanted me to run the job.

18 Q. What was the job?

19 A. It was a house in, I forget where it was. I wish  
20 we could have done this a couple years ago, I  
21 could have remembered all this. I can't remember  
22 what town it was. I don't want to be wrong.

23 Q. No, that's fine.

24 A. I don't want to lie.

25 Q. Sometime that next Wednesday you said?

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*Sandra Kurt, Summit County Clerk of Courts*

1 A. Yeah, he had a big job going on. He didn't do  
2 like small houses, he did like big houses, like  
3 million dollar homes.

4 Q. Okay. Had you done any work for him before?

5 A. Nope.

6 Q. Is he a friend or somebody you knew?

7 A. Somebody I knew. We actually went to school  
8 together and he was like three years ahead of me  
9 or four years ahead of me, I think I was a  
10 freshman when he was a senior, and I had ran into  
11 him and I told him I was looking for work, you  
12 know, I didn't know if I wanted to go the union  
13 route anymore and he's like, "Well, I might have  
14 something for you," and then he ended up calling  
15 me and we ended up meeting actually two days  
16 before the accident, had lunch and talked about  
17 it and that was it.

18 Q. So when things ended at that lunch, did he tell  
19 you, "You've got the job on Wednesday" --

20 A. Yeah.

21 Q. -- "here's when you're going to start"?

22 A. Yeah.

23 Q. So it was a firm thing at that point, it was  
24 firmed up?

25 A. Yeah.

1 Q. And at what point did you call him to let him  
2 know that you couldn't work?

3 A. When I tried to swing a hammer and I couldn't do  
4 it.

5 Q. So you reported to work that day?

6 A. No.

7 Q. Just maybe the day before, a couple days --

8 A. I practiced.

9 Q. You practiced?

10 A. I tried to see if I could do anything, because  
11 I'm a man; if I can work, I'll work, I don't  
12 care. And I just tried to swing a hammer and it  
13 jolted all the way through -- I'm left-handed.  
14 It just jolted all the way through my body and  
15 I'm like, "Man, I can't work."

16 Q. So you told him maybe the night before or  
17 sometime before?

18 A. No, I told him -- yeah, two nights before.  
19 Monday I told him I wouldn't be able to do it.

20 Q. We went through your employment history, so now  
21 it's my turn to be quizzed, but what was the next  
22 job you had after this accident?

23 A. After the accident? Mars Auto & Truck Parts.

24 Q. Okay.

25 A. In August.

1 Q. At what point did you start looking for jobs  
2 after the accident?

3 A. Well, I was always trying to set myself up for  
4 something, plan ahead, but you have to work. I  
5 try to work through the pain, but I couldn't  
6 really even begin to tell you, but the job from  
7 Mars fell in my lap. I could have gone another  
8 couple months without a job and it wouldn't have  
9 even --

10 Q. You said it wasn't something you were looking  
11 for, but the opportunity arose?

12 A. Yeah. They're friends of the family.

13 Q. Were you looking for work for a few weeks before  
14 that or a few months or...

15 Were you looking for work at all, I guess I  
16 should ask?

17 A. Not really. I was just trying to get better so  
18 that I could give somebody a hundred percent.

19 Q. And when you started at Mars, were you able to  
20 give a hundred percent?

21 A. Being that the job wasn't strenuous and stuff,  
22 yeah. I had to watch my posture and stuff and --  
23 but I was okay. I was okay to sit at a desk and  
24 sell parts and I got one of those HoMedic things  
25 that went on the back of my chair that was

1 massaging me all day, so I was good to go.

2 Q. And that helped with the pain?

3 A. Didn't really help, it just, in my mind it made  
4 it help, if that makes sense. I got through the  
5 day, I was able to do my job and go home.

6 Q. Where did you first go for medical treatment?

7 You said it was a couple weeks later?

8 A. I can't remember. I don't know if it was  
9 Barberton or -- well, I made an appointment with  
10 my doctor, I'm pretty sure.

11 Q. When you say "your doctor," you mean your primary  
12 care physician?

13 A. Yeah, Wages.

14 Q. Who was that?

15 A. Dr. Wages.

16 Q. Dr. Wages?

17 A. Yeah.

18 Q. We talked about him before.

19 So at some point you make an appointment with  
20 Dr. Wages?

21 A. Mm-hmm.

22 Q. Do you recall seeing anybody before you saw  
23 Dr. Wages?

24 A. I can't remember if I went to the hospital first  
25 or if he sent me to the hospital, I can't

1           remember. I remember that he recommended the  
2           physical therapy and that didn't help, it made it  
3           worse.

