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SUPREME COURT OF VIRGINIA

JUL 20 1992

RICHMOND, VIRGINIA

IN THE
Supreme Court of Virginia

AT RICHMOND

RECORD NO. 920296

**DEBRA L. BROWN,
Administratrix of the Estate of
Donald Steven Brown**

Appellant,

v.

HAROLD LEE CORBIN, et al,

Appellee.

JOINT APPENDIX

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Counsel for Appellant

Counsel for John Doe

Counsel for Appellee

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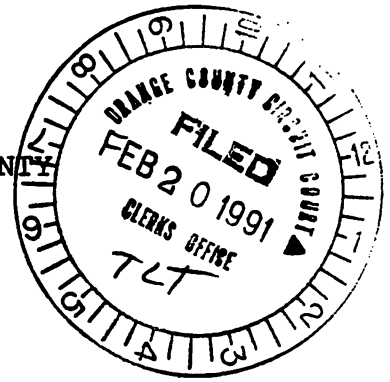
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VIRGINIA: IN THE CIRCUIT COURT OF ORANGE COUNTY



DEBRA L. BROWN,
Administratrix of the Estate of
Donald Steven George Brown, Jr.,
Plaintiff

v.

CASE NO. CL9100023

HAROLD LEE CORBIN,
Route 3, Box 461
Orange, Virginia 22960

Defendant

JOHN DOE,

Defendant

Serve: NATIONWIDE INSURANCE COMPANY
c/o Robert C. Wetzell, Registered Agent
800 Graves Mill Road
Post Office Box 10669
Lynchburg, Virginia 24506
(Also serve as if it were a party Defendant)

Serve: AGWAY INSURANCE COMPANY
c/o Henry H. McVey, III, Registered Agent
One James Center
Richmond, Virginia 23219
Uninsured/Underinsured carrier served
pursuant to Virginia Code §38.2-2206
under a policy of insurance issued to:
George Eugene Wright

MOTION FOR JUDGMENT

Comes now the Plaintiff, Debra L. Brown, the Administratrix of the Estate of Donald Steven George Brown, Jr., deceased, and moves this court for judgment against the Defendant, Harold Lee Corbin, and John Doe, uninsured motorist, in the amount of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000.00) with interest thereon from August 15, 1990, until paid, on the grounds and for

the reasons hereinafter set forth, and in support of said motion, doth state the following:

1) The Plaintiff is the duly qualified Administratrix of the Estate of Donald Steven George Brown, Jr., deceased, having been appointed to serve in such capacity on August 21, 1990, in the Circuit Court of Orange County, Virginia.

2) On or about August 15, 1990, at approximately 11:00 a.m. the Plaintiff's decedent, Donald Steven George Brown, Jr., was a pedestrian off the north side of Route 638 in Orange County. The Defendant Corbin was traveling in an easterly direction on Route 638. John Doe, an unknown motorist, was traveling in a westerly direction on Route 638 in Orange County, Virginia at the same time and place.

3) It was the duty of the Defendant Corbin and John Doe, unknown motorist, to operate their vehicles in a careful and prudent manner and with reasonable care and with due regard for the safety of others, including Plaintiff's decedent, upon and along said highway.

4) Notwithstanding said duties, and in contravention thereof, the Defendant Corbin operated his automobile in a careless, reckless, and negligent manner and caused the same to run off the southside of the east bound section of Route 638 and then across the road where it struck the Plaintiff's decedent. Defendant Corbin alleges John Doe, (an unknown motorist) operated his vehicle in a careless, reckless, and negligent

manner by crossing the center line of Route 638 and caused the Defendant Corbin to run off the south side of the east bound section of Route 638 and then across the road where it struck the Plaintiff's decedent.

5) As a direct and proximate result of the careless, reckless, and negligent actions of the Defendant Corbin, and John Doe (an unknown motorist) as aforesaid, the Plaintiff's decedent was killed.

6) The Plaintiff's decedent was survived by his mother, Debra L. Brown, his father, Donald O. Brown, his brother, Alan Roderick Brown, and his sister, Tonya Denise Brown, who were his statutory beneficiaries.

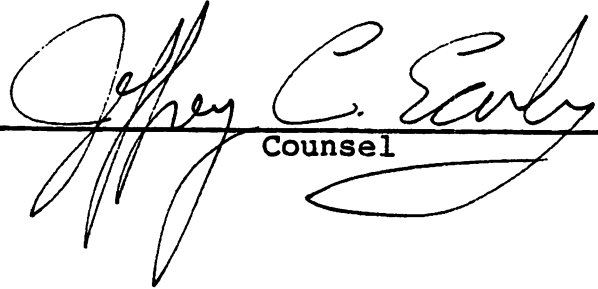
7) As a result of the death of the Plaintiff's decedent, funeral expenses have been incurred, and further, as a result of the death, Plaintiff's decedent's family have suffered and in the future will continue to suffer damages for sorrow, mental anguish and solace, including loss of society, companionship, comfort, guidance, kindly offices and advice of the decedent, and have further suffered and in the future will continue to suffer present and future loss of income from the decedent and loss of services, protection, care and assistance from the decedent.

WHEREFORE, the Plaintiff demands judgment against the Defendants jointly and/or severally in the sum of FIVE HUNDRED

THOUSAND AND NO/100 DOLLARS (\$500,000.00) with interest thereon at the judgment rate from August 15, 1990, until paid, together with her costs expended in this behalf.

Respectfully submitted,
DEBRA L. BROWN, Administratrix of the
Estate of Donald Steven George
Brown, Jr., Deceased

By:


Counsel

Jeffrey C. Early
Berry & Early
Post Office Box 620
Madison, Virginia 22727
(703) 948-6848

Filed the ^{4th} 20 day of FEB. 1991 at 13:43 # 910000988
Clerks Office, Circuit Court of Orange County, VA

Writ Fee	\$ <u>25.00</u>	Tax:	
LC	<u>50.00</u>	Chas. P. Joyner, Jr., Clerk	
LC Fee	<u>4.00</u>	<u>TLT</u>	D.C.
Total Paid	<u>79.00</u>		

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VIRGINIA: IN THE CIRCUIT COURT OF ORANGE COUNTY

920296

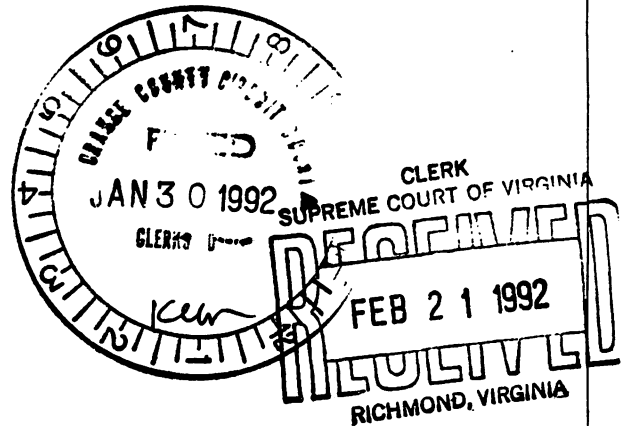
DEBRA L. BROWN, Administratrix of the
Estate of DONALD STEVEN GEORGE BROWN, JR., deceased,

Plaintiff

v.

HAROLD LEE CORBIN
and
JOHN DOE,

Defendants



TRIAL PROCEEDINGS

Taken on

November 7, 1991

APPEARANCES:

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 Attorney for John Doe

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WITNESS - Surrebuttal	DIRECT	CROSS	REDIRECT	RECROSS
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1 earlier that he may have hit the gas pedal rather than the
2 brake. He's not sure. Mr. Corbin has stated he does not know
3 whether the car passed in front of him or passed behind him.
4 He does not know whether he slowed from the edge of the road
5 until he impacted with--with Donnie Brown on the left-hand
6 side of the road. Mr. Corbin admits that he saw the young man
7 standing in the grass across the road, but that upon entering
8 the curve the fact that the boys were over--standing over
9 there went out of his mind and he didn't think about the boys
10 again until he impacted with Donnie Brown. The evidence will
11 show that Mr. Corbin's vehicle had good tires, good brakes and
12 was in generally good condition. The evidence will show that
13 there is no evidence of any impact whatsoever between the
14 Corbin vehicle and the John Doe pick-up truck. Ladies and
15 gentlemen the evidence will show that the joint negligence of
16 Harold Corbin and John Doe resulted in the death of Donnie
17 Brown. And at the conclusion of the evidence we'll ask you to
18 return a joint verdict in favor of the Estate of Donnie Brown
19 against both these individuals. Thank you very much.

20 THE COURT: Mr. Murray.

21 MR. MURRAY: Thank you, Your Honor. Good morning
22 ladies and gentlemen. There are two victims in the courtroom
23 today. One of them, of course, is seated here, Mrs. Brown.
24 The second victim is seated beside me, Harold Corbin. The
25 culprit who caused the tragedy is gone. The wicked have flown

1 and no one can pursue them. John Doe is the cause of this
2 tragedy. Harold Corbin is as much a victim as was Donnie
3 Brown. Harold Corbin has lived in Orange County for a long
4 time. He worked for twenty-five years at Super Fresh. He has
5 been married to his wife for many years. She's seated
6 beside--behind him. He was--just started a new job at Orange
7 County Grocery. He works in the meat department. He had
8 worked at Super Fresh for twenty-five years. The morning of
9 this accident he had gone down to Orange County Grocery to
10 check his meat counter, just to make sure it was right. He
11 was off that day. He was driving the family car. He's sober.
12 He's goes down to the grocery, then he goes over to Super
13 Fresh to pick up a few things and to talk to some of his
14 friends and then he's going back home. He's minding his own
15 business. He's obeying the law. He's driving carefully.
16 He's under the speed limit on the road. He's approaching a
17 corner and here comes a pick-up truck around the corner, fully
18 in his lane of travel. He does what any of us would have
19 done. He's tries to hit the brakes as hard as he could. He
20 goes to the right to avoid the pick-up truck, he misses the
21 pick-up truck. The car comes left back onto the road, travels
22 across the road and strikes poor Donnie Brown. It wasn't
23 Harold Corbin's fault. Now, what you're going to hear four or
24 five hours of is testimony concerning an incident that
25 occurred in the space of about two seconds. Alan Brown has

1 not contested that the John Doe pick-up truck was on Harold's
2 side of the road. Alan Brown says he saw the pick-up truck
3 coming, fifty to fifty-five miles an hour. Alan says it was
4 straddling the center line. Harold says it was fully on his
5 side of the road. He thought it was going to--checking the
6 mail in the mailbox that was to his right. In other words,
7 as if the driver pulls across the road to reach into the
8 mailbox on the left-hand side. That's what he thought when he
9 saw it. Harold's car goes down into the woods after striking
10 Donnie and slams into a tree on the left-hand side and gets
11 buried down in the foliage. He wakes up to the ding, ding,
12 ding, ding of the key in the ignition because the left,
13 driver's door had been smashed open. He wakes up to that.
14 He was knocked unconscious for some period of time, forty-five
15 seconds to a minute he estimates. He does not have a precise
16 recollection of precisely what happened. The day after the
17 incident--he talked to Mr. Haney, the first deputy on the
18 scene and told him that he had been run off the road. The day
19 after the incident he goes to Charles Bowman's office, an
20 attorney right across the street here. Mr. Dickson, who
21 investigated this accident, Deputy Dan Dickson wanted to talk
22 to him. He had nothing to hide. He gives a full statement.
23 He tells his story as best as he can. These gentlemen, Mr.
24 Early and Mr. Berry, during the course of this lawsuit take
25 his deposition, which is where they put them before a court

1 reporter like the lady seated behind you and he tells the
2 story as best he can remember it. You have to judge whether
3 this man was telling the truth in all the times that he's told
4 his story and the time that he'll tell it to you this morning
5 or this afternoon. Harold Corbin doesn't have a precise
6 recollection probably because of getting knocked unconscious
7 in this incident. He's at a--an incredible disadvantage
8 because he can't defend himself in the sense he cannot tell
9 you well this is exactly what I remember happening, and this
10 happened, and then this happened and then this happened. He
11 was at the disadvantage of being at the mercy of the Orange
12 County Sheriff's Department. Now, the Orange County Sheriff's
13 Department investigated this accident ladies and gentlemen.
14 And arguably they're impartial, they did a thorough investiga-
15 tion that is neutral as to favoring one side or the other.
16 But when you listen very carefully to the evidence you ask
17 yourselves whether this investigation was completely thorough.
18 Whether it is complete? Whether what you hear to be facts is,
19 in fact, what happened or whether or not people may not have
20 jumped to a hasty conclusion. Mr. Dickson, the chief
21 investigating officer, was about--within a year prior to the
22 accident had gone to school up in Fairfax County, police
23 school, and he'd taken a course in accident investigation.
24 Well, a couple of days, we don't know how many days, after the
25 accident, he asked his--his teacher in the course, a man named

1 Hennage, William Hennage, who is an investigator for the
2 Fairfax County Police Department to come down here and to look
3 over what he's done. So Mr. Hennage comes down. By the time
4 he gets here, of course, all--virtually all the evidence, what
5 little there was, has gone. But Mr. Hennage, we believe, is
6 going to be called as an expert witness to testify about his
7 opinion to the extent that he can in this case. Now, when we
8 discovered that Mr. Hennage had some opinion, we went out and
9 said wait a minute now. This doesn't sound right. We hired
10 somebody who is an expert in traffic reconstruction. His name
11 is Stephen Chewning. He runs a business called Traffic Safety
12 Consultants in Richmond. Now, we asked him to come up and
13 look at this evidence and to tell us what his opinion is and
14 he's looked at it and he may testify depending upon what Mr.
15 Hennage says. He may testify to you. You're going to hear
16 essentially from the men who investigated it and from perhaps
17 two experts who looked at it thereafter. And you're going to
18 have to decide in your own mind who has reported to you
19 accurately what really happened. At the conclusion of the
20 case, ladies and gentlemen, you're going to have to decide,
21 first, one decision is going to be very easy. John Doe was
22 negligent, he was driving on the wrong side of the road.
23 There will not be any contest to it. I don't believe Mr.
24 Northam can put on any evidence or call forth witnesses or
25 conjure any argument that will dispute the fact that John Doe

1 was on Harold's side of the road. The only real issue for you
2 is to decide was Harold Corbin's negligence, if any, a cause
3 of this accident. As I said, in--in my questioning to you, I
4 believe the court will instruct you that the mere fact that an
5 accident happened doesn't mean that somebody is at fault.
6 Now, at the conclusion of the evidence, ladies and gentlemen,
7 after you've waived all of these factors very carefully I
8 think you're going to conclude that Harold Corbin is as much
9 an innocent victim as he went down that road that day as was
10 the poor young man that got hit. Nobody is going to dispute
11 the fact, we've all--the Community of Orange County has
12 suffered a loss here in the death of Donnie Brown, but I'm
13 going to suggest to you that the evidence shows we shouldn't
14 perpetrate or duplicate the tragedy by finding a verdict
15 against Harold Corbin. Thank you.

16 THE COURT: Mr. Northam.

17 MR. NORTHAM: Thank you, Judge. Ladies and
18 gentlemen, first I'd like to thank each and every one of you
19 for taking time off from your jobs and your families to come
20 fulfill your civic duty here today. It's an important
21 function and on behalf of my client, I--I appreciate it and I
22 express my gratitude. As the judge has already told you,
23 and--and counsel has already referred to, the law allows the
24 plaintiff's to sue John Doe and he's an unknown driver or an
25 unknown vehicle, whatever the case may be, and no one knows

1 complete stop. He's thrown to the passenger seat somewhere in
2 the meantime and he still totals the car. And there may be
3 other measurements which we'll hear about today from the
4 various witnesses. Ladies and gentlemen, this is an unfor-
5 tunate accident and everyone is sorry that the Browns have
6 suffered a loss here. They're nice people. And in consider-
7 ing this case and in--in your deliberations I'm only asking
8 one thing and that's that you be fair and you be reasonable
9 and you be fair and reasonable to the Browns, you be fair and
10 reasonable to Mr. Corbin and you be fair and reasonable to
11 John Doe. And I appreciate your time here. And as I said,
12 thank you for doing this civic duty.

13 THE COURT: Call your first witness.

14 MR. BERRY: Mr. Dickson, Deputy Dickson. Your
15 Honor, we're going to be using this easel--

16 THE COURT: All right.

17 MR. BERRY: --for his testimony so I'm going to
18 bring it up here close by so we can (unintelligible).
19
20
21

22 DANIEL D. DICKSON, having been so duly sworn,
23 testified as follows:
24
25

DIRECT EXAMINATION

1 By: Mr. Berry

2 Q Would you state your name please, sir?

3 A Daniel D. Dickson.

4 Q What is your age, Mr. Dickson?

5 A Thirty-one.

6 Q And what is your occupation?

7 A I'm a Deputy Sheriff in Orange County.

8 Q How long have you been a Deputy Sheriff in Orange
9 County?

10 A Approximately three years.

11 Q All right. Do you live here in the county?

12 A Yes, sir, I do, in the Mine Run area.

13 Q All right. What is your training and--and
14 experience as a police officer, if you can summarize that for
15 us briefly? Let's focus particularly in the area of accident
16 investigation, if you can Deputy Dickson.

17 A I went to a two-week advanced accident investiga-
18 tion school in Fairfax County.

19 Q All right. Do you have an particular respon-
20 sibilities with the Orange County Sheriff's Department in
21 terms of accident investigation?

22 A Yes, sir. I'm half of the accident investigation
23 team.

24 Q And who is the other half?

25 A Lieutenant Murphy.

1 Q All right. As a part of that responsibility,
2 have you investigated traffic accidents here in Orange County
3 before?

4 A Yes, sir, I have.

5 Q Can you give--give us an estimate of the number?

6 A No, sir, I cannot.

7 Q Is it a lot?

8 A Yes, sir.

9 Q All right. Were you in that same occupation in
10 August of 1990, (unintelligible)?

11 A Yes, sir, I was.

12 Q All right. Before we get into this particular
13 accident, tell us briefly if you can, what your--the two week
14 advance school in Fairfax consisted of that you mentioned a
15 moment ago you went to?

16 A The course consisted of advanced accident
17 investigation, going into skid marks, determining speeds from
18 skid marks, the various other kinds of marks that would be
19 left by vehicles, determining speeds if impacted with a person
20 and braking, detection of the--certain things on the vehicle,
21 the inspection, light bulbs, photographing of the scene.

22 Q Are those things that are beyond the basic course
23 that you get as a part of police training for accident
24 investigation?

25 A Yes, sir, it is.

1 Q Do you get some training as a part of your basic
2 police training to--for accident investigation?

3 A Very basic, yes, sir.

4 Q All right. Were you called to the scene of an
5 accident that occurred in Orange County on August the 15th in
6 1990?

7 A Yes, sir, I was.

8 Q Do you remember what time of day you were called
9 to that scene, Deputy Dickson?

10 A It was approximately 11:15 A.M.

11 Q What was the weather like that day?

12 A It was sunny.

13 Q It was basically a hot, sunny, summer day?

14 A Yes, sir, it was.

15 Q All right. And where were you dispatched to as a
16 result of getting that call?

17 A I was dispatched to Route 638 in Orange County
18 for a motor vehicle accident that had occurred.

19 Q All right. Where did you come from, where were
20 you when you received the call?

21 A I was at a funeral in Madison County.

22 Q All right. If you drive from the Town of Orange
23 out to the scene where this accident occurred, can you give a
24 jury a brief summary of the route that you would take?

25 A You would go out Route 15 south, like going to

1 Gordonsville. Take a left on 647.

2 Q Is that at DeVivi's, near DeVivi's--old DeVivi's?

3 A At DeVivi's you would take the left there, go
4 down to the church and take a left on 638 like you're going to
5 the Moose Lodge. It would be between 647 and the Moose Lodge,
6 the accident would be in between there.

7 Q All right.

8 A Just past little Egypt Road, which is Route 682.

9 Q Okay. What did you find when you arrived at the
10 scene, Deputy Dickson?

11 A When I arrived at the scene I--I found Captain G.
12 L. Haney with the sheriff's department had a man in the
13 passenger side of his vehicle.

14 Q Did that turn out to be Mr. Corbin?

15 A I identified him as Harold Lee Corbin. Mr.
16 Corbin was very shaken up.

17 MR. MURRAY: Excuse me, Your Honor. That's not
18 responsive to a question.

19 Q All right. I think I did ask him what he found,
20 Judge, and I--I think it is responsive to that, but I'll try
21 to--

22 THE COURT: Well, it's--

23 Q I'll try to be a little more specific.

24 THE COURT: What I'd like you to do is just listen
25 to the question and respond only to the question that's posed

1 to you.

2 A Yes, sir.

3 Q Let's put it this way, who was at the scene when
4 you arrived there Deputy Dickson?

5 A Captain G. L. Haney, Mr. Corbin and Lieutenant
6 Donald Brooks and one of the uncles of the deceased.

7 Q All right. Would that be George Wright?

8 A I--I believe that's the name.

9 Q All right. What did you observe about the
10 location of the Corbin vehicle when you arrived at the scene?

11 A The vehicle was up against a tree in the wood
12 line. I was told by Mr. Corbin that he had hit a--

13 MR. MURRAY: Objection, Your Honor. It's not
14 responsive. Where was the vehicle, and then he's going off
15 into something that Mr. Corbin said.

16 THE COURT: Again, Mr. Dickson, I'd like you to
17 respond to the question that's posed. That will aid the jury
18 and aid everyone else in terms of following your testimony.

19 A Yes, sir.

20 Q All right. So you said the vehicle was off the
21 road, down in the trees basically?

22 A Yes, sir.

23 Q All right. Did you see Donnie Brown's body when
24 you arrived at the scene, Deputy Dickson?

25 A Yes, sir, I did.

1 Q And where was his body located in relation to the
2 road?

3 A It was approximately between thirty-three and
4 thirty-five feet off the road.

5 Q Okay. Can you describe generally, I'm going to
6 show you some photographs here in a moment so the jury can
7 have an idea of what we're talking about, but can you describe
8 generally what the road is like in this particular area?

9 A It's a gravel blacktop road with a curve.

10 Q Is it level or on a grade or what?

11 A It's a little bit of a minus grade going in
12 towards the curve.

13 Q Is the--what is the surface of the roadway at
14 that particular location, asphalt?

15 A It's a gravel asphalt.

16 Q All right.

17 A Blacktop.

18 Q Blacktop. Did the road at the time the accident
19 occurred have lines on it?

20 A No, it's an unmarked highway.

21

22 (Plaintiff's Exhibits #1, #2, #3, #4, and #5 were so
23 marked at this time.)

24

25 Q Now, I'm going to show you some photographs here

1 and ask if you can identify them. I show you Plaintiff's
2 Exhibits 1 through 3. Can you identify that shown there as
3 Plaintiff's Exhibit 1, you might want to look on the back and
4 make sure you've got the right one there?

5 A Okay.

6 Q Can you tell us what that photograph shows?

7 MR. MURRAY: Well, could we have the author of it, I
8 mean the photographer of it?

9 Q We don't need the photographer, Your Honor.

10 THE COURT: It's not necessary.

11 Q Okay. Can you tell us what that photograph
12 shows?

13 A It shows the scene of the accident.

14 Q All right. Is that an accurate depiction of that
15 area on Route 638 where the accident occurred?

16 A Yes, sir.

17 Q All right. If you could go and look at Exhibit
18 2, if would, Deputy Dickson, and tell us what that's a
19 photograph--what that photograph shows?

20 A It shows a further back view of the scene.

21 Q All right. Is that an accurate depiction of that
22 area where the accident occurred?

23 A Yes, sir, it is.

24 Q All right. If you could look at number 3 and
25 tell us what that shows?

1 A It's a close-up, more closer than the other two.

2 Q All right.

3 A Of the scene.

4 Q Is that an accurate depiction?

5 A Yes, sir, it is.

6 Q All right. These photographs that you just
7 identified as Plaintiff's 1, 2, and 3, Deputy Dickson, from
8 what direction would they have been taken?

9 A They would have been taken from the direction
10 that Mr. Corbin's vehicle was travelling.

11 Q All right. So basically taken from a westerly--
12 from the west looking east on Route 638?

13 A Yes, sir.

14 Q Looking away from Orange?

15 A Yes, sir.

16 Q All right. Before we show those to the jury, if
17 you could simply identify number 4 here, Plaintiff's Exhibit
18 4, and tell us what that's a photograph of.

19 A That is a close-up of a mailbox and part of the
20 scene.

21 Q Is that an accurate depiction of the area in the
22 immediate area where the accident--where--where the impact
23 with Donnie Brown took place?

24 A Rephrase that question please.

25 Q Okay. Let me try to be a little clearer. Is

1 that an accurate depiction of the roadway in the general area
2 where Donald--where--where they--the impact with Donald Brown
3 took place, in other words, is that basically in the curve?

4 A Generally, yes, sir.

5 Q All right. And is that also looking from the
6 west back to the east?

7 A Yes, sir.

8 Q All right. And is--can you tell us finally what
9 that photograph shows?

10 THE COURT: What number is that?

11 Q Number 5, Your Honor.

12 A Number 5 would be the opposite direction,
13 photographed going--

14 Q All right.

15 A --out the curve.

16 Q Okay. Your Honor, I'm going to move these into
17 evidence at this time.

18 MR. MURRAY: Can I--first of all I want to see
19 number 5, I haven't seen that. Judge, there's--there's a
20 vehicle in number 4 that I think needs to be explained for the
21 jury to understand it.

22 THE COURT: Well, I think that's permissible to go
23 into on cross examination. The question is, do you object to
24 the admissability of--

25 MR. MURRAY: No, sir.

1 THE COURT: --1 through 5? Mr. Northam, any
2 objection?

3 MR. NORTHAM: No, sir.

4 THE COURT: All right. They'll be admitted as
5 Plaintiff's 1 through 5.

6
7 Plaintiff's Exhibits No. 1 - 5 were received into
8 evidence at this time.

9
10 Q I'm going to put two of these up on the easel if
11 I can, Deputy Dickson, and ask you maybe to step over so that
12 the jury can have the benefit of your investigation as we go
13 through this. Can all of you-all see that, it's kind of hard
14 to see from over there, get it as close as we can. Deputy
15 Dickson, I'm going to ask you to look at this first photograph
16 here closest to me.

17 THE COURT: Can you refer to them by number?

18 Q Yes, sir. Yes, sir, I'll do that. Which is
19 Plaintiff's Exhibit #1. I--I believe you testified a moment
20 ago that that photograph was taken from the direction that Mr.
21 Corbin was travelling, is that right?

22 A Yes, sir, I did.

23 Q So, as he came into that curve, the curve would
24 have been bending to the right--

25 A Yes, sir.

1 Q --is that correct? And the John Doe vehicle
2 that's been referred to, your investigation revealed was
3 travelling in the opposite direction back towards Orange in
4 effect, is that right?

5 A Yes, sir.

6 Q Just to get through that. All right. When you
7 arrived at the scene, did you conduct an investigation which
8 included taking measurements?

9 A Yes, sir, I did.

10 Q What measurements did you take? Tell us what--
11 tell us what you did.

12 A Quite a few.

13 Q Okay.

14 A Measuring the road, measuring the position of the
15 bicycle, measuring the position of the body, measuring the
16 position of the arm, measuring position of the vehicle, the
17 marks in the roadway, the marks off the roadway.

18 Q Where did you find marks off the roadway?

19 A They were a hundred and seventy-two feet of marks
20 off the roadway.

21 Q All right. Back in which direction.

22 A Coming back this way that would have been off the
23 roadway going in that direction.

24 Q All right. And when those--did--did those marks
25 at some point go back onto the roadway or the--the travelled--

1 A Yes, sir.

2 Q --area where they were? Where did they come
3 back on?

4 A At that mailbox up here they came approximately
5 two to five feet before you get to the mailbox it comes back
6 onto the roadway.

7 Q All right. And where did they go from there?

8 A They went across the road and jumped the ditch.

9 Q And where from there?

10 A It went and hit a tree. I can't pick it out on
11 this, hit a tree and then went down further and then--and more
12 into the woods.

13 Q All right. Were those--did those--those--the
14 path of those marks go continuously to the--and end at the
15 Corbin vehicle?

16 A Except when it jumped the ditch.

17 Q All right. Where those marks began can you show
18 us roughly in relation to this first--on the first photograph
19 in relation to this first mailbox, can you show us where the
20 marks began that went off to the right side of the road?

21 A I can't exactly tell you where they begun (sic)
22 on this photograph. I could take you from, back a hundred and
23 seventy-two feet where they--

24 Q All right.

25 A --from the point up here by this other mailbox.

1 Q What did you--

2 A It comes back a hundred and seventy-two feet.

3 Q All right. Would the marks have been on this
4 side of this first mailbox or on the other side of it?

5 A I don't recall exactly where that mailbox was
6 placed on the marks.

7 Q All right. You made your measurement from the
8 area (unintelligible)--

9 A That mailbox was just something added into it.

10 Q --across the road?

11 MR. MURRAY: Your Honor, I can't follow both
12 witnesses (sic) talking at the same time.

13 Q All right.

14 MR. MURRAY: Your question (unintelligible) override
15 the answer.

16 Q Mr. Dickson, what--can you describe the mark that
17 you observed beginning at the--at the point closest to Orange?

18 A There was vehicle tire impressions that tracked
19 down the roadway to approximately two to five feet before the
20 mailbox and then a sideways striation mark going across the
21 highway and then on the other side a impacting of tires going
22 up into the tree and then more marks coming as the vehicle is
23 skidding sideways and coming straight back into the tree line.

24 Q All right. Did you--you mentioned this one mark
25 on the highway, do you have a particular term that you use for

1 that?

2 A It--it was the beginning of a yaw mark but
3 it's---it's a--it was not a complete yaw.

4 Q All right. Can you--can you spell that for the
5 jury first of all, is yaw spelled Y-A-W?

6 A Y-A-W, yaw.

7 Q All right. And what is--what is a yaw mark?

8 A It's--it's a tire--the sideways striation is
9 caused from the tire that is free to rotate. The right rear
10 tire would have been making this impression. The vehicle--

11 MR. MURRAY: Your Honor.

12 A --weight shifted--

13 MR. MURRAY: Your Honor, Your Honor.

14 THE COURT: Excuse me.

15 MR. MURRAY: He can testify to what he saw, but he
16 can't testify to what put the mark down, he wasn't there.

17 THE COURT: I also don't think it's responsive to
18 the question. Again, try and--particularly with regard to
19 this line of testimony, take one question at a time, so then I
20 can rule on objections if and when they are made.

21 Q I think you--you've indicated earlier generally,
22 my question related to what--what a yaw mark was, is a yaw
23 mark ordinarily a continuous mark in the highway or are there
24 striations in it?

25 A It's a--

1 MR. MURRAY: Object, leading question.

2 THE COURT: It's a leading question. I'll sustain
3 the objection.

4 Q All right. You--can you tell us again what a yaw
5 mark is?

6 A It's a striation mark, not completely black, it
7 will be black, road, black, road, black, road caused by a tire
8 that is--

9 MR. MURRAY: Objection to the cause.

10 Q All right. What causes a yaw mark?

11 THE COURT: I--that's not a valid objection. I
12 overrule that objection, I think that's encompassing with
13 the--with the witness's explanation of what is a yaw mark.

14 A It's caused from a tire that is free to rotate
15 (unintelligible).

16 Q All right. Have you seen brake marks in the
17 course of your experience examining accident scenes as--as a
18 result of your employment here in Orange County, Deputy
19 Dickson?

20 A Yes, sir, I have.

21 Q Can you describe what a brake mark ordinarily
22 looks like on the highway?

23 A A brake mark will be a completely black line
24 going from one point to another point.

25 Q Does it have striations in it ordinarily?

1 A No, sir, it does not.

2 Q Did you find any brake marks anywhere on the
3 highway when you did your investigation and measurements after
4 this accident?

5 A No, sir.

6 Q Did you find any marks on the highway other than
7 this yaw mark that you've testified about?

8 A No, sir.

9 Q Can you describe, if you will, how far off the
10 right side of the roadway these tire impressions were which
11 began a hundred and seventy-two feet before the yaw mark?

12 A They were at the maximum point, the outside tire
13 would have been--the right side of the vehicle would have been
14 two feet off the paved portion of the highway.

15 Q All right.

16 A It varoused (sic) in places on how far it was
17 off.

18 Q But it was never--

19 A But the maximum--

20 Q --more than two feet?

21 A --was two feet.

22 Q Did you walk the entire length of that tire
23 impression off the highway and examine it?

24 A I measured it and examined it from the beginning
25 to the end.

1 Q All right. Can you describe what that looked
2 like on the ground?

3 A It looked like a tire had went over the grass.

4 Q All right.

5 A Leaving the tread.

6 Q Can you describe--is there grass and--and what
7 else is on the shoulder of that road in that particular area?

8 A Well--

9 Q What type of material?

10 A Gravelish (sic) grass is what it is. It--at one
11 point it was--the grass wasn't as thick as others.

12 Q Did you find any areas on that--in that area
13 where the tire impression was a maximum of two feet off the
14 highway, did you find any areas where the gravel or the sand
15 or the grass was piled up in little piles or was there a
16 continuous impression along?

17 A It was a continuous impression from the point I
18 measured the hundred and seventy-two feet up and to the mark
19 that was crossing the roadway.

20 Q Did you find any evidence in that--in that tire
21 impression that was a hundred and seventy-two feet that would
22 indicate braking?

23 A No, sir, I did not.

24 Q All right. And then I think you--you mentioned,
25 permit me briefly counsel so we can move through this, at--at

1 the end of the hundred and seventy-two feet the vehicle went
2 across the highway?

3 A Yes, sir.

4 Q Okay. And can you measure--did you measure this
5 yaw mark that went across the highway?

6 A Yes, sir.

7 Q Okay. And what was the distance of that?

8 A Fifty-one feet.

9 Q All right. And I think you testified the vehicle
10 got to the edge of the roadway and in effect went across a
11 ditch?

12 A Yes, sir.

13 Q Did you measure the distance from the roadway to
14 the tree that the vehicle first impacted with that you
15 mentioned a moment ago?

16 A Sixty-one feet, ten inches.

17 Q All right. And from that tree, did you measure
18 the distance further into the woods to the point where the
19 vehicle actually stopped?

20 A Fifty-two feet.

21 Q All right. And can you tell us, have you done a
22 total of the distance that the vehicle travelled from the time
23 it first ran off the highway here, somewhere in the area of
24 this mailbox to the point where it stopped?

25 A Yes, sir.

1 Q What is that total?

2 A Three hundred and thirty-six feet, ten inches.

3 Q All right. Where did you found--find, Deputy
4 Dickson, the body of Donnie Brown in relation to where the
5 vehicle stopped?

6 A He was about fifty-two feet from where the
7 vehicle was. It was--it was at the first impact at the tree
8 that I found the body.

9 Q All right. I think you can resume your seat.
10 Judge, I'm done with this. I'll go ahead and move these
11 photographs.

12 THE COURT: Why don't--they may be used during
13 cross.

14 Q You want to leave them--leave them up for cross?

15 THE COURT: Why don't you just leave them out there.

16 MR. MURRAY: I don't need them.

17 MR. NORTHAM: I don't.

18 THE COURT: All right.

19 Q Okay. We may use them again later, but right now
20 we'll move this out of the way. Judge, I would ask that we
21 just have a moment for the jury to circulate these. I don't
22 think it will take too long just so they can again get the
23 feel for the area. If I could do that.

24

25 (Plaintiff's Exhibit #6 was marked at this time.)

1 THE COURT: Mr. Berry, if you'll continue.

2 Q Yes, sir. I'll be glad to. Deputy Dickson, did
3 anyone assist you in making your measurements that you've
4 testified to at the scene?

5 A Lieutenant Murphy.

6 Q All right. And I think you mentioned earlier
7 that he's the second part of the accident investigation team
8 in Orange County?

9 A Yes, sir, he is.

10 Q Roughly how long did the two of you take to do
11 these measurements and locate these various positions that
12 you've testified to?

13 A I can't give you a time, it was in--close to two
14 hours probably.

15 Q All right. What did you do at the conclusion of
16 completing your measurements?

17 A I don't know what you're asking.

18 Q Did you go up to the Brown house?

19 A Yes, sir, I did.

20 Q All right. Did you do that after you finished
21 making your measurements?

22 A After I finished with the scene.

23 Q All right.

24 A There was other things besides just measurements
25 that I had to do at the scene.

1 Q Right. Okay. When you got to the house, who was
2 there?

3 A Mrs. Brown, young Alan Brown, and I believe the
4 same uncle that was at the scene.

5 Q All right. And did you talk to Debbie Brown?

6 A Yes, sir, I did.

7 Q What did you tell her?

8 A I told her that her son had been killed in a
9 motor vehicle accident just down the road.

10 Q And can you describe what you observed about her
11 condition at that point?

12 A I believe she knew it before I got there. She--I
13 think she understood what I was trying to say to her, but
14 she--there wasn't a whole lot of talking there.

15 Q All right. Were the people there upset?

16 A Yes, sir, they were.

17 Q Did you talk to Mr. Corbin at all at the scene of
18 the accident, Deputy Dickson?

19 A Very briefly, yes, sir.

20 Q Did he make any statements to you about the
21 accident at the scene?

22 A He--yes, sir, he did. I can't recall exactly
23 what they were. That he had hit a boy, that there was another
24 vehicle possibly involved in--and he wanted to know about the
25 other boy that took off running.

1 Q All right. Did you talk to--or let's--I--I'm not
2 asking you what he said, but did you talk to or see Alan Brown
3 near the scene of the accident?

4 A I saw Alan Brown when I first arrived, yes, sir.

5 Q Can you describe what his appearance and
6 condition was when you first arrived?

7 A He was just standing there gazing.

8 Q All right. Was he still at the scene of the
9 accident?

10 A When I first arrived, yes, sir.

11 Q Did you take a photograph, Deputy Dickson, I'm
12 going to show you Plaintiff's Exhibit 6. Can you identify
13 this photograph, Deputy Dickson?

14 A Yes, sir. That's how I found Donald Brown, Jr.

15 Q All right. Did you take that photograph?

16 A Yes, sir, I did.

17 Q Does that accurately depict where he was at the
18 time you arrived to do your investigation?

19 A Yes, sir, it does.

20 Q All right. Your Honor, we're not going to ask
21 this to be admitted.

22 MR. MURRAY: What number was that?

23 Q Plaintiff's 6. You testified I believe earlier,
24 Deputy Dickson, that Donald's arm was severed by the impact,
25 is that--was that your testimony--was severed in the accident?

1 A Yes, sir, it was.

2 Q All right. How far did you find the severed arm
3 from the location of the body?

4 A It was behind the--the vehicle itself.

5 Q All right. Do you know what distance away it
6 was?

7 A It was seven point--seven point six (7.6) feet
8 behind the car.

9 Q All right. After you completed your investiga-
10 tion at the scene of the accident, did you have occasion to
11 talk to Mr. Corbin the following day?

12 A Yes, sir, I did.

13 Q And where did that interview take place?

14 A It took place at the office of Charles Bowman.

15 Q All right. Was the interview arranged between
16 you and Mr. Bowman?

17 A Yes, sir, it was.

18 Q And who is Charles Bowman?

19 A He's a attorney with Higginbotham and Higgin-
20 botham and Bowman.

21 Q All right. And was he Mr. Corbin's attorney?

22 A He indicated so.

23 Q All right. And did you meet with he and Mr.
24 Corbin at Mr. Higginbotham's office?

25 A Yes, sir, I did.

1 Q All right. And did you take a statement from Mr.
2 Corbin at that point?

3 A Yes, sir, I did.

4 Q All right. Do you have that statement with you?

5 A Yes, sir.

6 Q How was that statement taken, Deputy Dickson?

7 A It was taped on a tape recorder.

8 Q All right. And were you--were you the only
9 officer present during the statement being given?

10 A The only police officer?

11 Q Yes, sir.

12 A Yes, sir, I was.

13 Q So you heard--you were there for the entire
14 interview?

15 A From the time until it started until the time it
16 ended, yes, sir.

17 Q All right. And was the tape of the interview
18 subsequently transcribed by the sheriff's department?

19 A Yes, sir. It was by Pat Davis, the secretary for
20 the Orange County Sheriff's Department.

21 Q And did you review the transcript of the tape?

22 A Yes, sir, I did.

23 Q And is the--does the transcript of the tape
24 accurately reflect what Mr. Corbin and you both said during
25 the course of the interview?

1 A Yes, sir.

2 Q All right. What did Mr. Corbin tell you happened
3 when you met with him in Mr. Bowman's office the following
4 day?

5 MR. MURRAY: Judge, I don't have any objection to
6 introducing the whole statement into evidence.

7 Q That's--that's fine, Judge, we'll do that.

8 THE COURT: All right. That will be Plaintiff's
9 Exhibit 7, it will be admitted. Excuse me, do you have an
10 objection?

11 MR. NORTHAM: No objection, Judge.

12 THE COURT: Plaintiff's Exhibit 7 admitted.

13 Q Can we use yours, (unintelligible) copy mark to
14 mark it?

15

16 (Plaintiff's Exhibit #7 was so marked and admitted
17 into evidence at this time.)

18

19 Q Judge, I'm not going to ask the jury to take time
20 to read this so I can ask--it's a little bit lengthy and I'll
21 try to ask Deputy Dickson some specific questions about it
22 though. I'd move it into evidence.

23 THE COURT: It's admitted.

24 Q Thank you. Did Mr. Corbin in the course of this
25 discussion with you mention the so-called John Doe vehicle,

1 Deputy Dickson?

2 A Yes, sir.

3 Q And how did he describe it?

4 A I would have to--

5 MR. MURRAY: Excuse me. Now, I don't have any
6 objection to the man reading the statement, but I do object to
7 him speculating or trying to remember what was said. The
8 statement is in evidence.

9 Q Well, Judge he's got a right to answer the
10 question and if he doesn't need--if he needs the statement to
11 refresh his recollection, he can ask about that?

12 THE COURT: Is your testimony now based upon what
13 the transcript says or based upon an independent recollection
14 of what Mr. Corbin said?

15 A I hadn't answered the question, Your Honor. I
16 was going to ask for my statement back to reflect on it.

17 MR. MURRAY: (Unintelligible.)

18 THE COURT: Is the answer then, you don't have any
19 independent recollection of what he said apart from what's on
20 that statement?

21 A I do remember parts of it, yes, sir.

22 THE COURT: Well do you remember that part that is
23 responsive to Mr. Berry's question?

24 A Exactly what he said, no, sir, I do not.

25 Q The statement accurately depicts what he told

1 you?

2 A Yes, sir.

3 Q If the jury looks at that that's basically what
4 he told you there that day?

5 A Yes, sir.

6 Q All right. Let's move on from that then. Was
7 Mr. Bowman present the entire time that Mr. Corbin was being
8 interviewed?

9 A Yes, sir, he was.

10 Q Did you later conduct or--or let me ask you this,
11 Deputy Dickson. Was it--where was Mr. Corbin's vehicle taken
12 after the accident?

13 A It was taken to Orange Ford.

14 Q What was the condition of the vehicle after the
15 accident?

16 A What do you mean by the condition?

17 Q Was it driveable?

18 A No, sir, it was not driveable.

19 Q Did it have to be towed to Orange Ford?

20 A It was towed by Orange Ford to Orange Ford.

21 Q Was the vehicle a total loss?

22 A I believe so, yes.

23 Q All right. Did you later conduct some examina-
24 tion of the vehicle there at Orange Ford along with Mr.
25 Hennage?

1 A Mr. Hennage was not present at the time I did the
2 initial inspection of the vehicle, no.

3 Q All right. He came later?

4 A Yes, sir.

5 Q All right. What--what did--what did you do when
6 you went to Orange Ford and did an initial inspection of the
7 vehicle?

8 A I did a inspection with one of the Virginia State
9 Inspectors that worked at the Orange Ford Dealership. We did
10 a Virginia State Inspection of the vehicle.