4       Q.    So when you saw Dr. Wages, he recommended  
5           physical therapy?

6       A.    Yeah.

7       Q.    You started doing that?

8       A.    Yeah, by the YMCA. What is that, the Y? Is that  
9           Summa in Green? I don't remember.

10      Q.    I don't know.

11      A.    They sent me there to some physical therapy  
12           place. It was a joke. I was like, "Doesn't make  
13           sense, you're making me in more pain by doing  
14           this." And after like three visits, I said, "I  
15           can't do this."

16      Q.    Okay. So was it just the three visits?

17      A.    Yeah.

18      Q.    How many visits did Dr. Wages recommend for you?

19      A.    I don't know.

20      Q.    Okay.

21      A.    I know he wanted me to get, I think seven or  
22           eight two-hour deep tissue massage and that hurt  
23           like crazy. I can't remember what else. I went  
24           to pain management, but they wanted to give me  
25           drugs that I don't -- people get addicted to

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*Sandra Kurt, Summit County Clerk of Courts*

1           those drugs, so I told him no. And he said,  
2           "You're one of the only people that declined  
3           narcotics."

4           And I'm like, "Well, I don't want them,  
5           so..."

6       Q. I do have most or all of your medical records,  
7       but just for me to kind of firm up who you've  
8       seen and make sure I'm not missing anything. You  
9       saw Dr. Wages. You went to the hospital at one  
10      point.

11           Which hospital was it?

12      A. I'm pretty sure Barberton. I think I might have  
13      went to City once, too, through the whole thing.

14      Q. You did physical therapy.

15           Was that just one location, I take it?

16      A. Yeah.

17      Q. And then you mentioned the pain specialist?

18      A. Pain management.

19      Q. Pain management.

20           Anybody else that you saw related to your  
21      injuries?

22      A. Dr. Markarian.

23      Q. And who's he?

24      A. A neurologist.

25      Q. Neurologist.



1 Is he somebody you had seen before this  
2 accident?

3 A. No. And then Dr. Battaglia is the chiropractor,  
4 Tony Battaglia.

5 Q. How often did you see a chiropractor?

6 A. At some points I was going a couple times a week  
7 and then he got me down to like once a week and  
8 stuff like that, so... I mean, I saw him for  
9 quite awhile.

10 Q. When was the last time you treated with him?

11 A. Couldn't even tell you.

12 Q. Over a year ago?

13 A. Yeah, definitely.

14 I wish I could go see him right now.

15 Q. And why are you not seeing him right now?

16 A. I don't know, because it costs money, I don't  
17 want to pay for it.

18 Q. Okay.

19 A. I don't know how everything works. I don't want  
20 to get stuck paying a bunch of money out of my  
21 pocket.

22 Q. Did Dr. Wages recommend you see Dr. Markarian?

23 A. Yes.

24 Q. And what did you treat with -- or what was the  
25 purpose of your visits with Dr. Markarian?

1 A. Because of my neck and my back.

2 Q. And what kind of treatment did he recommend?

3 A. Well, him and Battaglia work hand-in-hand.

4 Q. Okay.

5 A. So he kind of, he recommended the chiropractor  
6 treatment and stuff like that and then I'd go  
7 back for a checkup with him and stuff like that.  
8 My last visit with him was -- I'm trying to  
9 remember the date, but I can't. I don't know, I  
10 can't remember the date. I was going to try to  
11 tell you, but I can't remember. Sorry.

12 Q. Over a year ago?

13 A. Yeah.

14 Q. The construction job you were going to start, and  
15 I know that was firmed up at a lunch beforehand?

16 A. Mm-hmm.

17 Q. Was it just a one-project deal --

18 A. No.

19 Q. -- or what was the nature of that employment?

20 A. No. I was going to be probably one of his go-to  
21 guys.

22 Q. And, I mean, what would that look like for you?  
23 Was it a Monday through Friday?

24 A. Yeah. Probably weekends, too.

25 Q. Okay.

1 A. I mean, depending on what job needed to get done.

2 I mean, as a foreman you make more money if you  
3 get the job done early, you get like a commission  
4 or they throw you a bonus, so I'd have been  
5 willing to work whenever I had to to get  
6 something done to make a bonus.

7 Q. Was there an hourly wage discussed?

8 A. No.

9 Q. Okay.

10 A. Salary.

11 Q. Oh, a salary?

12 A. Yeah.

13 Q. What was the salary?

14 A. A lot.

15 Q. Do you know how much he told you?

16 A. What's that?

17 Q. What did he tell you as far as a salary?

18 A. 60 to 70 a year plus commission, plus bonus.

19 Q. And is that -- that would have started that  
20 Wednesday?

21 A. I mean, I wouldn't have gotten \$60,000 right  
22 then, but yeah.

23 Q. No, I understand.

24 But that's when the salaried position would  
25 have started?

1 A. Right.

2 Q. There wasn't a probationary period or a "let's  
3 see how this goes for a month" or anything like  
4 that, you would have started as a salaried  
5 employee that Wednesday?

6 A. Right. I would see how -- do people do that?  
7 You work for a month without getting paid?

8 Q. No, the thought was maybe you'd work for a month  
9 on an hourly basis --

10 A. Oh, like a little hourly wage or something?

11 Q. Or a high hourly, I don't know, but then at some  
12 point you would lock into a salary. That's what  
13 I meant.

14 A. It was going to be, "Let's get this done, let's  
15 go."

16 Q. And that was all set up beforehand?

17 A. Mm-hmm.

18 Q. What was the number, 60 or 70?

19 A. Between 60 and 70 based on experience and...

20 Q. Was that including the bonuses and other things  
21 that may come up?

22 A. No.

23 Q. But you don't remember the number, the exact  
24 number?

25 A. What, as far as the bonuses?

1 Q. No, as far as the salary, what salary did he tell  
2 you?

3 A. No, I don't remember. It was between 60 and 70.  
4 I want to say 70, but I don't want to be wrong.

5 Q. Okay. You know, after the accident happens,  
6 you're not able to take the job, you're treating  
7 with doctors.

8 Do any of your doctors tell you that you  
9 can't work or that you're not able to work or  
10 that you can work with restrictions?

11 A. Work with restrictions.

12 Q. What did they tell you? This is Dr. Wages?

13 A. God, I can't remember. I don't remember how the  
14 words came out of his mouth. Light duty. Light  
15 duty was the wording, that's what it was.

16 Q. Your recollection is Dr. Wages told you you could  
17 work in a light duty capacity?

18 A. Mm-hmm.

19 Q. Was that from the beginning of your treatment  
20 with him?

21 A. Yes. But who listens to that?

22 Q. Have you ever driven a bus?

23 A. No.

24 Q. No?

25 Have you ever been trained to drive a bus,

1 like a Metro bus?

2 A. No.

3 Q. No? Okay.

4 A. Is that a trick question?

5 Q. No, I'm just asking.

6 Last set of questions, we're almost done. I  
7 don't want to know about any conversations you've  
8 had with your attorney, I'm not asking for any  
9 conversations, that's privileged, but I just want  
10 to ask about when you reached out to an attorney  
11 and questions along those lines.

12 So my first question is: When did you first  
13 contact an attorney regarding this accident?

14 A. When I called Metro and the way they were talking  
15 to me and acting like it was no big deal and the  
16 guy, I think he was out of Wadsworth, the place  
17 that they sent me to, I kept trying to get in  
18 contact with like the guy's supervisor and nobody  
19 would give me any answers, nothing and I just  
20 told the guy, "You know what, screw this, I'm  
21 getting an attorney."

22 Q. When did you first call Metro?

23 A. I was trying to call them right away.

24 Q. I mean, was it while you were in the parking lot  
25 or was it later?

1 A. No, I was trying to find their phone number when  
2 I was in the parking lot.

3 Q. When did you first call Metro?

4 A. I have no idea. Like the next day, I think.  
5 Actually, that was on a Friday, I think I waited  
6 till Monday.

7 Q. So probably the next Monday you called Metro?

8 A. Nobody would give me any information on who was  
9 the boss, nobody would give me any information on  
10 who to contact. In fact, they didn't call me  
11 back for like a week-in-a-half, two weeks. They  
12 didn't care.

13 Q. Who called you back?

14 A. Some guy stating he was the insurance something  
15 or other out of Wadsworth, I believe, or  
16 something or somewhere that way, and asking me  
17 questions and stuff and that's when I got upset  
18 and I said, "You know what, it just doesn't seem  
19 like you guys want to handle this in the right  
20 way," so I said, "I'm just going to get an  
21 attorney."