11 Q All right. Was the vehicle in--in operating
12 condition other than the fact that it wasn't driveable?

13 A Yes, sir. I mean, we had to work--hook up an
14 alternate battery source to it.

15 Q All right. Were the brakes functioning, Deputy
16 Dickson?

17 A Yes, sir.

18 Q Were the lights--the brake lights functioning?

19 A Yes, sir.

20 Q All right. Did you find any mechanical defects
21 with the vehicle?

22 A At the time of the inspection the steering column
23 was broke.

24 Q From the accident?

25 A From the accident, yes, sir.

1 Q How about the tires on the vehicle, did you
2 inspect those?

3 A Yes, sir, I did.

4 Q What did--what were they like?

5 A They were all well over the Virginia State
6 Inspection levels.

7 Q All right.

8 A I can give you specifics if that's what you need.

9 Q No, sir. We don't need that. And when did you
10 conduct this examination of the Corbin vehicle? Can you tell
11 us within how many days of the accident it was?

12 A I believe it was the next day.

13 Q All right. Roughly, how long did you spend doing
14 that?

15 A I spent approximately three to four hours on the
16 vehicle.

17 Q As a part of your overall investigation, Deputy
18 Dickson, did you go back out to the scene again after the
19 first day that you were there?

20 A Yes, sir, several times.

21 Q All right. And what did you go back and do when
22 you would go back to the scene those several times?

23 A To go over the--everything I had to make sure I
24 had everything that I needed. I also brought in an accident
25 investigator with Fairfax County to look over my work.

1 Q All right. Can you estimate the number of hours
2 that you spent, let's say during these occasions total, when
3 you went back to the accident scene to in effect check your
4 work?

5 A I really don't know how many hours. It was quite
6 a few.

7 Q All right. That's all the questions I have at
8 this time, Your Honor.

9 THE COURT: Do you wish to cross?

10 MR. MURRAY: Thank you, Your Honor.

11

12

13 CROSS-EXAMINATION

14 By: Mr. Murray

15 Q Could I see what you've got in your hand
16 (unintelligible)?

17 A Sure can. I have another copy of it if you'd
18 like that.

19 Q Can I keep this, I mean can I use this?

20 A Yes, sir, you can. Would you like one?

21 MR. BERRY: Thank you.

22 Q Can I have Plaintiff's Exhibit 6, the statement
23 please?

24 MR. BERRY: I believe that's 7, Mr. Murray.

25 Q Mr. Dickson, I want to begin by asking you to

1 clarify, if you would, the statement that you made about five
2 minutes ago when asked by Mr. Berry about a statement Mr.
3 Corbin made at the scene and I wrote down your words as he
4 saying, another vehicle possibly involved. Now, Mr. Corbin
5 didn't say there was another vehicle possibly involved, did
6 he? Let me direct your attention--

7 MR. BERRY: Your Honor, I object. Now, he's got to
8 let him answer the question.

9 THE COURT: Mr. Murray, you've asked a question,
10 give the witness a chance to respond.

11 A He said that there was a--possibly a vehicle that
12 was described to me to be involved.

13 Q He--he said quote, there is possibly a vehicle,
14 or there was a vehicle?

15 A He told me there was a--he said there was a
16 vehicle in the area that was possibly involved in the
17 accident, he did not recall if they had made any contact. It
18 was a bluish or a green truck with big, wide grill in the
19 front.

20 Q Didn't Mr. Corbin tell you that there was a
21 bluish green truck with a big wide grill in the front that was
22 on his side of the road, that ran him off the road?

23 A He didn't tell me that the first time I talked to
24 him, no, sir.

25 Q Did you write down what he told you the first

1 time you talked to him?

2 A No, sir, I did not.

3 Q You did not, did you?

4 A No, sir, I did not.

5 Q Now, on page three of his statement if you care
6 to look at it with us, the first thing he said to you when you
7 told him to tell you what happened, and you correct me if I'm
8 reading this wrong--

9 MR. BERRY: Your Honor, I'm going to object to this.
10 What's sauce for the goose is sauce for the gander. We--he's
11 already testified that the statement was given. Mr. Murray
12 didn't want me to ask questions about it and effect said the
13 statement speaks for itself and I would submit that's exactly
14 right. The statement speaks for itself for both sides. And
15 he--and--and it's not proper for him to go through it and
16 question him about every bit of it.

17 THE COURT: Mr. Murray.

18 Q I asked that the witness be given the statement
19 to testify from. Not, that he be testifying from a recollec-
20 tion of what the statement said. That was my objection.

21 THE COURT: I think that was the ruling before the
22 witness testified, but for the statement he could not--he--he
23 had no independent recollection of an answer to the specific
24 question that you asked him, Mr. Berry. That was the--

25 MR. BERRY: Yes, sir.

1 THE COURT: --context from which that exchange was
2 made. I think that the question is appropriate. Objection
3 overruled.

4 MR. BERRY: Yes, sir.

5 Q Follow me as I read this, correct me if I read it
6 incorrectly. Mr. Corbin said okay and ah, as I was going down
7 through the straightaway on that route I approached a curve
8 and as I got around the curve where I could see most of the
9 road, there was a pick-up truck on my side, which then I
10 applied my brakes and the first thing that I knew my vehicle
11 was out of control going on the opposite side of the road
12 which hit the boy, that I--that was I think on his bicycle
13 but wasn't moving, on the shoulder of the road, etcetera,
14 etcetera. Did I read that correctly?

15 A Yes, sir, you read that correctly.

16 Q Now, you conducted a complete and thorough
17 investigation of this accident?

18 A Yes, sir, I did.

19 Q You gathered and preserved all available
20 evidence?

21 A Yes, sir, I did.

22 Q Throughout the accident you were impartial in
23 your investigation?

24 A Yes, sir, I was.

25 Q And you found no defects in his vehicle, did you?

1 A No, sir, I did not.

2 Q Mr. Corbin told you that his speed was about
3 fifty miles an hour?

4 A Yes, sir, he did.

5 Q He told you that John Doe was over the center-
6 line, did he not?

7 A Yes, sir.

8 Q All right. Well, I take that back. He said the
9 pick-up truck was over the centerline, he didn't know we were
10 going to call him John Doe, right? He said the pick-up truck
11 was over the centerline, right?

12 A Yes, sir. That's what he said.

13 Q And he told you that in his mind he was braking
14 as hard as he could?

15 A Yes, sir.

16 Q And you talked to Alan Brown at the scene?

17 A No, sir, I did not.

18 Q Well, at sometime during the course of your
19 investigation, you talked to Alan Brown?

20 A In the course of my investigation I did talk to
21 him.

22 Q And he told you that there was a John Doe pick-up
23 truck that was present and that was over the centerline in
24 that corner, isn't that correct?

25 A He told me that there was a pick-up that was in

1 the area, yes, sir.

2 Q And over the centerline, isn't that correct?

3 A There's no centerline.

4 Q Ah, you're--there's no marked centerline, but
5 there is an imaginary centerline, is there not?

6 A If you want to imagine, yes, sir.

7 Q Well, people going east take their half of the
8 road out of the right-hand side, people going west take their
9 half of the road out of the left-hand side, right?

10 A I'd agree with that, yes, sir.

11 Q The line that divides those two lanes was not
12 marked in the road at that time, correct?

13 A There was no line on the road. Yes, sir.

14 Q Alan told you he was over the center of the road
15 then?

16 A Towards the center of the road, yes, sir.

17 Q The speed limit out there is fifty-five (55)?

18 A Yes, sir.

19 Q Let me go back and (unintelligible) the state-
20 ment. I'm still on page number three. I'm going to pick up
21 reading where I left off, I hit a boy that was I think on his
22 bicycle, but wasn't moving on the shoulder of the road. That
23 is where he was. He--when I saw him he was coming over the
24 hood, at that time my car was out of control. I continued
25 toward the woods and I remember that I wasn't completely in

1 the driver's seat, but my hand was on the steering and I
2 avoided--I remember avoiding a couple of trees, big trees, and
3 then all of a sudden it just went on through the woods where
4 it finally stopped. After a while--I must have been uncon-
5 scious for a, not a great deal of time, I would say a
6 (unintelligible) or say or maybe less than a minute. It's
7 hard to visualize how long it was, but when I opened my eyes I
8 could hear the buzzer coming--the buzzing coming from the
9 ignition, that the key was still in the ignition and the door
10 was open, the door had flown open and that is why the buzzer
11 was going, so I proceeded to get out. Did I read that
12 accurately?

13 A Yes, sir.

14 Q Now, if you turn with me, 'cause these pages
15 aren't numbered, I want you to go to page--well, the next
16 page, the middle of the page. Your question was, at that
17 point did you see the kids? Have you got me there?

18 A Yes, sir.

19 Q His answer was, I spotted the kids looking down
20 the road just at the same time that I had rounded the curve
21 and saw the pick-up on my side and they were on the shoulder--
22 still, I mean they wasn't moving. Question, well, when you
23 first saw the truck coming, exactly what did you do? Answer,
24 I applied my brakes immediately hoping to get by him, but like
25 I said that split second or so before the time that I was

1 trying to get through I found myself out of control and going
2 across the road. Question, how fast were you travelling?

3 Answer, under fifty.

4 A That's not the complete answer, sir.

5 Q I--I just stopped reading there, I mean they're
6 welcome to read some more. I didn't--wasn't particularly
7 interested in--then continued to say, I don't travel that road
8 that fast for the simple reason that I had a lot deer crossing
9 in there and that curve is right blind too, I--I--I have, you
10 know, a lot of people have had--I'll let you turn to the next
11 page and then the relevant thing I wanted to read was page
12 five, two thirds of the way down. Your question, how hard did
13 you apply your brakes? Are you with me?

14 A Yes, sir.

15 Q The answer was, as hard as I could in my mind, as
16 hard as I could, is that correct?

17 A Yes, sir.

18 Q Turn to the next page.

19 MR. BERRY: Your Honor, now I would submit this is
20 really not in the nature of cross-examination. He's not
21 attacking anything that Deputy Dickson has testified to. All
22 he's doing is going through and in effect summarizing and
23 arguing the statement and--and the only thing that I ask the
24 court to do if he's going to do that now, I'd like the same
25 leeway to do it on redirect 'cause I think that's the one

1 thing we were trying to avoid a minute ago.

2 THE COURT: All right. Mr. Murray, the purpose of
3 asking the officer to read or confirm that what is now in
4 evidence, the fact that it's read correctly, what's the
5 purpose of this?

6 Q The purpose is to give the jury what the
7 defendant, Corbin, told the officer the day after the
8 accident.

9 THE COURT: Is that all the purpose is? Because
10 that is going to be before the jury in the form of that
11 statement.

12 Q Well, it is, but Your Honor, there--well, I--I
13 don't want to argue my case now. I move (unintelligible)
14 record and I have two more things to read, they're very brief
15 and that's the conclusion--

16 THE COURT: Are you going to go anywhere with that
17 after that?

18 Q Well, that's--

19 THE COURT: With this witness?

20 Q I mean, I--we're not saying. With this witness
21 it's something I prefer not telegraphing.

22 THE COURT: Well, if you're simply going to do this
23 for the purpose of having him read the answer--

24 Q I--I'm--

25 THE COURT: --already in evidence then I'm going to

1 sustain the objection.

2 Q That's not the--that's not the simple purpose.

3 THE COURT: Well, go ahead, let's--

4 Q It's to establish a foundation for later
5 questioning.

6 THE COURT: Let's get on with this matter then.

7 Q All right.

8 THE COURT: I--I'll permit you to proceed for the
9 time being.

10 Q Turn to the next page, down at the bottom. I
11 don't really know what question this is responsive to, but
12 follow me if I am reading this correctly. Because I don't
13 think that side, I just don't know, I really don't. The only
14 thing I know is that I had my foot on the brake, both hands on
15 the steering wheel trying to get by him. Did I read that
16 accurately?

17 A Yes, sir.

18 Q Last thing if you'll turn two, three more pages
19 over. It begins at the top. The brakes are fine, you on the
20 same page?

21 A Uh-huh. (Indicating yes).

22 Q All right. Skip half way down to the question,
23 could you give me a rough estimate of how far you travelled
24 off the road? His answer was, really I can't. The only thing
25 that I remember, that I can remember was that I--I close to a

1 mailbox, did I read that accurately?

2 A Yes, sir.

3 Q Can you tell us when, prior to August 15th, 1990,
4 you had the basic accident--basic course, two week course, in
5 accident investigation?

6 A No, sir, I cannot.

7 Q You can't tell us. It's a fact, is it not, that
8 it was within the year prior to the accident?

9 A Probably so, yes, sir.

10 Q And at the time of the accident you had been on
11 the Orange County Sheriff's Department for how many years?

12 A At the time of the accident?

13 Q Uh-huh. (Indicating yes).

14 A Approximately two and a half years.

15 Q You were the second person to this accident
16 scene, correct?

17 A No, sir.

18 Q The second official?

19 A No, sir.

20 Q Okay. Which one were you? Who was there before
21 you got there?

22 A Captain G. L. Haney and Lieutenant Donald Brooks.

23 Q Haney and Brooks were there, so you were third?

24 A Yes, sir.

25 Q And you were in--you took charge of the inves-

1 tigation, correct?

2 A Yes, sir, I did.

3 Q And you could have called in the Virginia State
4 Police at that time, could you not?

5 A What is the question again?

6 Q You could have called in the Virginia State
7 Police at that time, could you not have?

8 A Yes, sir, I could have.

9 Q You know that they have an accident reconstruc-
10 tion team, do you not?

11 A Somewhere, yes, sir.

12 Q You know they have one that works Division Two,
13 Orange County, don't you?

14 A No, sir, I did not know that.

15 Q You don't know that?

16 A No, sir, I didn't..

17 Q You didn't know that they had an accident
18 reconstruction team that worked, if called, in Orange County?

19 A Not in Orange County. I didn't know they worked
20 Orange County, no, sir. I knew you could get an accident
21 reconstruction team from the State Police, but I didn't know
22 where they came from.

23 Q But you knew at the time you took charge of this
24 accident, had you called the Virginia State Police that you
25 could have gotten a Virginia State Police accident reconstruc-

1 tion team, correct?

2 A Yes, sir.

3 Q But the fact is that the Orange County Sheriff's
4 Department had a policy not to call the Virginia State Police
5 to come in and (unintelligible)?

6 MR. BERRY: Your Honor, I'm going to object. This
7 is not relevant to the case.

8 THE COURT: Mr. Murray.

9 MR. BERRY: The policy of the Orange County
10 Sheriff's Department is not relevant, Your Honor. He can ask
11 the witness about why he did certain things, but he can't ask
12 him about the policy of the department.

13 Q I concede the point.

14 THE COURT: All right. He withdraws the question.
15 Next question.

16 Q Now, you had a camera with you, did you not?

17 A Yes, sir, I did.

18 Q And you took a series of photographs, did you
19 not?

20 A Yes, sir, I did.

21 Q And I believe that I have written to you and you
22 have sent me copies of all your photographs, which I have
23 marked one through nineteen?

24 A I don't know if you have them all.

25 Q Well, I'm going to hand you one through nineteen

1 and if I haven't got them all I'm sure you can tell us what I
2 don't have, because I do recall writing you and ask you for
3 copies.

4 MR. BERRY: Judge, I object to this now. He--he
5 can't carry on a dialogue with the witness.

6 THE COURT: Let's wait until the witness has an
7 opportunity to see the exhibits.

8 MR. BERRY: Mr. Murray.

9 Q Would you just hand them to the witness, please?

10 MR. BERRY: Yes, sir.

11 Q Would you look through those photographs that
12 have been marked Defendant's Exhibits 1 through 19 and tell me
13 if they're all the pictures you took?

14 A I took these pictures, yes, sir.

15 Q Did you take any others?

16 A I believe there's others, yes, sir.

17 Q Where are they?

18 MR. BERRY: Your Honor, I object to this now. This
19 has no relevancy to the case, where--where the pictures are,
20 what--what's Mr. Murray driving at? Deputy Dickson isn't on
21 trial here.

22 THE COURT: Well--

23 MR. BERRY: If he's got a specific question that
24 indicates there's some problem then he can ask it, but to get
25 into a debate about what he's done with his investigation,

1 unless he intends to focus it somewhere I submit is beyond the
2 scope of the case.

3 THE COURT: His whole question is what--if there are
4 other photographs taken. The sole question is where they are,
5 as to that particular question I would overrule the objection
6 and permit that question to be answered.

7 A I have some other pictures.

8 Q May I see them?

9 MR. BERRY: Your Honor, this is beyond the scope of
10 cross-examination. I would ask that Deputy Dickson be
11 declared Mr. Murray's witness for this purpose, excuse me,
12 beyond the scope of direct.

13 THE COURT: You've asked him to testify regarding
14 his investigation of the accident scene. He's testified that
15 he was the chief investigator. I don't--I think this is
16 permissible cross-examination.

17 Q You got them with you?

18 A Yes, sir.

19 Q Have--can you tell me what is in your stack that
20 is not in my stack?

21 MR. BERRY: Judge, I object to that now. This--he
22 can look through--this is--this is coming into court and
23 carrying on a dialogue with the witness. That's not the way
24 you try a case. He can look at the photographs and ask his
25 questions. He's asked the deputy if he took them, he said

1 yes. He said where are they, here they are.

2 THE COURT: I'm not going to take the time to have
3 the witness go through photograph by photograph. I will
4 permit a question to the witness as to whether or not the
5 photographs he has in his hands are different from the
6 photographs that have been marked as Defendant's Exhibits 1
7 through 19. I'll permit that question. Do you wish to ask
8 that question, Mr. Murray?

9 Q Yes, sir. I--I beg your pardon, Your Honor. I
10 do wish to ask that question. Can you answer it?

11 A What's the question?

12 THE COURT: Are the photographs that you now have in
13 your hand, are they duplicates of Exhibits 1 through 19, or
14 are they different from what has been marked as Defendant's 1
15 through 19?

16 A Some are duplicates, some are not.

17 Q Now, Your Honor, I'm going to need time to look
18 at them because--

19 MR. BERRY: Judge, now I--I--that's--if he wants
20 that that's fine, but he shouldn't be permitted to stand here
21 in front of the jury and make some argument. If he want's time
22 to look at the photographs let's give him time to do that, but
23 I--I would submit it's improper for him to start getting into
24 a dialogue here with the jury present about why he wants to do
25 certain things in the trial of his case.

1 THE COURT: He's asked time to look at the photo-
2 graphs. I'll give you a reasonable amount of time.

3 MR. BERRY: Yes, sir.

4 THE COURT: Look at the photographs.

5 MR. BERRY: We have no objection to those all coming
6 in, Your Honor.

7 Q Well, there's one the court has already excluded.

8 MR. BERRY: No, sir. I would submit that--that
9 we're going to have to have this taken up then, Your Honor.
10 If he wants those in, this is his questioning, we would
11 submit they all come in.

12 THE COURT: I don't know whether he wants them in or
13 not, Mr. Berry.

14 MR. BERRY: He just--he just said he did.

15 Q Well, I asked the court reporter to mark them.
16 (Unintelligible be excluded, or be accepted (unintelligible)
17 two that I'll pull out.

18 THE COURT: Don't show them to me, show them to Mr.
19 Berry.

20 MR. BERRY: Your Honor, I'd ask that the--this is a
21 matter I think we're going to have to take up out of the
22 presence of the jury.

23 THE COURT: All right. Ladies and gentlemen of the
24 jury, I'm going to give you your morning recess at this time.
25 I'm going to ask that you accompany the deputy back to the

1 jury room. Please remember my comment from this morning not
2 to discuss the case amongst yourselves at all.

3
4 (The jury panel retires to the jury room.)

5
6 THE COURT: All right, Mr. Berry.

7 Q Just a minute, Your Honor. This witness here on
8 the front row, this lady seated in the center right here has
9 expressed displeasure visually at me and I would ask that if
10 she's going to make expressions on her face in the presence of
11 the jury that she be excluded from the courtroom.

12 THE COURT: Well, I haven't seen anything so my--

13 Q (Unintelligible.)

14 THE COURT: --comment at this time will go to
15 everyone in the courtroom, that this is a public courtroom.
16 Everyone is permitted to be here, but your participation must
17 be conducted in a civil manner and I want no expressions or
18 comments or outbursts from anyone in the courtroom whatsoever
19 that are designed to or may impact this jury and I'm sure that
20 everyone will follow that instruction. All right, Mr. Berry.

21 MR. BERRY: Your Honor, Mr. Murray has asked--I take
22 it is going to ask for the admission of all photographs and--
23 and I call to the court's attention to how this came about.
24 This, I would take it, is in an effort to show that Deputy
25 Dickson somehow has not been impartial in his investigation of

1 the case, whatever that means. So Mr. Murray is trying to
2 show, I take it, that he was sent a selected group of
3 photographs so he's asking, I want to see all the other
4 photographs and then I want the jury to see them because I
5 want them to see what we didn't get. Well, when he's done
6 that, Your Honor, then he's asked for what he's getting here
7 and that is photographs that we had the court deal with
8 before.

9 THE COURT: I take it these are photographs that
10 show the victim.

11 MR. BERRY: There are three that show the victim,
12 Your Honor, and they show the severed arm. And I--I agree--

13 THE COURT: Three photographs in questions.

14 Q There are four.

15 MR. BERRY: Excuse me there are--there are four,
16 Your Honor. If I could approach the bench (unintelligible)
17 let the court view them.

18 THE COURT: Well, one is a duplicate of number 6
19 that's already in.

20 MR. BERRY: Yes, sir.

21 THE COURT: Are the other photographs other
22 photographs of the scene, Mr. Dickson? Are the other--

23 A Yes, sir, they are.

24 THE COURT: --photographs--but for these four that
25 have just been marked, photographs taken at the scene?

1 A I believe they all were at the scene, Your Honor.

2 THE COURT: And your position, Mr. Berry, is that if
3 the photographs come in, these four come in together?

4 MR. BERRY: Yes, sir. He--in effect he's opened it
5 up, Judge. When we had the Motion in limine hearing we were
6 talking about the--and--and we conceded that we would--that we
7 should limit our production of photographs of the decedent to
8 the one photograph that the court approved based upon our
9 evidence that Donnie--that Alan Brown viewed this. Mr. Murray
10 has come at this from an entirely different tactic though and
11 if his purpose is to show that Deputy Dickson did--either did
12 not conduct a thorough investigation--

13 THE COURT: I don't think he's hiding that Mr.
14 Berry.

15 MR. BERRY: Okay. Well, if the court will concede
16 that I certainly think that's where he's coming, too.

17 THE COURT: Yes, that seems to me (unintelligible)--

18 MR. BERRY: And if he's doing that Judge, then he's
19 opened the door for every single photograph to come in and the
20 jury ought to see how painfully thorough this was and--and
21 he's put himself in that position. And I--I would submit to
22 the court that if he's going to ask for them they ought to all
23 come in.

24 THE COURT: It seems to me we're mixing apples and
25 oranges. I'm going to have these photographs marked as

1 exhibits. I'm going to not permit these four to come in
2 except as it--well not even the one that's already in evidence
3 if the defendant offers the remaining exhibits. I will permit
4 an explanation or response for Mr. Dickson that the four that
5 are kept out are simply of the victim. It seems to me that to
6 inject these photographs with what I think is appropriate
7 cross-examination where apparently, as I hear the case based
8 on the opening statement, there's going to be a question as to
9 the findings of Mr. Dickson at the scene. I think this is
10 permissible cross-examination and the weight to be given this
11 is for the jury. You will on redirect be able to elicit from
12 Mr. Dickson any explanation that you think is helpful to
13 bolster his credibility. But having put Mr. Dickson on the
14 stand he is subject to appropriate cross-examination.

15 MR. BERRY: Judge, I don't take issue, not for a
16 moment--

17 THE COURT: On the representation that the photo-
18 graphs that had been marked are additional or duplicate
19 photographs of the accident scene, I think if the defendants
20 want to put those in I will permit it. I'll have these four
21 marked--I'll exclude these four, but allow these four to be
22 marked and preserve your objection, Mr. Berry.

23 MR. BERRY: Yes, sir. And I just--let--let me
24 clarify, Your Honor, 'cause if they're going to be held out I
25 want to make sure the record reflects completely my position.

1 THE COURT: All right.

2 MR. BERRY: We called this man, true, Your Honor, as
3 our witness to testify about the investigation of the
4 accident. If he then is going to be permitted to be cross-
5 examined on that, which he should be, as to the thoroughness
6 and as to whether there are other exhibits or other documents
7 or other items that ought to be before the jury, certainly
8 that's permissible. But one of the basic principles in--in
9 evidence in the law is you can't have it both ways. If you're
10 going to attack an officer for the presentation or lack
11 thereof of evidence and then keep some of that evidence away
12 from the jury so that they can't see the entire result of what
13 he did, not only is it unfair to the officer, it inhibits our
14 ability to argue to the jury that yes, in fact, he did do a
15 thorough investigation. And--and I would submit to the court
16 that in this situation Mr. Murray has opened the door up so
17 that whereas the probative value before may have been
18 outweighed by the potential prejudice of these photographs,
19 it's not any longer because he's coming at a different subject
20 matter and he's trying to attack the officer for not being
21 thorough and if we can't even present to the jury what the
22 officer did then it ties our hands and I think--

23 THE COURT: Well, I think you misconstrue my ruling.
24 I'm going to permit you to elicit from this officer that the
25 four--that the four photographs that I am not permitting to

1 come in simply are additional photographs of the victim at the
2 scene. That will clearly be before the jury. It's simply
3 viewing those photographs that to me, based on my viewing
4 these photographs, to allow them to come in to help you
5 establish that point that you wish to make, the scene of the
6 victim shown in these photographs, I think is potentially
7 inflammatory to the jury.

8 MR. BERRY: I respect the court's ruling.

9 THE COURT: I think you are free to raise the issue
10 by having this officer again identify the content of those
11 photographs and simply what they show.

12 MR. BERRY: Yes, sir. The only--the only point I'd
13 make on that, Judge, is that when--when you try a jury case I
14 think every lawyer that's ever done it, you always hear these
15 stories later about what the jury wondered they weren't
16 getting and were getting.

17 THE COURT: Well, you're going to have--I'm--

18 MR. BERRY: It puts us in a position though, of
19 having to explain to them what they're not seeing and I don't
20 want the jury thinking we're the reason for it.

21 THE COURT: Well, I will--that's a valid objection.
22 I will tell the jury that if these exhibits are coming in that
23 there are four that I excluded that depict the victim and in
24 my view they're unnecessary for the jury to see.

25 MR. BERRY: Yes, sir.

1 MR. NORTHAM: Judge, may I briefly state John Doe's
2 position? John Doe did not want those photographs to come
3 into evidence and he doesn't want those commented on and
4 that's the basis of the Motion in Limine that I already filed
5 with the court.

6 THE COURT: Well, the jury is not going to see these
7 photographs.

8 MR. NORTHAM: Yes, sir. I understand, but if I
9 understand the Court's ruling correctly they will hear comment
10 that the photographs of the decedent have been excluded so as
11 Mr. Berry pointed out, they're now going to wonder what
12 they're not seeing.

13 THE COURT: Well, I--I don't think you give this
14 jury enough credit gentlemen. Let's get--let's move on.

15 MR. BERRY: Yes, sir. We appreciate the Court's
16 time.

17 THE COURT: The court is--we are taking the break.
18 Does anybody need a very brief break to go to the restroom or
19 anything?

20 MR. BERRY: No, sir.

21 THE COURT: If not, let's move on. All right, would
22 you mark the--

23 MR. MURRAY: Begin with twenty.
24

25 (The jury returns to the courtroom.)

1 THE COURT: It appears we have all our jury back.
2 You're free to continue.

3 Q Waiting on Madam Reporter to finish numbering
4 them. Well, let me ask you this in the meantime. Deputy
5 Dickson, I handed you nineteen photographs. They're the ones
6 that you sent me in response to my May 14th, 1991 letter to
7 you asking for copies of the accident scene and the vehicle
8 involved?

9 A I don't recall a letter.

10 Q Does this refresh your recollection?

11 A Yes, sir. I remember seeing this letter.

12 MR. BERRY: May I see that letter, Deputy Dickson?

13 Q These are the pictures that you sent me in
14 response to that letter, correct?

15 A I don't know what I sent you, sir.

16 Q Do you remember me writing you on October the 4th
17 of 1991 and asking you for a copy of the field notes or
18 documentation to show the precise location on that roadway of
19 the marks left by the Corbin vehicle's tires and the relation
20 of the marks left by the right wheels so that they were off
21 the right-hand side of the highway and landmarks at the scene?

22 A I would have to see the letter to see if I
23 remember. Yes, sir. I remember seeing this.

24 Q Do you remember calling me the following Monday
25 and saying that you would try to get me something in the mail

1 with the measurements?

2 A Yes, sir.

3 Q And then, do you remember talking to me on
4 October 17th when I hadn't gotten these things and you told me
5 you hadn't--didn't have your measurements ready yet, you would
6 make them up and put them in the mail to me by Wednesday the
7 23rd, do you remember telling me that?

8 A I don't recall exactly what I told you.

9 Q But you do recall never mailing me these
10 documents--

11 A I--

12 Q --you brought to court today, isn't that right?

13 A I did not mail you all those documents. No, sir.

14 Q You have in front of you (unintelligible) numbers
15 1 through 19 and we have here 20 through 61, correct? Now,
16 these, 20 through 61 are also the pictures you took of the
17 accident scene, correct?

18 A I'd have to look at them to make sure they're
19 all--

20 Q Well, you just handed them to me.

21 MR. BERRY: Judge, now I'm going to object to the
22 argumentiveness--

23 Q Well, I don't mind you looking at them, but--

24 THE COURT: Mr. Murray, you are arguing with the
25 witness. You've asked the question, the witness gets an

1 opportunity to look at the photographs so he can respond to
2 the question.

3 A Yes, sir. These are all--relationship to the
4 scene.

5 Q I move to introduce Defendant's Exhibits 1
6 through--

7 THE COURT: 20 through 61, any objection?

8 Q No, sir. 1 through--

9 THE COURT: Oh, I'm sorry. I thought 1 through 19--

10 Q 1 through 19 are the ones he sent to me and 20
11 through 57 are the ones he brought today?

12 THE COURT: Any objection?

13 MR. BERRY: None other than the fact that we want
14 the other four photographs to go in--

15 THE COURT: All right. I'll deal with that in a
16 minute. Any objection?

17 MR. NORTHAM: No, sir.

18 THE COURT: Those will be admitted. Ladies and
19 gentlemen of the jury let me take the opportunity to say that
20 in addition to Exhibits 20 through 61 that Mr. Dickson brought
21 out, there were four additional photographs that were included
22 in that group that were taken at the scene of the victim. And
23 because of what is depicted in those photographs I have chosen
24 not to let you see those photographs. All right.

25

Dickson - Cross

1 (Defendant's Exhibits #1 through #6
2 marked and received in evidence at this time.)
3

4 MR. BERRY: Your Honor, I would--I'd like the jury
5 to know that that was based upon the defendant's objection to
6 those photographs.

7 THE COURT: It is my decision to not permit the jury
8 to see those photographs.

9 Q It's Mr. Northam's motion.

10 THE COURT: It is my decision. It doesn't matter
11 who made the objection, it way my decision. Next question.

12 Q Mr. Dickson, you took a picture of what you have
13 depicted to be a yaw mark, is that not correct?

14 A A start of a yaw.

15 Q You didn't even photograph the end of it, did
16 you?

17 A What do you mean by the end?

18 Q It has a beginning therefore, it presumably has
19 an end, is that not logical?

20 A It is the beginning of a yaw mark. To complete a
21 yaw mark it would have to do other things.

22 Q Did you photograph where the mark stopped?

23 A Yes, sir.

24 Q Did you measure it's cord?

25 A No, sir, I did not.

1 Q Did you measure it's middle ordinate?

2 A No, sir, I did not.

3 Q You don't know the significance of those
4 measurements, do you?

5 A Yes, sir, I do.

6 Q But you didn't measure them, did you?

7 A No, sir, 'cause it is not a complete yaw.

8 Q That is your testimony. But did you measure them
9 so that we could judge for ourselves, Mr. Dickson?

10 MR. BERRY: Your Honor, he's arguing with the
11 witness. He's answered it.

12 THE COURT: That's an argumentative question.
13 Objection sustained.

14 Q The sum total of the measurements that you took
15 at the accident scene are depicted in this piece of paper
16 here, is that not correct?

17 A Is--I don't understand the question.

18 Q The measurements that you took at the accident
19 scene are recorded on this piece of paper right here, are they
20 not?

21 A Not all of the measurements, no, sir.

22 Q Are there--is there another page you--measure-
23 ments?

24 A Not in your packet, no, sir.

25 Q Oh great, where is it?

1 A In the rest of my--

2 Q Do you have it with you?

3 A Yes, sir, I do.

4 MR. BERRY: Your Honor, I ask him--I ask him that he
5 let him answer--

6 THE COURT: Mr. Murray, when you ask questions do
7 not argue with the witness.

8 Q I--I apologize, Your Honor, I'm sorry. Could you
9 pull it out, please? Are there more photographs?

10 A Of something else, yes, sir.

11 Q Not this case?

12 A Well, no not of this case sir. It's--it's just
13 photographs I took for myself of a vehicle in Gordonsville.
14 Would you like to see them?

15 Q Yes, sir. These four pictures are pictures of a
16 truck that is located in Gordonsville that fit the description
17 of the John Doe vehicle that was given at the scene?

18 A Those are pictures of a truck that was found
19 sitting in the Town of Gordonsville the whole day of the
20 accident. I went over there and took pictures of it 'cause it
21 looked like that and that's what I used to talk to people when
22 I talked to them on the street describing a vehicle that would
23 look some similar to this vehicle that's in these pictures.

24 Q Thank you. Are there any other pictures that
25 have anything to do with this case in that box?

1 A I'll have to look through my box, sir. These
2 pictures here have to do with the case.

3 Q This is nothing here, right, that's just a piece
4 of cardboard or is there something?

5 A There's nothing on there, no, sir. It's just a
6 piece of cardboard that holds the pictures.

7 Q And these pictures here are--looks like the
8 beginning and the end of a piece of film, a roll of film
9 (unintelligible) significance--

10 A The beginning of the end, I--I don't know, sir,
11 if they were at the beginning or the end.

12 Q But there's--well, they speak for themselves.
13 I--I don't introduce these, Your Honor.

14 MR. BERRY: May I see those Mr. Murray?

15 Q Sure. (Unintelligible) measurements (unintelligible).
16

17 A You asked me about the photographs.

18 Q True. Two questions before, the measurements and
19 photographs, anything else you got in there that could help
20 us.

21 A You--you asked--you--

22 MR. BERRY: Judge, I--I object to that question.

23 THE COURT: The specific question Mr. Murray was,
24 did he have other measurements, he responded yes. Now, he--
25 what's the next question before the witness?

1 Q Then I saw the photographs and I want to know two
2 things. Are there any more measurements or any more photo-
3 graphs?

4 MR. BERRY: He hasn't even had a chance to testify
5 about the first measurements, Judge. He was getting ready to
6 do that I think when he got interrupted.

7 THE COURT: What--ask the witness the next ques-
8 tion, Mr. Murray.

9 Q I'll start back at the beginning. I asked you if
10 this piece of paper here contained all of the measurements
11 that you took at the scene and you said no, there was
12 something else. So then my next question is, what other
13 measurements are there?

14 A I'll have to find them again. Here's some more.
15 There--you should have some of them in your packet already.

16 Q Well, packet already, you mean what you just
17 handed to me?

18 A Yes, sir.

19 Q Okay. I'm going to hand them back to you now
20 because that's clearly a duplicate of what's in this packet.

21 A Okay.

22 Q This appears also to be a duplicate of what's in
23 the packet and I--

24 A That's not a duplicate that's in the packet.

25 Q How about this?

1 A No, sir, it's not.

2 Q All right. I move to introduce these three
3 pages of measurements.

4 MR. BERRY: Your Honor, I think he's got to lay a
5 better foundation for what they are. We--we don't object,
6 Your Honor, to the first page that he asked be introduced
7 which I think he's already questioned--

8 THE COURT: All right. Let's go ahead document by
9 document and establish a foundation.

10 MR. BERRY: You want to have them marked?

11 Q Yes. Let's take the yellow piece of paper first.
12 I will hand you what's marked as Defendant's Exhibit #68 and
13 tell--ask you to please tell us what it is?

14 A What this would be--

15 Q No, what is it, not what it would be.

16 MR. BERRY: Your Honor, again, I--I object that.
17 He's--the witness is just using ordinary language trying to
18 answer the question.

19 THE COURT: I agree. I think it's responsive. If
20 you want to clarify his answer, Mr. Murray, you can ask the
21 follow-up questions. Objection sustained.

22 A What this would be is something that would give
23 me the possible point of perceptions, the cord, middle
24 ordinate of the curve radius from the reference pole going
25 back into the curve, the possible point of perception of the

1 driver, being Mr. Corbin.

2 Q All right. What's Exhibit #67?

3 A This is my field notes that I took at the day of
4 the accident.

5 Q And what is 66?

6 A Sixty-six (66) is some measurements of the
7 general area and where things were found.

8 Q Sixty-six (66) was prepared from the other
9 documents, was it not? That's sort of the summary of your
10 work, correct?

11 A Ask that question again.

12 Q Sixty-six (66) appears to be a summary of your
13 other work.

14 A A summary?

15 Q A summary of it, yes. Taking everything and put
16 it all together into one exhibit, 66, isn't that right?

17 A No, sir, it's not.

18 Q No? Tell me what 66 is.

19 A Sixty-six (66) are some measurements of the
20 scene.

21 Q When did you prepare it in relation to taking
22 down the measurements that are noted on the other exhibits?

23 A When did I prepare this, when everybody started
24 asking if I had measurements.

25 Q When was that?

My

1 A I actually prepared the paper itself last night.

2 Q Okay. I move to introduce these three exhibits.

3 MR. BERRY: No objection, Your Honor.

4 THE COURT: All right. 66, 67 and 68 will be
5 admitted.

6
7 (Defendant's Exhibits #66, #67 & #68 were duly
8 marked and received into evidence at this time.)

9
10 Q That's all I have.

11 THE COURT: Redirect?

12 Q Mr.--

13 THE COURT: I'm sorry. All right, Mr. Northam.

14
15 Questions by Mr. Northam:

16 Q Yes, sir. Deputy Dickson, you investigated this
17 accident as part of your regular job, didn't you?

18 A Yes, sir, it was my job.

19 Q And we--isn't there a note on those photographs
20 that somehow the second set got separated from the first set?

21 A I'll have to look at that. I believe there is

22 Q (Unintelligible) sorry they got separated?

23 Somebody apologizing to you?

24 A The lab, sir.

25 Q And that wasn't introduced when Mr. Murray went

1 through those?

2 A No, sir, it was not.

3 Q I thought I had seen that. You took approximate-
4 ly twenty measurements at the accident scene, didn't you?

5 A I'd have to look back at my--

6 Q I'm referring to your deposition and testimony
7 where you said it was approximately twenty, is that consistent
8 with what you remember (unintelligible)?

9 A I believe it's somewhere around there. I'm--I'm
10 not exact on a number of measurements that I did take.

11 Q And the--a hundred seventy-two (172) feet of
12 markings go off the right side of the road, that was the first
13 set of markings weren't there?

14 A That's the point the vehicle travelled, the
15 Corbin vehicle travelled off the highway.

16 Q Yes, sir. And these marks are not more than two
17 feet off the road are they?

18 A No, sir, they're not.

19 Q The--the shoulder here is basically flat isn't
20 it?

21 A Basically, yes, sir.

22 Q And the marks never went into the ditch on the
23 right side, did they?

24 A No, sir, they did not.

25 Q And the car went back on the road right before

1 the mailbox didn't it?

2 A Yes, sir.

3 Q And there's no evidence that Mr. Corbin's vehicle
4 hit the mailbox is there?

5 A No, sir.

6 Q And he told you he reacted to that mailbox didn't
7 he?

8 A Yes, sir.

9 Q And then he left the fifty-one (51) foot yaw
10 mark, isn't that true?

11 A The start of a yaw mark.

12 Q And a yaw mark indicates a tire that's free to
13 rotate?

14 A The sideways striations mean a tire is free to
15 rotate.

16 Q And at this accident scene, you found no evidence
17 of brake or skid marks up to this point, did you?

18 A No, sir.

19 Q And after the yaw mark, the car went sixty one
20 (61) feet, ten (10) inches going off the left side of the
21 road, didn't it?

22 A Until it hit the first tree, yes, sir.

23 Q And then it went another fifty-two (52) feet into
24 the woods, didn't it?

25 A Yes, sir.

1 Q And it travelled a total distance of three
2 hundred thirty-six (336) feet, ten (10) inches from where it
3 first left the road to where it first--or excuse me, to where
4 it came to a complete stop, didn't it?

5 A Yes, sir.

6 Q And this car was totalled in the accident, wasn't
7 it?

8 A I believe it to be totalled.

9 Q Then at the entire accident scene you found no
10 evidence of brake or skid marks, did you?

11 A No, sir, I did not.

12 Q And the road width here is twenty (20) feet,
13 isn't it?

14 A Yes, sir.

15 Q And going into the curve in the direction Mr.
16 Corbin was travelling it--it's basically straight, isn't it?
17 In other words, he's coming down a straightaway going into a
18 turn and that straightaway is--well, it's straight road
19 leading up to the turn, isn't it?

20 A It's a short straightaway coming up into the
21 curve. There's another curve prior to--you've got a curve,
22 straightaway, curve.

23 Q Okay. But the point is there's a straightaway
24 before the curve?

25 A Yes, sir.

1 Q Okay. And it's basically level, isn't it?

2 A Basically, yes, sir.

3 Q And the road surface is free of debris, in other
4 words, no loose material on the road surface?

5 A It's a asphalt blacktop gravel type mixture I
6 believe.

7 Q But all that's gelled together, isn't it?

8 A Yes, sir.

9 Q No loose material on the road surface is there?

10 A Not that I know of.

11 Q Okay. And you found no defects in the road
12 surface, did you?

13 A No, sir.

14 Q Okay. And Mr. Corbin told you he was going under
15 fifty miles per hour, didn't he, before he saw the pick-up
16 truck?

17 A I believe that's--

18 Q You found no defects with Mr. Corbin's brakes?

19 A No, sir, none.

20 Q And no defects with the tires or the fluids in
21 the car?

22 A No, sir.

23 Q And Mr. Corbin told you that all his gauges in
24 the car were operating before the accident, didn't he?

25 A Yes, sir.

1 Q And Mr. Corbin's car was equipped with a
2 tachometer wasn't it?

3 A Yes, sir, it was.

4 Q And you found the tachometer stuck on 6400 rpm's
5 after the accident, didn't you?

6 A Yes, sir, I did.

7 Q And that was in the red, wasn't it?

8 A Yes, sir.

9 Q Mr. Corbin told you he was shoved over into the
10 passenger seat at some point?

11 A He told me that he was--

12 Q I'm going from your deposition testimony, did Mr.
13 Corbin ever tell you that he landed in the passenger side, at
14 some point he said he was shoved over, yes.

15 A He said he was shoved over, but I don't remember
16 exactly what--how he said it though, the exact words he used.

17 Q Now, Mr. Corbin never gave you a distance of how
18 far away John Doe was when he first saw him, did he?

19 A No, sir, he did not.

20 Q And he--he certainly never told you that it was a
21 hundred seventy-two (172) feet away did he?

22 A No, sir, he did not.

23 Q Judge, that's all I have on cross.

24 THE COURT: Redirect?
25

REDIRECT EXAMINATION

By: Mr. Berry

Q A couple, Your Honor. Did you know Mr. Corbin before this accident, Deputy Dickson?

A No, sir, I did not.

Q Did you have any bias or prejudice or any--any ill will towards him at all?

MR. MURRAY: Objection, Your Honor. Objection

THE COURT: What's the objection?