22 "Well, you don't have to do that."

23 I was like, "No, that's what I'm going to  
24 do."

25 Q. Which attorney did you reach out to first?

1 A. Somebody recommended KNR (indicating).

2 Q. Okay. Did you talk with somebody at KNR?

3 A. If that's what you want to call it.

4 Q. Okay. What do you mean by that?

5 A. I mean, they're horrible.

6 Q. But, I mean, did you call or did you meet with  
7 somebody or did you have a consultation?

8 A. No, I didn't meet with anybody, it was all over  
9 the -- they're a joke.

10 Q. You called them?

11 A. Yeah.

12 Q. And you talked about your claim?

13 A. Yeah, and the guy would blow smoke up my ass and  
14 act like he was doing something and he wasn't  
15 doing nothing as far as I'm concerned.

16 Q. So did you hire him and then later fire him?

17 A. Yes.

18 Q. Okay. How long was he working for you as far as,  
19 you know, being your attorney?

20 A. I don't know. What, a year?

21 Q. Was it a week or a month?

22 A. I have no idea what the total time was.

23 Q. But at some point you're done with KNR?

24 A. Yes.

25 Q. And then who did you reach out to next?



1 A. Jack.

2 Q. To Jack? Okay.

3 A. Jack's a man.

4 Q. What was the connection with Jack?

5 A. I've known him for years. I didn't even think of  
6 even calling him originally.

7 Q. He's somebody you knew through your family?

8 A. No, I've just known Jack for years. I've never  
9 been in trouble, I swear.

10 Q. I'm guessing it's through previous legal matters;  
11 is that fair?

12 A. No.

13 Q. No? Okay.

14 Just someone you knew?

15 A. I just know him.

16 MR. COTTER: Okay. Let me review  
17 my notes. I'm going to talk to my chief  
18 legal counsel and then I may have a couple  
19 questions or we may be done. Okay?

20 MR. MORRISON: Perfect.

21 - - - -

22 (Thereupon, a recess was had.)

23 - - - -

24 MR. COTTER: All right. Back on  
25 the record.

1 Q. I didn't ask earlier, were you wearing your seat  
2 belt at the time of the incident?

3 A. No, I was not.

4 Q. Okay. Do you regularly wear your seat belt?

5 A. I try to.

6 Q. Okay. But sometimes you don't?

7 A. I don't really like seat belts.

8 Q. Okay. Why is that?

9 A. I don't know, I think sometimes they do more harm  
10 than good.

11 Q. And I think you described earlier, but when you  
12 hit the curb and you hit the sign, tell me about,  
13 your knee hits something, your right knee?

14 A. My knee -- when I lunged forward, my knee hit the  
15 dash when my chest hit the steering wheel, but at  
16 that time, my shoulder, because when I first hit  
17 the curb and hit the sign, it jolted me to the  
18 left.

19 Q. So the first thing was the jolt to the left?

20 A. Correct.

21 Q. Did you hit anything when you -- did you hit the  
22 door?

23 A. I believe that's how I hurt my shoulder; I think  
24 I hit the door. And the only thing -- the only  
25 way I think I could have ever hit my head is if I

1           bumped it on the window, but it wasn't enough to  
2           knock me unconscious or anything stupid like  
3           that.

4       Q.   And you don't remember if you hit your head or  
5           not?

6       A.   I don't.

7       Q.   When all this was happening, I take it your hands  
8           were on the steering wheel?

9       A.   Both like.

10      Q.   Because you're turning?

11      A.   Yeah.

12      Q.   All right. Where were your feet? On the brake?  
13           On the accelerator?

14      A.   One was, I was pumping the brake pedal trying to  
15           stop because I was sliding, I was going through  
16           the snow and like, I wouldn't call it an  
17           embankment, it wasn't that piled up, but I was on  
18           the curb off the road just trying to get my  
19           vehicle to stop.

20      Q.   So you're pumping your brakes?

21      A.   Yeah, pumping.

22      Q.   And your hands on the wheel?

23      A.   Yeah.

24      Q.   As you're in the right-hand turn lane before the  
25           turn before the incident, did you see any cars

1 ahead of you in that turn lane? If you remember.