MR. MURRAY: Objection to asking the witness if he's biased or prejudiced?

THE COURT: Based on the cross examination I think it's a--entirely permissible. I'll overrule the objection.

Q Do you have any bias or prejudice or ill will towards Mr. Corbin at all, Deputy Dickson?

A No, sir.

Q He was cooperative with you in the investigation?

A Yes, sir, he was.

Q So you didn't have any ill will towards him when your investigation was over?

A No, sir.

Q Did you know the Brown family at all before that?

A No, sir.

Q Did you have any particular favoritism toward the Brown family?

1 A No, sir.

2 Q Were you doing anything other than investigating
3 this as a normal accident in the course of your duties as a
4 police officer?

5 A No, sir.

6 Q Do you call the State Police in on all accidents?

7 A No, sir.

8 Q Why didn't you call them in on this one, did you
9 need them?

10 A That would call for an opinion.

11 Q Well, you give the opinion, did you need them?

12 A I didn't believe so.

13 Q Okay. All right. Mr. Murray indicated he wrote
14 you a letter and asked for these photographs, did he ever come
15 out to Orange and meet with you?

16 A He was supposed to and never did.

17 Q Did he ever come to the Sheriff's office and ask
18 you to show him the photographs?

19 A No, sir, he did not.

20 Q Did he ever send anybody from his office to the
21 Sheriff's Department to try to see the photographs?

22 A He did not send anybody--I didn't see anybody,
23 no, sir.

24 Q All right. Well, I'm asking just what you know,
25 not what anybody else might know. Now, you gave a deposition

1 in this case didn't you?

2 A Yes, sir.

3 Q And somebody from Mr. Murray's office was there
4 for that, is that right?

5 A I believe so.

6 Q Mr. Murray there?

7 A I've never seen him before in my life.

8 Q So he--

9 MR. MURRAY: (Unintelligible) mutual.

10 Q So he wasn't at the deposition then?

11 A I don't--he was not there, no.

12 Q Did you have all your photographs and all your
13 investigative materials with you at the deposition?

14 A Yes, sir.

15 Q Do you remember Mr. Cattano being there for Mr.
16 Murray's office?

17 A I believe I remember that name.

18 Q He questioned you at the deposition, didn't he?

19 A I believe so.

20 Q Did he ever ask to look at these other photo-
21 graphs or to look at what you had in your file that day, when
22 you gave the deposition?

23 A I believe one piece of paper.

24 Q Anything else?

25 A And one photograph.

1 Q Anything else?

2 A No, sir.

3 Q Did you have it all with you?

4 A Did I have all this--

5 Q Yes.

6 A --stuff with me then?

7 Q At the deposition.

8 A Yes, sir, I did.

9 Q Where was the deposition given?

10 A It was at the Orange Town Office space located on
11 Belleview Avenue in the Town of Orange.

12 Q Did you ever get a subpoena for any of these
13 materials, Deputy Dickson?

14 A I received no subpoenas for any materials.

15 Q Did you get a subpoena to appear here at trial?

16 A I did receive that.

17 Q Did you talk to Mr. Murray on the telephone?

18 A Several occasions.

19 Q Did you ever refuse to talk to him?

20 A No, sir.

21 Q Did Mr. Bowman, who apparently was Mr. Corbin's
22 lawyer, did he ever come out to the Sheriff's Department and
23 talk with you?

24 A I went to his office and talked to him.

25 Q You went to his office?

1 A Yes, sir.

2 Q Did he ever come out to your office?

3 A I don't recall.

4 Q Did he ever come and ask to see what you have in
5 your box, your photographs and your measurements and these
6 other things?

7 A I don't recall him coming to me and asking for
8 them, no, sir.

9 Q You took four other photographs that weren't
10 admitted into evidence, is that correct?

11 A I've got several that weren't admitted.

12 Q Were they of the victim?

13 MR. MURRAY: That's already been discussed, Your
14 Honor.

15 THE COURT: I believe I already--

16 Q Yes. Okay. I--I just--I thought the Court
17 expected me to ask--

18 THE COURT: --explained that to the jury, Mr. Berry.

19 Q --that of him. Were they--were there--let me ask
20 you this, Deputy Dickson. The number of photographs that were
21 taken and the number of measurements that were done, how does
22 this compare to the ordinary accident investigation that you
23 do in terms of numbers of photographs, numbers of measure-
24 ments?

25 A I don't understand the question, sir.

1 Q All right. Did you take more photographs than
2 usual in this one or less?

3 A It depends on the accident.

4 Q All right. Some accidents are more serious than
5 others?

6 A Yes, sir.

7 Q This was a serious accident?

8 A Yes, sir.

9 Q You said that you had four pictures in there of a
10 truck that you took in Gordonsville?

11 A Yes, sir.

12 Q Why did you do that?

13 A So I could take the pictures around in the
14 community and see if I could find out if anyone knew who owned
15 a vehicle that looked like this that would have possibly been
16 in that area on that day.

17 Q Did you take them around and talk to people?

18 A Yes, sir, I did.

19 Q Did you make a strong effort to try to find out
20 who John Doe was?

21 A Yes, sir, I did.

22 Q Do you know how much time you spent doing that?

23 A I can't give you times, no, sir.

24 Q Was it more than a day?

25 A Yes, sir.

1 Q All right. Mr. Murray asked you about measuring
2 the cord and the middle coordinate (sic) in the yaw mark and
3 he asked you if you knew what that meant, do you remember that
4 question?

5 A Yes, sir, I do.

6 Q And do you know what that means?

7 A Yes, sir, I do.

8 Q And first of all tell us what the cord means,
9 what does he mean when he said did you measure the cord?

10 A A cord would be--I would have--I--it would be
11 easier to show in something than just explaining it.

12 Q All right. Well, give us your best explanation
13 and then maybe we'll let you show us.

14 A A cord on a, like a half a circle, you would
15 measure the farthest part or from edge to edge, the middle
16 ordinate being from the center of where your tape is back to
17 the outside of that circle.

18 Q All right.

19 A That would give you a radius.

20 Q A cord is sort of a measurement across then, is
21 that a fair statement?

22 A Across the center of a circle, yes.

23 Q All right. And what is the middle coordinate
24 (sic)?

25 A Middle ordinate.

1 Q Excuse me, middle ordinate.

2 A That is from the center of the circle to the
3 outside.

4 Q Have you had accident investigations where you
5 have taken those measurements?

6 A Yes, sir.

7 Q Measured the cord and--

8 A I did in this one.

9 Q Excuse me?

10 A I did in this one.

11 Q All right, sir.

12 A In one of my things that he took.

13 Q What was your purpose in doing that?

14 A The purpose of that was to find the radius of the
15 curve.

16 Q What was the purpose of that?

17 A To find out the possible point of perceptions.

18 Q What do you mean by point of perception?

19 A That would be the sight of--the line of sight of
20 Mr. Corbin in the curve.

21 Q Coming into the curve?

22 A Yes, sir.

23 Q Did you determine the distance he would have been
24 able to have a line of sight?

25 A Yes, sir, I did.

1 Q Can you tell us what that is?

2 A Possible point of perception of the--point of
3 perception for the Corbin vehicle would have been a hundred
4 and thirteen (113) feet.

5 Q All right. When you say a hundred and thirteen
6 (113) feet you're talking back in the direction towards
7 Orange?

8 A Yes, sir.

9 Q So he--he would have been able to see into the
10 curve from a hundred and thirteen (113) feet away?

11 A Yes, sir, to the middle.

12 Q To the middle--

13 A Of the curve.

14 Q --of the curve. Not around the curve, to the
15 middle of the curve. Mr. Northam asked you about the
16 tachometer?

17 A Yes, sir.

18 Q This vehicle had a tachometer?

19 A Yes, sir.

20 Q Did you remove that from the vehicle?

21 A Yes, sir, I did.

22 Q All right. Did you have some tests done on that?

23 A Yes, sir, I did.

24 Q Mr. Murray ever ask you for the tachometer?

25 A Yes, sir, he did.

1 Q What did you tell him?

2 A He could have it.

3 Q Did he ever come and get it?

4 A No, sir.

5 Q Anybody ever come and get it?

6 A No, sir.

7 Q Did Mr. Murray's expert, Mr. Chewning, call you?

8 A Yes, sir.

9 Q Did you talk to him?

10 A Yes, sir.

11 Q Did you ever refuse to talk to him?

12 A No, sir.

13 Q Are you getting paid anything to come here today,
14 Deputy Dickson, other than what you get paid to be a deputy
15 sheriff in Orange County?

16 A No, sir, I'm not.

17 Q That's all I have, Your Honor.

18 THE COURT: Does it relate to this, Mr. Murray?

19 MR. MURRAY: Absolutely. Absolutely.

20 THE COURT: Let's not duplicate anything that we
21 brought out on cross.

22
23 RECROSS - EXAMINATION

24 By: Mr. Murray

25 Q Mr. Northam asked you if the road was basically

1 level, correct?

2 A That's what he asked.

3 Q In fact it's got eleven degrees vertical bank to
4 it, does it not?

5 A It has a minus eleven elevation in the curve with
6 a grade of zero.

7 Q Minus eleven elevation in the curve with a grade
8 of zero. Now, Mr. Northam asked you or he actually told you
9 that Mr. Corbin never gave a distance of how far John Doe was
10 away when he first saw him, remember that?

11 A Yes, sir, I recall that.

12 Q You said no, he never did, right?

13 A No, sir, I don't believe he did.

14 Q If he did, it would be in the statement wouldn't
15 it?

16 A I believe it would, sir.

17 Q All right. If you asked the question, it would
18 be in that statement, right?

19 MR. BERRY: Object, that's asked and answered,
20 Judge.

21 THE COURT: Asked and answered.

22 Q Okay.

23 THE COURT: Next question.

24 Q Next question is, you told us you didn't call the
25 Virginia State Police because in your opinion you didn't need

1 them, right?

2 A Yes, sir.

3 Q Had many fatal accidents had you worked prior to
4 this one?

5 A I would have to go back and check my records. I
6 can't give you an exact number.

7 Q You can't remember can you?

8 MR. BERRY: Judge, he's answered the question, Mr.
9 Murray can't argue with him.

10 THE COURT: Asked and answered.

11 Q Mr. Berry asked if those pictures were ever
12 subpoenaed and you said no, they weren't. Is it necessary for
13 you to receive subpoenas before you will truthfully respond to
14 a request for photographs?

15 MR. BERRY: Objection, Your Honor. He's arguing
16 with the witness.

17 THE COURT: It's an argumentative question, Mr.
18 Murray.

19 Q Well--

20 THE COURT: There's no evidence that he--the letter
21 is not in evidence, it--it's argument. I sustain the
22 objection.

23 Q Is it not a fact that I asked you to send me
24 your photographs?

25 MR. BERRY: Your Honor, that was asked and answered

1 on cross examination.

2 Q That's true and I want to establish--never mind,
3 never mind. In--in the accident investigation when you first
4 got to the scene you were told by at least two people that
5 there was a John Doe pick-up truck involved, isn't that true,
6 Mr. Corbin and Alan Brown?

7 MR. BERRY: Your Honor, that's not responsive to
8 anything that was asked on redirect or on Mr. Northam's cross?

9 THE COURT: I think you're extending beyond the
10 redirect, Mr. Murray.

11 Q I'm coming--

12 THE COURT: I sustain the objection.

13 Q Your Honor, I'm coming to this pick-up truck that
14 was the subject of Mr. Berry's redirect.

15 THE COURT: You had a chance to develop that. I'm
16 going to sustain the objection. Let's move on Mr. Murray,
17 next question.

18 Q Where did you get these pictures of the pick-up
19 truck?

20 A In the town of Gordonsville.

21 Q And you took those pictures of that pick-up truck
22 why?

23 MR. BERRY: Your Honor, that's asked and answered, I
24 object.

25 THE COURT: He has asked and answered that question,

1 Mr. Murray.

2 Q Your took those pictures of the pick-up truck
3 because there had been a description of a truck similar to
4 that given, correct?

5 A There was a description of something similar to
6 that truck given, yes, sir.

7 Q By two people at the accident scene, right?

8 MR. BERRY: Judge, again I think it's beyond the
9 scope of--of the redirect examination. This is recross.

10 Q I'll make him my witness for the purpose of
11 asking this one question.

12 THE COURT: All right. I'll permit that question
13 and for that question he's your witness and then I'm going
14 to--unless you have something that specifically relates to the
15 redirect, I'm going to terminate the recross examination, Mr.
16 Murray.

17 Q Two people at the accident scene described a
18 pick-up truck that you-all put an all points bulletin out on,
19 isn't that true?

20 A Yes, sir.

21 Q And those photographs depict the truck that was
22 described as best as you-all could find in the area?

23 A Can you ask that again?

24 Q Yeah. I mean, you-all took--you-all found this
25 truck which is the closest thing coming to the description

1 given to you at the accident scene, isn't that right and
2 that's the best you-all were able to come up with?

3 A That is not, in fact, the truck. It was one
4 similar, yes, sir.

5 Q I concede and--and what--nobody said that's the
6 John Doe, but that's as close as you-all were able to find to
7 the description given you at the scene?

8 A Yes, sir.

9 Q You've indicated the point of perception was a
10 hundred and thirteen (113) feet, right?

11 A Yes, sir.

12 Q Now, isn't it true that the tachometer and the
13 reading and the dial and everything else to best of your
14 knowledge in this investigation doesn't mean anything, isn't
15 that true?

16 A It doesn't mean anything to who?

17 A To determining any material fact in this case,
18 correct?

19 MR. BERRY: Your Honor, I object to that. That
20 question is too broadly worded--

21 Q I withdraw the question.

22 THE COURT: All right. He withdraws the question.

23 MR. BERRY: Yes, sir.

24 Q That's all my examination.

25 THE COURT: Nothing further. May Mr. Dickson be

1 A Knowing that I couldn't watch him grow up to be
2 what he really wanted to be.

3 Q That's all the questions I have, Your Honor.

4 MR. MURRAY: No questions.

5 MR. NORTHAM: No questions, Your Honor.

6 THE COURT: Thank you, Mrs. Brown. You may step
7 down.

8 MR. EARLY: Call Alan Brown.

9 THE COURT: Alan Brown. Mr. Brown, if you would
10 come around please and face the clerk.

11
12 ALAN BROWN, having been so duly sworn, testified as
13 follows:

14
15 DIRECT EXAMINATION

16 By: Mr. Early

17 Q Alan, would you state your full name for the jury
18 please?

19 A Alan R. Brown.

20 Q And how old are you?

21 A Seventeen.

22 Q You live with your mother and your sister on
23 Route 638 in Orange County?

24 A Yes.

25 Q Okay. Speak up a little bit so the jury can--can

1 hear you.

2 A All right.

3 Q On the day of accident, August 15, 1990, can you
4 tell the jury what you were doing that day?

5 A Well, I got up and went down M.J.'s house, 'cause
6 me and my brother we--we were all going to go swimming. And
7 we got on our bikes, well, we went back to our house and got
8 some towels and got on bikes and we met down the road, but on
9 the way his little cousin, John's bike broke down so we came
10 back and me and Donnie stopped on the curve and M.J. went in
11 the house.

12 Q Now, you're speaking of M.J. King, is that
13 correct?

14 A Yeah.

15 Q Okay.

16 A M. J. went in the house and got some water and
17 John had already left, we told him to go ahead 'cause he was a
18 little slow with riding, so we sat there and waited for M. J.

19 Q Okay. Now, where were you--where were you
20 standing or positioned on the--in relation to the--the road?

21 A On the grass of the road--on the side.

22 Q And were you standing closest to Orange or away
23 from Orange in relation to Donnie?

24 A Well, I'd be behind 'cause I was behind Donnie.

25 Q Was Donnie to your right or left?

1 A To my right.

2 Q And to your left was going away from Orange, that
3 would be a fair statement?

4 A Yeah.

5 Q On 638. All right. What happened as you were
6 standing there on the grassy area beside Route 638?

7 A I heard a truck coming up from my left, so I
8 turned and watched it. It was coming up the middle of the
9 road and then when it got to the curve, it--it was coming back
10 over to it's side, but it still had its tires over the line.
11 And then the--a little red sports car on the side of the road.

12 Q And then what happened?

13 A Well, I guess from--to keep it from hitting the
14 truck, it was over in the grass--well, it was over in the
15 grass before I seen it and then it swerved to miss the mailbox
16 and I heard Donnie running and turned to see what he was doing
17 and when I turned to see what he was doing I was stepping back
18 'cause he had a panicked look on his face, so when I turned
19 back around I seen the car shooting across the road.

20 Q Did you see it hit Donnie?

21 A Yeah.

22 Q What did the car do after it hit Donnie?

23 A It smacked into a tree and went down in the
24 woods somewhere.

25 Q What did you do after the--after that?

1 A Well, after I turned around and seen Donnie
2 laying there, I went into shock, I was down on the ground
3 crying.

4 Q And did you--what did you do when you--where were
5 you on the ground?

6 A Right where I was standing at at first.

7 Q Okay. And what did you do after that?

8 A After that I got, well when I did get up I yelled
9 down there to M.J. to call for some help, 911. And then I
10 walked over to Donnie, kneeled down beside him.

11 Q Okay. I ask you, can you identify this picture?

12 A Yeah.

13 Q What is this a picture of?

14 A Donnie after he got hit.

15 Q Is this what you saw?

16 A Yeah.

17 Q Move this into evidence, Your Honor.

18 THE COURT: Plaintiff's 6 is admitted.

19
20 (Plaintiff's Exhibit #6 was duly marked and received
21 into evidence at this time.)

22
23 Q You've indicated you knelt down beside Donnie?

24 A Yeah.

25 Q How long did you stay in that position, beside

1 him?

2 A For about a minute or two.

3 Q Did you talk--were you able--was he making any
4 sounds?

5 A No.

6 Q What did you do after you were there for a minute
7 or two?

8 A I got up and walked back over to my bike, I was
9 going to try to ride it down to M.J.'s, but I couldn't so I
10 threw it in the driveway and I walked down to M.J.'s.

11 Q What did you do when you got to M.J.'s?

12 A I got on the phone. The people at 911 wanted to
13 talk to me, (unintelligible) or something.

14 Q And after you talked to them what did you do?

15 A I came back out and I started walking across the
16 yard and Mr.--Mr. Corbin was standing out there in Churchill's
17 yard.

18 Q Now, tell the jury where is Churchill's yard in
19 relation to the King home and the curve--and the place where
20 the accident occurred?

21 A It's off the curve, like coming towards Orange.

22 Q And what did you do after you saw Mr. Corbin?

23 A Well, I didn't say anything, I just kept walking
24 up to where the accident had happened.

25 Q And did you go over near where Donnie was laying?

1 A No, I stopped at a--I stopped and I was leaning
2 on that.

3 Q Okay.

4 A And then Mr. Haney pulled up.

5 Q Okay. Is that Deputy G.L. Haney?

6 A Yeah.

7 Q Okay. And how long did you stay there?

8 A Until my uncle got--got there.

9 Q How were you--did you feel like you were in a--
10 in--in a state of shock, how did you feel?

11 A Yeah. I was--I was sick to my stomach. I
12 couldn't really do anything.

13 Q When your uncle arrived, what did he do?

14 A He walked me over to his car and I sat in the
15 passenger seat until he wanted to go talk to Haney.

16 Q Okay.

17 A Then he took me home.

18 Q All right. When you got home what did you do?

19 A I sat on the sofa, and I sat sitting there
20 crying.

21 Q Okay. Have you been able--how long--how long did
22 you stay there that evening?

23 A The whole--I guess almost the whole day.

24 Q Can you describe for the jury how it felt for the
25 next three days and to see your brother buried?

1 A Mostly just lonely.

2 Q Since the accident, have you had problems dealing
3 with this, Donnie's death?

4 A When it first happened I did.

5 Q Tell the jury what kind of problems you had.

6 A Like loss of companionship and just like my whole
7 life was falling apart.

8 Q What type of attitude did you have after the
9 accident?

10 A I didn't care about anything.

11 Q Have you been able to talk about the accident
12 with anybody?

13 A Not really.

14 Q Okay. And why is that?

15 A I just didn't feel like going back into it.

16 Q Why?

17 A Too many memories.

18 Q Now, you and Donnie shared--shared a room
19 together?

20 A Yeah.

21 Q All right. And you had--your mother has
22 testified you had bunk beds in your room?

23 A Yeah.

24 Q Where did you sleep?

25 A On the bottom.

1 Q And how long did you-all have bunk beds in that
2 room?

3 A Since--since we moved in there.

4 Q Okay. What type of relationship did you and--you
5 and Donnie have?

6 A It was real close.

7 Q What types of things would you do together?

8 A Anything like I help him practice for his games
9 'cause he played baseball, run track, little things.

10 Q How did Donnie feel about sports?

11 A He loved sports.

12 Q Talk about it a lot?

13 A Yeah.

14 Q How did he feel about school?

15 A I guess he liked it. He had real good grades.

16 Q Did he ever talk to you about what he wanted to
17 do after high school?

18 A He--he kept changing his mind a lot. Like truck
19 driver, and athlete and like another Bo Jackson or something,
20 baseball, football.

21 Q What do you miss most about Donnie being gone?

22 A Just the fact that he's not there.

23 Q Answer Mr. Murray's questions.
24
25

CROSS-EXAMINATION

1
2 By: Mr. Murray

3 Q Alan, are you doing okay now, are you doing all
4 right now?

5 A Yeah.

6 Q Let me--let me ask you once more in your life
7 with the possible exception of Mr. Northam, I want to take you
8 back to this accident, okay, one more time. When you were
9 standing there with your bicycle on the side of the road and
10 you saw this truck coming, right?

11 A Uh-huh. (Indicating yes).

12 Q And you thought it was a Bronco or a Blazer,
13 right?

14 A Yeah.

15 Q And it had wooden sides and a camper on the back
16 of it?

17 A Yeah.

18 Q Something sort of like that, right?

19 A Sort of.

20 Q Okay. It wasn't an empty, just an empty pick-up
21 truck?

22 A No.

23 Q As far as you could tell the only person inside
24 of it was the driver of it?

25 A Yeah.

1 Q And you weren't really paying much attention to
2 it, you-all were just standing there on a hot summer day
3 waiting to go swimming, right?

4 A We was just waiting on M.J.

5 Q Okay. You--I think in your deposition you said
6 you were kind of in a daze, you were just standing there--

7 A Watching the truck.

8 Q --killing time, waiting for--watching the truck
9 go by and waiting for M.J. to come back, right?

10 A Yeah.

11 Q And--and I think you estimated that the truck
12 went by you about fifty to fifty-five?

13 A About fifty-five or sixty-five, (unintelligible).

14 Q Fifty-five to sixty-five and at the time there
15 was no marked centerline in that highway, right?

16 A No.

17 Q And the truck was in the middle of the road?

18 A Yeah.

19 Q Taking his half out of the middle, right?

20 A Uh-huh. (Indicating yes).

21 Q And then when he comes around the corner, he
22 starts to get back on his side of the road when Mr. Corbin's
23 car is in view of him, right?

24 A No, when he was going around the curve?

25 Q When he was going around the curve he starts to

Alan Brown - Cross

1 get back on his side and what attracted you to Doni
2 fact you heard him running, right?

3 A Yeah.

4 Q And he ran about twenty-five feet away?

5 A I--I guess, to the bushes.

6 Q Well--

7 A There was--

8 Q He ran to the bushes?

9 A Yeah.

10 Q And then he started to come back at the time the
11 car hit him?

12 A Uh-huh. (Indicating yes).

13 Q Well, when you first saw Mr. Corbin's car, it was
14 going about fifty miles an hour, right?

15 A They was both going about the same.

16 Q And you started to back up, your reaction was--

17 A Yeah, to back up.

18 Q --to get out of the way? You thought that the
19 car was going to go between you and Donnie?

20 A Yeah.

21 Q And when you first saw him, Mr. Corbin, he was
22 about at that first mailbox, not the Mullins mailbox, but the
23 next one?

24 A Yeah.

25 Q The first one as he's approaching and you saw him

1 go off to the right-hand side of the road?

2 A He was already off the road when I seen him.

3 Q When you first saw him. And you saw him--you saw
4 him swerve to the side of the road to keep from hitting the
5 truck, right?

6 A From hitting the mailbox.

7 Q No, listen to my question. You saw him swerve to
8 the side of the road to keep from hitting the truck?

9 A To keep from hitting the truck?

10 Q Yeah. To keep from hitting the pick-up truck.

11 A No. He was already off the road.

12 Q No, before he comes back on the road now, he went
13 off the road to get away from the truck, right?

14 A No, I couldn't see the car then.

15 Q Didn't you tell me in your deposition that you
16 saw the red car swerve to the side of the road to keep from
17 hitting the truck?

18 A No, I said it swerved to miss the mailbox.

19 Q Page 36, Line 5, question: when you turned back
20 and saw the red car the first time, tell me what you saw.

21 Answer: I seen it swerve to the side of the road to keep from
22 hitting the truck. That was your testimony then, wasn't that
23 what you meant, today?

24 A I don't think so.

25 Q You told us that you heard a screech like brakes.

1 A Yeah.

2 Q And the sound like tires were sliding.

3 A Uh-huh. (Indicating yes).

4 Q And when you first saw the car you were looking
5 at the grill of it, the front of it, coming right at you?

6 A No.

7 Q You didn't--weren't looking at the front of the
8 car when you first saw it?

9 A Not at the grill, I could see the whole car.

10 Q Well, that's what I meant, I meant the headlights
11 and the grill.

12 A Oh, all right, yeah.

13 Q Okay. And it sounded to you like it hit the side
14 of the truck, like it sideswiped it?

15 A Yeah. That's what I thought.

16 Q And you didn't hear the motor of the car or the
17 truck?

18 A No.

19 Q And when Mr. Corbin came up to you after it was
20 all over, he said that he was so sorry?

21 A Right.

22 Q That's all the questions I have.

23

24 Questions by Mr. Northam:

25 Q Alan, you heard the truck coming from your left,

1 is that correct?

2 A Yeah.

3 Q And you watched the truck as it came up the road?

4 A Yes.

5 Q And the speed was about fifty to fifty-five miles
6 an hour wasn't it?

7 A Somewhere around there.

8 Q I'm just--that's what you testified to in your
9 deposition, so fifty to fifty-five, correct?

10 A Uh-huh. (Indicating yes). Yeah.

11 Q And in your deposition you said that's about the
12 same that--the same that most cars go on that road, isn't it?

13 A Yes.

14 Q And at some point you saw Donnie run, right?

15 A Yeah.

16 Q And then you--you looked and you saw Mr. Corbin's
17 car was coming across the road, didn't you?

18 A Yeah.

19 Q And you saw no skid marks at the scene of the
20 accident, did you?

21 A No.

22 Q And you actually saw Mr. Car--excuse me, Mr.
23 Corbin's car speed up, didn't you?

24 A Yeah.

25 Q And the truck had already passed Mr. Corbin's car

1 by this time, hadn't it?

2 A Yes.

3 Q And when you first saw Mr. Corbin he was going
4 about fifty to fifty-five wasn't he?

5 A Yes.

6 Q And then he was speeding up from how fast he was
7 going when you first saw him, wasn't he?

8 A Yeah, when he was coming across the road.

9 Q And as you said the truck had already passed the
10 car when the--the--Mr. Corbin's car speeded up, hadn't it?

11 A Yes.

12 Q And the truck got back on the right side, didn't
13 it?

14 A No, it just stayed right where it was.

15 Q But, didn't you say in your deposition that the
16 truck got back on the right side at the edge of the driveway?

17 A Yeah, but it wasn't--it wasn't all way over like
18 it should have been.

19 Q But, my question to you, at your deposition did
20 you say that it got back on the right side--

21 A Yes.

22 Q And--and that's what you said then?

23 A Yeah.

24 Q Mr. Corbin's car was on the right shoulder when
25 you first saw it, correct?

1 A Yeah.

2 Q Okay. And this was before the mailbox?

3 A Uh-huh. (Indicating yes).

4 Q And Mr. Corbin's car continued to pick-up speed
5 until it hit the tree, didn't it?

6 A Yes.

7 Q And you didn't see any contact between the truck
8 and the car, did you?

9 A No.

10 Q And Mr. Corbin didn't hit the mailbox, did he?

11 A No.

12 Q Thank you, Judge.

13

14

15 REDIRECT-EXAMINATION

16 By: Mr. Early

17 Q Just a couple of things, Your Honor. You
18 testified that Donnie--you heard Donnie running, how many
19 steps back, approximately, did he take?

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

21 Q Can you estimate?

22 A I guess about ten, fifteen.

23 Q And then once he took those steps back, what did
24 he do then?

25 A He started--he turned around and started coming

back.

Q Okay and how many steps back did he take?

A I guess no more than three.

Q What happened then?

A He got hit by the car.

Q Okay. Now, where did the Corbin car appear to pick-up speed?

A While it was coming across the road.

Q Okay. Can you--you estimate on this picture where the two vehicles passed, where the Corbin vehicle and the John Doe vehicle passed on the highway?

THE COURT: What picture do you have in your hand?

Q I've got exhibit--Plaintiff's Exhibit #1.

THE COURT: All right.

Q It's either one or seven, Your Honor, I quite--I believe it's one. Can you estimate--Your Honor, would you mind if he stood up so that the jury and the (unintelligible) could see?

THE COURT: No, he can come forward if it will help the jury.

Q Would you stand up? Describe for the jury where--where the Doe vehicle and Mr. Corbin's vehicle passed one another.

A Right across from this mailbox.

Q Okay. And this is the first mailbox?

1 A Yeah.

2 Q Can you show--can you show the jury where you
3 would have been standing approximately?

4 A Right by this tree, I took off when the car came.

5 Q All right. Can you estimate where the Corbin
6 vehicle went across the--Route 638?

7 A When I seen him coming across it was like right
8 there on the curve.

9 Q That's all the questions I have, Your Honor.

10 MR. MURRAY: No other cross.

11 THE COURT: May Mr. Brown be excused?

12 MR. MURRAY: No objection.

13 MR. BERRY: We would like to keep him under the
14 rule, Your Honor.

15 THE COURT: All right. Mr. Brown, you may be
16 recalled so I'm going to ask you to step outside of the
17 courtroom for this time.

18 MR. EARLY: Millie Ferguson will be the next
19 witness, Your Honor.

20
21 MILLIE SUE FERGUSON, having been so duly sworn,
22 testified as follows:

23
24 DIRECT EXAMINATION

25 By: Mr. Early

1 HAROLD LEE CORBIN, having been so duly sworn,
2 testified as follows:

3
4 DIRECT EXAMINATION

5 By: Mr. Murray

6 Q Tell the jury your name please, Mr. Corbin.

7 A Harold Lee Corbin.

8 Q How old are you, sir?

9 A Fifty-nine.

10 Q Where were you born?

11 A Orange County.

12 Q How far did you go in school, sir?

13 A Twelfth grade.

14 Q What school?

15 A Went, oh--where did I go? Salem High School,
16 Salem, Virginia.

17 Q Are you married?

18 A Yes, sir.

19 Q Your wife's name?

20 A Doris.

21 Q (Unintelligible).

22 A Yes, sir.

23 Q Where were you-all married?

24 A In Culpeper.

25 Q Do you have any children?

1 A I have two boys.

2 Q What are their names and ages?

3 A One is Harold Lee Corbin, Jr. and one--the other
4 one is Kendall Mark.

5 Q Have you ever been in the military service?

6 A Yes, sir.

7 Q What branch?

8 A Navy.

9 Q When were you discharged?

10 A In '54.

11 Q When you were discharged where did you--where did
12 you go?

13 A I--like I said I graduated from Salem and I moved
14 back in with my parents when I got out of the service and then
15 I got a job with A & P when they was on Main Street, here in
16 town.

17 Q (Unintelligible).

18 A It was on Main Street.

19 Q A & P became Super Fresh, right?

20 A Yes, sir.

21 Q They opened a new store out on 20 South--15
22 South?

23 A Yes, sir.

24 Q All right. How long were you employed by A & P
25 and Super Fresh?

1 A Thirty-six years.

2 Q Okay. And what do you do--what did you do?

3 A I was a meat cutter at first, then I became meat
4 manager. I reckon it was, meat manager I spent about twenty-
5 five years as--managing the meat department.

6 Q Did there come a time when you retired?

7 A Yes, sir.

8 Q On what day did you retire?

9 A August 6.

10 Q 19?

11 A 1990.

12 Q And this accident happened eleven--nine days
13 later?

14 A Yes, sir.

15 Q The day after you retired where did you go to
16 work?

17 A Orange Grocery.

18 Q What--are you presently employed by Orange
19 Grocery?

20 A Yes, sir.

21 Q What do you do for them?

22 A I work the meat counter.

23 Q Same thing?

24 A Yes, sir.

25 Q Tell us about the car that you were driving the

1 day of this accident.

2 A It was a 1984 Camaro. And good shape.

3 Q Did you buy it new?

4 A No, sir.

5 Q Bought it used?

6 A It was--it had I think sixty-two thousand miles
7 on it, but it was in good shape.

8 Q When had it been inspected prior to the accident?

9 A That previous June.

10 Q How about the tires and brakes on it?

11 A Excellent shape.

12 Q Was there any body damage to it?

13 A No, sir.

14 Q Was that the only car in your family at the time?

15 A Yes, sir.

16 Q Now, can you tell the jury what you did the
17 morning you got, the day of the accident, tell them what
18 happened?

19 A Okay. Well, this was on a Wednesday and normally
20 I'm off on Wednesday. But being I had this new job I went in
21 to check my department over. I stayed there until about
22 nine-thirty (9:30) I reckon. Then I left and went out to
23 Super Fresh to visit some of my friends. And I left there I
24 reckon about ten-thirty (10:30), twenty minutes till eleven,
25 somewhere around there. And I had a few groceries in the car.

1 That was one of the reasons why I went to Super Fresh. So I
2 went on--on my way home on 638. I got down to the accident
3 scene that we've been talking about. I approached the curve
4 and I saw the two boys on the left-hand side of the road in
5 the curve. When I got to the curve the pick-up truck was on
6 my side of the road. I immediately got off as far as I could,
7 applied my brakes and tried to get around. To the best of my
8 knowledge I tried to get around that pick-up truck. Then the
9 next thing I know the car was going across the road. I hit
10 Donnie. I tried to avoid some trees and went down into the
11 woods.

12 Q You went down in the woods and what's the next
13 thing you remember?

14 A I must have fell unconscious for a while. When I
15 came to I heard the buzzer ringing. So I realized what had
16 happened, that I had hit someone. I got out of the car,
17 walked to the road. Walked down the road trying to find a
18 telephone and the trailer that was down the road didn't seem
19 like it was--anyone was home. So I turned back and walked up
20 the road and that's when I met Alan. He said he had already
21 called the rescue squad.

22 Q What did he say to you?

23 A He said that I had done called the squad and I
24 says--I told him how sorry I was and he walked on off. I--I
25 know he was feeling sorry and in shock, too. So it wasn't

1 but a few minutes later Mr. Haney came. And he put me in his
2 car and then the fire department came and gave me oxygen and
3 taken my pulse and so forth.

4 Q Mr. Corbin, how often had you travelled that road
5 in the same (unintelligible)?

6 A At least twice a day.

7 Q All right. What speed were you travelling?

8 A It couldn't have been over fifty, because I'm--
9 I'm too used to that road.

10 Q How much time elapsed between seeing the boys and
11 first seeing the pick-up truck?

12 A Very few seconds.

13 Q Did you hit the pick-up truck?

14 A That--to my knowledge I cannot say one way or
15 another.

16 Q You were taken to the emergency room at Univer-
17 sity Hospital?

18 A Yes, sir.

19 Q How far from the accident scene do you-all live?

20 A I'd say about a little over a mile.

21 Q In August of 1990, what time of day (unintel-
22 ligible)?

23 A It was before twelve o'clock.

24 Q What do you think you could have done to have
25 avoided this accident?

1 MR. BERRY: Judge, I object that, now. That's an
2 argumentative question. He can testify what he did and what
3 he saw. He can't argue his case.

4 THE COURT: Mr. Murray.

5 Q (Unintelligible). It's a fair question.

6 THE COURT: I'll sustain the objection. Although it
7 may have an effect on the depth of the cross examination, but
8 I'll sustain the objection.

9 Q I want to show you some pictures, Mr. Corbin.
10 Oh, I know where they are, I gave them to you.

11 MR. BERRY: Let me see which ones.

12 Q I'm going to--I'm going to start with number 71.
13 Mr. Corbin, I'm going to hand you a photograph that's been
14 marked number 71 and ask you if that accurately shows what you
15 saw as you approached that accident scene, considering the
16 fact that there are now lines in the road and that is a--is a
17 Dodge Caravan vehicle?

18 A No, the--the vehicle is too far over on his side
19 in this picture.

20 Q All right. Let me show you what has been marked
21 as exhibit number 72 and ask if that accurately depicts what
22 is--what you saw as you approached the accident scene?

23 A Yes, sir. This is--this is what--somewhat
24 similar to what I saw.

25 Q All right. Move to introduce 72.

1 MR. BERRY: Objection, Your Honor.

2 THE COURT: (Unintelligible).

3 MR. BERRY: On the basis that it's not--not a
4 sufficient foundation laid, Your Honor.

5 THE COURT: Objection overruled. I'll admit
6 Defendant's Exhibit number 72.

7
8 (Defendant's Exhibit #72 was duly marked and
9 received into evidence at this time.)

10
11 Q I'll--I'll wait for the next witness to put this
12 other one on--to put these other two in, Your Honor. And I'll
13 wait--I'll just tell the jury I'll wait for the next witness
14 to explain the cones in the road also. And that's all the
15 questions I have, Your Honor.

16 THE COURT: Do you wish to cross?

17 MR. BERRY: Yes, sir. I'll wait until they finish
18 with the picture, Judge, if I might.

19
20
21 CROSS-EXAMINATION
22 By: Mr. Berry

23 Q Mr. Corbin, when you, excuse me. Mr. Corbin, I'm
24 going to show you a couple of photographs, one of them--this
25 one, the first one I'm going to show you has been marked

1 Plaintiff's Exhibit #1. Does that show the curve where you
2 were approaching--

3 A Yes, sir.

4 Q --as the accident happened?

5 A Uh-huh. (Indicating yes).

6 Q Okay. Can you come around and show us--show the
7 jury where your vehicle was positioned at the time you first
8 saw the other vehicle?

9 A About right in here.

10 Q So you were about even with that first mailbox?

11 A Uh-huh. (Indicating yes). I would say maybe
12 just a few feet past that first mailbox.

13 Q All right. And you could see the vehicle at that
14 particular time and knew that it was on your side of the
15 road--

16 A Yes, sir.

17 Q --is that right? Is that when you started to go
18 off the right side of the highway?

19 A When I saw the pick-up.

20 Q All right. And did you apply your brakes?

21 A Yes, sir.

22 Q Did you apply them gradually or hard?

23 A I--as far as I can remember I put my foot down
24 hard on them.

25 Q Had you ever had to slam on the brakes in that

Corbin - Cross

1 Camaro before?

2 A Not really.

3 Q You've never had to leave a skid mark?

4 A No.

5 Q Or really stop quickly in it?

6 A No.

7 Q So you--this is the first occasion you would have
8 had to slam the brakes on?

9 A Yes, sir.

10 Q How long had you owned the car?

11 A Three years.

12 Q All right. So you're saying when your right
13 wheels went over into that area on the shoulder of the road
14 that you slammed on the brakes?

15 A To the best of my knowledge, yes, sir.

16 Q Well, what do you mean by the best of your
17 knowledge, you simply don't recall or--

18 A That's--well, that's what I wanted to do.
19 That's--that was instinctive to put your foot on the brake
20 when you're headed for a head-on.

21 Q Yes, sir. I'll--I'll agree with you there. I
22 guess my question is, did you do it?

23 A Yes, as far as I know I did.

24 Q It's possible is it not that you may have hit the
25 accelerator?

1 A I don't think so.

2 Q All right. Did you feel the vehicle start to
3 stop?

4 A Really, the only thing I was looking at was the
5 truck.

6 Q Well, let me ask you again. Did you feel the
7 vehicle start to stop when you slammed on your brakes?

8 A No, I felt that I was over on the shoulder of the
9 road.

10 Q So you didn't feel it start to stop?

11 A No.

12 Q Have you ever put the brakes on on that vehicle
13 before and it not respond?

14 A No, sir.

15 Q The vehicle was in good order wasn't it?

16 A Yes, sir.

17 Q Good working condition?

18 A Uh-huh. (Indicating yes).

19 Q You didn't even feel the vehicle slow down?

20 A Well, what I was trying to do then was get around
21 the truck.

22 Q You didn't feel the vehicle slow down?

23 A No.

24 Q Are you saying you just don't know?

25 A I just don't know.

1 Q So you're really not sure whether you slammed on
2 your brakes or not, are you Mr. Corbin?

3 A That was my intention to put my foot on the
4 brake.

5 Q But at this point you're not sure whether you did
6 it or not?

7 A I--

8 Q I realize it was your intention.

9 A Well, I can't--I can't say that I didn't, you
10 know.

11 Q Can't say that you did and can't say that you
12 didn't?

13 A Uh-huh. (Indicating yes).

14 Q Is that correct?

15 A But my foot was on the brake when I first saw the
16 pick-up on my side.

17 Q All right. And you travelled a distance of a
18 hundred and seventy-two feet off the shoulder of the highway,
19 is that right?

20 A It didn't seem that long to me, you know.

21 Q When you--you gave a deposition in this case,
22 didn't you?

23 A Uh-huh. (Indicating yes).

24 Q And you submitted a correction to the deposition
25 recently, didn't you?

1 A Yes, sir.

2 Q And you were asked the first time you saw the
3 pick-up truck it was approximately twenty-five feet away from
4 you, do you remember being asked that?

5 A It--awful close, yes.

6 Q Okay. And at--at one point in your deposition
7 you said that was right, it was only twenty-five feet away--

8 A Uh-huh. (Indicating yes).

9 Q --isn't that right?

10 A It was--seemed like to me it was right up on me.

11 Q Then didn't you do a correction that said no, the
12 pick-up truck was approximately-

13 A Yeah.

14 Q --a hundred and seventy-two feet away?

15 A Uh-huh. (Indicating yes).

16 Q Didn't you do that?

17 A Yes, sir.

18 Q So you're not sure whether it was twenty-five
19 feet or a hundred and seventy-two feet?

20 A Well, when you--when you're looking at a head-on
21 you don't, you know, only thing you see is that car coming at
22 you.

23 Q All right. Did you think--you didn't think you
24 could stop your car in a hundred and seventy-two feet then?

25 A I don't think it was that far.

1 Q Well, you said on your correction to the
2 deposition that--

3 A Well, that--I--

4 Q --it was approximately a hundred and seventy-two
5 feet?

6 A I was going by what Mr. Dickson had reported
7 that--I couldn't question him because I didn't measure it.

8 Q But that's what you put on your correction?

9 A Uh-huh. (Indicating yes).

10 Q You put that on there, didn't you?

11 A Yes, sir.

12 Q All right. So that's about fifty to sixty yards,
13 isn't that right?

14 A Close to, yes.

15 Q When you were approaching this curve you were
16 going about fifty miles an hour?

17 A I would say no more than fifty miles an hour.

18 Q Were you going to slow down as you entered the
19 curve or were you going to go all way around it at fifty miles
20 an hour?

21 A I always slow down at that curve.

22 Q All right. So you would have been slowing down
23 anyway whether you'd seen this vehicle or not?

24 A Uh-huh. (Indicating yes).

25 Q All right. And you would have slowed down as you

1 got closer to the curve ordinarily?

2 A Well, I wasn't quite into the curve then.

3 Q Okay. So you were going to slow down after you
4 already got in the curve?

5 A Normally, uh-huh. (Indicating yes).

6 Q All right.

7 A I wouldn't brake or anything but, you know,
8 just--

9 Q Take your foot off the accelerator?

10 A Yeah. Uh-huh. (Indicating yes).

11 Q All right. Your car didn't fishtail or do
12 anything like that as you went the hundred and seventy-two
13 feet off the side of the road, did it?