2 A. Yeah.

3 Q. You did?

4 A. Mm-hmm.

5 Q. Okay. Did you see any cars behind you?

6 A. I wasn't paying attention.

7 Q. You weren't paying attention.

8 When you looked at the snow, were there tread  
9 marks in the snow where other cars had passed?

10 A. Yeah.

11 Q. You remember seeing that?

12 A. Mm-hmm.

13 Q. Okay.

14 A. Ahead.

15 Q. Ahead, right.

16 A. It looked like people were waiting till they got  
17 past the, that turn where I got ran off the road  
18 and then got over to turn, you know what I mean?

19 Q. So you didn't see them in your block, so to  
20 speak, your section?

21 A. My area?

22 Q. Right.

23 A. No, I made those.

24 Q. You made those.

25 So you were going across fresh snow?

1 A. Yes.

2 Q. I mean, fresh untread snow?

3 A. Right.

4 Q. Okay. But then it looked like up ahead before --

5 A. Right.

6 Q. -- in front of the Burger King basically --

7 A. Yes.

8 Q. -- there was some tread marks up there?

9 A. Yes.

10 Q. Okay. Last question, I'm only asking this  
11 because it's, you know, a personal injury claim  
12 and we've talked about treatment. I saw in the  
13 records marijuana use.

14 Do you regularly use marijuana?

15 A. What's that have to do with this?

16 Q. Because of your, you know, your injuries and your  
17 treatment for your injuries.

18 A. For medical purposes.

19 Q. You're saying you use marijuana for medical  
20 purposes?

21 A. Sure.

22 Q. Does that help with your injuries in this case?

23 A. No.

24 Q. No?

25 A. Of course not.

1 Q. Did you use marijuana before the accident?

2 A. No.

3 Q. Never?

4 A. What do you mean, like was I under the influence?

5 Q. Did you ever use marijuana before the date of the  
6 accident?

7 A. Well, yeah --

8 Q. Okay.

9 A. -- if you want the truth. We're on the record.

10 Q. Okay. Do you currently use marijuana to treat  
11 for your injuries?

12 A. It doesn't help.

13 Q. But do you use marijuana to treat for your  
14 injuries today?

15 MR. MORRISON: You can answer.

16 Just answer truthfully.

17 A. Yeah.

18 Q. Okay.

19 A. Yes.

20 Q. And it doesn't help?

21 A. Of course not.

22 Q. Okay.

23 A. In that moment.

24 Q. For a few minutes?

25 A. Puts me to sleep, that's about it.

1 MR. COTTER: Okay. All right. No  
2 further questions.

3 THE WITNESS: Is this going to be  
4 held against me that I use marijuana?

5 MR. MORRISON: No, don't worry  
6 about it.

7 THE WITNESS: It's going to be  
8 legal soon anyway.

9 MR. MORRISON: We'll waive  
10 signature.

11 - - - -

12 (Thereupon, Defendants' Exhibit 3, black and  
13 white photographs, was marked for purposes of  
14 identification.)

15 - - - -

16 (Thereupon, deposition concluded at 10:34 a.m.)

17 - - - -

18 (The reading and signing of the  
19 deposition was expressly waived by the witness  
20 and by stipulation of counsel.)

21 - - - -

22

23

24

25

*Daniel M. Horrigan, Summit County Clerk of Courts*

*Sandra Kurt, Summit County Clerk of Courts*

## C E R T I F I C A T E

The State of Ohio, ) SS:  
County of Cuyahoga.)

I, Holly C. Calcei, a Notary Public within and for the State of Ohio, authorized to administer oaths and to take and certify depositions, do hereby certify that the above-named witness was by me, before the giving of their deposition, first duly sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition as above-set forth was reduced to writing by me by means of stenotypy, and was later transcribed into typewriting under my direction; that this is a true record of the testimony given by the witness; that said deposition was taken at the aforementioned time, date and place, pursuant to notice or stipulation of counsel; and that I am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney, or financially interested in this action; that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office, at Cleveland, Ohio, this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20 \_\_\_\_\_.

\_\_\_\_\_  
Holly C. Calcei, Notary Public, State of Ohio  
1750 Midland Building, Cleveland, Ohio 44115  
My commission expires March 13, 2015

*Daniel M. Horrigan, Summit County Clerk of Courts*

*Sandra Kurt, Summit County Clerk of Courts*



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November 4, 2014

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Matthew W. Johnson  
November 4, 2014

CV-2013-12-5734 DEPE

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**CV-2013-12-5724 DEPE**

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