14 A No, sir.

15 Q It just kept going straight, didn't it.

16 A Uh-huh. (Indicating yes).

17 Q And the--do you know whether the truck passed in
18 front of you or behind you?

19 A I don't quite understand what you--

20 Q When you cut across the road, did the truck pass
21 in front of you or had it already gone by, excuse me, when
22 you cut across the road, did you pass in front of the truck or
23 had it already gone by?

24 A To my knowledge it had already gone by.

25 Q All right. You weren't real sure about that

1 after the accident were you?

2 A Not really because--

3 Q And when you were questioned by the officer and
4 the--and the deposition, you were uncertain as to whether the
5 truck went in front of you or behind you, weren't you?

6 A Right.

7 Q But you're saying today it went--

8 A To the best--

9 Q --behind you?

10 A --of my knowledge, it went--it went in front of
11 me.

12 Q Okay. Went in front of you, I'm sorry.

13 A Now, what I'm speaking of, I got by the truck.

14 Q And the truck kept on going?

15 A Uh-huh. (Indicating yes).

16 Q You're having a difficult time piecing a lot of
17 this together aren't you, Mr. Corbin?

18 A I--it is--it is blurry to me.

19 Q So all of your testimony is somewhat blurry, is
20 it not?

21 A It--it--it is. Uh-huh. (Indicating yes). 'Cause
22 it happened so fast.

23 Q And you mentioned a moment ago I believe that you
24 said a hundred and seventy-two feet was how far you--how far
25 the pick-up truck was away from you when you first saw it

1 basically because that's what Deputy Dickson said the
2 measurements were?

3 A Well, that's--that's what Deputy Dickson said how
4 far I travelled off the side of the road.

5 Q All right.

6 A But, it seemed closer than that really.

7 Q Why didn't you put that in your answer? Why
8 didn't you say it seemed closer?

9 A Well--

10 Q You just decided to go with what the deputy had
11 said?

12 A Well, I had no--no reason to question the
13 deputy's measurements.

14 Q All right. And then at some point you came to a
15 second mailbox, didn't you?

16 A Yes, sir.

17 Q All right. Let me show this photograph again,
18 it's Plaintiff's Exhibit #1. This would be, if you could
19 come around so you can see it, the second mailbox you
20 approached would be this one back here, wouldn't it?

21 A Uh-huh. (Indicating yes).

22 Q And you'd gotten by the first one and approached
23 the second one. By the time you got to the second mailbox or
24 close to it, the truck was already gone, wasn't it?

25 A I would say so.

1 Q And at that point, you lost control of the car
2 and it went hard across the road to your left, is that right?

3 A Uh-huh. (Indicating yes).

4 Q You swerved to miss that second mailbox you
5 think?

6 A No, sir.

7 Q You don't think you did that?

8 A No, sir.

9 Q Don't have any idea what caused the car to go off
10 to the left suddenly?

11 A No, sir.

12 Q It went off very abruptly, didn't it?

13 A Right.

14 Q You didn't hit the bank on the right side of the
15 road, did you?

16 A No, sir.

17 Q Didn't have any problems with the steering on the
18 car as far as you know, did you?

19 A No.

20 Q Did you have any other mechanical problems with
21 the car that you were aware of?

22 A No, it was in good shape.

23 Q So you don't have any explanation as to why you
24 made that sudden turn across the road?

25 A Some--something happened that my car went across

1 the road.

2 Q You just don't know what caused it?

3 A No, sir.

4 Q And that's when you hit Donnie?

5 A Yes, sir.

6 Q Did you go back and look at the scene a day or
7 two later to see if you saw any brake marks, Mr. Corbin?

8 A No, sir. I didn't, I was so upset that my son
9 went back to get my glasses that--

10 Q Did you have to be taken to the hospital after
11 the accident?

12 A Yes, sir.

13 Q They let you out to come on home though, didn't
14 they?

15 A Yes, sir.

16 Q Just checked you over and sent you home?

17 A Well, they did a lot of tests.

18 Q But you weren't admitted were you?

19 A No, sir.

20 Q You have a restriction on your driver's license,
21 you wear glasses, is that right?

22 A Yes, sir.

23 Q You had them on at the time of the accident?

24 A Yes, sir.

25 Q They didn't get knocked around at all, did they?

1 A Well, I had lost them during the accident.

2 Q You don't know where though?

3 A No, sir.

4 Q All right. You didn't slow down when you sent--
5 you--you don't know whether you slowed down from the time you
6 first went off the road until the time you struck Donnie, do
7 you, you don't know for certain?

8 A No, sir.

9 Q And it's possible that you hit the accelerator
10 instead of the brake, is that not correct?

11 A Well, my intentions were to hit the brake.

12 Q But you don't know for certain you did that, do
13 you?

14 A No, sir.

15 Q So it's possible you did hit the accelerator?

16 A Yes, sir.

17 Q Do you remember being asked that question in
18 deposition and--do you think you may have hit your gas pedal
19 rather than your brake?

20 A Yeah. I--he asked me that question. Yes, sir.

21 Q And you said I don't--

22 MR. MURRAY: Let's see, what page you on?

23 Q Twenty-two. You remember saying I don't remember
24 really, it could be, I just don't know. It bothers me, it
25 really does.

1 A Yeah. Exactly right.

2 Q It bothers you 'cause you weren't sure what you
3 did?

4 A Uh-huh. (Indicating yes). But my intentions
5 were hitting the brakes.

6 Q Because if you--you thought if you hit the brakes
7 you could get the car stopped?

8 A Right.

9 Q Am I right?

10 A Uh-huh. (Indicating yes).

11 Q Were you seated in--fully in the driver's seat at
12 the time you struck Donnie Brown, Mr. Corbin?

13 A Yes, sir.

14 Q You were?

15 A Uh-huh. (Indicating yes).

16 Q Did you later get thrown out of the driver's
17 seat?

18 A Yes, sir.

19 Q Was that when you struck the tree?

20 A I think it was.

21 Q But at the time you cut across the highway and
22 then when Donnie was struck you were still fully in the
23 passenger--excuse me, in the driver's seat, is that right?

24 A I--I would say not squarely in the driver's seat.

25 Q Could you reach the pedals from where you were?

Corbin - Cross

1 A Oh, yes, sir.

2 Q Okay. So you were enough in the dri
3 be able to control the vehicle?

4 A Yes, sir.

5 Q Okay. Now, when you first saw this pick-up it
6 was going about average speed, is that right?

7 A I would say about the same speed as I was going.

8 Q Which would you consider to be average for that
9 road?

10 A Well, you can negotiate that curve at fifty miles
11 an hour with no problem.

12 Q So it wasn't speed that caused you concern at
13 that truck, it was where it was, is that right?

14 A Yes, sir. Uh-huh. (Indicating yes).

15 Q Mr. Corbin, now you--I'm going to show you
16 Plaintiff's Exhibit #1 and Defendant's Exhibit #72. This is
17 the picture that Mr. Murray just put into evidence. And this
18 the one that you've been looking at and I've been asking you
19 questions about here a moment ago.

20 A Uh-huh. (Indicating yes).

21 Q You--I believe you indicated in your testimony,
22 did you not, that you were slightly past or across from this
23 first mailbox when you saw the truck?

24 A This is the second mailbox.

25 Q I'm talking about the first one that you--the

1 first one that you--

2 A Oh, yeah. Uh-huh. (Indicating yes).

3 Q --see as you're going away from Orange.

4 A Right.

5 Q You were a little bit past it?

6 A I would say so.

7 Q All right. And this picture here that Mr. Murray
8 introduced in evidence is actually taken closer to the second
9 mailbox, isn't it?

10 A Yeah, that's--

11 MR. MURRAY: Well, we (unintelligible)--

12 A --that's the first mailbox.

13 MR. MURRAY: --first and second straightened out.

14 A There's the second one.

15 THE COURT: (Unintelligible) fine.

16 Q Cross examination judge.

17 MR. MURRAY: I'm--

18 A Here's your first one, there's your second one.

19 Q All right. So this photograph shows that you
20 were actually a little bit on the other side, on the Orange
21 side of the first mailbox then, is that right?

22 A No, a little past it, going down the road.

23 Q All right.

24 A That's what I would say.

25 Q And you feel like you had about a hundred and

1 seventy-two feet basically that you could see the other
2 vehicle?

3 A So he says, uh-huh. (Indicating yes).

4 Q All right. And you don't disagree with that?

5 A Well, I'm not authority, you know.

6 Q All right. Judge, I don't have any more
7 questions.

8 THE COURT: Mr. Northam.

9
10 Questions by Mr. Northam:

11 Q Mr. Corbin, you didn't hit either one of the
12 mailboxes, did you?

13 A No, sir.

14 Q And the truck didn't hit you, did it?

15 A Not to my knowledge.

16 Q And you got no more than two feet off the road in
17 the hundred and seventy-two feet that you travelled on the
18 shoulder, is that correct?

19 A I--I couldn't give you direct distance off the
20 road.

21 Q You don't dispute the deputy's measurements?

22 A No, sir. Because I didn't go back to the scene.

23 Q And your gauges on your car were working before
24 this accident, weren't they?

25 A Yes, sir.

1 Q What would your tachometer normally read when you
2 cruise forty-five to fifty miles per hour?

3 A I really didn't pay any attention to the
4 tachometer. I--I always went by the speedometer. Mine had a
5 tach and a speedometer on it.

6 Q So you're saying you don't know?

7 A No, sir.

8 Q Is when you tried to come back on the road, where
9 those hundred and seventy-two feet of marks ended, that's when
10 you lost control, wasn't it?

11 A That seems about right, yeah.

12 Q That's all, Judge.

13 THE COURT: Redirect?
14
15

16 REDIRECT EXAMINATION

17 By: Mr. Murray

18 Q How many years have you been driving?

19 A Since '54.

20 Q You ever hit the gas instead of the brake, when
21 you wanted to hit the brake before?

22 A Yes, sir.

23 Q Did you do it this time?

24 A Not to my knowledge.

25 Q That's all I have.

1 MR. BERRY: Judge, I--I have a couple on that.

2 THE COURT: All right.

3
4
5 RECROSS-EXAMINATION

6 By: Mr. Berry

7 Q You don't know whether you did it, do you Mr.
8 Corbin, isn't that what you said in your cross examination?

9 A I--I--that's right.

10 Q You really don't know whether you hit it or not?

11 A No.

12 Q That's all I have judge.

13
14 Questions by Mr. Northam:

15 Q One. But you acknowledge that you could have hit
16 the gas pedal, don't you?

17 A Well, my intentions were the brake, which I felt
18 like I did hit the brake.

19 Q No, sir. My question to you, based on your
20 testimony and your deposition that you acknowledge that you
21 could have hit the gas pedal, don't you?

22 A I'm not questioning that I couldn't have, yeah.

23 Q And that's what you said in your deposition?

24 A Uh-huh. (Indicating yes). Right.

25 Q That's all.

1 THE COURT: Mr. Corbin, you may return to counsel
2 table. Next witness.

3 MR. MURRAY: Steve Chewning.

4
5 STEPHEN B. CHEWNING, having been so duly sworn,
6 testified as follows:

7
8 DIRECT EXAMINATION

9 By: Mr. Murray

10 Q Tell us your name please, Mr. Chewning.

11 A Stephen B. Chewning.

12 Q And how are you employed, sir?

13 A I'm president of Traffic Safety Consultants in
14 Richmond which is an accident reconstruction and highway
15 safety consulting firm.

16 Q What is your formal education?

17 A I have a bachelor's degree and a master's degree
18 from Virginia Commonwealth University in Richmond in Ad-
19 ministration of Justice and Public Safety. My course
20 concentration was in highway safety. Graduate of the
21 Northwestern University Traffic Institute in Evanston,
22 Illinois in the Technical Accident Investigation Training
23 Program. Graduate of the University of North Florida,
24 Institute of Police Technology and Management in the Accident
25 Reconstruction Program and was certified as an Accident

1 Reconstruction (sic) by that University. I've attended
2 seminars across the country, at Dynamic Science in Phoenix,
3 Arizona, the U. S. Department of Transportation in Oklahoma
4 City, at VCU, at Georgia Tech, at Northwestern, University of
5 North Florida and through the various professional groups that
6 I'm involved with such as the National Association of
7 Professional Accident Reconstruction Specialists. I've been
8 doing this now since 1976.

9 Q How were you employed prior to getting into the
10 accident reconstruction field?

11 A From 1976 to 1986, I was a police officer in
12 Henrico County, Virginia, which surrounds Richmond and I was a
13 member of the traffic crash team. I was a member of a four
14 man group that investigated fatalities, serious personal
15 injuries and felony hit and run cases and commercial vehicle
16 accidents.

17 Q How many accidents have you investigated?

18 A Well over three thousand.

19 Q How many fatal accidents have you investigated?

20 A In the hundreds.

21 Q Did you ever qualify before as an expert witness?

22 A Over a hundred and fifty times.

23 Q I would move that Mr. Chewning be qualified by
24 this Court to give an expert opinion in the field of accident
25 reconstruction?

1 THE COURT: Any objection?

2 MR. BERRY: Not to his qualifications as an expert,
3 Judge.

4 THE COURT: All right. The Court accepts him as an
5 expert in accident reconstruction.

6 Q Mr. Chewning, as I question you the next few
7 minutes, if I ask you any question I want you to assume that
8 any question is asked to a reasonable degree of scientific
9 accuracy.

10 A Yes, sir.

11 Q Okay. You were retained by me to assist in the
12 accident investigation of this case, were you not?

13 A Yes, sir. On August 22nd.

14 Q And what did you do--

15 MR. BERRY: Excuse me, Your Honor. I'd like for him
16 to clarify which year. He said when--

17 THE COURT: August 22nd of what year?

18 MR. MURRAY: August 22nd of?

19 A 1991.

20 Q Just three months ago?

21 A Yes, sir.

22 Q And what did you do in connection with being
23 asked to look into this for us?

24 A I reviewed all of the materials that were
25 available including the official reports, the official

1 photographs, the depositions of the parties that were taken in
2 the case and I've been to the scene on two separate occasions.

3 Q Let me hand you what was marked as Defendant's
4 Exhibit Number 66, a drawing by artist Dickson, have you ever
5 seen that before?

6 A Yes, sir. I've seen the drawing and I've also
7 seen these measurements and other sources--

8 Q When did you first see it?

9 A The first time I saw the drawing was here this
10 morning.

11 Q At lunchtime?

12 A Yes, sir.

13 Q Defendants Exhibits 67 and 68, when did you first
14 see them?

15 A I saw, I believe copies of those in the documents
16 I received and I spoke with Officer Dickson and went over his
17 measurements.

18 Q Did you examine nineteen photographs?

19 A Yes, sir, I did.

20 Q And they are Defendant's Exhibits 1 through 19?

21 A That you indicated to me today, those are the
22 numbers, yes.

23 Q Did you examine then the group of photographs, 20
24 through 65?

25 A Yes, sir, I did, here today.

1 Q You anticipated my question. The first time you
2 saw 20 through 65 was at lunchtime today?

3 A Yes, sir. That's--I didn't realize until I got
4 here today there were any more than nineteen photographs.

5 Q You are aware that Mr. Dickson testified--

6 MR. BERRY: Judge, I'm going object to the leading
7 on this.

8 Q I have to get to address the subject and I'm not
9 leading, I'm addressing the subject.

10 THE COURT: Well, there is also a motion to exclude
11 witnesses, I'm not going to permit you to--

12 Q I appreciate the problem. I will not lead the
13 witness.

14 THE COURT: Well, also, I'm not going to permit you
15 since there has been a motion to exclude witnesses to state
16 the testimony of any witness who previously testified today.

17 Q I respect that and I'll--I'd like to direct the
18 witness's testimony to a portion of another witness's
19 testimony so that he can take it from there. May I--may I
20 phrase the question and it can be objected to.

21 THE COURT: All right. Don't answer the question
22 until--

23 A Yes, sir.

24 THE COURT: --I can rule on it.

25 Q There has been testimony about a yaw mark, have

1 you examined the photographs that you have seen attempting to
2 find any evidence of a yaw mark?

3 MR. BERRY: Your Honor, I--I object to this, it's
4 frankly a matter that's not proper inquiry for expert
5 testimony. It sounds to me like what Mr. Murray is trying to
6 do is have Mr. Chewning comment on whether or not he thinks
7 Deputy Dickson did a good job and that's--that's improper
8 testimony.

9 Q That's an improper objection.

10 THE COURT: If that's the objection, I'll overrule
11 it. I'll permit the question to go forward.

12 Q Did you see a photograph of a supposed yaw mark?

13 A Yes, I did.

14 Q Would you tell the jury--

15 MR. BERRY: Judge, I'd ask that a better foundation
16 be laid so he can tell us how he saw it, who showed it to him,
17 that sort of thing. He has no independent knowledge, he's
18 already said that, so in order for him to know that what he's
19 looking at is a yaw mark somebody is having to tell him that
20 and I would submit that that is--requires a foundation.

21 Q I'm laying the foundation.

22 THE COURT: All right.

23 Q You--

24 MR. BERRY: I think Mr. Murray showed it to him,
25 that's what--if we could cut through it he could ask it, but--

1 Q You can't have your cake and eat it too.

2 THE COURT: Just ask the question, Mr. Murray.

3 Q Mr. Chewning, you became aware that the yaw mark
4 was an issue in this case, is that not right?

5 A Yes, sir, I did.

6 Q Did you examine the photographs that you were
7 shown to see if you could find a yaw mark in any of them?

8 A I did.

9 Q All right. Now, will you please describe the yaw
10 mark?

11 A A yaw mark is also known as a centrifugal speed
12 scuff. This is a mark that's produced by a car that's moving
13 forward and at the same time spinning, rotating laterally.
14 The tire is free to roll, it's not locked and as it rolls in
15 an arced shaped configuration, the shoulder of the tire, that
16 being the area between the sidewall, where you have your white
17 stripe, and the tread of the tire, where of course the--the
18 lands and grooves of the tread are, the ridge between those
19 two, right on the very edge of the tire as a car goes through
20 a scuff mark makes oblique striations throughout the mark and
21 that's the way a scuff mark is identified from a curved skid
22 mark or curved slide mark of any other type.

23 Q Were you able to find a yaw mark in any of those
24 pictures?

25 A I saw a curved tire mark, but I could not see any

1 striations in it that it would identify it as a yaw mark.

2 Q Madam Reporter, I need number 19 please, number
3 19. Mr. Chewning, is it possible to determine to reasonable
4 degree of scientific accuracy a vehicle's speed at the time it
5 makes the yaw mark?

6 A Yes, it is. It is quite feasible and it's a
7 common practice within the field of accident reconstruction.

8 Q What is necessary for an expert such as yourself
9 to have in order to arrive at the vehicle's speed?

10 A There would be a few variables that I would
11 assess. If there was a tire mark on the pavement the friction
12 level of that pavement would have to be tested and there are
13 numerous ways that that can be done in the field. Then the
14 cord and middle ordinate of the mark should be measured.
15 And--and to explain to you what that is, rather than just
16 measuring the length of the mark, you go across the inside
17 edge of the mark and take a straight line and whatever that
18 measurement may come out to be, if it was let's say a hundred
19 feet, then at the middle of that hundred foot cord you would
20 measure from fifty feet in to the inside of the mark. This is
21 just a roundabout way to determine the radius of the mark.
22 The radius is the sharpness of the arc, if you will. The
23 purpose being the sharper a mark is in curvature the slower
24 speed it would equate to. The more that mark approximates a
25 straight line the faster speed would be involved with

1 producing that mark. That's why those measurements are taken
2 and with those variables accounted for you can assess to a
3 reasonable degree of scientific certainty the speed of the car
4 when that mark was being produced.

5 MR. BERRY: Your Honor, I'm going to object to any
6 further testimony in this area because I would submit to the
7 Court that the testimony that Mr. Chewning is alluding to and
8 the questions Mr. Murray is asking about, at least as to the
9 determination of speed from yaw mark, are not prop
10 accepted by--under Virginia law and are not proper
11 expert testimony and I would submit to the Court t
12 questions are inadmissable for that reason and als
13 they are irrelevant to the case.

14 THE COURT: Well, the second basis is e le
15 on than the first. Do you have any authority for your
16 position as to the first basis of your argument, Mr. Berry?

17 MR. BERRY: Yes, sir, Your Honor. I think it may
18 take a few minutes to make the argument though. I'd ask the
19 Court to let me do that outside the presence of the jury.

20 Q I can probably cut short. I'm not going to ask
21 him if he arrived at a speed.

22 MR. BERRY: In--in effect what he's saying, Judge,
23 is I'm going to ask him about how you do it, but then I'm not
24 going to ask him about the subject matter, it's like a double
25 negative. It has no--it has no bearing in the case and I

1 would submit that it shouldn't be--

2 THE COURT: Well, why are we going into this then,
3 Mr. Murray?

4 Q I--I vouch to the court that it is relevant to
5 our theory of the case to ask this question. I think--

6 MR. BERRY: Judge, I would ask that this--respec-
7 tively, I'd ask that this be taken up out of the presence of
8 the jury.

9 THE COURT: I think that may be appropriate. Mr.
10 Breeden would you accompany the jury back to the jury room?

11

12 (The jury panel retires to the jury room.)

13

14 THE COURT: Mr. Murray.

15 MR. MURRAY: Judge, we had Mr. Dickson called as the
16 plaintiff's first witness. He got on this witness stand, he
17 gave--and on direct examination he testified for the plain-
18 tiff's case that Mr. Corbin was negligent. On cross-examina-
19 tion it became readily--

20 THE COURT: Well, that's not a pure characterization
21 of his testimony. He did not testify that Mr. Corbin was
22 negligent.

23 MR. MURRAY: Well, in so many words he was called as
24 a witness in support of the plaintiff's theory that Mr. Corbin
25 was negligent.

1 THE COURT: Your characterization is incorrect. Let
2 me hear your argument on the objection made to this question.

3 MR. MURRAY: The objection was, as I understood it,
4 that the question, which was did you have sufficient informa-
5 tion to form an opinion as to the speed of the Corbin vehicle
6 at the time it laid down the yaw mark, was irrelevant or
7 immaterial.

8 THE COURT: Not permissible expert witness examina-
9 tion in Virginia were the basis of the objection.

10 MR. BERRY: That was the first objection.

11 MR. MURRAY: You said--you said--

12 THE COURT: You--you came back and said I'm not
13 going to ask him that question. The--the issue then is why
14 are we dealing with this subject matter with this witness if
15 he's not going to be asked an opinion.

16 MR. MURRAY: The objection was that he's not
17 entitled to give the opinion of what the speed was and I said
18 I don't intend to ask him to give an opinion as to what the
19 speed was.

20 MR. BERRY: Judge, I think what Mr. Murray--

21 MR. MURRAY: He said he had some authority and I
22 think (unintelligible).

23 MR. BERRY: Well, he won't--he won't tell us what
24 he's going to do so it's hard for me to answer, but I can tell
25 you what I think he's going to do and why I object. I think

1 what Mr. Murray would like to do is to ask this witness can
2 this mark be used as a basis for determination of speed of the
3 vehicle and leave it at that and then try to argue later that
4 somehow the Orange County Sheriff's Department or someone
5 should have, in fact, done that to determine the speed. The
6 problem with that, Your Honor, is in order to get to that
7 point and it's--it's terribly misleading to the jury, if it
8 turns out that even if the Orange County Sheriff's Department
9 had done that work and that testimony is still inadmissible,
10 that certainly we're not going to mislead the jury and ask Mr.
11 Chewning whether he thinks they could do it. It's--it's not
12 permitted testimony I would submit in Virginia. It may be in
13 some Circuit Courts, but I would submit it's not been in this
14 Circuit Court and the Virginia Supreme Court has certainly not
15 approved. And the reason is because they have said in case
16 after case that it is improperly invading the province of the
17 jury. They can make a determination about speed from the
18 other evidence in the case and we don't let expert witnesses
19 come in in Virginia. Accident reconstruction is looked down
20 on, frankly, as far as testimonial purposes. Only in limited
21 situations. We can't let the witness come in and create an
22 issue in the case that isn't even there, Judge, and that's
23 what Mr. Murray is trying to do I think. That's why he's
24 telling the Court he's not going ask any more questions. He
25 intends to argue this is something they should have done and

1 even if they had done it, I don't think it's admissible.

2 THE COURT: Mr. Murray.

3 MR. MURRAY: It most certainly is admissible, Your
4 Honor. I want to see the authority he said he's got and it's
5 going to take him some (unintelligible) to come up with it.

6 THE COURT: Well, I'm prepared to rule. I think
7 Virginia is--while it's correct that there is no Supreme Court
8 decision I'm aware of that deals directly on this point, to me
9 the trend is to permit this type of examination. I--as to the
10 issue of whether or not I would permit this witness to render
11 an opinion based on speed, based on if he establishes to his
12 satisfaction all of the other variables that he's described,
13 if I understand his testimony he would be able to render an
14 opinion based on speed. So I would permit that question to be
15 asked if it were asked. Now, that may take care of the
16 objection. I don't know whether the question is going to be
17 asked or not.

18 MR. BERRY: Judge, I think the Court, in view of
19 what we're doing here, ought to make Mr. Murray give us at
20 least a proffer. Because he's being a little bit coy with the
21 Court.

22 THE COURT: Proffer of what? He said--

23 MR. BERRY: Proffer--proffer what he's doing here.
24 I mean we objected to the question and I take it his proffer
25 is that once he asks it and Mr. Chewning says yes, it's

1 possible, he's going to stop.

2 THE COURT: Well, Mr. Berry, I'm not going to tell
3 people how to try their case.

4 MR. BERRY: I understand, Judge. But he can't
5 mislead the jury.

6 THE COURT: If he is going to do that and--and he is
7 going to follow your--your lead or he is going to do what you
8 think he is going to do, seems to me you can argue as well
9 that he had an expert witness here who could have been asked
10 as to speed and was not asked that same question. I--

11 MR. BERRY: Yes, sir.

12 THE COURT: I'm not going to get into tactical
13 decisions about how--

14 MR. BERRY: I don't expect you to do that, Your
15 Honor.

16 THE COURT: --(unintelligible) try their case.

17 MR. BERRY: But--but it's this--this--this sort of
18 testimony is so misleading because what Mr. Murray wants to do
19 with it is to use this witness to comment on the credibility
20 of another witness and I would submit that--that--that is
21 inherently misleading particularly when it's in an area like
22 this that from the legal standpoint it's not--the Court may
23 well be right, that the trend is in the direction of admitting
24 it, but it's certainly not a given in Virginia and when you
25 allow this sort of testimony taken in the context of the way

1 he's asking it, I would submit it's incredibly misleading and
2 I notice he hadn't differed with my suggestion that that's
3 what he's going to do with it.

4 THE COURT: Well, I'm sure that you can deal with it
5 in whatever way you see best for your client--

6 MR. BERRY: Yes, sir.

7 THE COURT: --in terms of your argument. I'm going
8 to overrule the objection and let counsel try the case in
9 whatever way they think is best for their respective clients.
10 Are we ready to bring the jury back?

11 MR. BERRY: Yes, sir.

12 THE COURT: Mr. Breedon.

13 (Jury returns to courtroom.)

14 THE COURT: All right. The jury is back, next
15 question.

16 Q Mr. Chewning, I'm going to hand you what's been
17 marked as exhibit number--Defendant's Exhibit Number 19.

18 MR. BERRY: May we see that a moment, Mr. Murray,
19 just so I can make sure which one it is. Thank you.

20 Q Did you see any marks in the highway that could
21 be called a yaw mark other than number nineteen among the
22 photos you (unintelligible) of the accident scene?

23 A This is the only thing that could remotely
24 resemble a yaw mark.

25 Q Do you have sufficient information to form an

1 opinion as to the speed of the Corbin vehicle at the time it
2 laid that mark down?

3 A No, sir. The measurements weren't taken. The
4 cord and middle ordinate measurement is what I'm speaking of.
5 They were not taken. The length was taken which would not be
6 sufficient.

7 Q Now, if a vehicle has its left wheels on a hard
8 paved surface and its right wheels off that hard paved surface
9 on gravel or grass, is it possible to a reasonable degree of
10 scientific accuracy to examine a photograph of those tire
11 marks off the road and determine if brakes were being applied
12 at the time the marks off the road were made?

13 MR. BERRY: Your Honor, I object to that as not a
14 proper matter for expert testimony, it's a matter within the
15 province of the jury.

16 THE COURT: Objection noted and overruled.

17 A Yes, sir. It's very possible to tell whether the
18 tire was free rolling or under braking condition from looking
19 at the marks.

20 Q What do you need in order to form an opinion?

21 A A good photograph or a in sight view.

22 Q Of course, an in sight view is out of it, but did
23 you examine the sixty-five photographs taken at the accident
24 scene?

25 A Yes, I have examined them all now.

1 Q Did you see any photographs of this mark off the
2 road?

3 A I did not.

4 Q Is it, based upon the photographs that you have
5 examined, is it possible to determine with a reasonable degree
6 of scientific accuracy, whether or not the brakes on the
7 Corbin vehicle were being applied at the time that it was off
8 the right hand side of the road?

9 A I can't--

10 MR. BERRY: Your Honor, I would--I would object to
11 that testimony. Number one, it's--because it invades the
12 province of the jury and number two, because the issue is not
13 whether the photographs show this, it's whether the scene
14 itself shows it. That's the issue in the case. Object to it
15 on that basis.

16 THE COURT: Well, he's limited the question to the
17 brakes. The part of the question I think that is objec-
18 tionable to--is responsive is that Corbin applied the brakes.
19 I think the question has to be phrased without reference to
20 the Corbin, that is was there any evidence of brake applica-
21 tion. It's up to the jury to decide whether Mr. Corbin did or
22 did not apply the brakes. So on that basis the objection is
23 well taken.

24 Q I'll repeat it. Is it possible to determine to a
25 reasonable degree of scientific accuracy whether or not the

1 brakes on the Corbin vehicle were applied at the time the
2 right wheels were off the road?

3 A I just do not have enough information based on
4 what was available in this case to tell you.

5 Q If the right wheels of the vehicle are off the
6 travelled portion of the highway in gravel or grass and the
7 brakes are applied, does the car tend to stop in a straight
8 line?

9 MR. BERRY: Objection, Your Honor, that's a matter
10 within the province of the jury. It's not a matter subject to
11 expert testimony in Virginia.

12 THE COURT: That question seems to me to incorporate
13 so many more variables. I think that that objection is well
14 taken. I will sustain the objection, Mr. Murray.

15 Q Mr. Chewning, you indicated that one of the tests
16 that you needed to have in order to determine speed from a yaw
17 mark was a friction test.

18 A Yes, sir.

19 Q Tell the jury what the friction test is.

20 A The roadway surface, the asphalt surface--each
21 surface has a friction level that is unique to that particular
22 roadway. The way that's tested is by using a rubber tire or a
23 car and by sliding a tire across the surface and measuring the
24 resistance of that surface to a sliding tire it's possible to
25 get a level of friction that's used mathematically in these

1 computations. It really is measuring the roughness of the
2 pavement, the resistance of the pavement to a sliding tire.

3 Q What, if you can tell us, would be--would you
4 expect to be the average resistance, just to give a figure, of
5 a road such as 636 on an August day?

6 A (Unintelligible).

7 MR. BERRY: Your Honor, again I'm going to object to
8 this as not being relevant. Mr. Chewning has already
9 testified that there's not sufficient information available to
10 him to make these calculations. Once he's done that I would
11 submit we're just--this is like a science class, it's all
12 interesting, but it's not really related to the case.

13 THE COURT: Mr. Murray.

14 MR. MURRAY: Your Honor, this is--this is the heart
15 of my case. It is absolutely relevant to my defense of Mr.
16 Corbin. One hundred percent relevant, absolutely material.

17 THE COURT: Well, state your position with regard to
18 that question based on the objections of Mr. Berry.

19 MR. MURRAY: Mr. Berry objected to me asking whether
20 a car would stop in a straight line. I now want to establish
21 from the witness material evidence to help this jury under-
22 stand that there is difference in friction between pavement
23 and grass and gravel and that's the purpose of the question.

24 THE COURT: On that basis I overrule the objection.

25 MR. BERRY: I would object then, Your Honor, that

1 it's not proper grounds for expert testimony in Virginia
2 (unintelligible).

3 THE COURT: I--I will note your objection. The
4 question will be permitted.

5 Q What would you expect the average friction of a
6 paved surface on an August day to be?

7 A Of this type of surface, approximately .70.

8 Q What does that mean?

9 A Well, what that actually means is it's all
10 measured in relation to a G, which is 32.2 feet per second.
11 .7 would mean that seventy percent of that would be the
12 deceleration rate which would be about 22.5 feet per second.
13 What all that means is that a car sliding across this surface
14 would slow down 22.5 feet per second of its velocity for every
15 second it slid on that surface. That's--that's the frame of
16 reference that's used in the field.

17 Q So if that road would be about .70--

18 A Yes, sir.

19 Q --what would you expect the grass and gravel
20 shoulder to be?

21 A Approximately .40.

22 Q If one set of wheels is braking on .70 surface
23 and one set of wheels is braking on .40 surface, what is the
24 vehicle tending to do?

25 A Whichever side has the higher friction level, the

1 car will pivot to that side. In the instance that you ask, if
2 the right wheels were on a--a grass shoulder--

3 MR. BERRY: Judge, I object to this now. He's going
4 beyond the question. He--he's asked--the question was what
5 will the car do and he answered it. He went further to help
6 Mr. Murray out and I submit that's not proper.

7 THE COURT: I think it's part of his answer. I
8 don't--I'll overrule the objection.

9 A I believe in the question that--that had been
10 stated was if the right wheels were on the grass and the left
11 wheels were on the pavement, the higher friction being on the
12 pavement the vehicle will pivot to the left.

13 Q In the direction of the higher friction?

14 A Yes, sir.

15 Q Can you tell from the photographs that you
16 examined where precisely the Corbin vehicle left the travelled
17 portion of the highway with its right wheels?

18 MR. BERRY: Judge, I object to that as not being a
19 matter proper for expert testimony in Virginia. That's
20 something the jury is as able to determine as Mr. Chewning is.

21 THE COURT: All right. Repeat the question again,
22 Mr. Murray.

23 Q Can you tell us from your examination of the
24 photographs, these sixty-seven--five photographs, can you tell
25 us precisely where the Corbin vehicle went off the travelled

1 portion of (unintelligible)?

2 A It does not show in any of the photographs.

3 THE COURT: Well, all right. Based on that question
4 I would have overruled your objection, based on as I under-
5 stand the testimony of the officer he had established that at
6 the point where these marks began, so I would overrule the
7 objection to that question. I will permit the question to be
8 answered. Do you want to repeat the answer?

9 A I couldn't see in any of the photographs where
10 the car left the roadway.

11 Q Could you tell from any of the photographs
12 precisely where it came back on the road?

13 MR. BERRY: Again, Your Honor, I object as not being
14 a matter that's proper for expert testimony.

15 THE COURT: Note your objection. Objection
16 overruled.

17 A The only thing I can tell is where this mark is
18 placed on the photograph. That would be where it's coming
19 back.

20 Q What--had you investigated this thing the day
21 that it happened, would you have made any additional marks in
22 the highway to accentuate that mark that is visible in
23 photograph 19?

24 MR. BERRY: Your Honor, I object. That goes to
25 argument and it is something Mr. Murray can argue and it's

1 clearly inadmissable testimony.

2 THE COURT: Objection sustained.

3 Q Mr. Chewning, is it possible with a reasonable
4 degree of scientific accuracy to determine if a vehicle is
5 braking or accelerating from examination of the point the
6 tires leave or re-enter the shoulder of a highway?

7 A Yes.

8 Q What is necessary in order to do so?

9 A Simply a view of the mark will show whether the
10 tire is under decelerating conditions or accelerating. If it
11 is accelerating or rolling free the grass and dirt will be
12 pushed down in a pattern consistent with the tire. If the
13 tire is under heavy or moderate deceleration or even locking,
14 the grass and dirt is pulled out by virtue of the force above
15 the grass pulling on the grass and it pulls and pushes path
16 in front of the tire, as opposed to rolling over the grass.
17 It's very--very easy to do.

18 Q From what you've seen were you able to arrive at
19 any determination?

20 A The photos were insufficient to make any of those
21 conclusions.

22 Q Having examined photograph number 19 are you able
23 to a reasonable degree of scientific accuracy to determine
24 whether or not the vehicle was accelerating at the time it
25 made that mark?

1 MR. BERRY: Your Honor, I object. That's not a
2 subject proper for expert testimony. In view of the evidence
3 in this case it's irrelevant. It's not an issue. The
4 plaintiff has not put that in issue. The only evidence to
5 speed is what Mr. Corbin has testified and what Alan Brown
6 testified to. It's not really in dispute.

7 THE COURT: Objection overruled. I'll permit the
8 question.

9 A The tire mark itself, it cannot be determined
10 whether it's a scuff mark or a skid mark so really that cannot
11 be determined unless you could make that find.

12 Q Had the vehicle been accelerating at the time it
13 laid down that mark, would you expect it to have laid down any
14 other marks in addition to that?

15 MR. BERRY: Your Honor, I object to this, calls for
16 speculation. It's not a proper question for expert testimony.

17 THE COURT: Objection overruled.

18 A The more force involved with acceleration and
19 turning the more torque that is created the more likelihood
20 there is that not only this mark, but trailing marks would be
21 placed on the pavement as the vehicle went across the highway.

22 Q What would make the trailer marks--trailing
23 marks?

24 A The inside tires that would essentially, because
25 of the path of the car coming around on the outside and the

1 weight shift to the outside, those inside tires would
2 essentially be drug or pulled and as they were pulled they
3 would leave fainter and shorter, but distinct marks than this.

4 Q If the vehicle were under acceleration at the
5 time it made that mark, what would the rear of the vehicle
6 have been--would you expect the rear of the vehicle to do
7 (unintelligible) the front?

8 A That's exactly what I was saying. The vehicle is
9 being--the rear and the side is being pulled, it's being
10 pulled around, it's rotating and because of that it would
11 leave drag marks, skid marks on the pavement.

12 Q Are you familiar with the Virginia State Police
13 accident reconstruction team?

14 A Yes, sir.

15 Q Of what does the team consist--

16 MR. BERRY: Your Honor, I object to this as being
17 immaterial, irrelevant and not an issue in the case.

18 THE COURT: I'll--I'll sustain the objection to
19 that.

20 Q Have you examined the photographs of the left
21 side of the Corbin vehicle?

22 A Yes, I have.

23 Q Do you have an opinion to a reasonable degree of
24 scientific accuracy as to whether you can tell if the Corbin
25 vehicle came in contact with any portion of the John Doe

1 vehicle?

2 MR. BERRY: Your Honor, I object. That's not a
3 matter proper for expert testimony. That's clearly inadmis-
4 sable. That's something that has to be based on testimony.
5 You can't turn the trial into the expert telling us what
6 happened. That's up to the jury to decide based on the facts
7 they hear in the case.

8 Q That's an improper objection, Your Honor.

9 MR. BERRY: It's not an improper objection.

10 THE COURT: Is this witness, based on the examina-
11 tion not in a position to tell whether or not--now, I will
12 sustain the objection with regard to that portion of the
13 question that deals with the other vehicle. Do you understand
14 that, that I will sustain the objection based on--

15 Q Let me--let me repeat it in light of the Court's
16 ruling. Do you have an opinion to a reasonable degree of
17 scientific accuracy as to whether or not you can tell if the
18 Corbin vehicle came in contact with another vehicle--

19 MR. BERRY: Your Honor, I object, that's not a
20 matter proper for expert testimony.

21 THE COURT: I'll sustain that objection.

22 Q I'm going to hand you what are marked as
23 Defendant's 41, 42 and 43, would you examine those please?

24 MR. BERRY: May I see those, please? Do you want to
25 see them, too, Mr. Northam?

1 Q And 36, and 33.

2 A Yes, sir. I've seen these.

3 Q Hold them up for the jury so they have an idea
4 what you're testifying about. What are you looking at there?

5 A I am looking at the damage to the left side
6 around the driver's door and the left front fender of the
7 Camaro.

8 Q Have you examined that area carefully to
9 determine whether or not there is any evidence of a mark made
10 on that door--

11 MR. BERRY: Your Honor, I object to that. Now, I
12 think what Mr. Murray is doing is getting at the same thing he
13 did before and I think that's improper. It may be a proper
14 matter for argument. It's not a proper matter for expert
15 testimony if he's trying to educe testimony about whether the
16 vehicles struck or not. I think that's highly prejudicial.

17 THE COURT: Well, if that's the only basis for
18 objection I would overrule that objection I think. This
19 witness says he's examined the car and those are the photo-
20 graphs of the vehicle and would be permitted to basically
21 state whether or not he sees any evidence from the photographs
22 or his inspection of any contact with another vehicle. I
23 don't have any problem with that. Objection overruled.

24 MR. BERRY: Your Honor, we object to that and move
25 the court for a mistrial. We think that's highly prejudicial,

1 improper--it's not a proper (unintelligible) of expert
2 testimony in Virginia and it's so highly prejudicial that we
3 think it goes to the fairness in the case. It's simply not
4 something that an expert is allowed to testify to--

5 THE COURT: You have raised the possibility in this
6 case, at least the possibility that these two cars contacted.

7 MR. BERRY: No, sir. We have not raised that.

8 THE COURT: Well, the issue is present in the
9 evidence and I'm going to let this witness testify whether
10 based on his examination of the vehicle or on those photo-
11 graphs, he saw any evidence of contact--that would indicate
12 contact with another--another vehicle.

13 MR. BERRY: Your Honor, it almost goes to the
14 ultimate issue. Mr. Corbin himself doesn't know. Now it
15 would be different if we had a dispute between the parties
16 about it, even then it would go to the ultimate issue.

17 THE COURT: Well, I--I admit--

18 MR. BERRY: I submit it goes to it.

19 THE COURT: I admit I have serious reservations
20 about the usefulness of this, but it seems to me I can't--I
21 can't deny or rule based on relevancy. It is arguably
22 relevant based on the way the testimony has come in.

23 MR. BERRY: Yes, sir.

24 THE COURT: On that basis I deny both your objection
25 and motion for mistrial.

1 A I cannot see a specific contact damage point from
2 another vehicle. The damage--

3 MR. BERRY: Your Honor, he's--the question has been
4 asked and answered. He--he said can you tell and he said no.
5 That's it.

6 THE COURT: All right. He's completed his answer.

7 Q What can you see?

8 MR. BERRY: I object, Your Honor, that's a matter
9 for the jury.

10 THE COURT: I need--you need to be more specific
11 Mr. Murray in terms of requesting.

12 Q What can you see in those photographs that would
13 lead you as an expert to want to look further?

14 A There are two specific things that I was looking
15 at earlier. One was a--

16 MR. BERRY: Your Honor, I object to this question on
17 the grounds stated earlier and (unintelligible).

18 THE COURT: I think that's--now, I think we're
19 getting beyond. I will sustain the objection, I think. The
20 issue is here with regard to what may have been seen in those
21 photographs and I let you ask that question because he cannot
22 see anything in the photographs. I'm not going to let you
23 suggest, as I ruled before, as to what may have been done if
24 further investigation had been followed. I would, on that
25 basis, which I understand to be Mr. Berry's objection, I'll

1 sustain the objection. Next question.

2 Q Do you see something white in those pictures?

3 MR. BERRY: Your Honor, I object. The jury can see
4 that as well as he can. That--that's not a matter that's
5 proper for testimony.

6 THE COURT: Well, I don't know where he's going with
7 it. Let's--

8 MR. BERRY: It's an improper question to ask the
9 witness whether he sees something white.

10 THE COURT: If that's the only objection I'll
11 overrule the objection. I'll--(unintelligible).

12 MR. BERRY: The picture speaks for itself.

13 A I see what appears to be white cloth in the
14 leading edge of the door at this point.

15
16 (Defendant's Exhibit #75 was so marked at this
17 time.)

18
19 Q Let me hand you two--what's been marked as
20 Defendant's Exhibits 1 and 2. What are you looking at in
21 those pictures?

22 A This is the same car, same area of damage, but
23 the cloth is not present.

24 Q Can you tell from Defendant's Exhibits 1 and 2,
25 the location of the (unintelligible)?

1 A It's inside a garage or inside an enclosed area.

2 Q Did you return to the accident scene on October
3 21st, 1991?

4 A Yes, sir, I did.

5 Q Did you place cones in the highway?

6 A Yes, I did.

7 Q And I want to hand you what have been marked as
8 Defendant's Exhibits 69, 70--

9 MR. BERRY: May we see those, please?

10 Q Yeah, sure. I having trouble here, Your Honor,
11 did this picture come in through Mr. Corbin?

12 THE COURT: Which number is that?

13 Q Did 72 come in?

14 THE COURT: I'm looking. Yes, 72 was admitted.

15 Q And here is 75, tell the jury what those three
16 pictures show.

17 THE COURT: Which numbers does he have before him?

18 A 69, 70 and 75, Your Honor. Photographs 69 and 70
19 are photographs taken in the direction that the Corbin vehicle
20 was travelling. These cones were placed out on the roadway.
21 They represent--the first cone--the farthest cone up repre-
22 sents a point--a point on the center line that's even with the
23 mailbox that's labeled Mullins. The next two cones are fifty
24 feet back, that being this cone and this cone, fifty feet
25 each, total of a hundred feet and then to this cone is 72 feet

1 so the total from this cone to the first cone that's adjacent
2 to the Mullins mailbox is 172 feet to correspond with the
3 distance measured by Officer Dickson.

4 Q I'd move to introduce those photographs.

5 A And the photo 75 is the same cone set-up taken in
6 the opposite direction.

7 Q Move to introduce.

8 MR. BERRY: No objection.

9 THE COURT: All right. 69, 70 and 75 will be
10 admitted.

11 Q Mr. Chewning, there has been testimony in the
12 past on--

13 MR. BERRY: Judge, again, I object to this telling
14 him and asking him to comment on testimony.

15 THE COURT: Objection sustained. Mr. Murray, be
16 careful.

17 Q Are you familiar with what the tachometer on that
18 vehicle supposedly was found at when it was taken out of the
19 car by Mr. Dickson or Mr. Hennage?

20 A Yes, I saw that in the materials, 7400 RPM.

21 Q Have you ever seen this picture before?

22 A No, I have not.

23 Q Thought you had, sorry. Do you have an opinion
24 to a reasonable degree of scientific certainty as to whether
25 or not whatever the tachometer read after the Corbin vehicle

1 came to a halt has any bearing on any speed coming down the
2 road?

3 MR. BERRY: Your Honor, I object to that as not
4 being a proper question for expert testimony. It's an
5 improper foundation, invades the province of the jury. It's--
6 it's also irrelevant.

7 THE COURT: I'm going to sustain that objection,
8 based on the evidence presented, there's quite a bit of
9 distance as well as time between the time that the tach was
10 found and the question of speed coming down the road.

11 Q Well, Judge--

12 THE COURT: So I would sustain the objection.

13 Q Their witness testified that the tach was on 6400
14 RPM's.

15 THE COURT: I'm going to sustain the objection to
16 the question, Mr. Murray. I'll note your objection. Next
17 question.

18 Q Do you know how far off the highway the vehicle
19 was found?

20 A Approximately fifty feet.

21 Q Do you know what the surface of the road was--
22 what the surface of travel looked like?

23 MR. BERRY: Your Honor, again I object to this. Now,
24 this is really hearsay, because if it's not going to be the
25 subject of expert testimony than what he's found out from

1 someone else is not proper for him to testify to and--and I
2 think it's--Mr. Chewning in effect, is simply repeating what
3 he's been told and I would submit that's inadmissable.

4 THE COURT: Well, it's different, let me hear the
5 question again.

6 Q Do you know what surface the vehicle travelled
7 over once it left the travelled portion of the highway
8 (unintelligible)?

9 A Yes, I do.

10 Q What surface was that?

11 A The grass surface, there's a ditch and there's a
12 grass and dirt surface leading up to the tree.

13 Q Does the tachometer reading of a vehicle at rest
14 after this accident have any material value to you as an
15 expert in determining the speed at any point in time prior to
16 coming to rest?

17 A It does not.

18 Q There's been testimony concerning a point--

19 THE COURT: Mr. Murray, I'm going to tell you for
20 the last time, do not repeat testimony that's been given in
21 court to any witness who has not testified.

22 Q Do you know what point of perception is?

23 A Yes.

24 Q What is a point of perception?

25 A Well, the--the actual term means that the point

1 at which someone on an approach to any given location could
2 first see another point, and those two points would have to be
3 identified.

4 Q Do you know what the point of perception of a
5 vehicle travelling in the fashion Mr. Corbin was of a vehicle
6 coming around the corner in the opposite direction would be?

7 A In excess of two hundred feet. It would vary
8 somewhat as you moved closer to the curve it would change in
9 relationship, but generally more than 200 feet.

10 Q That's all the questions I have.

11 THE COURT: Mr. Berry.

12
13
14 CROSS-EXAMINATION

15 By: Mr. Berry

16 Q Mr. Chewning, you testified I believe that Mr.
17 Murray retained you in August of this year, is that right?

18 A Yes, sir. That's correct.

19 Q So when you say he retained you, he's paying you
20 to testify, is that right?

21 A I will send him a bill for my hourly rate, yes,
22 sir.

23 Q What is your hourly rate?

24 A Seventy-five dollars per hour.

25 Q All right. How many hours have you spent since

1 August in assisting Mr. Murray with the trial of the case?

2 A Well, I'm not sure--

3 MR. MURRAY: Objection, Your Honor. He's not
4 assisting me with the trial of this case.

5 Q Preparing for your testimony.

6 THE COURT: All right. Will you restate the
7 question?

8 A I'm not sure exactly how many, I'd have to
9 calculate it at the office, but I'm sure--

10 Q Give us a guess.

11 A Well, I wouldn't guess, but it would be I'm
12 certain less than--less than ten hours.

13 Q All right. And some of that would be what you
14 did here today, is that right?

15 A No, you--I believe you said preparing to testify.

16 Q Okay. So ten hours--less than ten hours up to
17 today?

18 A Yes, sir.

19 Q And you came to the accident scene twice?

20 A Yes, sir.

21 Q And you--you live about an hour from here, is
22 that right?

23 A Yes, sir, except once I was here on something
24 else so I didn't consider the travel time included.

25 Q Did you count half of it towards this case or--

1 A No, sir. I'm a pretty fair guy I didn't charge
2 him for any of it.

3 Q All right. So you've been up here once that you
4 charged a round trip for, that's two hours.

5 A Yes, sir.

6 Q And you did some work in your office at home, is
7 that right or wherever, at your business?

8 A At my office, yes.

9 Q All right. And how much of the less than ten
10 hours did you do there in your office?

11 A The rest of it would be at the office, reviewing
12 the materials, reviewing the literature and discussing it with
13 Mr. Murray.

14 Q Talking on the telephone with Deputy Dickson,
15 people like that?

16 A Yes, sir.

17 Q He talked with you didn't he, when you called him
18 up?

19 A Yes, sir. I knew him previously.

20 Q Was cooperative with you when you talked with him
21 on the telephone, was he not?

22 A He was.

23 Q Did you talk to Mr. Hennage about the case?

24 A I did not.

25 Q You know Mr. Hennage don't you?

1 A Yes, I do.

2 Q And you were aware that he had been called in to
3 review the case weren't you?

4 A Yes, sir.

5 Q Did you talk to Lieutenant Murphy about the case?

6 A No, sir, I did not.

7 Q When you came up here to Orange to look at the
8 scene, did you talk to Deputy Dickson when you came up here?

9 A No, sir. I didn't meet him at the scene. I knew
10 where the scene was.

11 Q You didn't try to go talk to Deputy Dickson in
12 person about the case?

13 A No, sir. I had all his--all his testimony and
14 materials. I just needed to call him and clarify some of the
15 things that were--was in the materials.

16 Q All right. And some of the testimony you
17 provided based on the photographs which I believe are 21
18 through 65 is based on your looking at them at lunch, is that
19 right?

20 A That was the first time I had seen some of them.

21 Q So basically you were prepared to testify after
22 about an half an hour's preparation on those forty photo-
23 graphs, is that correct?

24 A They really didn't show anything additional to
25 what I had before. Had they shown some additional information

1 I might have had to have done additional research.

2 Q So they really weren't material to your testimony
3 then were they, the second forty photographs?

4 A They didn't change anything.

5 Q All right. And they wouldn't have changed
6 anything about the investigation would they?

7 A I'm sorry. I don't understand.

8 Q All right. You could have testified to what you
9 have stated here on the witness stand today just as easily if
10 you hadn't seen the last forty photographs?

11 A To what I was being requested and what I was
12 asked, yes. There was nothing in the nineteen, or the forty
13 that were different in terms of something new evidence or
14 anything of that nature.

15 Q Let me ask you this, Mr. Chewning. You mentioned
16 I believe this business about the coefficient--the friction
17 being and I take it it's some of coefficient being .70 when
18 you're on the pavement and .40 on the shoulder of the road, is
19 that right?

20 A Yes, sir.

21 Q If you slammed on your brakes under those
22 circumstances it's going to cause your car to go one direc-
23 tion, isn't it?

24 A Yes, sir.

25 Q It's going to cause your car to pull in the

1 direction of the roadway isn't that right?

2 A It's going to cause the car to pull in the
3 direction of the higher friction surface which would be to the
4 pavement, yes.

5 Q So if you slammed on your brakes a hundred and
6 seventy-two feet from where you saw the pick-up and you had
7 one wheel on the shoulder and one on the highway you would
8 expect the car to have immediately gone to the left, wouldn't
9 you?

10 A Within a short a distance it would start
11 rotating, yes.

12 Q Quicker than a hundred and seventy-two feet,
13 right?

14 A Normally, I would expect that, yes.

15 Q Much quicker than a hundred and seventy-two feet,
16 isn't that right?

17 A Well, it would depend on magnitude of each
18 surface, but sooner than one seventy-two, yes.

19 Q Well, if you were going fifty miles an hour and
20 you slammed on your brakes, one wheel--one braking wheel was
21 off the road and one was on, you would jerk to the left a
22 whole lot quicker than a hundred and seventy-two feet,
23 wouldn't you?

24 A Well, I--you're getting into quantities again.
25 It would certainly be before one seventy-two, but I can't tell

1 you how much before.

2 Q You can't tell us that?

3 A Well, without knowing the actual magnitude of the
4 surfaces--

5 Q You didn't examine that?

6 A --I couldn't tell you exactly.

7 Q Didn't you examine that?

8 MR. MURRAY: Let him finish his answer, please.

9 Q I apologize, Your Honor. I interrupted him.

10 A Once I found out there were not going to be
11 sufficient measurements there was no need for me to take the
12 friction levels 'cause I couldn't work with them.

13 Q You weren't interested in whether the car might
14 have shot across the road earlier if the brakes had been
15 slammed on?

16 A No, that's not--not true at all. I don't think
17 that even--

18 Q Let me ask you this.

19 A --(unintelligible) part of my consideration.

20 Q Let me ask you this, Mr. Chewning, if the car is
21 going down the road with that right wheel--braking wheel off
22 the road and the left one on and you slam on your brakes, it's
23 going to create this furrowing effect on the shoulder of the
24 road when those brakes are slammed on, isn't it?

25 A It should, yes.

1 Q Well, it's going to, isn't it? It's not a
2 question of whether it should, it's going to, isn't it?

3 A Normally. If the brakes are functioning it
4 would, yes.

5 Q Well, when--when would it not?

6 A Only time that it wouldn't is if it was some type
7 of surface that was resistant enough and I don't think grass
8 and--

9 Q Well, you've looked at this one, it's not
10 resistant enough, is it?

11 A I think the grass and dirt would be pulled away
12 and there would be a furrow here.

13 Q All right. So when Deputy Dickson went out there
14 and looked at it, if Mr. Corbin had slammed on his brakes,
15 Deputy Dickson would have seen that, or should have seen that
16 on the shoulder of the road, that furrowing effect, shouldn't
17 he?

18 A He should have seen it, yes, if it was there.

19 Q And he--and when he slammed on these brakes a
20 hundred and seventy-two feet away from this truck, there would
21 also have been a skid mark on the paved portion of the
22 roadway, would there not?

23 A There should be a corresponding skid to skids in
24 the dirt.

25 Q All right. And a solid black skid mark is what

1 we're talking about on the paved portion of the highway,
2 aren't we?

3 A That's what I would expect.

4 Q You wouldn't see one that was striated or
5 stridated (sic) or whatever the word is, it would be a solid,
6 specific, whole black mark, brake mark, wouldn't it?

7 A If the brakes were slammed on hard enough to
8 lock the wheels, that's what I would expect, yes.

9 Q On the other hand, if the vehicle were accelerat-
10 ing down the roadway and the wheels were rolling you wouldn't
11 have any such marks, would you?

12 A You would not have a skid mark if the car was
13 accelerated.

14 Q And you wouldn't have any furrowing over on the
15 shoulder, would you?

16 A No, you would not.

17 Q The car would simply be rolling over top of the
18 grass and the other material on the shoulder, is that right?

19 A Yes, sir.

20 Q So if Mr. Corbin says he slammed on his brakes a
21 hundred and seventy-two feet away from seeing the truck, you
22 would expect there to be brake marks, would you not?

23 A If the brakes were slammed on to sufficiently--
24 to lock them, I would expect to see some marks.

25 Q All right. You were told in this case there were

1 no marks, isn't that right?

2 A That is correct.

3 Q And this--you mentioned you saw some white cloth
4 in one of these photographs, is that right?

5 A Yes, sir.

6 Q It was stuck onto the side of the car?

7 A It appears to be.

8 Q Do you know whether the Brown boy was wearing
9 white cloth socks or anything like that?

10 A I believe the photos would indicate the T-shirt
11 was white and the socks were white also.

12 Q So it could have a piece of material from his
13 clothing that got hung on that car couldn't it?

14 A In fact, it appears to be, yes.

15 Q All right. So that has no significance in
16 regard to any other vehicle. That has some significance in
17 that it was ripped off of Donnie Brown's body, isn't that
18 right?

19 A Well, the significance to me was that the
20 damage--to catch that cloth in that configuration, the damage
21 would--from the tree would not have been done when this young
22 man was struck, so for the cloth to be imbedded in the damaged
23 area there was concern that the damage may have occurred
24 first, which would mean contact with another vehicle.

25 Q All right. It may have occurred from some other

1 source too, isn't that right, you don't know what it occurred
2 from, do you, Mr. Chewning?

3 A What I was saying was and--

4 Q I'd like for you to answer the question. You
5 don't know what it occurred from do you?

6 A I was saying that the magnitude of the damage--

7 Q Judge, I'd like--I'd like for him to answer the
8 question.

9 A I'm trying to answer the question, Your Honor.

10 THE COURT: All right. Define it, 'cause I think
11 I've lost your train of questions myself.

12 Q All right. You don't know what caused the dent
13 on the vehicle, do you?

14 A I can see the pattern of damage from the tree.

15 Q I asked you if you know what caused the dent on
16 the vehicle?

17 THE COURT: Can you answer the question, Mr.
18 Chewning?

19 A Yes, sir. The tree caused--

20 THE COURT: (Unintelligible).

21 A --the major pattern of damage.

22 Q All right. Now you say that the car was fifty
23 feet off the road, you based that on what Deputy Dickson told
24 you, is that right?

25 A On his measurements, yes, sir.

1 Q And that--when you say fifty feet you're talking
2 about a straight line drawn from the side of the highway to
3 where the car was, is that right?

4 A That's the way the deputy measured it.

5 Q And he also told you that the car actually
6 travelled in a diagonal line of travel in excess of a hundred
7 feet off the highway, didn't he?

8 A The total distance diagonally would be in excess
9 of a hundred feet, yes.

10 Q Uh-huh. (Indicating yes). So that fifty feet is
11 only the straight back to the roadway, it's not where the car
12 travelled?

13 A That's correct.

14 Q That's all I have, Your Honor.

15 THE COURT: Mr. Northam.

16

17 Questions By: Mr. Northam

18 Q You never really had the opportunity to examine
19 the car itself did you?

20 A No, sir, I did not.

21 Q You didn't go to the accident scene--scene until
22 what date?

23 A Until August of this year.

24 Q Late August?

25 A Yes, sir. Late August.

1 Q And you never met with Deputy Dickson at the
2 scene?

3 A Didn't meet him at the scene, I spoke with him on
4 the phone.

5 Q My question to you though, is you didn't meet
6 with him at the scene?

7 A I did not, no.

8 Q That's all I have.

9 THE COURT: Redirect?

10 MR. MURRAY: No, sir.

11 THE COURT: May Mr. Chewning be excused?

12 MR. MURRAY: No, I want to call--

13 THE COURT: Mr. Chewning, you may be recalled so I'm
14 going to ask you to remain in the area of the courthouse.

15 MR. CHEWNING: Yes, sir.

16 THE COURT: Next witness.

17
18
19 TIM MURPHY, having been so duly sworn, testified as
20 follows:

21
22 DIRECT EXAMINATION

23 By: Mr. Berry

24 Q Lieutenant Murphy, would you state your name,
25 please?

1 A Tim Murphy.

2 Q What is your age?

3 A Twenty-nine.

4 Q And what is your occupation?

5 A I'm a lieutenant with the Orange County Sheriff's
6 Department.

7 Q Where do you reside?

8 A I reside in Unionville.

9 Q All right. And how long have you been employed
10 by the Orange County Sheriff's Department?

11 A A total of eleven years.

12 Q What has been your--focus of your employment
13 during that eleven year period?

14 A One year of dispatching and working the jail and
15 the rest has been field work on the road.

16 Q All right. And in August of 1990 what was your
17 specific duty with the Orange County Sheriff's Department?

18 A I was a sergeant and field supervisor.

19 Q All right. Did you have any responsibility
20 regarding the investigation of automobile accidents?

21 A Yes, I did.

22 Q And what responsibility did you have in that
23 area?

24 A It was--I was part of a two man team of advanced
25 accident investigation.

1 Q Did you have any training for that?

2 A Yes, I did.

3 Q What training did you have?

4 A I had a forty hour class that was given to me by
5 the sergeant of Orange Town Police in 1985. I had a eight
6 hour class through the basic academy I attended in 1981. And
7 I had an eighty hour class in 1989 I took through Fairfax
8 County Public Safety Academy in the advanced accident
9 investigation.

10 Q Did you pass all those classes?

11 A Yes, I did.

12 Q Complete all of them?

13 A Yes.

14 Q Have you--how long have you been in the business
15 of investigating automobile accidents in the Orange County
16 Sheriff's Department, how many years?

17 A Since 1985.

18 Q Have you got any estimate of how many accidents
19 you've investigated in that time?

20 A I don't have an exact number.

21 Q Over a hundred?

22 A Yes.

23 Q In the hundreds?

24 A Probably between one and two hundred.

25 Q All right. And have some of those involved

1 fatalities?

2 A Yes, they did.

3 Q Did you investigate the--or form a part of the
4 investigation of the accident in which Donnie Brown was killed
5 on August the 15th of 1990?

6 A Yes.

7 Q I believe you mentioned a moment ago that you
8 were part of a two man team. I take it Deputy Dickson was the
9 other half of the team?

10 A That's correct.

11 Q Did you go out to the scene on the day of the
12 accident?

13 A Yes, I did.

14 Q Can you tell us what you-all did while you were
15 out there, Mr. Murphy?

16 MR. MURRAY: Now, Your Honor, is--is this rebuttal
17 of the defendant's case? The plaintiff's case is over.

18 Q Your Honor, Mr. Murray has made great effort
19 through Mr. Chewning to show that things weren't done that
20 should have been done and I think we've got a right to bring
21 the people in from the Orange County Sheriff's Department who
22 did them and anybody else who was involved and testify to the
23 jury that, in fact, these things were done. That a thorough
24 investigation was accomplished. He--he's presented additional
25 evidence of that in his case, through Mr. Chewning.

1 MR. MURRAY: May I be heard?

2 THE COURT: You may.

3 MR. MURRAY: Mr. Chewning was asked what photographs
4 would have assisted him in arriving at a conclusion. Now, if
5 this witness is going to produce additional photographs, which
6 wouldn't surprise me a bit, I--I think that would be relevant.
7 But as to what he did is not--is not the subject of Mr.
8 Chewning's testimony and therefore this is not proper
9 rebuttal.

10 Q What measurements were taken, what things were
11 and weren't done, they were a subject of Mr. Chewning's
12 testimony, over my objection, but they were a subject of it.

13 MR. MURRAY: Only as to the cord and the middle
14 distance of that one mark in the road. If he did that I
15 wouldn't object to him testifying, but anything else--

16 THE COURT: Well, it's clear that--that Mr. Chewning
17 testified as to what he did and the two examinations at the
18 scene, he examined photographs and depositions, that raised
19 the question that I think is proper for rebuttal. However, I
20 think to add new evidence as to what was done goes beyond what
21 rebuttal evidence is normally designed to do. So I would not
22 permit the officer to basically start afresh and put on--

23 Q We don't want to do that, Judge.

24 THE COURT: All right, then limit your questions
25 to--

1 Q (Unintelligible.)

2 THE COURT: --pure rebuttal evidence.

3 Q I'm sure Mr. Murray will object if we don't do
4 that.

5 THE COURT: Go ahead, next question.

6 Q When you went out--did you go out to the accident
7 scene, Lieutenant Murphy?

8 A Yes, I did.

9 Q And who else was out there?

10 A It was several officers. I recall Officer
11 Dickson and Haney were there when I got there.

12 Q Did you and Officer Dickson conduct an investiga-
13 tion of the scene itself?

14 A Yes, we did.

15 Q Did you take measurements?

16 A Yes, we did.

17 Q Did you look--

18 MR. MURRAY: I object. This isn't--

19 Q Did you look--

20 MR. MURRAY: This isn't rebuttal.

21 Q We're getting there, Judge.

22 THE COURT: Well, I--I'm going to let him go a
23 little bit.

24 Q Got to lay a foundation--

25 THE COURT: Go ahead.

1 Q --(unintelligible) did. Did you observe any tire
2 marks, tire impressions that were off the right shoulder of
3 the highway in the direction that the Corbin vehicle was
4 travelling?

5 MR. MURRAY: Objection, that's not rebuttal. This
6 is a witness he could have called with his direct case, it's
7 not rebutting--

8 THE COURT: I think--

9 MR. MURRAY: --anything Mr. Chewning said.

10 THE COURT: I think that clearly Mr. Chewning
11 testified as to that mark, what could have been seen, what
12 could not have been seen, and what conclusions could have been
13 drawn. I think the door is open. I think it's proper
14 rebuttal. Overrule your objection.

15 Q Did you-all look to see if there were marks on
16 the right shoulder of the highway?

17 A Yes, we did.

18 Q And what did you find?

19 A There was impression along the right shoulder of
20 the highway.

21 Q Okay. And can you describe that impression?

22 A It was consistent with that made by rolling
23 tire--

24 MR. MURRAY: Objection, Your Honor. Objection to
25 that conclusion. He can testify to what he saw. He can't

1 tell us what put it there.

2 Q Judge, let--let me go a little bit further. I'm
3 going to ask that Lieutenant Murphy be qualified as an expert
4 based on his testimony about his investigation of accidents
5 and his schooling and training.

6 MR. MURRAY: An expert in what?

7 THE COURT: Expert in what?

8 Q In accident investigation.

9 MR. MURRAY: Accident investigation is not the
10 subject of expert testimony. Accident reconstruction is.

11 THE COURT: Well--

12 MR. MURRAY: Investigation--we're not here to say
13 whether or not these (unintelligible)--

14 THE COURT: I'm going to permit the officer to
15 testify based on his training, what he saw and what in his
16 experience based on his training, would have left whatever it
17 is that he saw. I'm going to permit the officer to testify
18 with some leeway as to what kind of mark he saw and what
19 normally makes that kind of mark.

20 Q Did you--can you tell us, go ahead and finish
21 your answer, Lieutenant Murphy or do you need me to ask the
22 question again?

23 A The mark along the right shoulder of the road
24 seemed to be that of a tire mark. It consisted of, in places
25 where the dirt was soft and the grass was not heavy, you could

1 actually see the tread mark of the tire that had passed along
2 there. In places where the grass was heavy the grass was
3 merely laying flat as if mashed down.

4 Q Was there any evidence of braking?

5 A No, there was not.

6 Q All right. Did you find any brake marks on the
7 highway?

8 A No, we did not.

9 Q See any evidence of braking on the highway?

10 A No, we did not.

11 Q Did you find any marks on the highway at all?

12 A Yes, we did.

13 Q Tell us what you found.

14 A There was a scuff mark caused by--

15 MR. MURRAY: Objection to caused by.

16 THE COURT: Sustain that objection.

17 Q (Unintelligible), all right.

18 THE COURT: All right.

19 Q We'll get--get around to that in a minute, Your
20 Honor.

21 THE COURT: All right.

22 Q Just tell us what you saw there at that other
23 mark. You don't need to tell us what--what caused it. Just
24 tell us what you saw.

25 A It was a scuff mark across the road from a point

1 two to five feet before the second mailbox, across the road to
2 the left side of the road.

3 Q Did it go all the way across the road?

4 A Yes, it did.

5 Q Did you-all measure it?

6 A Yes, we did.

7 Q How long was it?

8 A I believe it fifty-one--

9 Q All right.

10 A --feet.

11 Q Can you tell us what it looked like?

12 A It was wide, probably close to ten inches to a
13 foot wide, and it consisted of smaller--it consisted of many
14 small marks made crossways to the whole mark. In other words,
15 if--if the mark left--went from the right shoulder all the way
16 across to the left shoulder, the little marks that made it up
17 were in line with the road itself.

18 Q Based on your experience and training, Lieutenant
19 Murphy, is that sort of mark consistent with a vehicle that is
20 rolling or one that's braking?

21 MR. MURRAY: Objection.

22 THE COURT: Basis?

23 MR. MURRAY: This man's not qualified to give such
24 an opinion.

25 THE COURT: I don't think that's an opinion. I

1 think that marks are--tend to indicate what a vehicle was
2 doing. I don't think that's in the nature of expert opinion.
3 I'd overrule the objection.

4 Q Can you tell us whether it's consistent with
5 braking or--or a wheel that's rolling?

6 A This type of mark is made by a tire which is free
7 to rotate.

8 Q How do you tell that? Why do you say that?

9 A Because a tire that cannot rotate will simply
10 drag and--

11 Q Will it leave a solid mark?

12 A It will leave a solid mark.

13 MR. MURRAY: (Unintelligible) question.

14 THE COURT: Sustained.

15 Q What type of mark will it lead?

16 A The mark would be solid. The absence of the
17 smaller marks that I've described that will go against the
18 direction of the main mark is the--the biggest giveaway.
19 The--the marks in a slide will go with the vehicle. The
20 linear momentum will carry it, it will pick up little stones
21 if you look close enough and they'll leave little scratch
22 marks along the surface. All of the marks within the--the
23 slide mark or skid mark will be consistent and point in one
24 direction.

25 Q Is that what's called a yaw mark?

1 MR. MURRAY: Objection, Your Honor. This witness
2 has been excluded. He's already said it's a scuff mark.

3 Q Judge, he did the--

4 THE COURT: I--I--

5 Q --he did the examination.

6 THE COURT: On that basis, I would overrule the
7 objection. I don't understand the nature of the objection,
8 that he's been excluded.

9 MR. MURRAY: Well, he asked if this is what is
10 called a yaw mark, this is the very thing that he was
11 objecting to me introducing--

12 THE COURT: No, I--

13 MR. MURRAY: --(unintelligible).

14 Q He did the investigation, Judge.

15 THE COURT: I'm--I'm going to permit that question.
16 Objection overruled.

17 Q Is this what's called a yaw mark?

18 A It can be.

19 Q What do you call it, Lieutenant Murphy, do you
20 have a name for it?

21 A I--I would call it a scuff mark.

22 Q All right. Is it possible based on your training
23 and experience to measure the speed or to try to measure the
24 speed of a vehicle from a scuff mark?

25 MR. MURRAY: Objection, Your Honor. We're entering

1 the field of accident reconstruction, not investigation.

2 Q I don't know how you make the difference, Judge.

3 THE COURT: I think there's--

4 Q They're all an effort to determine--

5 THE COURT: --a significant difference, a sig-
6 nificant difference.

7 Q Well--

8 THE COURT: I would sustain the objection.

9 Q Let me ask a better foundation.

10 THE COURT: All right.

11 Q Have you had training as a part of your schooling
12 and--and your experience, Lieutenant Murphy, in the use of--of
13 a scuff mark to come to a conclusion about speed?

14 A Yes.

15 Q What sort of training have you had in that
16 regard?

17 A The eighty hours of training and the Advanced
18 Accident Investigation Seminars One and Two that I attended in
19 Fairfax County.

20 Q Have you ever actually done that yourself?

21 A I have determined speed from skid marks in
22 several occasions, yes.

23 Q Using what you learned in your training?

24 A Yes.

25 Q Judge, then I would submit he's--that's a proper

1 foundation for him to testify as an expert.

2 MR. MURRAY: Let me voir dire.

3 THE COURT: All right.

4
5 VOIR DIRE EXAMINATION

6 By: Mr. Murray

7 Q There are three weeks to that school you went to
8 in Fairfax--

9 MR. BERRY: Judge, now, I'm going--I'm going to
10 object to him arguing with the witness, that's--

11 THE COURT: I think there are proper ways to--

12 Q I (unintelligible.)

13 THE COURT: --ask questions.

14 Q I (unintelligible.) You went to two weeks of a
15 three week school, didn't you?

16 A I was only told it was two weeks and I attended
17 both weeks, Your Honor.

18 Q Isn't it true that the third week is where you-
19 all study accident reconstruction?

20 A I don't know.

21 Q You were asked by Mr. Northam over here at your
22 deposition, what schools or training have you received
23 concerning accident investigation, answer, I was trained at
24 the very basics of traffic investigation by the Town of Orange
25 Police Department and then I went through the two week school

1 in Fairfax of Accident Investigation One and Two. Question,
2 and this was the advanced course. Answer, Yes. Question, the
3 same one that Officer Dickson took as well. Answer, it's a
4 step one and two, step three is a reconstruction. Was that
5 your testimony?

6 A It may have been.

7 Q The man's not qualified to (unintelligible)
8 accident reconstruction. He didn't even complete the school.

9 MR. BERRY: Your Honor, this all goes to weight.
10 This man has--has had experience. He's told the court about
11 it. He's testified and this--this is not contradicted.

12 THE COURT: Are you going to ask him an opinion as
13 to speed based on that scuff mark?

14 MR. BERRY: No, sir, I'm not. No, sir. I am not.
15 I am simply responding to evidence that Mr. Murray has put
16 into this case and I think the Orange County Sheriff's
17 Department has a right to do that.

18 THE COURT: I'm going to permit the witness to
19 respond to the question as posed and let the jury make the
20 determination based on the qualifications and training of any
21 witness that's testified in the case today. You may ask the
22 question.

23
24 DIRECT EXAMINATION CONTINUING

25 By: Mr. Berry

1 Q Do you know how to do what I just asked you
2 about, to make that--that determination of speed based on the
3 use of a mark?

4 A Yes, sir.

5 Q Can you tell us very briefly what in--what is
6 involved in the physical act of doing it, how do you do it?

7 A The skid marks are measured as to where they
8 started, where the vehicle was at it's full speed to the point
9 of the vehicles--

10 THE COURT: He said skid mark.

11 MR. MURRAY: That's--objection. We're not talking
12 about skid marks.

13 THE COURT: I know of no evidence of any skid marks.

14 Q I think he meant marks, Judge, but he did say
15 skid mark.

16 THE COURT: Well, he said skid mark.

17 Q Yes, he did--he did.

18 THE COURT: Well, what is he describing now, Mr.
19 Berry.

20 Q Let--let me ask again? Can you--can you tell us
21 how you would ordinarily go about measuring the--the--or
22 trying to measure the speed of a vehicle with the use of a
23 scuff mark, what would you ordinarily do, what are you trained
24 to do?

25 A Your Honor, I cannot recall having any school on

1 finding the speed of a scuff mark. Skid marks, yes, but scuff
2 marks, no. I know of no such schools.

3 THE COURT: All right.

4 Q All right.

5 THE COURT: Next question.

6 Q Let me ask you this, Lieutenant Murphy. Do you
7 know any reason--did Deputy Dickson try to determine the speed
8 of the Corbin vehicle by the use of the scuff mark?

9 MR. MURRAY: Objection. Deputy Dickson was not
10 offered as an expert witness. He can't get in through the
11 back door what is inadmissible in the front door. He didn't
12 offer Dickson as a witness. Whether or not he tried to do it
13 is absolutely immaterial. The man wasn't qualified.

14 Q Judge, let me--let me tell the Court what I'm
15 trying to show. Mr. Murphy--Mr. Murray has attempted to make
16 an issue of the fact that these things weren't done. As a
17 part of our rebuttal, I would submit the Sheriff's Department
18 has a right to explain to the jury why they weren't done and
19 that's what I'm trying to elicit from Lieutenant Murphy.

20 THE COURT: I'll permit the question.

21 Q Do you know why they weren't done?

22 A Yes, I do.

23 THE COURT: That wasn't the question. The question
24 that Mr. Murray objected to, did--does--does he know whether
25 Mr. Dickson--

1 Q Do you know whether--

2 THE COURT: --made any attempt.

3 Q --Deputy Dickson did any such measurements or
4 made any effort to do that?

5 A To my knowledge all the measurements were taken,
6 but there was no attempt to find speed with the evidence that
7 we had.

8 Q What was--why was that?

9 A Because to my knowledge there is no way to obtain
10 speed from a single scuff mark that did not go to full stop.

11 Q All right. How much time did you spend working
12 on the accident investigation in this case, Lieutenant Murphy?

13 A Probably a total of twenty hours.

14 Q That's all I have, Your Honor.

15 THE COURT: Cross?

16
17
18 CROSS-EXAMINATION

19 By: Mr. Murray

20 Q Mr. Murphy, you testified to tire impressions off
21 the right-hand side of the road, a scuff a mark in the road
22 that looked like it was ten inches to a foot wide that had
23 little marks in it, right?

24 A Yes.

25 Q Did you take any pictures of those?

1 A I--pictures were taken of them.

2 Q You left the picture taking up to Mr. Dickson,
3 right?

4 A That's correct.

5 Q That's all.

6
7 Questions by Mr. Northam:

8 Q Sheriff, you conducted this investigation as part
9 of your regular job, didn't you?

10 A Yes, I did.

11 Q You're not being paid to testify here today, are
12 you?

13 A No, sir, I'm not.

14 Q That's all I have.

15 THE COURT: Redirect?

16 MR. BERRY: No, sir.

17 THE COURT: You may step down.

18 MR. BERRY: Mr. Hennage, Your Honor. Yes, I would
19 ask that this witness be excused as well, Judge.

20 THE COURT: All right. He's excused.

21
22 WILLIAM HENNAGE, having been so duly sworn,
23 testified as follows:

24
25 DIRECT EXAMINATION

1 By: Mr. Berry

2 Q Would you state your name please, Mr. Hennage?

3 A William Hennage.

4 Q And what is your occupation?

5 A I'm the lead investigator with the Fairfax County
6 Police Department, Accident Reconstruction Section.

7 Q How long have you been employed in that capacity?

8 A I've been in that capacity since 1983.

9 Q And what sort of work did you do within the
10 police department before then?

11 A I was a police officer.

12 Q All right. And how long were you a police
13 officer?

14 A A total of twenty-two years.

15 Q Did you investigate accidents even before you
16 became an accident reconstructionist?

17 A Yes, I did.

18 Q All right. And tell us what you have done in the
19 way of accident reconstruction, let's--let's put it this way
20 first of all. What sort of provision is there in your
21 department for accident reconstruction?

22 A We have two levels of accident investigation. We
23 have the basic accident investigator and then we have three
24 people in the reconstruction section that I'm in that are in
25 charge of doing accident reconstruction for all fatal crashes,

1 common carrier crashes, cruiser wrecks, county vehicles,
2 planes and trains.

3 Q All right. What is your position within that
4 sub-department?

5 A I'm in charge of the unit.

6 Q Okay. You're in charge of the unit?

7 A Yes.

8 Q Which unit?

9 A The accident reconstruction.

10 Q The entire thing?

11 A Yes.

12 Q How long have you been in charge of it?

13 A Since it was started in 1983.

14 Q Do you teach courses in accident reconstruction?

15 A Yes, I do.

16 Q Where do you teach them?

17 A At the Fairfax County Public Safety Academy, at
18 the District of Columbia Police Academy. I've taught at the
19 Northern Virginia Criminal Justice Academy, the Montgomery
20 County of Maryland Academy and several other little classes
21 for different departments.

22 Q All right. How much of your time is spent
23 teaching?

24 A Approximately six weeks a year.

25 Q Have you written about accident reconstruction?

1 A Yes.

2 Q Have you written articles about it?

3 A I've written some articles on reconstruction with
4 respect to photography.

5 Q All right. How many accidents have you inves-
6 tigated as the lead accident reconstructionist at the Fairfax
7 County Police Department since 1983?

8 A I've done over two hundred fatalities and
9 probably a like number of non-fatality wrecks, several plane
10 crashes and several train wrecks.

11 Q Have you been called on to assist other law
12 enforcement agencies in Virginia and the District as a part of
13 their investigations?

14 A Yes, I have.

15 Q Roughly, how many occasions have you done that?

16 A Approximately two dozen.

17 Q You basically gone all over the State of
18 Virginia?

19 A Northern Virginia.

20 Q Have you qualified as an expert witness in the
21 field of accident reconstruction in any circuit court or other
22 court?

23 A Yes, I have.

24 Q Can you tell us roughly how many times?

25 A Several dozen.

1 Q All right. Where--where--what region and what
2 courts basically?

3 A Fairfax, Loudoun, Prince William, U.S. District
4 Court, the Industrial Commission, Arlington County.

5 Q All right. Your Honor, I would move this witness
6 is an expert in the field of accident reconstruction.

7 MR. MURRAY: I think he qualifies.

8 THE COURT: The court accepts Investigator--is it
9 Hennage--

10 A Hennage. Yes, sir.

11 THE COURT: --is an expert in accident reconstruc-
12 tion.

13 Q Mr. Hennage, did you--were you contacted by
14 anybody in the Orange County Sheriff's Department about a
15 fatality that occurred here on August the 15th--

16 A Yes, I was.

17 Q --of 1990 in which Donnie Brown was killed?

18 A Yes, I was.

19 Q Who contacted you?

20 A Sergeant Murphy called me.

21 Q And what did he ask you to do?

22 A He asked me if I would come to the scene, look at
23 the scene, look at the vehicle and see what I thought of the
24 work that they had done so far.

25 Q All right. Do you remember when you came down

1 here?

2 A No. It was--it was the day after he called me.
3 Several days after the wreck I believe.

4 Q All right. Within a couple of weeks of the
5 wreck?

6 A Yes.

7 Q All right. Did you drive down to Orange County?

8 A Yes, I did.

9 Q What did you do after you got down here?

10 A I came to the Sheriff's Office here and I met
11 with Sergeant Murphy and we went to the scene and looked at
12 the scene along with the Commonwealth Attorney.

13 Q All right. And what did you do when you went out
14 to the scene?

15 A We took the--the measurements, the diagram, and
16 he wanted me to look at the diagram, look at the scene
17 measurements and see if there was anything that I could
18 suggest that they may have done or anything that they might
19 have done incorrectly and basically I told them that I--

20 MR. MURRAY: Objection. What he told them is not
21 material, Your Honor.

22 Q What was your--

23 MR. MURRAY: He's commenting on the evidence of
24 another witness.

25 Q I'll ask it another question.

1 THE COURT: He's withdrawn the question.

2 Q What was your conclusion about what they had
3 done?

4 A I looked at their--

5 MR. MURRAY: Objection, he's commenting on the
6 evidence of another witness.

7 Q No, sir. He's commenting on their investigation,
8 Your Honor, he was there.

9 THE COURT: He's commenting on what--whatever he was
10 told. I'm going to let him answer the question. I don't
11 know--nobody knows what he was told, but I'm going to let him
12 answer the question.

13 A I looked at the sheriffs' notes and their diagram
14 that they had done at the scene and I had no problem with
15 anything they had done to that point.

16 Q All right. Did they tell you about tire tracks
17 on the shoulder--right shoulder of the highway?

18 A Yes, they did.

19 Q And did they describe those to you?

20 A Yes, they did.

21 Q How did they describe them to you?

22 MR. MURRAY: Objection as hearsay.

23 Q Your Honor, he can base his--he can base his
24 opinion on hearsay just like Mr. Chewning did. All that--

25 THE COURT: But you can't bring it out in direct,

1 isn't that the rule.

2 Q --Mr. Chewning testified to--all--all of what Mr.
3 Chewning testified to was based on the same sorts of ques-
4 tions.

5 THE COURT: But isn't--but isn't that the rule, that
6 you can't bring it out on direct? You can bring it out on
7 cross examination, but--he can base his opinion on hearsay,
8 but it can't be elicited in the--in the form of direct
9 examination.

10 Q Your Honor, I think this is the same sort of
11 testimony that Mr. Chewning was attempting to give.

12 THE COURT: Well, I rule on--

13 Q And I submit to the court it's admissible.

14 THE COURT: I rule on the objections as they come.

15 Q All right. Let me ask you this, Mr. Hennage.
16 Are you familiar with the types of marks and tracks that
17 vehicles make when they're rolling versus when they're
18 braking?

19 A Yes, I am.

20 Q And what sort of a track does a vehicle make
21 that's rolling on soft ground and grass like this shoulder on
22 the road at the location of this accident?

23 MR. MURRAY: Objection. That's not a subject of
24 expert testimony.

25 Q It was for the defendant, Your Honor.

1 THE COURT: Objection overruled. Clearly it's
2 within the line of examination for that.

3 Q What--what type of mark do you see when a wheel
4 is rolling in soft ground?

5 A You would see a tire impression as opposed to
6 skidding where you would have debris and material wedged up in
7 front of the tire.

8 Q That would be kicked up by the braking action?

9 A That's correct. As the brake slowed the tire
10 down, material in front of the tire would tend to ball up in
11 front of it whereas as the tire was rolling freely it would
12 just roll the material down into the ground and leave a tire
13 mark.

14 Q All right. And when you slam on brakes on a
15 paved highway what sort of mark do you get, tire mark?

16 A If you lock the brake up and the tire at that
17 point is not rotating you would leave a skid mark.

18 Q Solid mark?

19 A You should, yes.

20 Q All right. Did you see any such solid mark on
21 the roadway--

22 MR. MURRAY: Objection, Your Honor. What he saw two
23 weeks--a couple of weeks after the accident isn't material.

24 Q It goes to weight, judge.

25 THE COURT: Well, there's no evidence. I mean,

1 let's get on with it. There's no evidence that there was a
2 skid mark there (unintelligible).

3 MR. MURRAY: (Unintelligible.)

4 Q I know. Your Honor, I would--I would prefer to
5 have stayed out of this, too. But I think Mr. Chewning--

6 THE COURT: All right. Let's get on with--

7 Q --brought it into the case.

8 THE COURT: --some relevant questions.

9 Q All right. Did you talk to the officers about
10 whether or not there was a yaw mark at the scene, a scuff
11 mark?

12 A They mentioned a scuff mark, yes.

13 Q All right. Can you determine a--the speed of a
14 vehicle by using a scuff mark, Mr. Hennage?

15 A Yes, you can.

16 Q How do you do that?

17 A Well, first thing you have to do is--is determine
18 that it is, in fact, a scuff mark and it's a critical speed
19 scuff. And then you measure the scuff mark appropriately for
20 a radius determination and then you can do a speed calcula-
21 tion.

22 Q All right. Did the deputies tell you whether or
23 not they had done any kind of calculation like that in this
24 case?

25 A Yes, they did.

1 Q What did they tell you?

2 MR. MURRAY: Objection, it's hearsay.

3 Q Judge, it doesn't go to the truth of it, it goes
4 to--it goes to show what he--what he--his conclusion is as a
5 result of that.

6 MR. MURRAY: What did they tell you (unintelligible).
7

8 THE COURT: Well, that's still hearsay. I'm--

9 Q It's an exception if it's not offered for the
10 truth. Let me ask you this Mr. Hennage.

11 THE COURT: All right. Ask another question.

12 Q Yes, sir. You had--you testified a moment ago I
13 believe that you had no problem with the investigation that
14 was conducted, is that what you said?

15 A That's correct.

16 Q Should they have measured anything in your
17 opinion that they didn't measure?

18 A I didn't see anything there at the scene that
19 wasn't documented and they went--we went through each line
20 item in the diagram a piece at a time.

21 Q All right.

22 A And I had no problem at all, felt comfortable
23 with their work.

24 Q Did you go out and look at the automobile?

25 A Yes, I did.

1 has already testified to the subject matter he's getting to.

2 THE COURT: I'm not going to let him repeat any
3 testimony that he's already testified to. It better be new
4 and it better be related to this--this witness or something
5 new brought out by Mr. Murphy. With that warning, Mr. Murray.

6 MR. MURRAY: (Unintelligible.)

7 THE COURT: Don't repeat any testimony that he's
8 already testified to.

9
10
11 STEPHEN B. CHEWNING, having been previously sworn
12 testified as follows:

13
14 DIRECT EXAMINATION

15 By: Mr. Murray

16 Q Mr. Chewning, you were previously sworn.
17 Directing your attention to the yaw, now known as a scuff
18 mark, on the highway visible in photograph number 19 of the
19 defendant.

20 A Yes, sir.

21 Q You've testified that it is possible to obtain
22 speed from a mark of that nature.

23 A Yes, sir.

24 Q Is it necessary that the mark come to a full stop
25 in order to do so?

1 A Not for a scuff mark. In a scuff mark situation,
2 any part of that arc, the speed can be obtained. As it goes
3 across the road if you went from where it come onto the road
4 to where it went off of the road, you would obtain the speed
5 as the vehicle travelled through that section.

6 Q That's all I have, Your Honor.

7 MR. BERRY: No cross.

8 THE COURT: May Mr. Chewning be excused?

9 MR. MURRAY: No objection.

10 THE COURT: All right. No objection. Conclude the
11 evidence?

12 MR. MURRAY: Yes, sir.

13 THE COURT: All right. Ladies and gentlemen of the
14 jury I'm going to give you your dinner recess at this time.
15 I'm going to ask you to return to the jury room at 6:45.
16 Please remember if you go home or call anyone and they ask you
17 where you've been and what you've been talking about or what
18 you've been hearing you--please remember, do not discuss the
19 case or the evidence with anyone until after all the evidence
20 is taken and the case is given to you. All right. I'm going
21 to ask you to accompany Mr. Breeden and please return to the
22 jury room at 6:45.

23
24 (Jury panel retired to jury room.)
25

1 They have one chance for recovery. This is it. And when you
2 took your oath at the beginning of the case, after being
3 questioned by the attorneys and the Judge, you all agreed that
4 you would put your personal feelings and everything else aside
5 and you would decide this case based on the law and the
6 evidence and that's what we're asking you to do, ladies and
7 gentlemen. We're asking you to do that. And we believe if
8 you do that and if you trust your fairness and your common
9 sense, your common sense, that you will return a verdict in
10 this case in favor of Debra Brown against both John Doe and
11 Harold Corbin. Thank you.

12 THE COURT: Mr. Murray.

13 MR. MURRAY: Thank you, Your Honor, ladies and
14 gentlemen of the jury. Your Honor, I'd like to have all of
15 the exhibits, please, before I begin.

16 MR. BERRY: Do you want the plaintiff's too?

17 MR. MURRAY: Yes, please. I think I have all of
18 them. Thank you for your attention. I'm sorry that if during
19 the course of this trial I have become upset, if I have raised
20 my voice, if I have been less than a gentleman or less than
21 polite. Please understand if you have any anger about it take
22 it out on me, don't take it out on Harold Corbin. I'm trying
23 to my job the best I can with my limited abilities. I'm
24 trying to defend Harold Corbin from a half a million dollar
25 lawsuit that we don't think he's responsible at all for. Now,

1 it is, as Mr. Berry said, easy to lose sight of the fact that
2 a tragedy occurred and it's easy to turn this into a minute
3 calculation of speed and stopping distances and everything
4 else and please understand that we recognize that the Brown
5 family has suffered a terrible tragedy. We recognize that and
6 there's no one in this courtroom, outside of the family, more
7 sorry that it happened than Harold Corbin. But that does not
8 mean that he did anything wrong. As the jury instruction that
9 the Judge read to you says, the fact there was an accident and
10 that the young man was killed does not of itself entitle the
11 plaintiffs to recover. They've got to prove that Harold
12 Corbin was negligent. They've got to prove that. And there
13 is another jury instruction that is the heart of Mr. Corbin's
14 defense and that simply is the fact that the law does not hold
15 a man to precision. The law does not hold a man to 20/20
16 hindsight. The law does not hold man to being right every
17 time in every time. All the law requires is to be reasonable
18 and prudent under the circumstances. He claims he was
19 confronted with a sudden emergency. Now, the law defines a
20 sudden emergency as an event or a combination of circumstances
21 that calls for immediate action without giving time for the
22 deliberate exercise of judgement. And I suggest to you that
23 if he had it to live over again, if we could turn the world
24 backwards for fifteen months, if he could spin the wheel
25 backwards, he might do something different. He might. He

1 night. I'm not saying that he would. He might do something
2 different. I'm going to suggest to you, however, that this
3 evidence shows that there is nothing else that he could have
4 done in light of what happened that night (sic). Mr. Berry's
5 argument that Harold Corbin was negligent focused on one thing
6 and that was his reaction. Not his action, his reaction.
7 Harold Corbin was minding his own business, going home,
8 driving down a road he's been down hundreds of thousands of
9 times. He's driving a car with which he's familiar. It's in
10 good shape. He's sober. There's nothing--no defects
11 anywhere. And he approaches the corner and around the corner
12 fully in his lane of the road comes a pick-up truck, John Doe.
13 Now, a car travelling fifty miles an hour, which is what he
14 said he was travelling, is, as a mathematical certainty,
15 travelling seventy-three feet a second. Thousand one,
16 thousand two, thousand three, that's seventy-three feet. The
17 average driver reaction time, and this comes in without any
18 objection from anybody, it takes you three-quarters of a
19 second to react to something. If you're going fifty miles an
20 hour, in three-quarters of a second you go about fifty-five
21 feet. Now, how much time did he have to react to what he saw.
22 It's not a question of somebody being a little bit negligent
23 coming at him. It's a question of someone occupying the
24 entire lane of travel. As the picture shows of the car coming
25 around the corner, the car is right there, fully in his lane

1 of travel. Now, was his reaction negligent, because that's
2 the case. It's not his actions, it's not what he did. He
3 reacted to something. Did he do it negligently? I suggest to
4 you, ladies and gentlemen, that--Mr. Berry says that he's not
5 a victim, I suggest to you that not only is he a victim, but
6 so, in some sense, are Mr. Berry and Mr. Early and the Brown
7 family. They're victims of a sloppy investigation. A
8 terribly sloppy investigation. Mr. Dickson prefaced his
9 remarks by saying that he conducted a thorough and an
10 impartial investigation. I suggest to you that Mr. Dickson
11 hid evidence from me. I suggest to you that he hid his
12 diagram. Why? Why would he do that if this man is impartial?
13 I don't have the answer for that. Mr. Berry says I couldn't
14 drive all the way up from Charlottesville to come talk to him.
15 I confess if I could spin the world back maybe I might do
16 something different, too. Maybe I was naive in relying upon a
17 letter to Deputy Dan Dickson. Did you take any photographs of
18 the accident scene or the vehicles involved? I would like to
19 obtain copies of them at my expense. Copies of all 65, not
20 19. Did you--I stopped by the Sheriff's Department on October
21 3rd to pick up a copy of the police report, do you have any
22 other field notes of documentation to show the precise
23 location in the roadway of the marks? What does he do? Last
24 night he comes up with a diagram. The day before the trial
25 he comes up with a critical piece of evidence that he claims

1 accurately depicts what was on the roadway as my client,
2 Harold Corbin, is in the rescue squad going to the University
3 of Virginia Emergency Room, powerless to help himself. This
4 is what was cooked up last night, Defendant's Exhibit 66. Is
5 that a complete and a thorough investigation. Is Harold
6 Corbin the victim of that investigation, so is the Brown
7 family. Now, what could we do when confronted with what
8 appears to be evidence that these gentlemen's investigation is
9 not a hundred percent thorough. It's not everything that
10 you'd expect to see. What do you do? Well, you go out and
11 you try to find somebody to come in and do the best you can
12 with what he's got. Take the evidence, take a look at it and
13 give us your honest opinion. Mr. Berry didn't say that Steve
14 Chewning wasn't honest. All he said is he's a seventy-five
15 dollar (\$75.00) an hour hired gun. We all have to make a
16 living and maybe that's what he charges and you might think
17 it's high and wouldn't be the only one. But I suggest to you
18 that a man with his experience is worth every penny of it.
19 You go to have your head worked on your brain surgeon is going
20 to cost you a bundle, too. This man came back and did surgery
21 on this case with the cadaver that he had to work with and he
22 did the best that he could. And what did he tell us? He told
23 us that the yaw mark, yaw by Dickson, scuff by Murphy, the
24 yaw mark is a very important mark because it could show you
25 the speed of the vehicle and you've heard them claiming that

1 Mr. Corbin accelerated. You've heard them claiming that he
2 didn't brake. Now, don't you think that the speed of the
3 vehicle as it crossed the road to Donnie Brown was important
4 in this case? I can't think hardly of a piece of evidence
5 that was more important than that. But did they think it was
6 important to know? A - to photograph it. We don't have a
7 photograph of the beginning to the end. We've got Defendant's
8 Exhibit 19, 1 of 67 pictures that shows the middle portion of
9 that. Had they photographed it Steve Chewning might then have
10 been able to determine something from it. But he didn't even
11 have that evidence to help him out. What's important about
12 it? You measure the cord, you measure the middle distance,
13 you measure the coefficient to friction of the road, you can
14 come up with a fair estimate with a reasonable degree of
15 scientific accuracy of the speed of the car. They didn't
16 even--they--essentially they destroyed the evidence. It's
17 gone by the time we got there. It's gone. Deputy Dickson
18 destroyed the evidence. And now unfortunately Mr. Berry is
19 relying upon Mr. Dickson to make his case of negligence for
20 him. You say he's not a victim. Mr. Berry and Mrs. Brown are
21 victims of Mr. Dickson's negligence. The yaw mark had a
22 critical measurement that could have helped us a lot. What
23 else did they not do? The location as the car wheels come
24 back on the surface could have told us something about whether
25 it's braking or accelerating. Did they take a close-up

1 picture of that? No, they didn't. They--the marks off the
2 shoulder of the highway. You had a parade of three of them
3 coming in here saying that there were no brake marks off the
4 shoulder of the highway. It's too late for us to tell you
5 whether there were or there weren't. Harold Corbin couldn't
6 tell you. He never wanted to go back out there. He never
7 did. But did these gentlemen have the courtesy, did they have
8 the professionalism to photograph what it is they claim is
9 critical to their obvious determination that Mr. Corbin had
10 done something wrong? No, they didn't even take a picture of
11 the marks off the side of the highway. Were the marks made
12 by the Corbin vehicle that they saw? I don't know. I don't
13 have the burden of proving anything to you. But I wonder how
14 many of you-all picked up on Mr. Corbin's answer to the
15 question about when was the mail delivered back then at your
16 house, which is a mile from there. Between eleven and twelve.
17 Mr. Corbin goes off the road. His car is down in the bushes.
18 Mr. Haney couldn't find it when he drove up, didn't even see
19 it. Did the mail man come around the corner and deliver the
20 mail to those two boxes while he's off the road and run over
21 whatever marks that were there? I don't know. I can't tell
22 you. Did the gentlemen even come in here and tell you when
23 the mail was delivered? No. And they're not victims of
24 Deputy Dickson's negligence and incompetence? Did they
25 photograph where the car went off the road the first time? He

1 came in here and he said I measured very carefully a hundred
2 and seventy-two feet. Well, you know, wouldn't you have more
3 of a comfort level if you could look at something and say. I
4 measured, there's the photograph of it. I can relate it to
5 the mailbox. There's the measurement. We know that (unintel-
6 ligible) happened. I suggest to you, ladies and gentlemen,
7 that that's impossible to come back and determine today.
8 Because what I think happened in this case is that those
9 gentlemen did not accurately measure what they saw at the
10 scene. And you've heard of a religious conversion when
11 somebody is in a--get into, you know, a terribly intense and
12 excited state they might have a religious conversion and get
13 religion. I suggest to you that in this case we have what is
14 similar to religious conversion, but it's called an election
15 conversion. And the election of Tuesday got some religion
16 into the Deputy Sheriff's Department. Where did the car go
17 off the road? This is the exhibit that Mr. Dickson prepared
18 last night. This exhibit shows, ladies and gentlemen, a mark
19 with a zero there. Okay? The mark begins on the road. The
20 mark travels about half its distance and there he's got it
21 marked off road and then the mark continues to the mailbox.
22 Where did the car go off the road? Did it go off the road a
23 hundred and seventy-two feet back or did it go off the road
24 about half-way, maybe a hundred feet from the mailbox? Where
25 is the second mailbox? You look at the pictures in relation

1 to the cones we put in the road. The second mailbox ladies
2 and gentlemen is about right there where he says off road.
3 Now, what does that mean? Well, all of a sudden it means that
4 things begin to fall into place. Harold Corbin says that he
5 wasn't real sure when he went off the road, he doesn't have
6 any idea where he went off the road. He didn't have time to
7 stop and measure when he was there. Afterwards, he's taken
8 down to the hospital. He doesn't know. He's at the mercy of
9 these people. They say a hundred and seventy-two feet, he
10 says well, if you say so I reckon that's so. He doesn't know
11 any different. That just shows you, by the way, he's an
12 honest man. If he'd been a liar he could have made up
13 something. He's an honest man. He confesses he doesn't know
14 any different. But he says he went off the road about where
15 the first mailbox was. Now, you look at the mailbox in these
16 pictures. If he's two feet off the road the whole distance of
17 a hundred and seventy-two feet, which is what Dickson says he
18 was, why didn't he knock that mailbox down? He didn't. He
19 didn't hit the mailbox. Yet he's two feet off the road for a
20 hundred and seventy-two feet. Impossible, it can't be that
21 way. He couldn't be off the road two feet for a hundred and
22 seventy-two feet and not knock down that mailbox. He wasn't
23 off the road for a hundred and seventy-two feet. He was
24 probably off the road right after that mailbox, which is what,
25 about a hundred feet. Okay. He's gone a hundred feet off the

1 road and how fast? He's travelling fifty miles an hour. And
2 how much time elapses? About 1.25 seconds, one thousand one,
3 bingo, it's all over. He's off the road for about a hundred
4 feet by this evidence ladies and gentlemen. Now, how come
5 there wasn't a Virginia State Police accident team called in?
6 How come you got a rookie cop, who essentially is a rookie,
7 he'd only--he'd had two courses for two weeks, within a year
8 before. He couldn't remember when. He couldn't tell us how
9 many death cases he had investigated. I suggest to you that
10 you don't forget one of these cases. That had he investigated
11 any death cases he would have remembered in the year that he
12 had been half of the team. I don't know what the dispute was.
13 I'm not from Orange County. I don't know you-all's local
14 politics. I don't know what the dispute was between the
15 Sheriff's Department and the State Police.

16 MR. BERRY: Your Honor, I'm--I'm going to object to
17 this now. He's injected things into the case that (unintel-
18 ligible).

19 THE COURT: I agree. That's not part of this case,
20 Mr. Murray.

21 MR. MURRAY: Thank you, Your Honor. But I suggest
22 to you, ladies and gentlemen, that after he takes on this
23 investigation and decides to conduct it himself, what does he
24 do? He calls in his rubber stamp from Fairfax. Mr. Hennage
25 comes down here and he says, oh yeah, you did this and you did

1 that and yeah, puts the rubber stamp on it. That looks just
2 fine. Mr. Hennage didn't do anything. He didn't conduct any
3 independent investigation and if he had do you think he
4 wouldn't have seen the holes that are so obvious in this case.
5 And let me come to the biggest hole, ladies and gentlemen.
6 You remember I asked him, Mr. Dickson, you did a thorough
7 investigation, you gathered all the evidence and he said yes.
8 Do you remember that? Well, by golly, he didn't, ladies and
9 gentlemen, he didn't bring in here a critical piece of
10 evidence. And I want to show it to you and I don't like to
11 raise this, especially with the family in the room. This does
12 me--it hurts me to say it. But I want you to look at that
13 picture. Look at this picture. What's that little piece of
14 white there in the door? See it? It's a close-up of it. He
15 thought it was important at one time, 'cause he took a close--
16 another close-up. Close-up number two, another closeup of
17 that little piece of white. Close-up number three, another
18 close-up. Close-up number four, look at that thing, what is
19 that? How did that get there? I suggest to you ladies and
20 gentlemen, there's only one possible explanation for where
21 that little piece of white came from. It came from Donnie's
22 shirt. It came when the car struck Donnie. That's the only
23 explanation. There was no body damage to that car. Remember
24 Harold Corbin said no body damage to that car before this
25 accident. Now, how did Donnie's shirt get hung in that jagged

1 edge right there? The only way it could have gotten hung,
2 ladies and gentlemen, is if the jagged edge was put in the car
3 before it hit Donnie. It could not have gotten in there after
4 it hit Donnie and then hit the tree. That jagged edge had to
5 have been in the car when it hit Donnie. Now, why can't you
6 see evidence of where the left rear bumper or some portion of
7 John Doe's car hit the side of this car? Why not? Because
8 take a look at the tree. He wiped the whole side of the tree
9 off. He pushed the entire door in so much it's bowed like
10 this. It sprung itself open. Where the truck hit the car was
11 obliterated when the car hit the tree. That's the only
12 logical explanation for that piece of evidence. Now, you tell
13 us that there aren't two victims in this case. Where is that
14 piece of evidence and why didn't Mr. Dickson do something with
15 it? Why didn't he match it up to the piece of clothing it
16 came from, tell us where it came from? If there was any doubt
17 about it why didn't he send it to the state lab to find out
18 where it came from? Ladies and gentlemen, what happened here
19 is very clear. Harold Corbin is driving down the road minding
20 his own business. John Doe comes around the corner on his
21 side of the road, surprises him. He does--his reaction is two
22 things. Number one, first you dive to the right to get out of
23 the way. Secondly, you try to hit the brake. Maybe he hit it
24 and maybe he didn't. But what happened next is that John Doe
25 ran into the side of his car and tore a gash in it and that

1 explains why his car shot across the road. It seemed out of
2 control to him. In the statement he gave the following day,
3 it seemed--went out of control, he couldn't explain it. Why
4 couldn't he explain it? And how do we know that that
5 happened? Because Alan Brown told us he heard a noise. It
6 sounded like the sideswiped one another. Alan Brown, the only
7 other person standing there with an opportunity to observe.
8 Alan said he heard a noise. It sounded like a sideswipe.
9 That's what happened, ladies and gentlemen. But it's not my
10 burden to prove it to you. And I concede to you that if all
11 you had was my argument, putting it together through these
12 flimsy little pictures and things, I concede to you maybe I
13 haven't met a burden of proof of convincing you that that's
14 how it happened. And I confess my inability to do so. All I
15 can do is take what they've introduced into evidence and what
16 we could gather long after the fact and try to offer you a
17 rational explanation. There isn't any doubt here about John
18 Doe's negligence. Mr. Berry hasn't said a word that implies
19 John Doe wasn't negligent. The only issue in this case, was
20 Harold Corbin responsible for this death and I suggest to you,
21 ladies and gentlemen, that he's not. And the final thing I
22 want to mention to you is this. They claim that Harold Corbin
23 accelerated. What evidence is there--evidence is there of
24 acceleration? Steve Chewing said that a vehicle accelerating
25 across the road in that fashion would have left more marks.

1 It would have left deeper marks and the rear wheels would have
2 left marks and there are no marks to indicate acceleration.
3 Where the vehicle comes back on the surface could have told us
4 if it had accelerated. Now, what evidence is there of
5 acceleration? All you've got is Harold Corbin trying to be an
6 honest man and say gees, I don't know. He's--the man is hit
7 on the head and knocked out for at least a minute. Did it
8 wipe out his short-term memory, I don't know. But he's the
9 man who came in here and said I--my instinct was to go for
10 the brakes. Now, how many of us have ever hit the brakes
11 instead of--hit the accelerator instead of hitting the brakes?
12 I suggest to you that it's not--it's not the kind of thing
13 that would happen often. Maybe once or twice in a lifetime.
14 But how many times by the same token have we been confronted
15 going fifty miles an hour with a car coming at us fifty miles
16 an hour with a hundred or so feet away from us? How many
17 times has that ever happened? Maybe he did hit the ac-
18 celerator by a complete accident. But I suggest to you that
19 there really isn't any evidence to say that he did. The only
20 person who seemed to imply that he did was Alan. Alan said
21 the car sped up, it seemed to speed up as it came at him. I
22 suggest to you that that isn't reliable testimony because
23 Alan is standing on the side of the road and he's got a car
24 coming at him and it's fifty-one feet away. It crosses from
25 one side of the road to the other. It's about--maybe sixty

1 feet away. What does it look like to him? I'm sure it did
2 look like it sped up. I'm sure it did. And I don't for a
3 second question his veracity and his honesty in saying it
4 looked like it sped up. I don't doubt that it looked like it
5 sped up. But it isn't evidence that it sped up. I suggest to
6 you that if the man by accident hit the accelerator and not
7 the brake, if this wasn't a sudden emergency, if it wasn't a
8 once in a lifetime occasion, I don't know what is. Ladies and
9 gentlemen, this is an unpleasant task because if sympathy were
10 the only thing for you-all to decide, there isn't any doubt
11 where the sympathy lays in this courtroom. There's no doubt
12 about it. But sympathy has no place in the law. And Harold
13 Corbin doesn't want your sympathy. And the Browns don't want
14 your sympathy either. They want you to follow your oath,
15 which is weigh the evidence that's put on, respect the burden
16 the plaintiff has to prove Harold Corbin negligent and if you
17 find that they have not met that burden, then you must return
18 a verdict in his favor. And I suggest to you, ladies and
19 gentlemen, that a verdict in favor of John Doe alone is the
20 fair verdict in here. You should not send Harold Corbin out
21 of the courtroom with this on his conscience when he didn't do
22 anything wrong. Thank you.

23 THE COURT: Mr. Northam.

24 MR. NORTHAM: Thank you, Judge. Ladies and
25 gentlemen, as I did at the beginning, I want to thank you very

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ORANGE

DEBRA BROWN, Administratrix of the
Estate of Donald Steve George Brown,

Plaintiff

v.

Law No. CL91-23

HAROLD LEE CORBIN, et al.,

Defendants

FINAL ORDER

On 7 November, 1991, came the plaintiff, Debra Brown, Administratrix, and came the statutory beneficiaries, in person and by counsel, and came the defendants, Harold Lee Corbin, in person and by counsel, and John Doe, by counsel, and likewise came the jurors sworn to try the issues herein joined.

Upon pretrial consideration of defendant Doe's Motion in Limine, a certain picture of the decedent (later plaintiff's Exhibit 6) was admitted into evidence for consideration of the jury as to the damages of Alan Brown, a statutory beneficiary who witnessed the scene depicted in the photograph, with the condition that the defendants would be allowed a cautionary instruction as to the photograph. The defendants Corbin and Doe objected to this ruling, all as more fully set forth in the record.

Whereupon, the plaintiff presented her evidence in chief. At the conclusion of plaintiff's evidence, defendant Corbin moved the Court to strike the evidence as to defendant Corbin on the grounds that defendant Corbin was faced with a sudden emergency as a matter of law and that the sole proximate cause of the accident was the negligence of John Doe. John Doe moved to

strike the plaintiff's evidence on the grounds that the sole proximate cause of the accident was the negligence of Harold Corbin and that the negligence of John Doe, if any, was a remote cause, as more fully set forth in the record. Both motions were denied.

Whereupon, defendant Corbin presented his evidence. During defendant Corbin's evidence, the plaintiff moved for a mistrial on the ground that the Court permitted the introduction of certain testimony of defendant Corbin's expert witness, which motion was denied. Defendant Doe presenting no evidence, plaintiff called certain rebuttal witnesses, followed by a sur-rebuttal witness of defendant Corbin.

Whereupon, defendants Corbin and Doe renewed their motions to strike on the grounds and for the reasons previously argued, which motions were again denied. The plaintiff renewed her motion for mistrial, which motion was denied. Exceptions thereto being duly noted.

Thereupon, the jury received the instructions of the Court, heard the arguments of counsel and were sent out by the Court to consult on a verdict. After some time, the jury returned to the Court with a verdict as follows to-wit:

We the jury on the issues joined, find our verdict in favor of the plaintiff and against John Doe in the amount of \$500,000 plus interest at the rate of 0% from August 15, 1990. The verdict is to be divided as follows:

To Debra Brown - \$250,000; to Alan Brown - \$125,000; to Tonya Brown - \$125,000; to Donald Brown - \$0 and funeral expenses of \$0.

s/ David G. Morris, Foreman

Whereupon, the jury having been polled and all answering that this was their unanimous verdict, the jury was discharged.

The plaintiff then moved the Court to set aside the verdict on the grounds that it failed to award funeral expenses which were uncontested and on the grounds that interest was awarded at the rate of 0%. The plaintiff renewed her motion for a mistrial concerning the testimony of Harold Corbin's expert witness, Stephen Chewning.

Defendant Doe moved the Court to set aside the verdict as so excessive as to be shocking to the conscience and to award defendant Doe a new trial.

In consideration whereof, the Court denied the motion of defendant Doe for a new trial, denied the plaintiff's motion for a mistrial and denied the plaintiff's motion to amend the amount of interest awarded. Plaintiff's motion to amend the judgment to award funeral expenses is granted and the judgment is accordingly amended to enter judgment in favor of the plaintiff against John Doe in the amount of \$3,378.80.

In accordance with the verdict of the jury, it is ORDERED that judgment is hereby entered in favor of Debra Brown, Administratrix of the Estate of Donald Steven George Brown, Jr. in the amount of \$503,387.80 plus interest from November 7, 1991, until paid, plus her costs expended herein. It is further ORDERED that judgment is entered in favor of Harold Lee Corbin and plaintiff shall take nothing from him.

Upon motion of the plaintiff, there being no objection by the defendants, it is ORDERED that copies of plaintiff's Exhibits

8, 9, 11, 12, 13, 14, 15 and 17 may be substituted for the originals, which shall be returned to the plaintiff or her counsel.

There remaining nothing further to be done in this matter, it is hereby stricken from the docket and ordered to be placed among the ended causes.

ENTER

DATE: December 2, 1991

JUDGE: Jay T. Swett

We ask for this:

RICHMOND AND FISHBURNE
Queen Charlotte Square
214 East High Street
P. O. Box 559
Charlottesville, VA 22902-0559
(804) 977-8590

By: Matthew B. Murray
Matthew B. Murray

Seen and all objections noted: for reasons stated by Counsel on the Record

BERRY & EARLY*
P. O. Box 520
Madison, VA 22727

By: Jeffrey C. Early
Jeffrey C. Early

COWAN & OWEN
P. O. Box 25655
Richmond, VA 23235

By: Thomas L. Northam
Thomas L. Northam

R/290

*Seen and all objections noted and preserved for reasons stated by Counsel on the record, and the Plaintiff specifically preserves all objections to the introduction of evidence made at trial and to those rulings denying the introduction of evidence. The Plaintiff also specifically preserves her objection to the decisions made as to the qualification and impartiality of that certain juror not removed for cause.

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ASSIGNMENTS OF ERROR AND QUESTIONS PRESENTED:

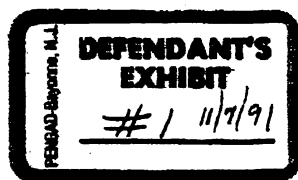
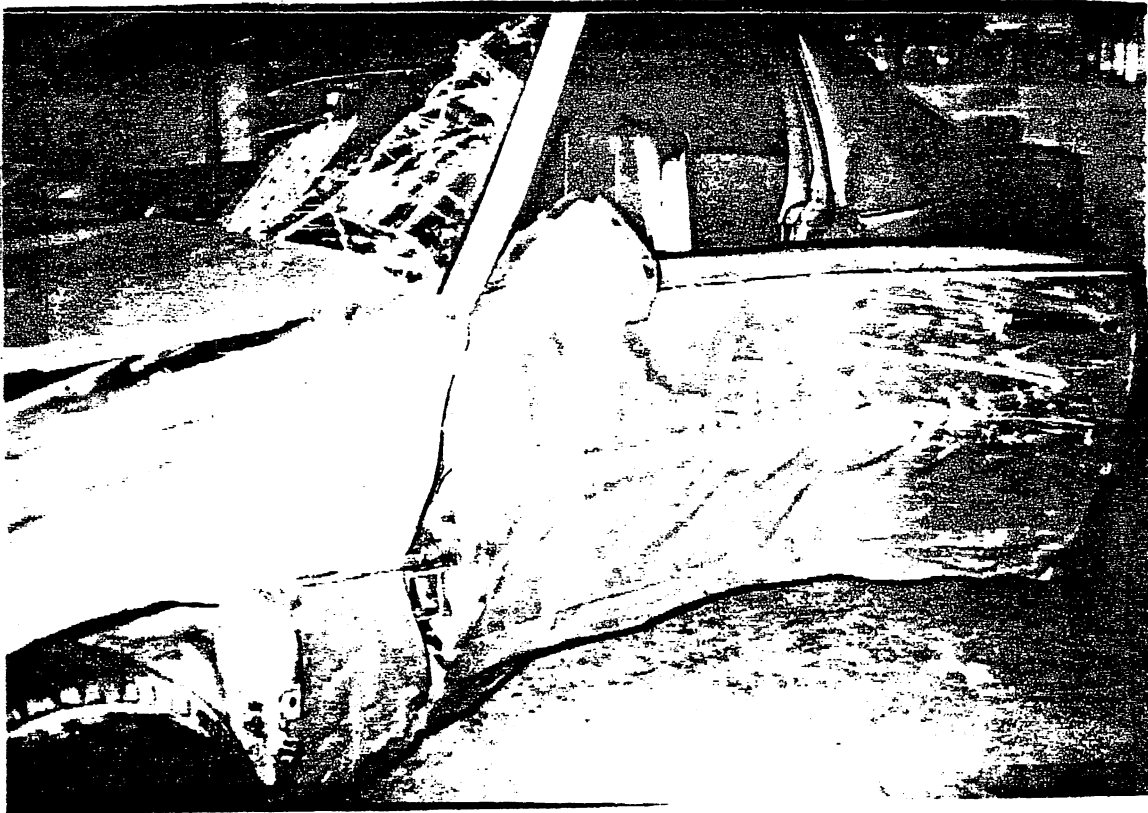
1) Did the trial judge err in permitting the introduction of Defendant's Exhibit 72, a photograph of a reenactment purporting to depict what Corbin saw immediately before the accident, without a proper foundation?

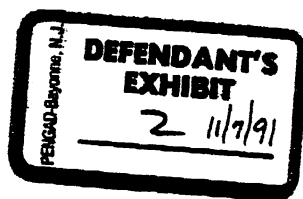
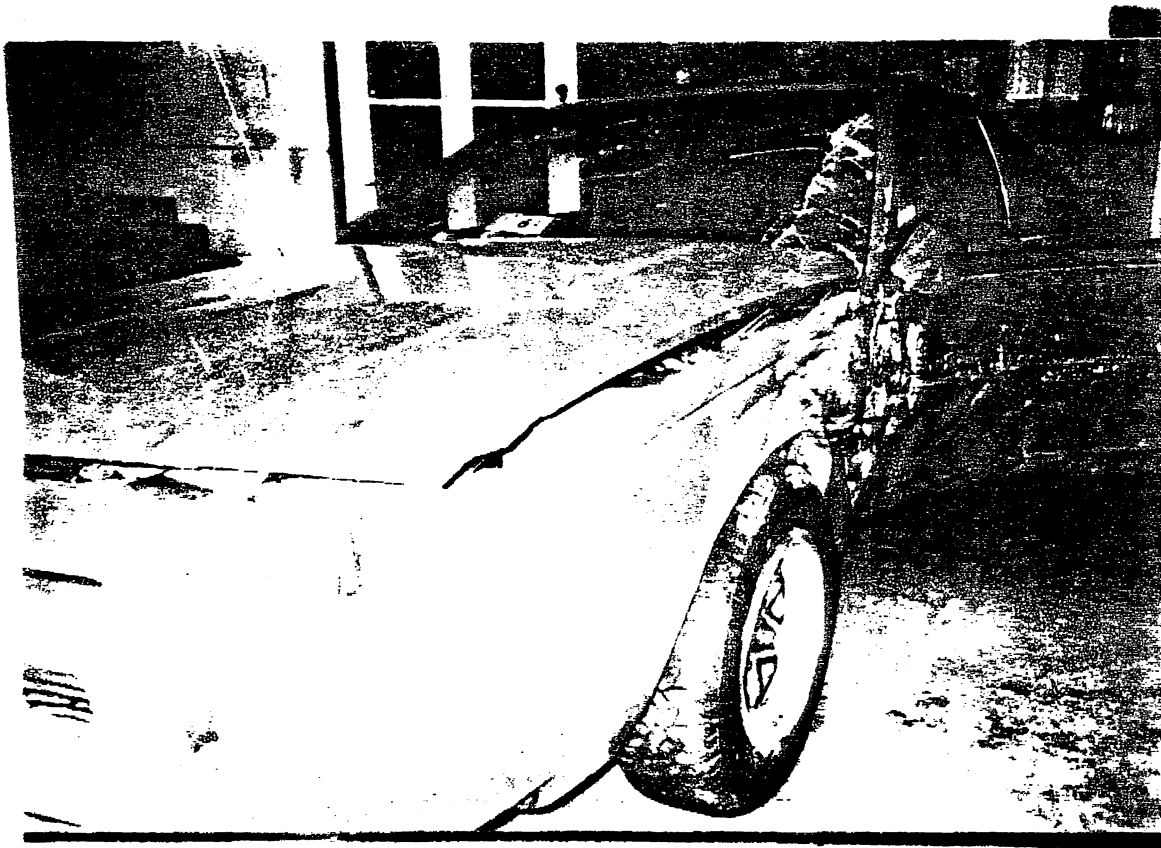
2) Did the trial judge err in allowing the defense expert, Stephen B. Chewning, an accident reconstructionist, to testify concerning certain matters and opinions, more fully set forth herein, which were speculative, irrelevant and/or not matters properly the subject of expert testimony?

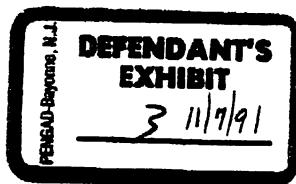
The Plaintiff submits the court erred in admitting the evidence described in numbers 1) and 2) above.

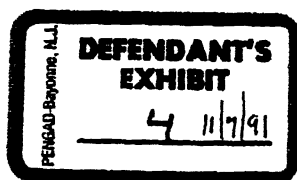
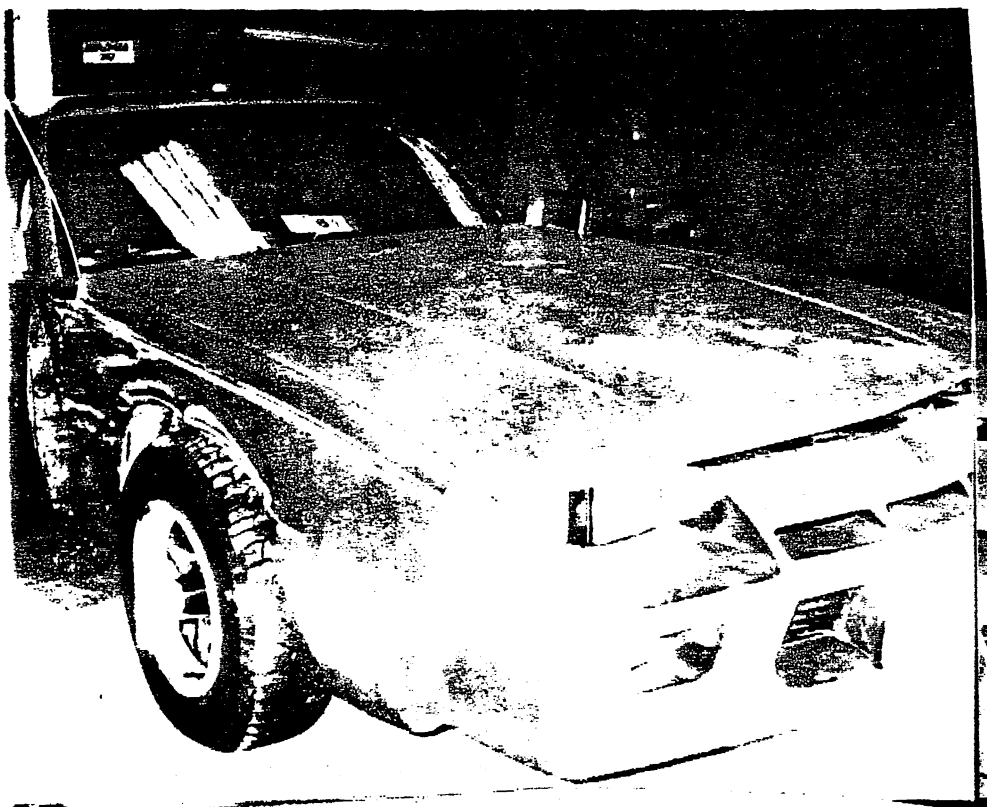
3) Did the trial judge err in refusing to admit rebuttal testimony from William Hennage, the Plaintiff's expert, as to whether Corbin's brakes were being applied at the time his vehicle stopped against the tree?

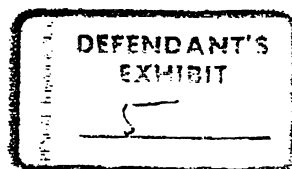
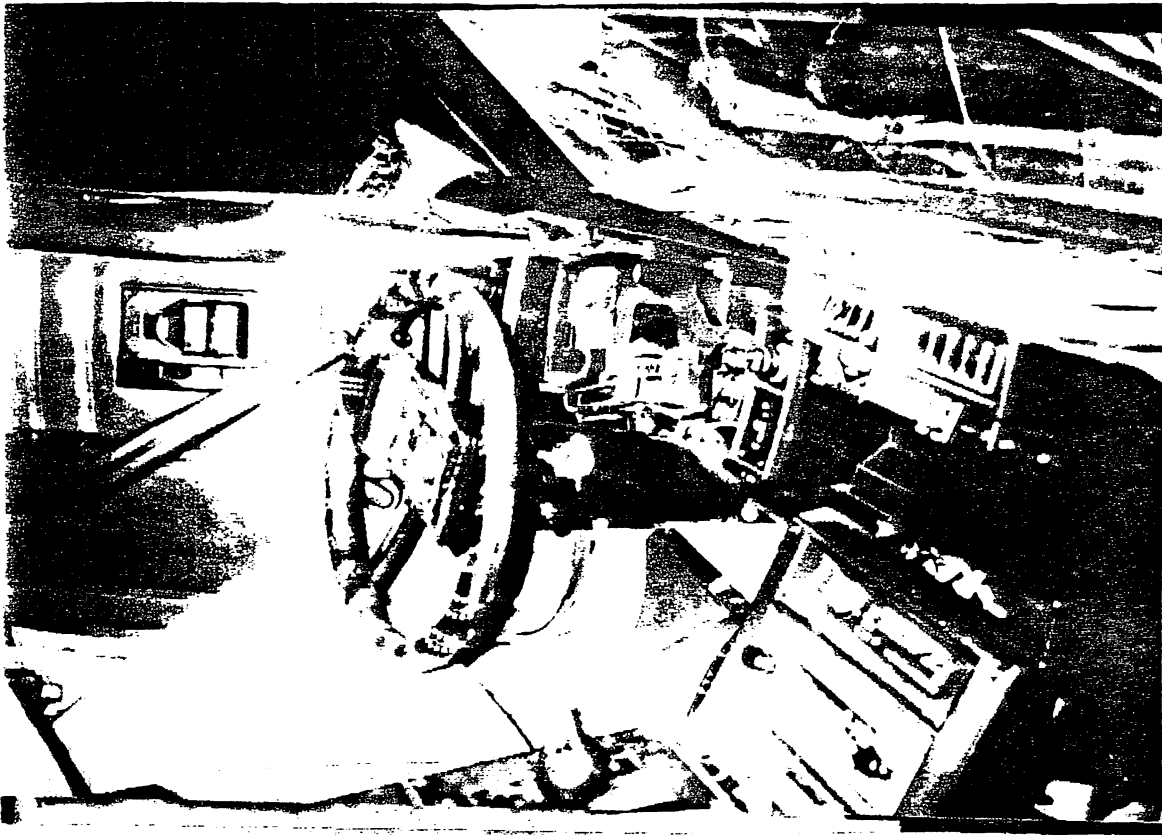
The Plaintiff submits that the court erred in not permitting this testimony and allowing the jury to determine its weight.

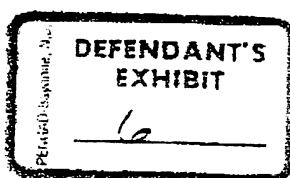
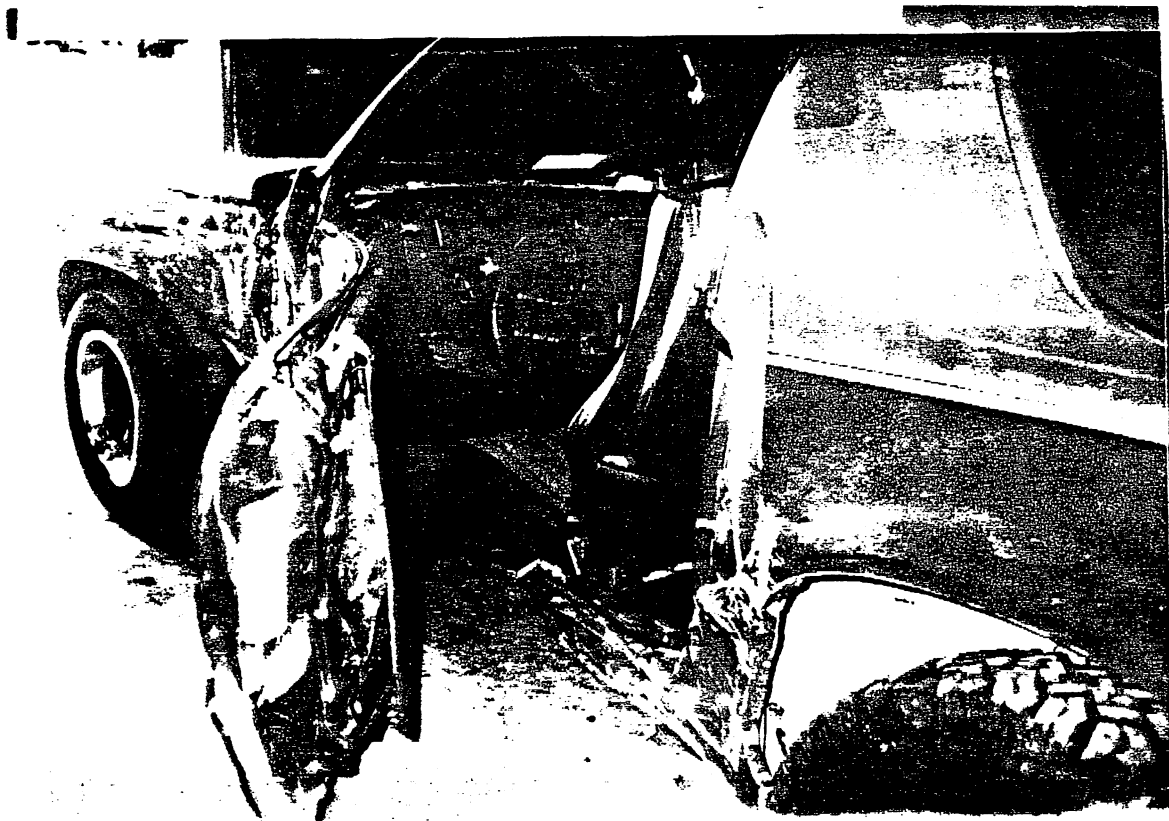


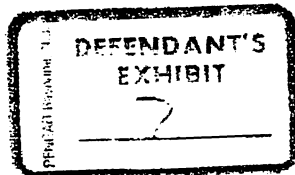


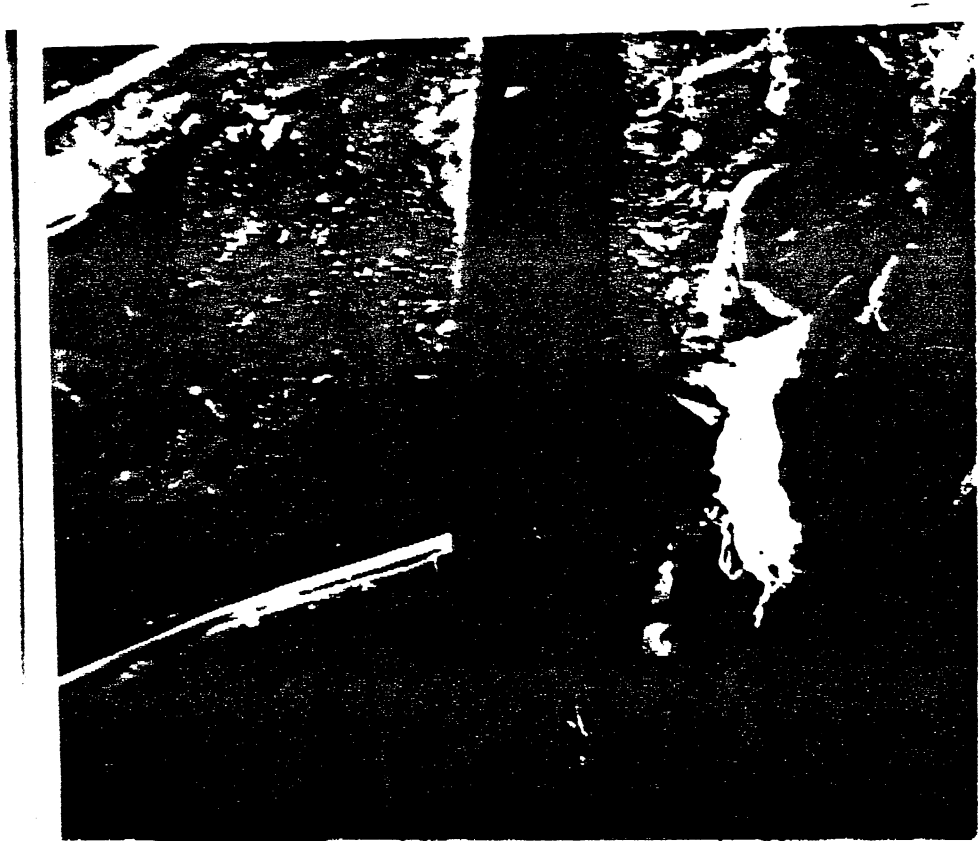






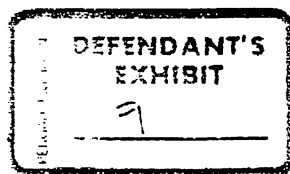


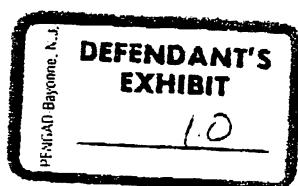




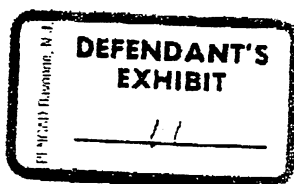
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**DEFENDANT'S
EXHIBIT**
8

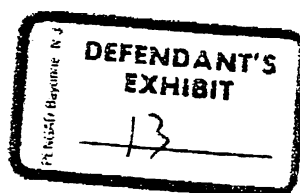


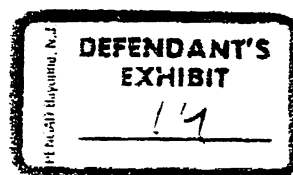


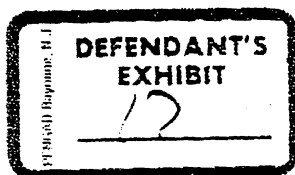
CHL-514

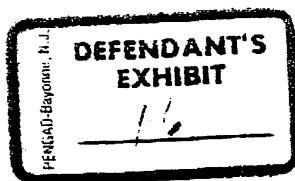
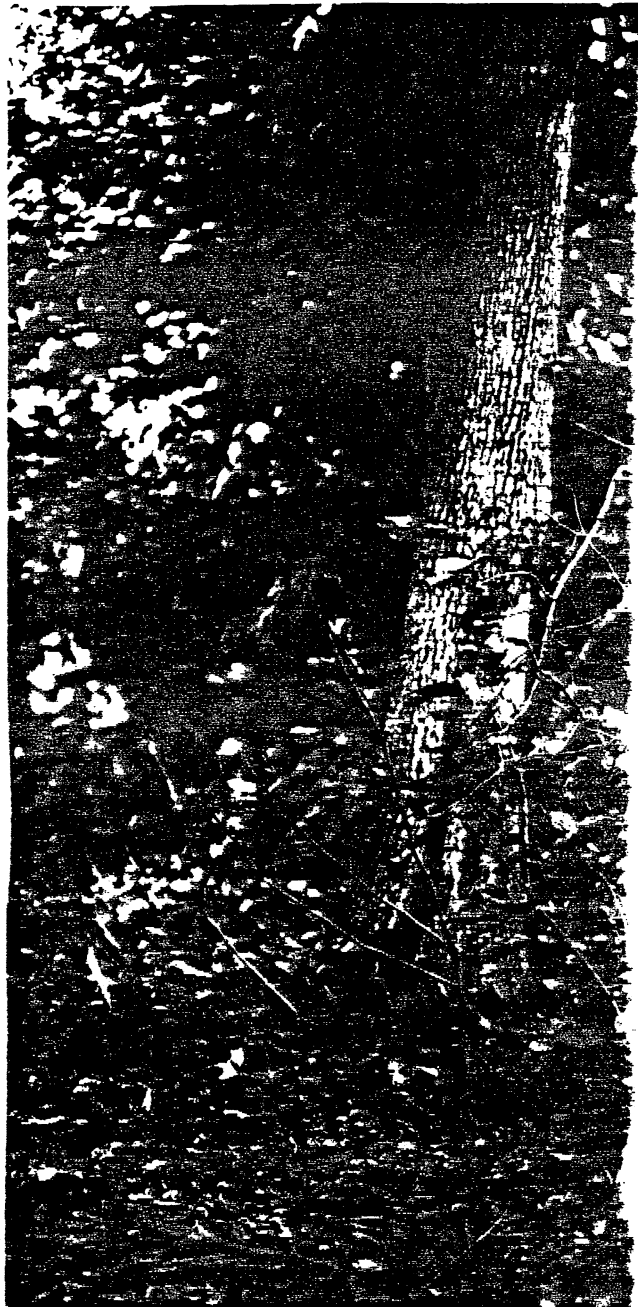


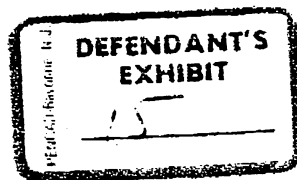


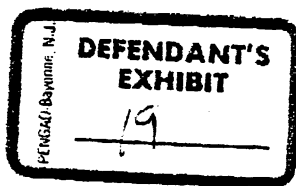


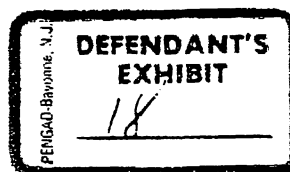
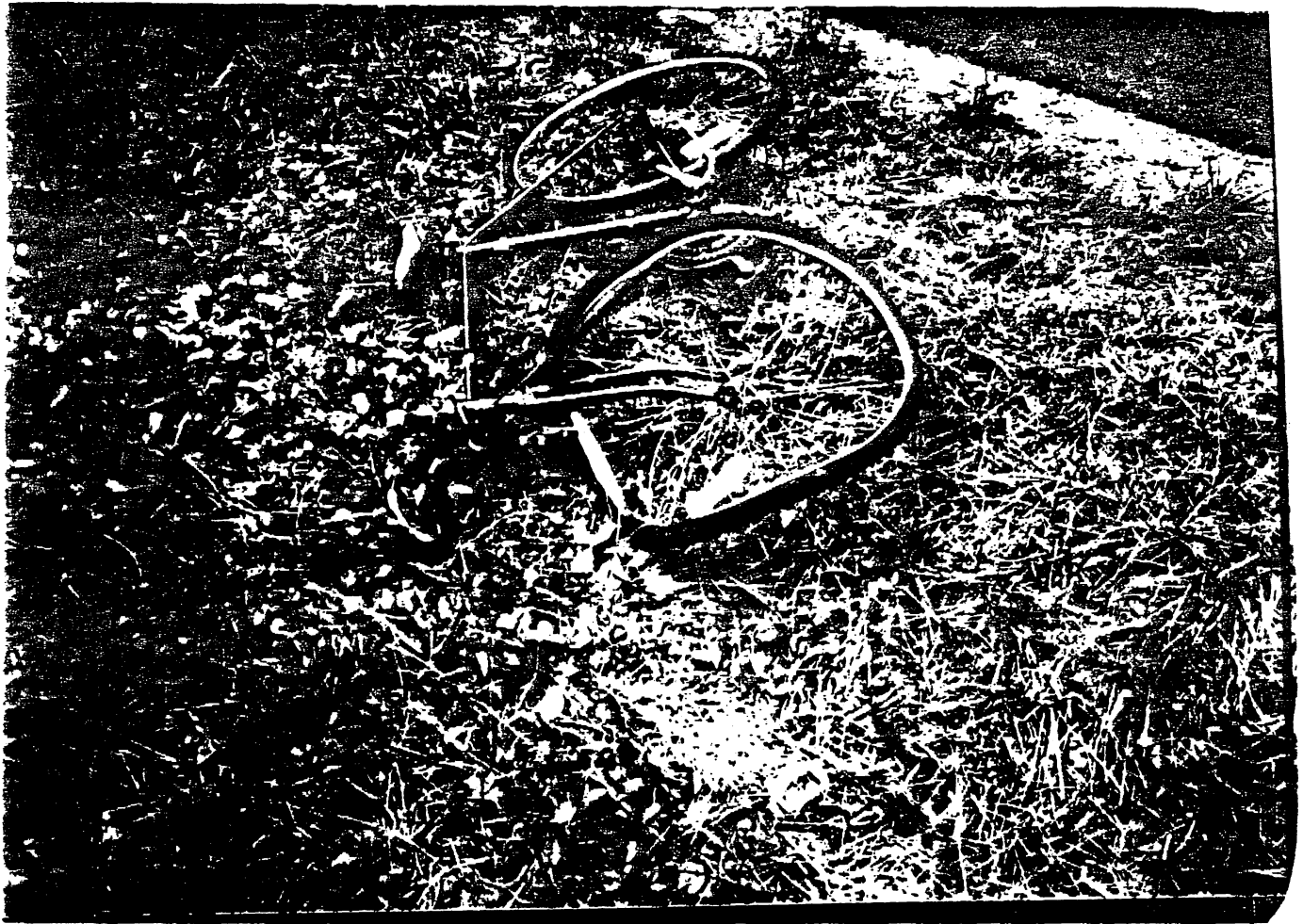






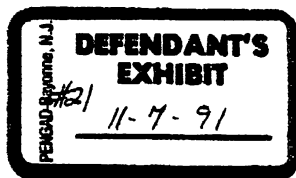
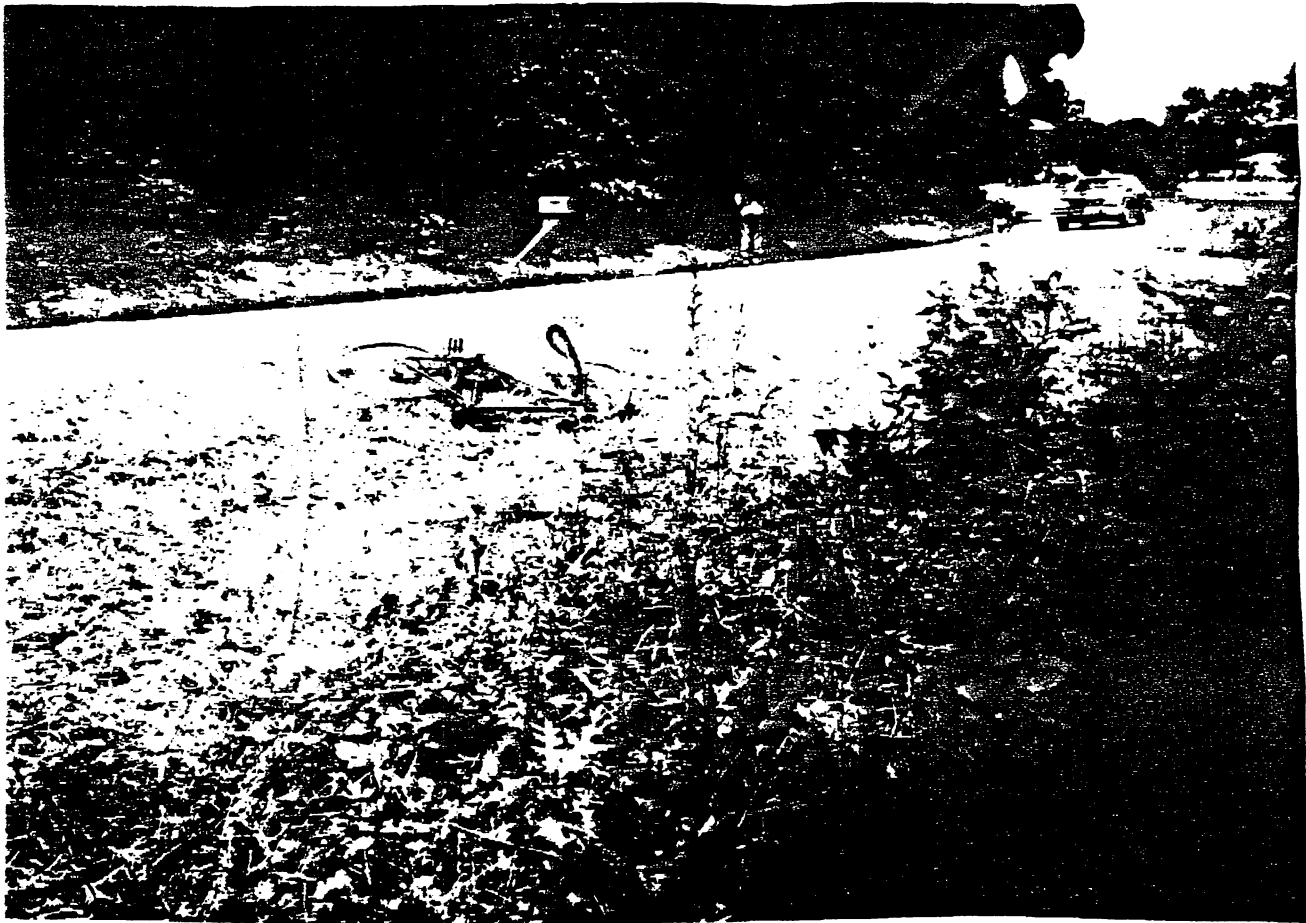


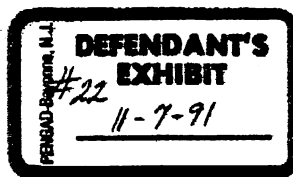


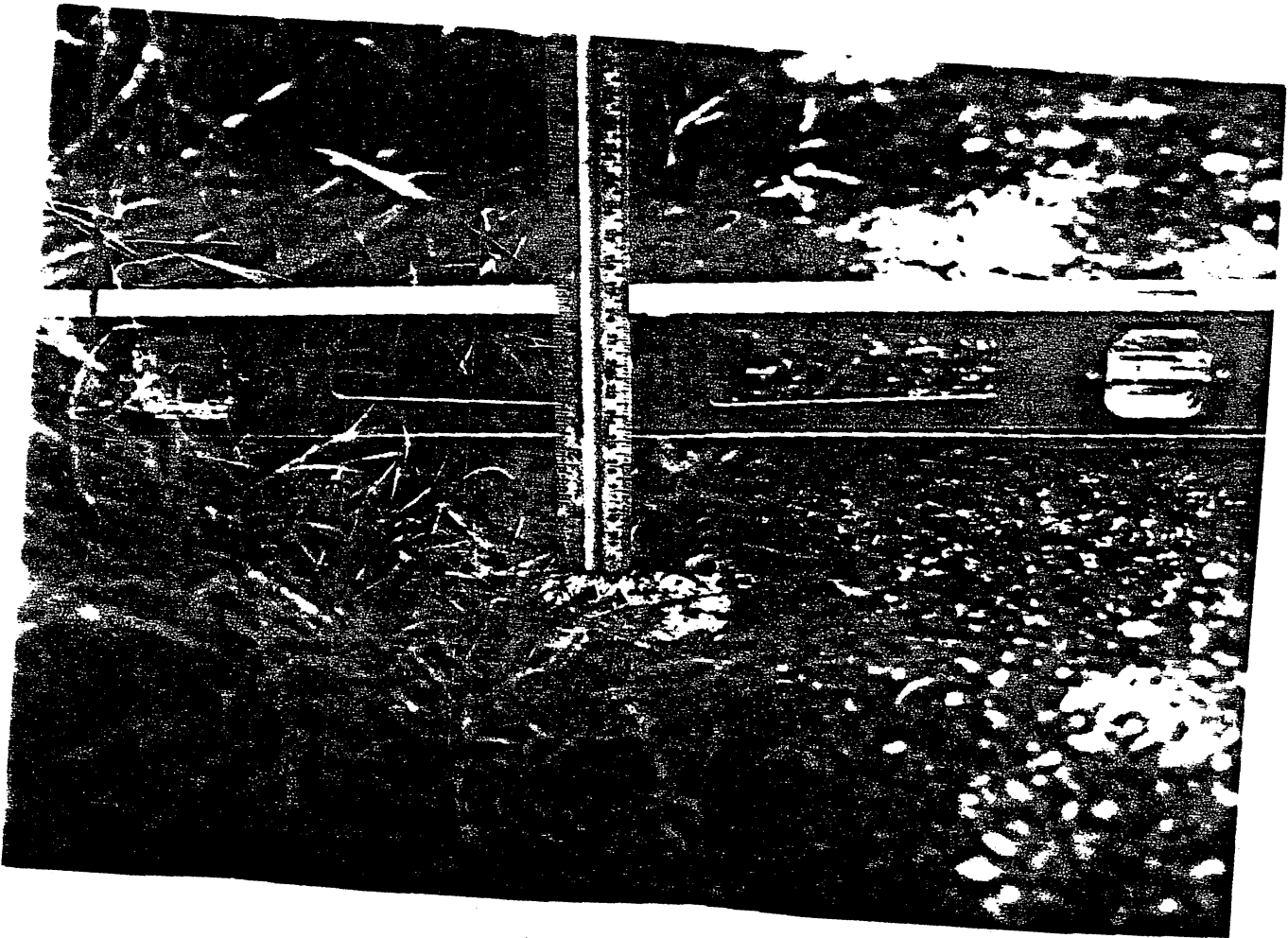


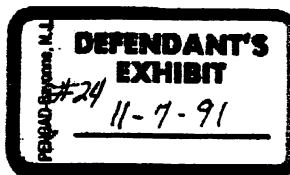
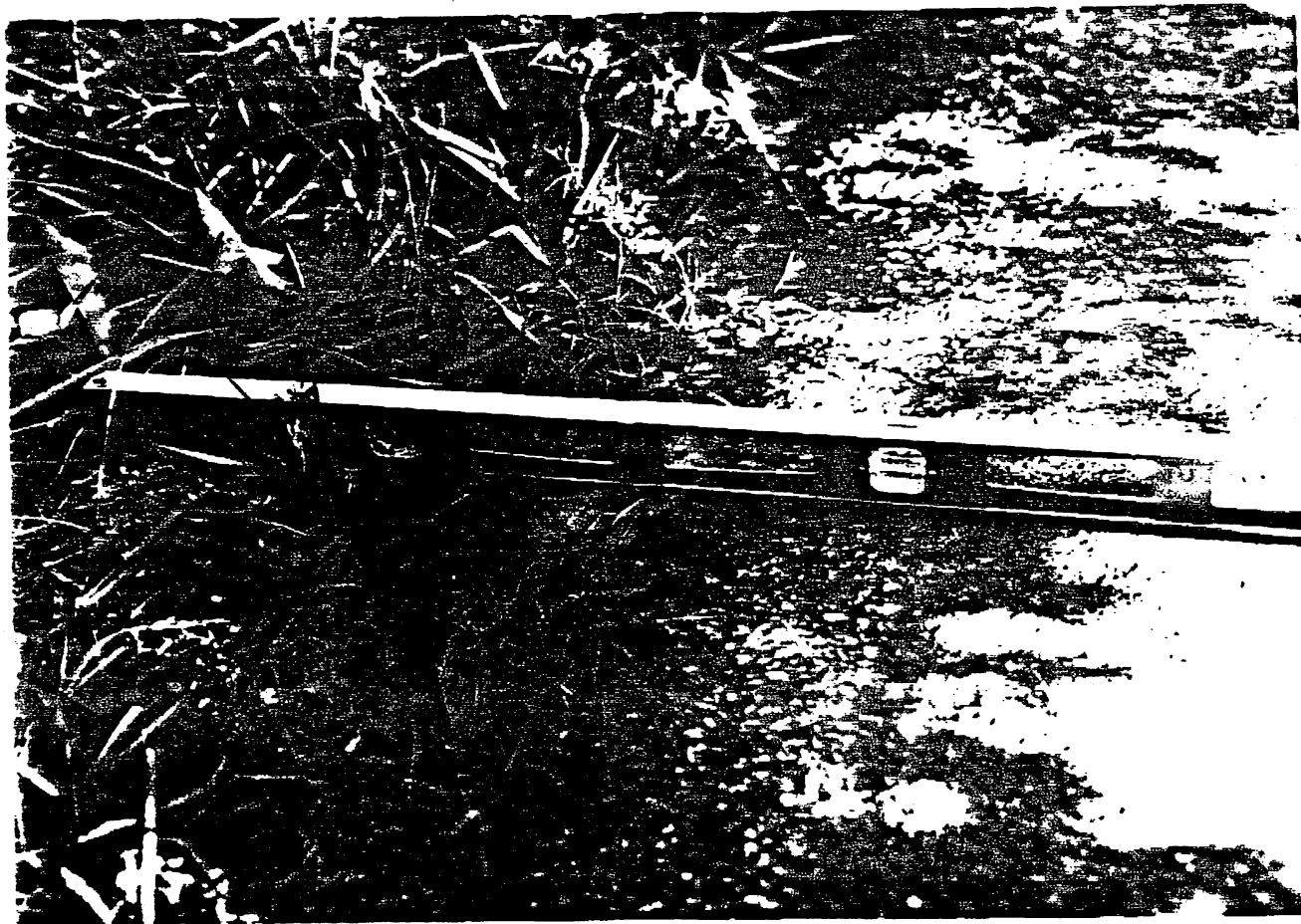


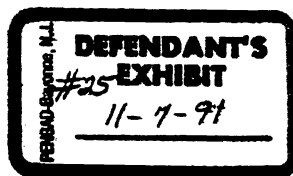
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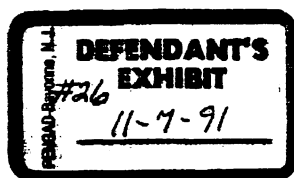




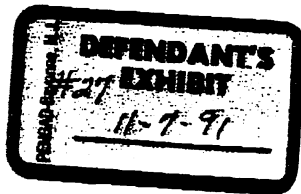
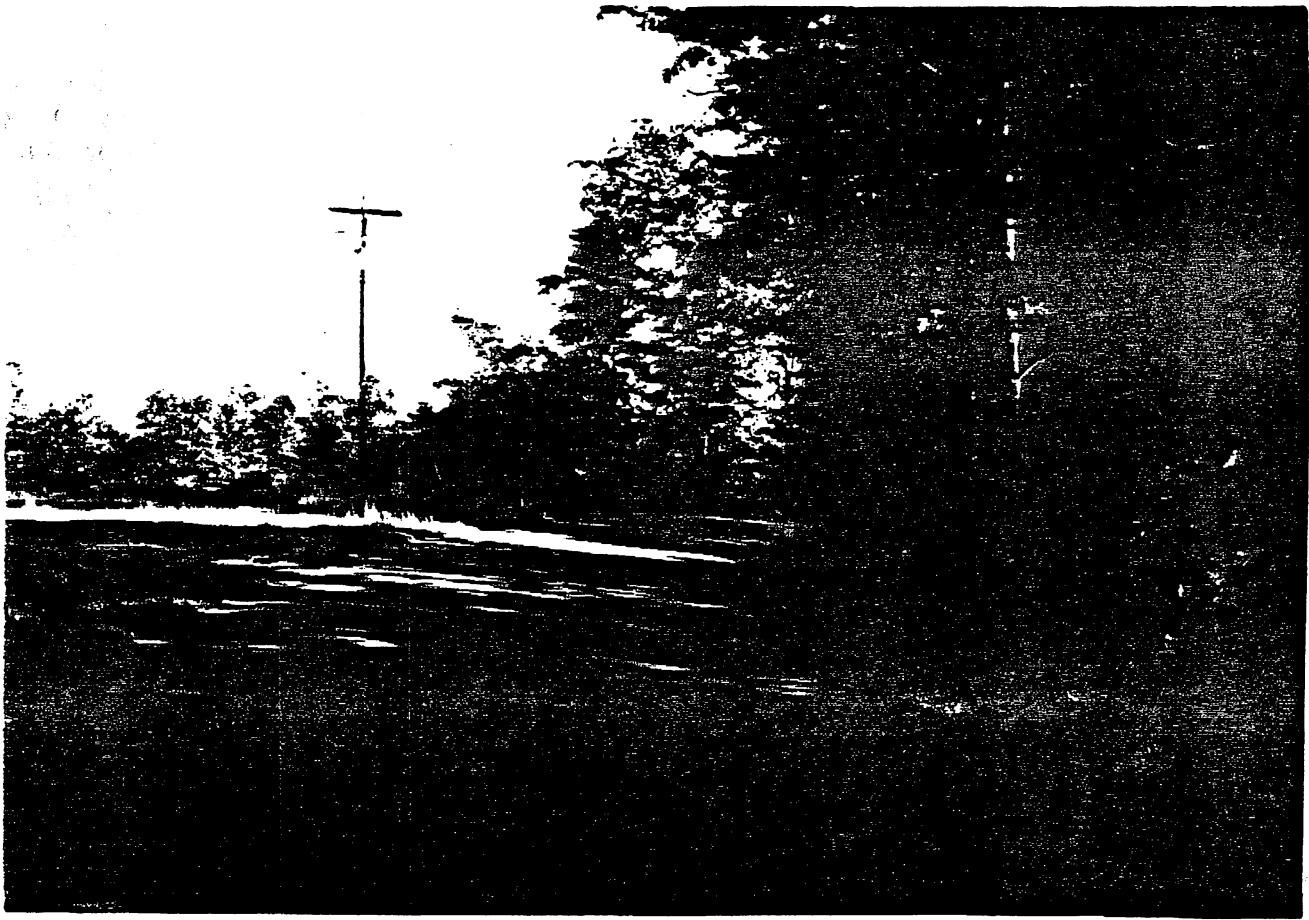




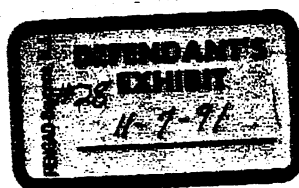
TREE AT CAR



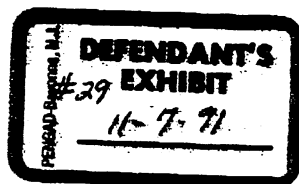
TREE AT DONNIE

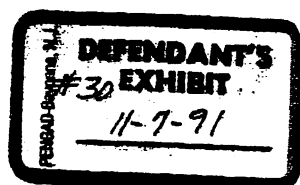


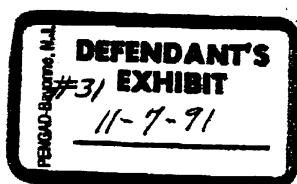
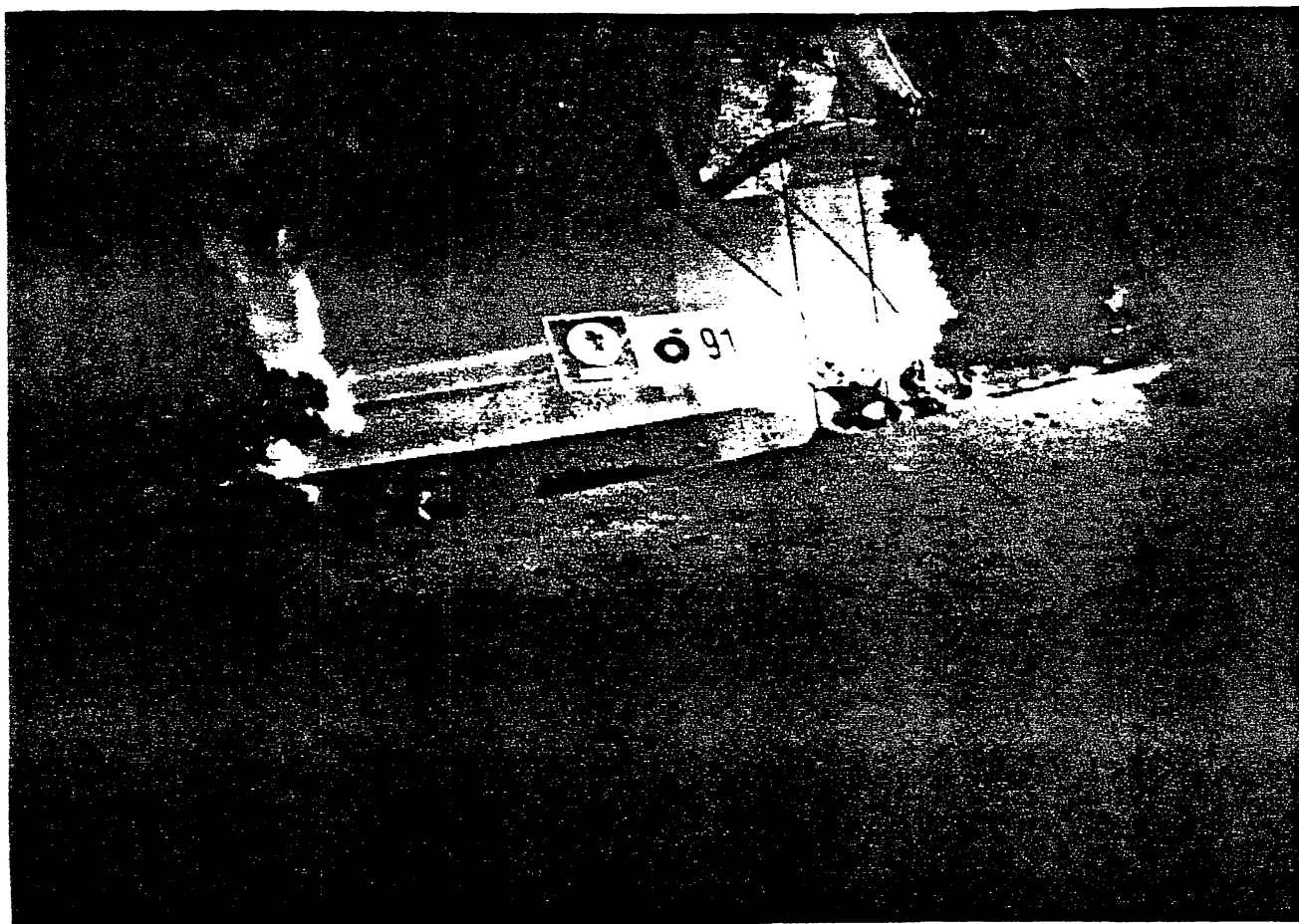
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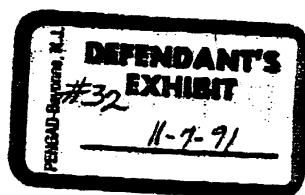


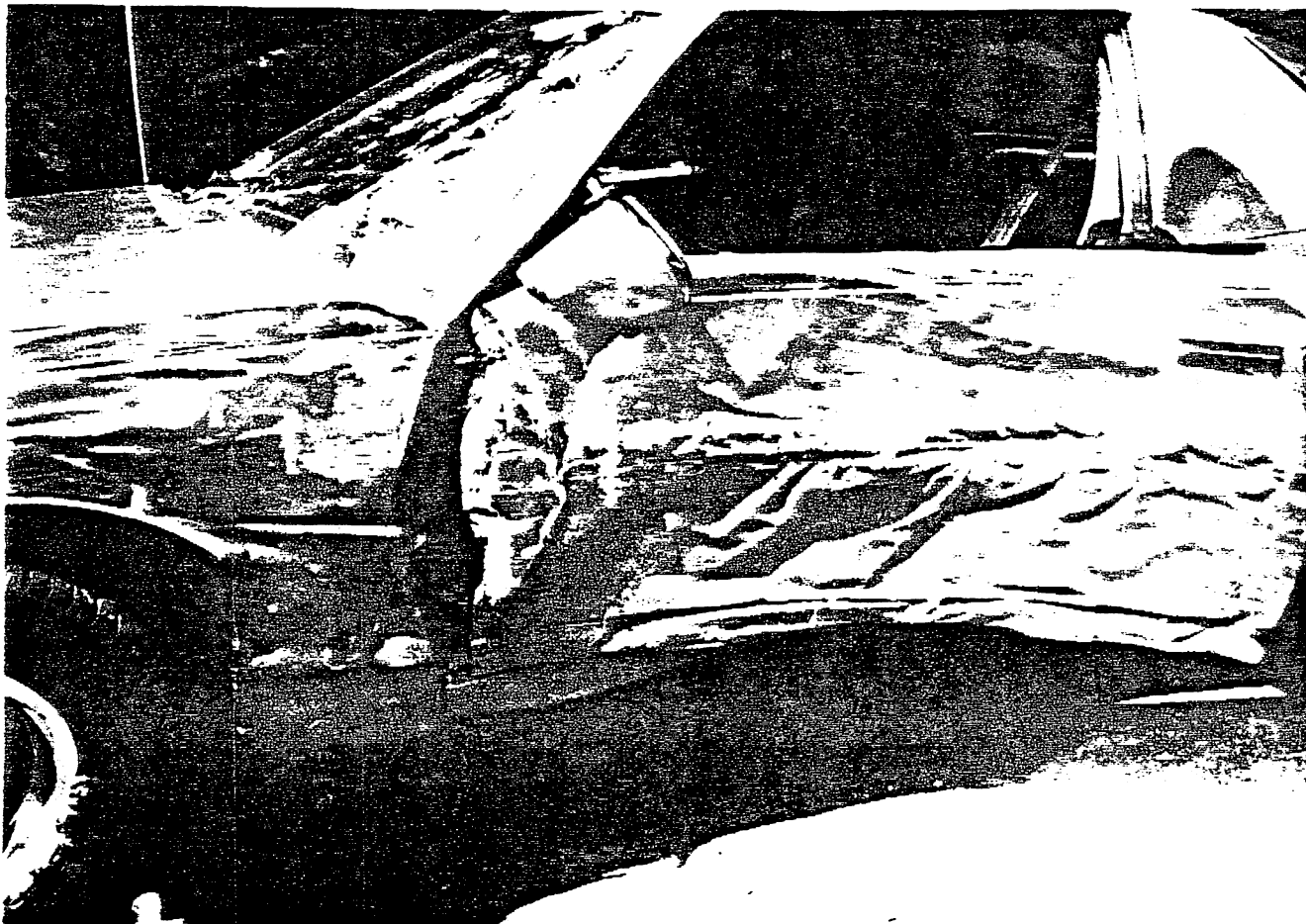
POP



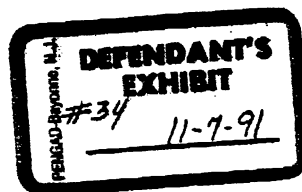


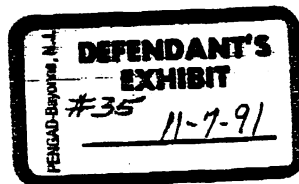
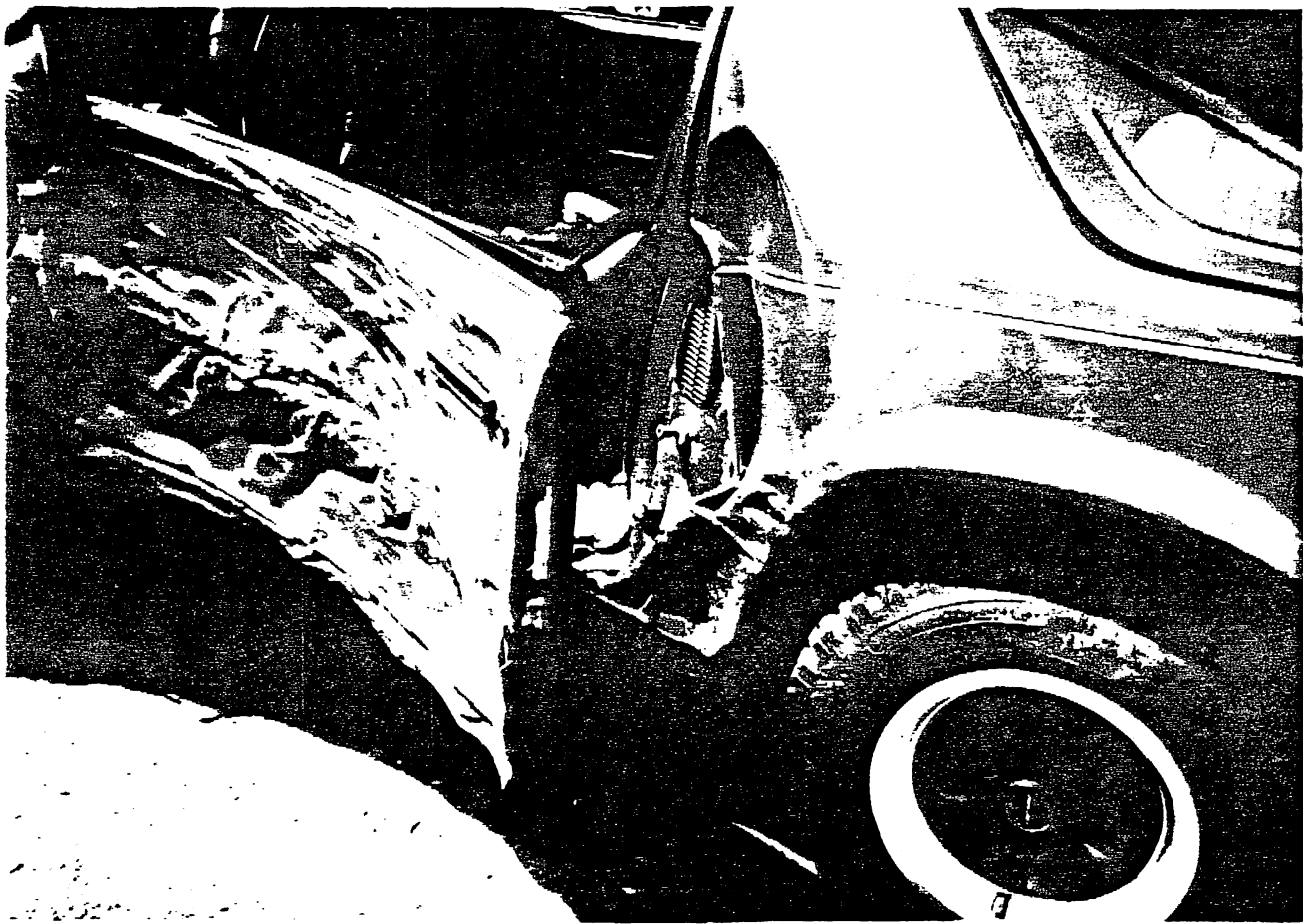


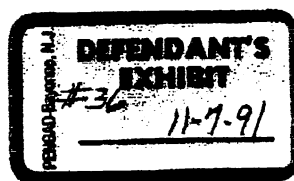


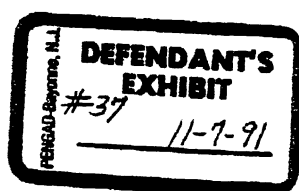
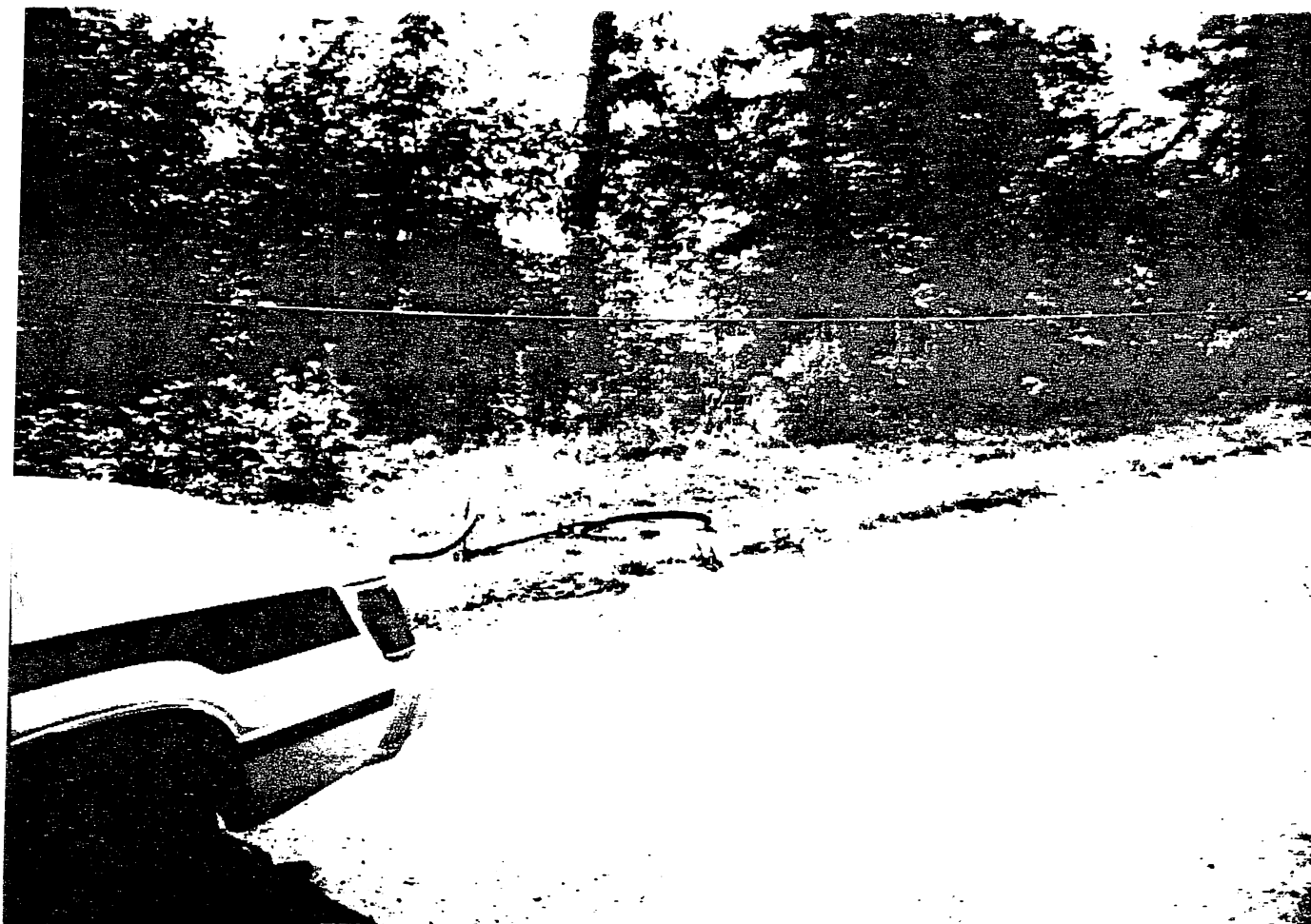


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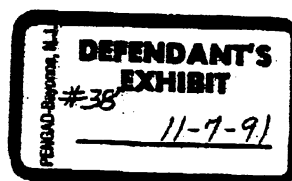


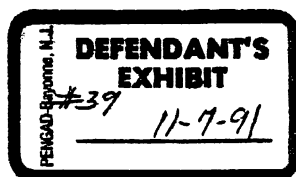


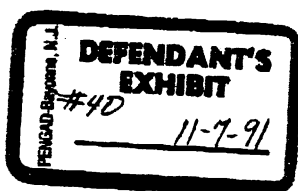
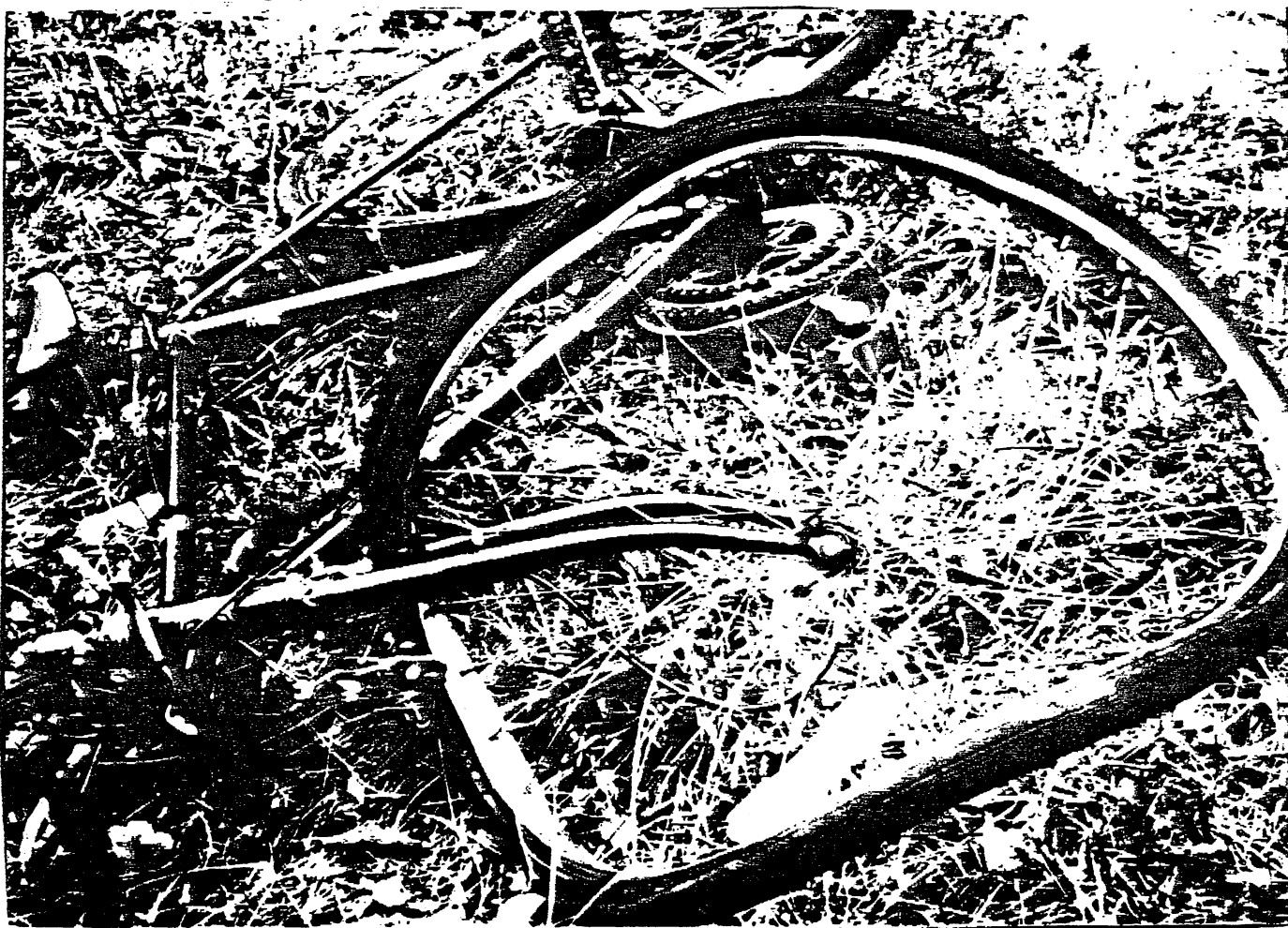


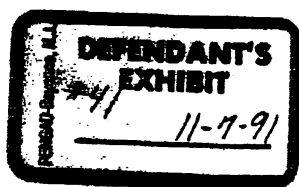
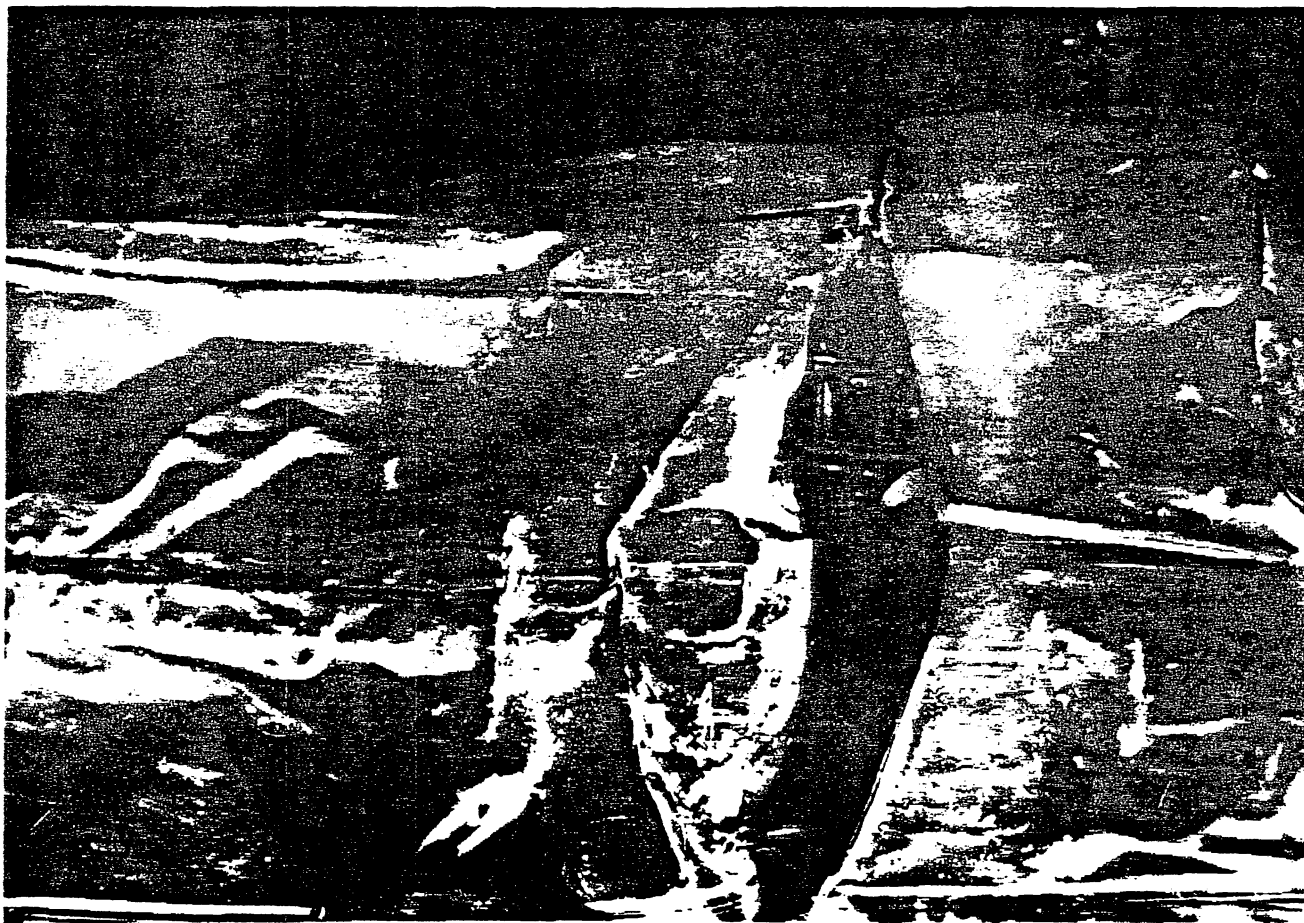


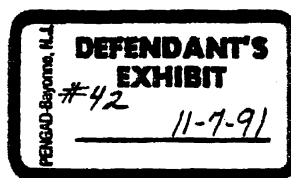
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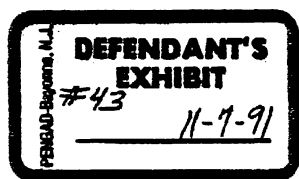


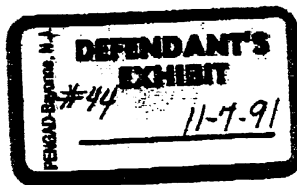
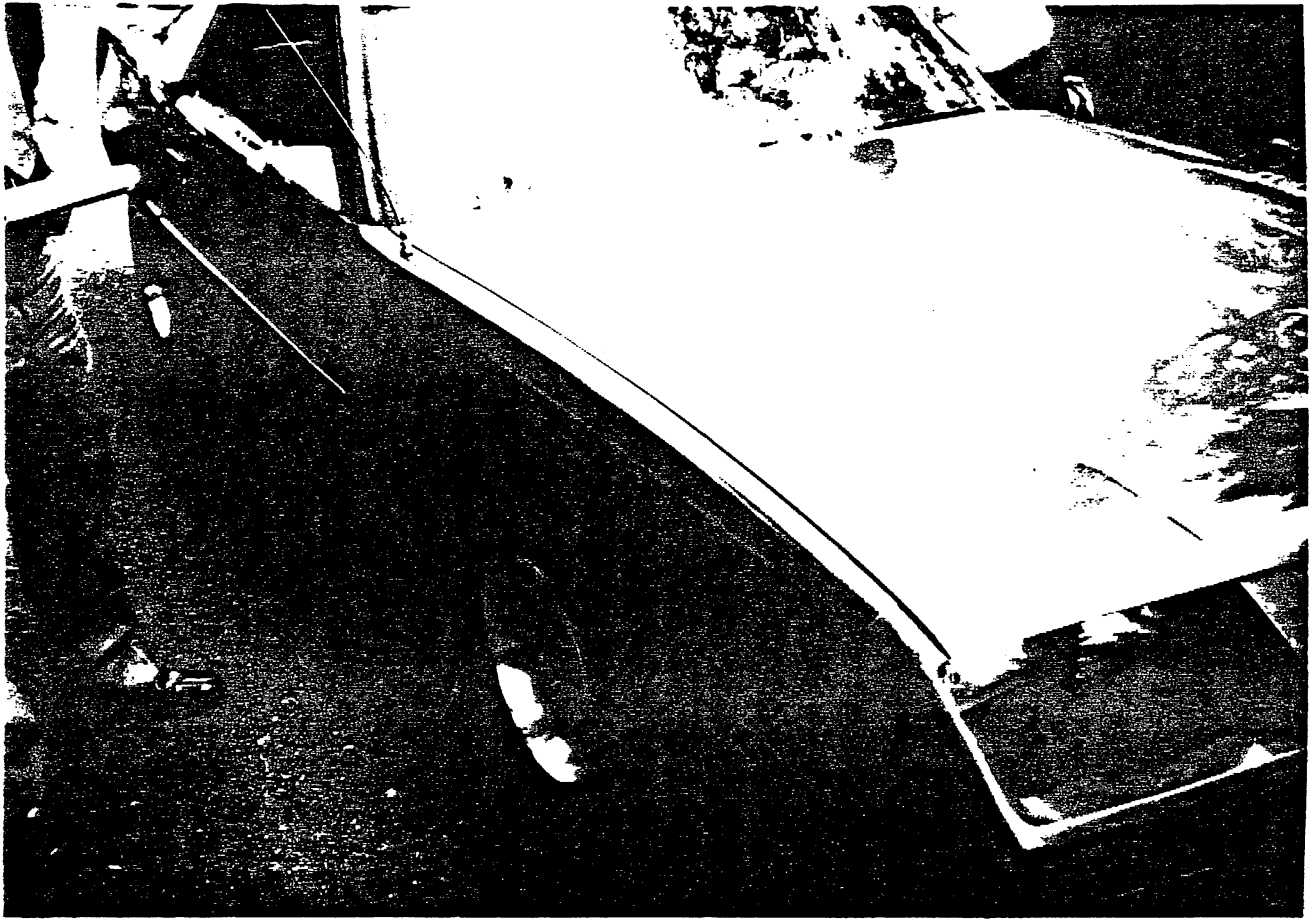


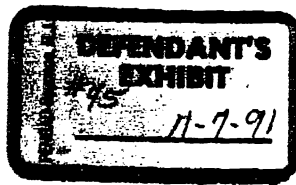


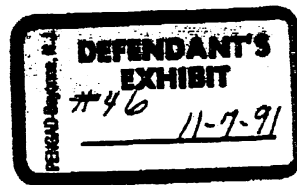


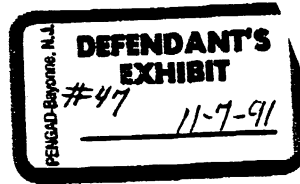
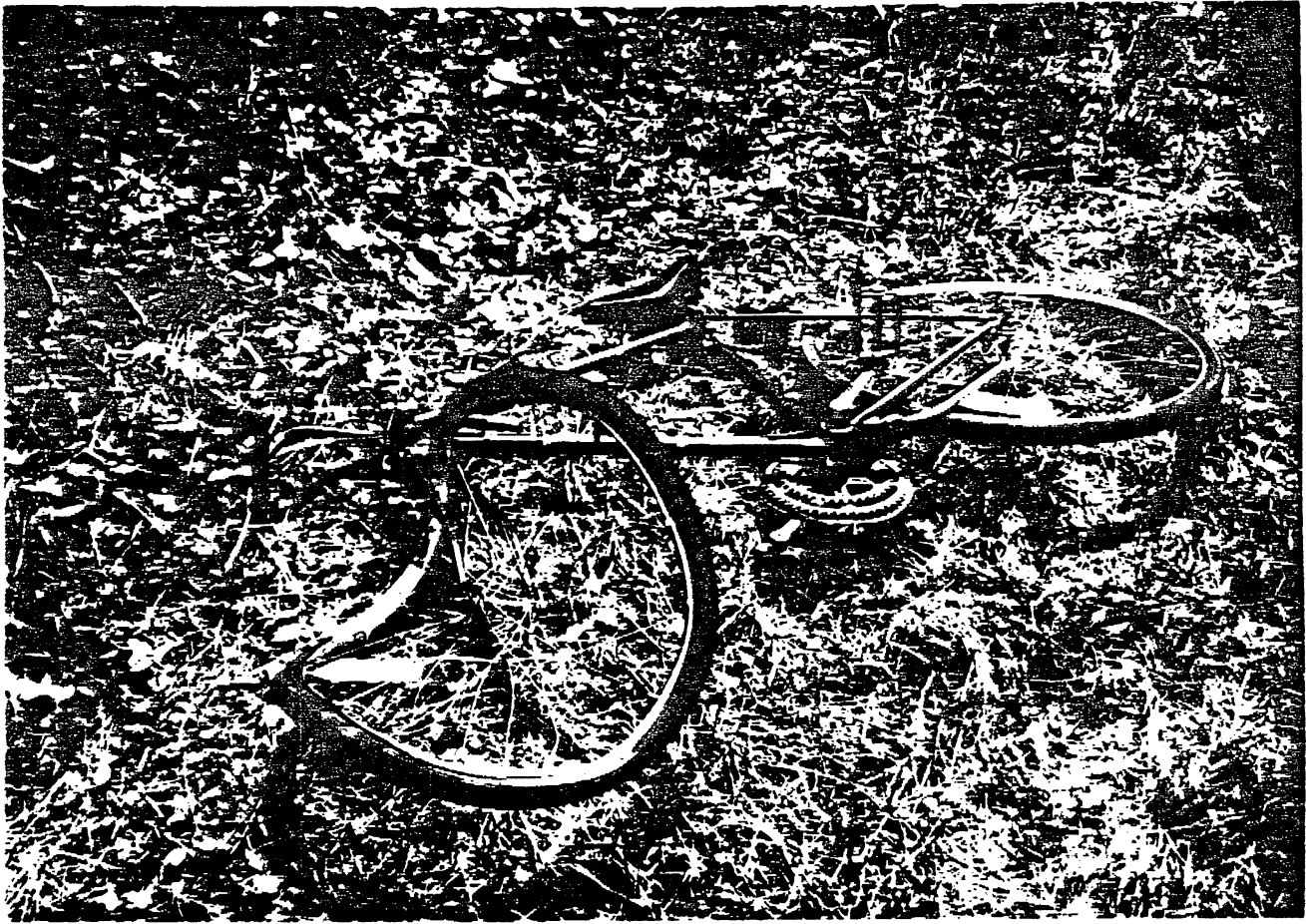


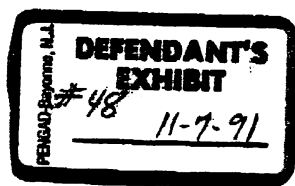


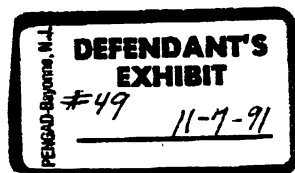
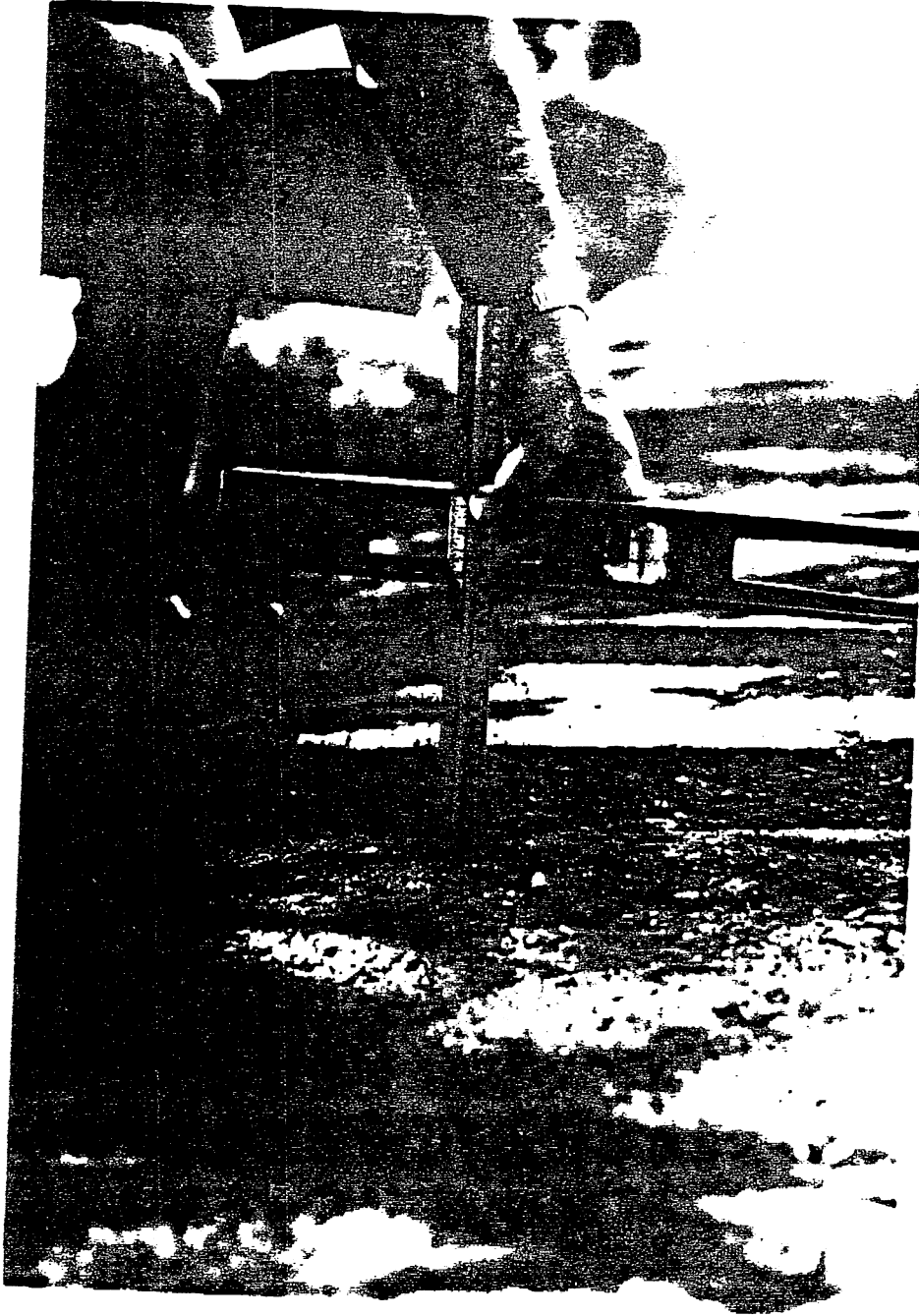


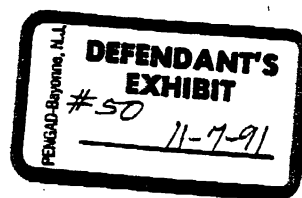


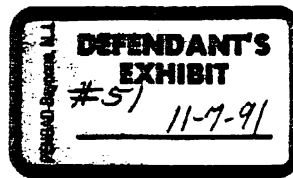


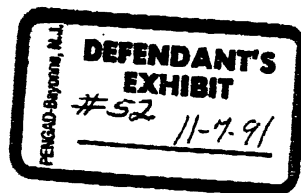
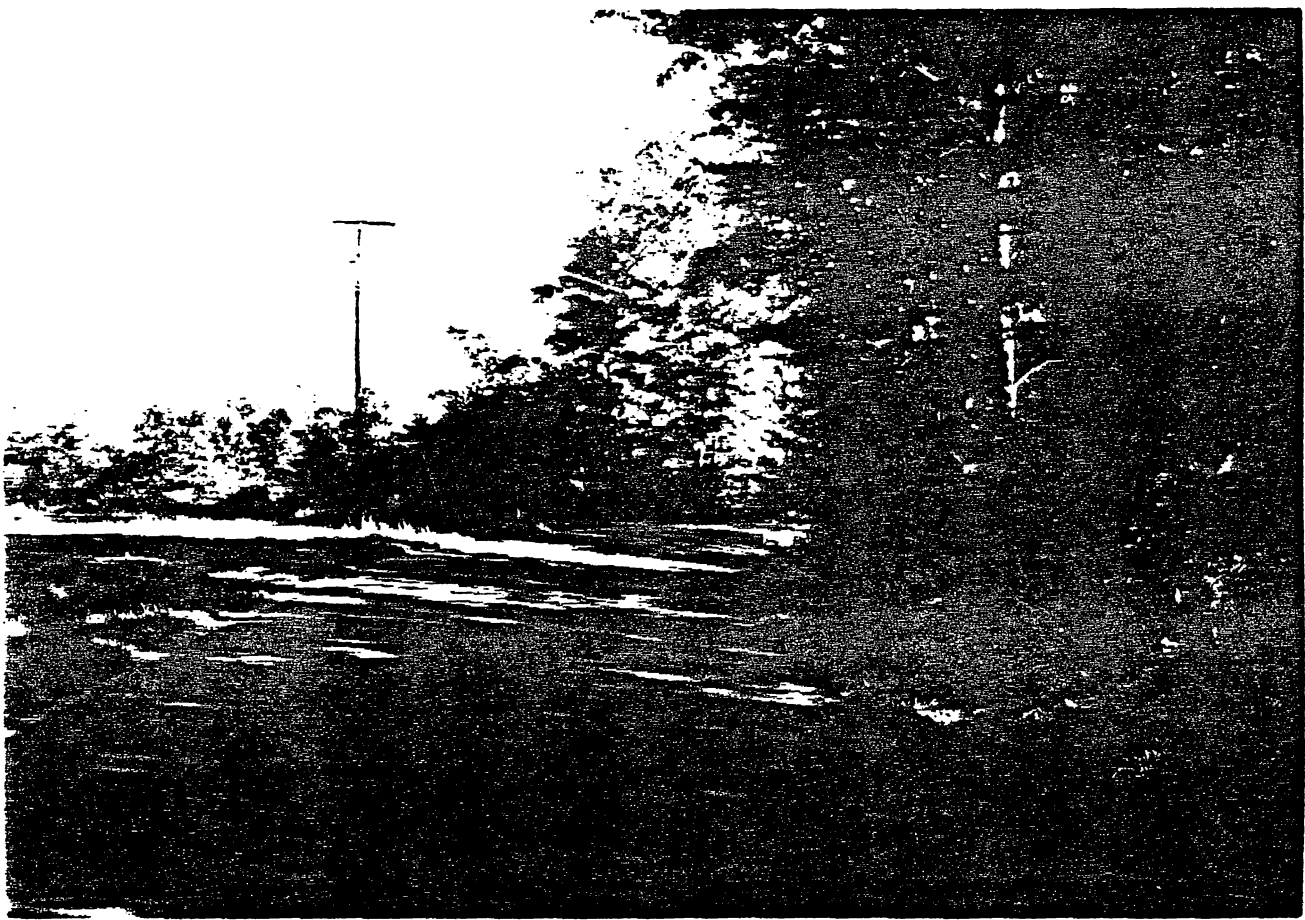


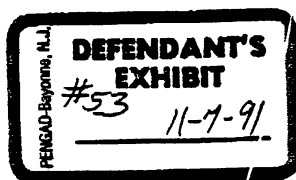
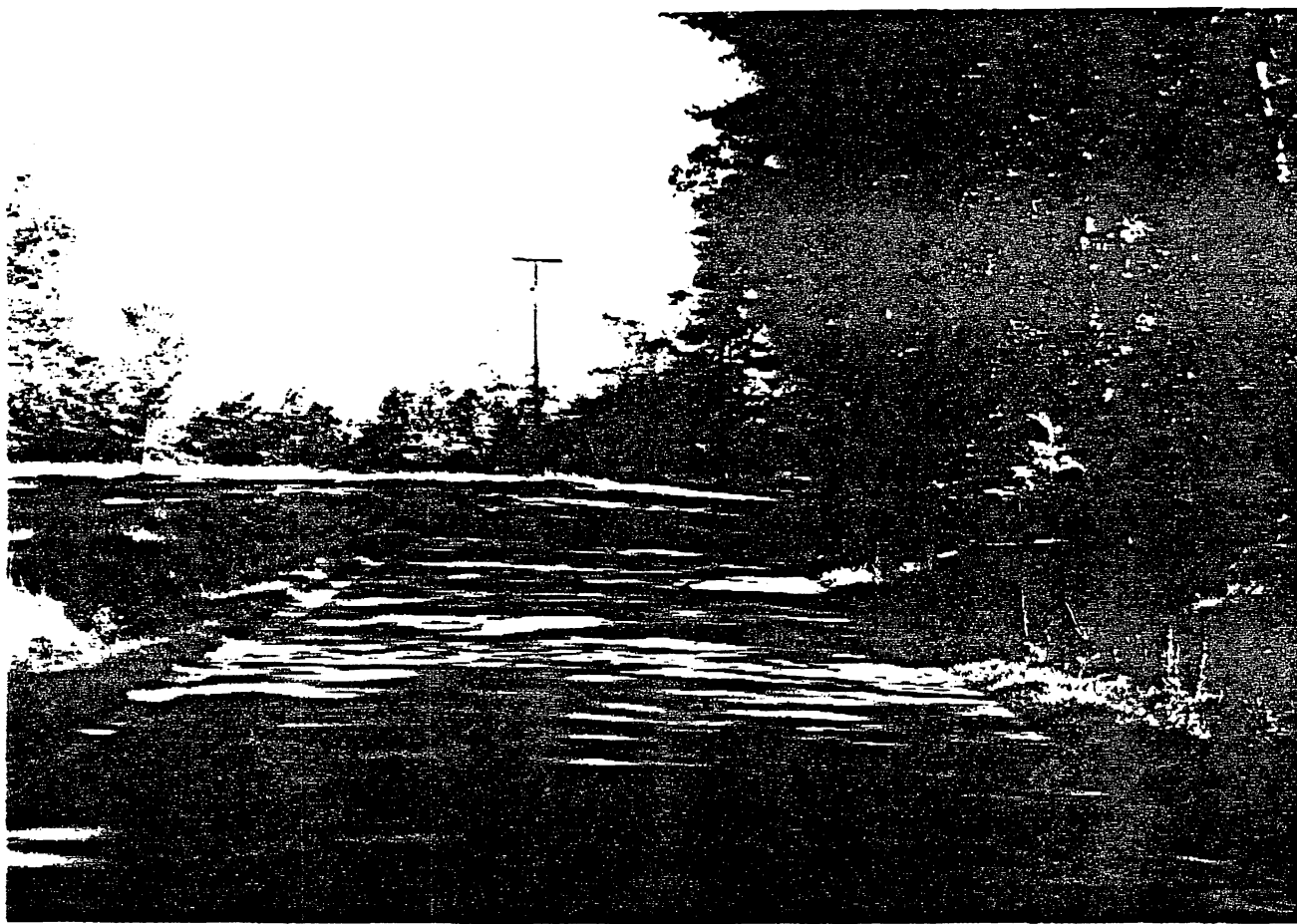


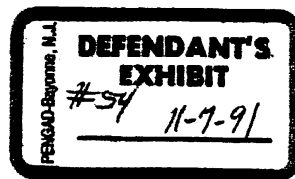


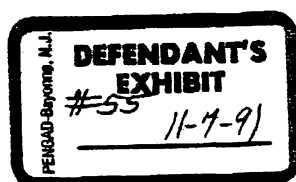


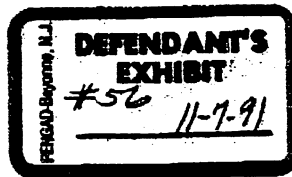






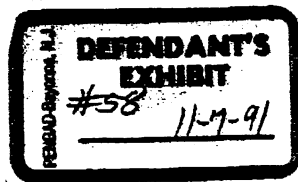


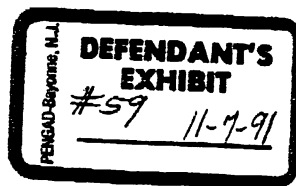
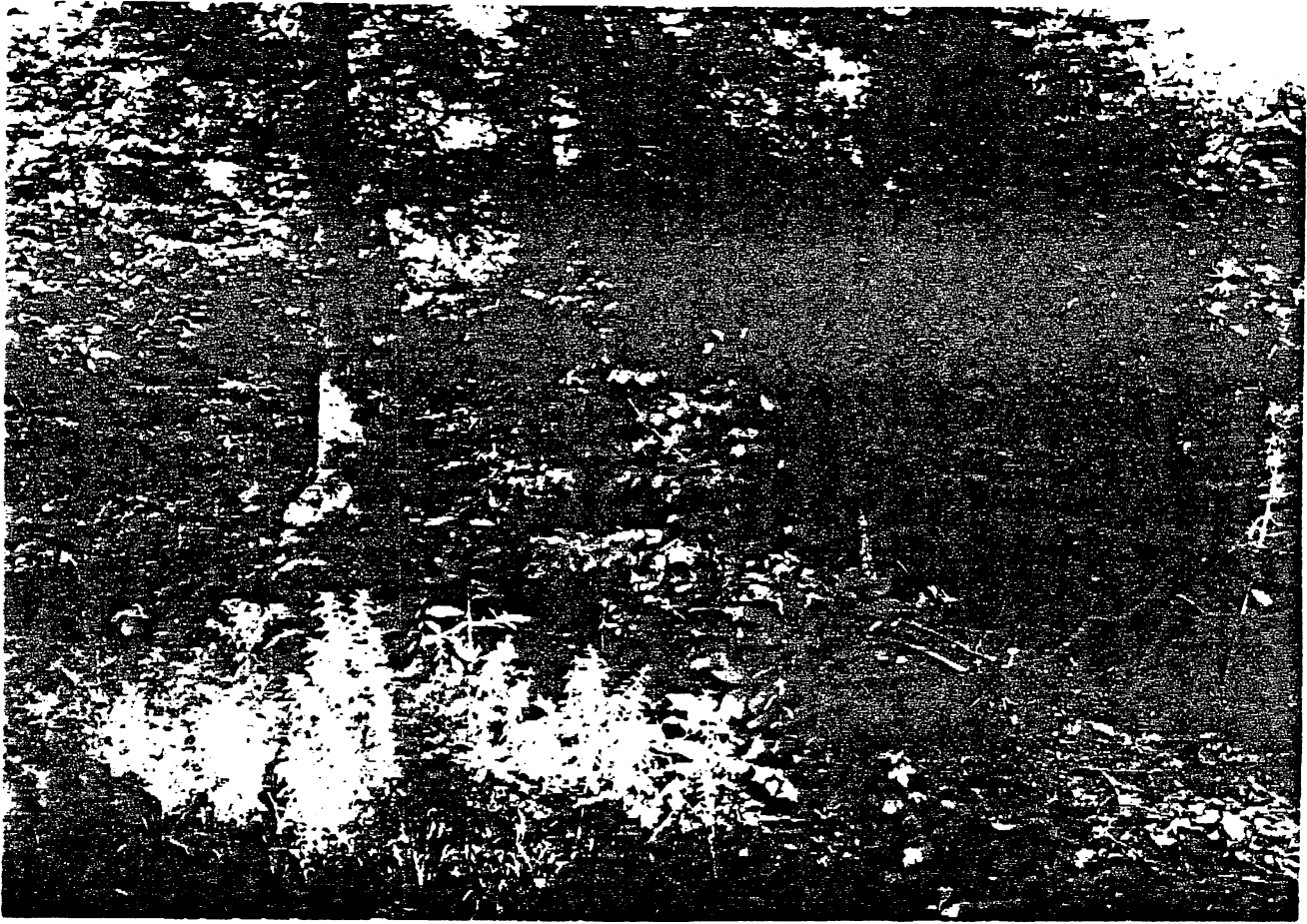


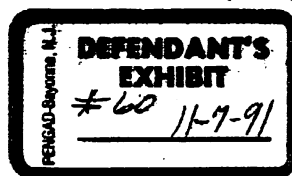


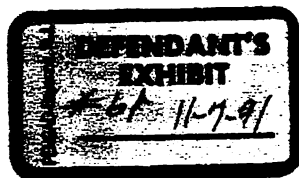
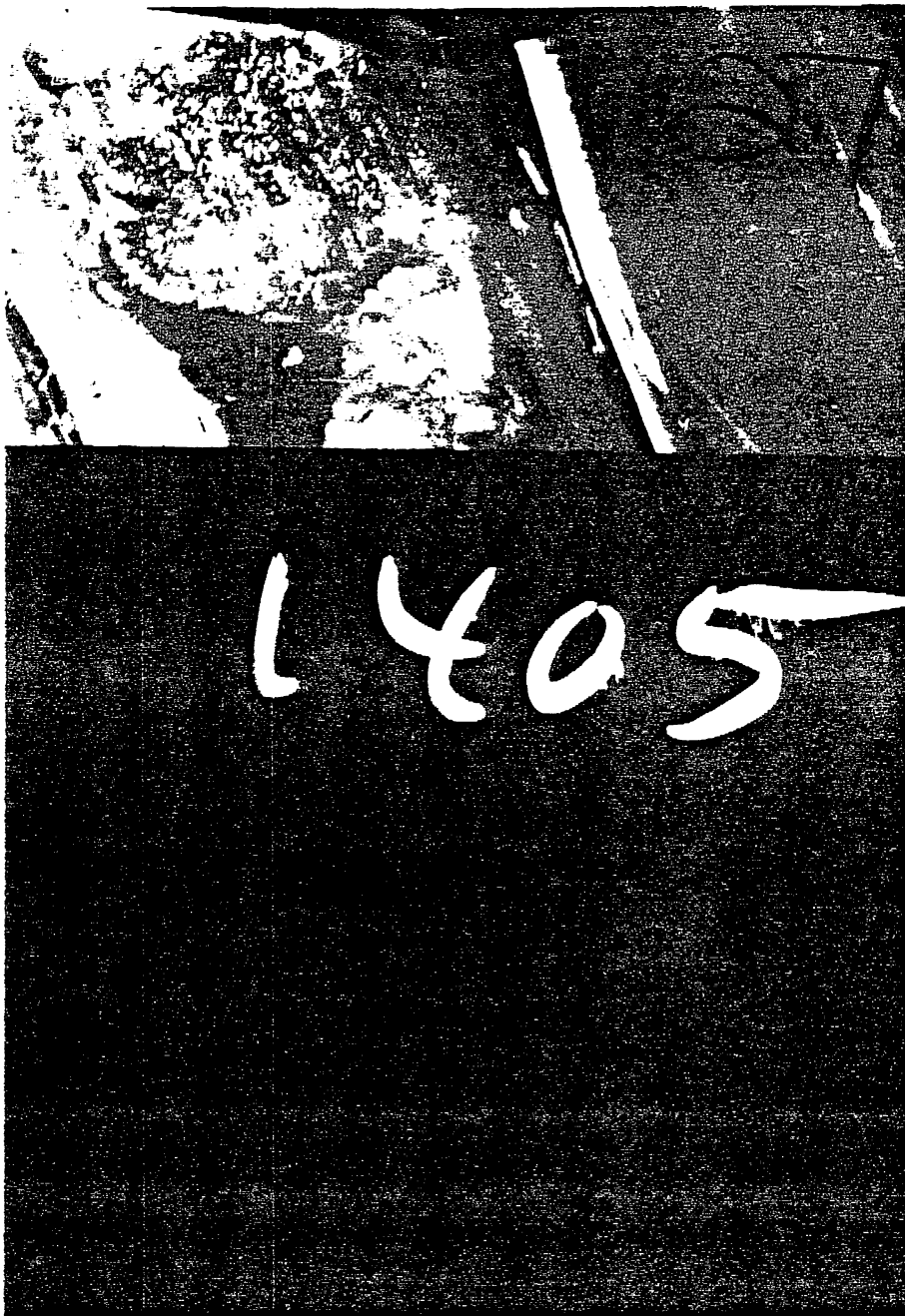


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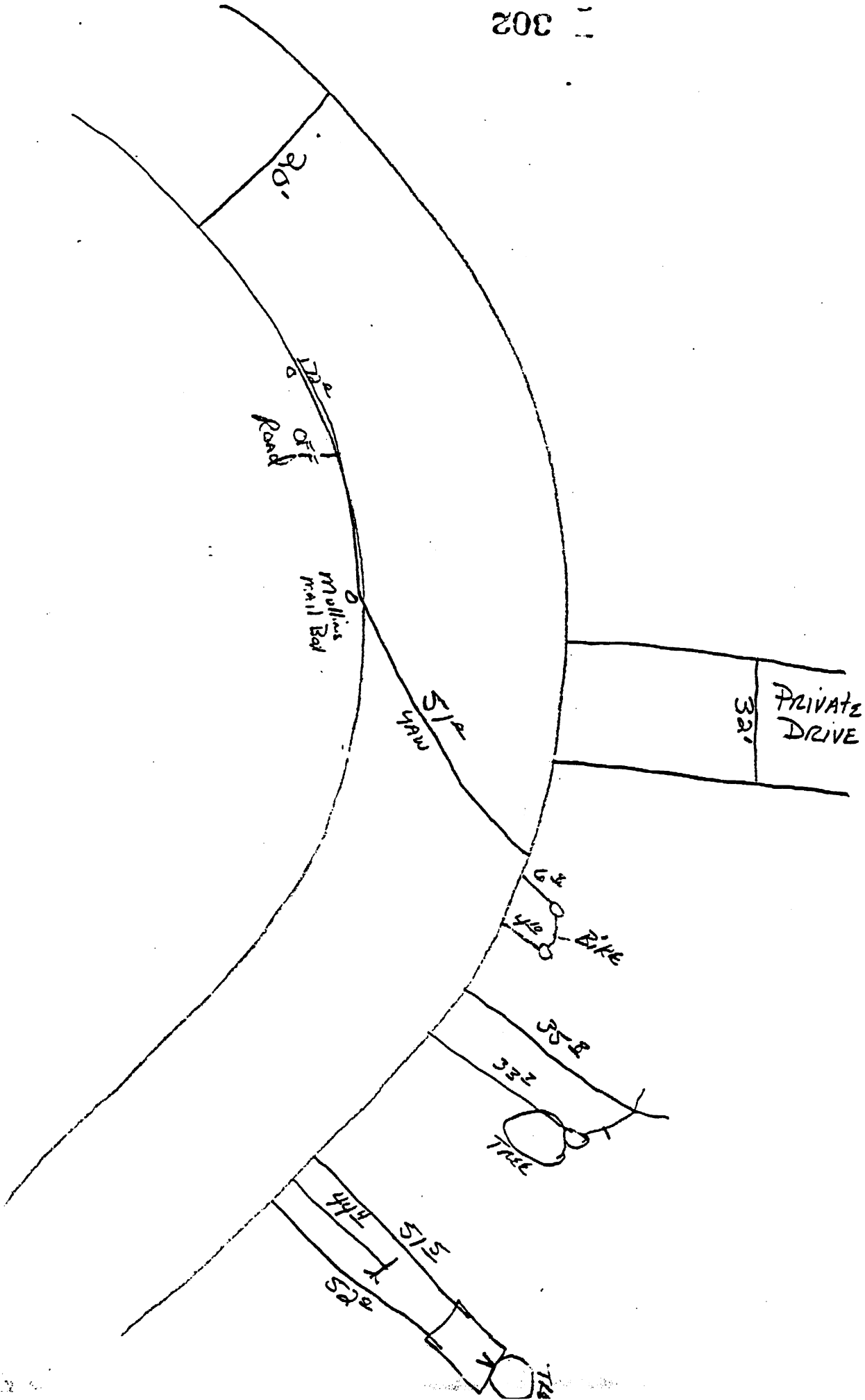








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WD B, KE 40"

WB 8E

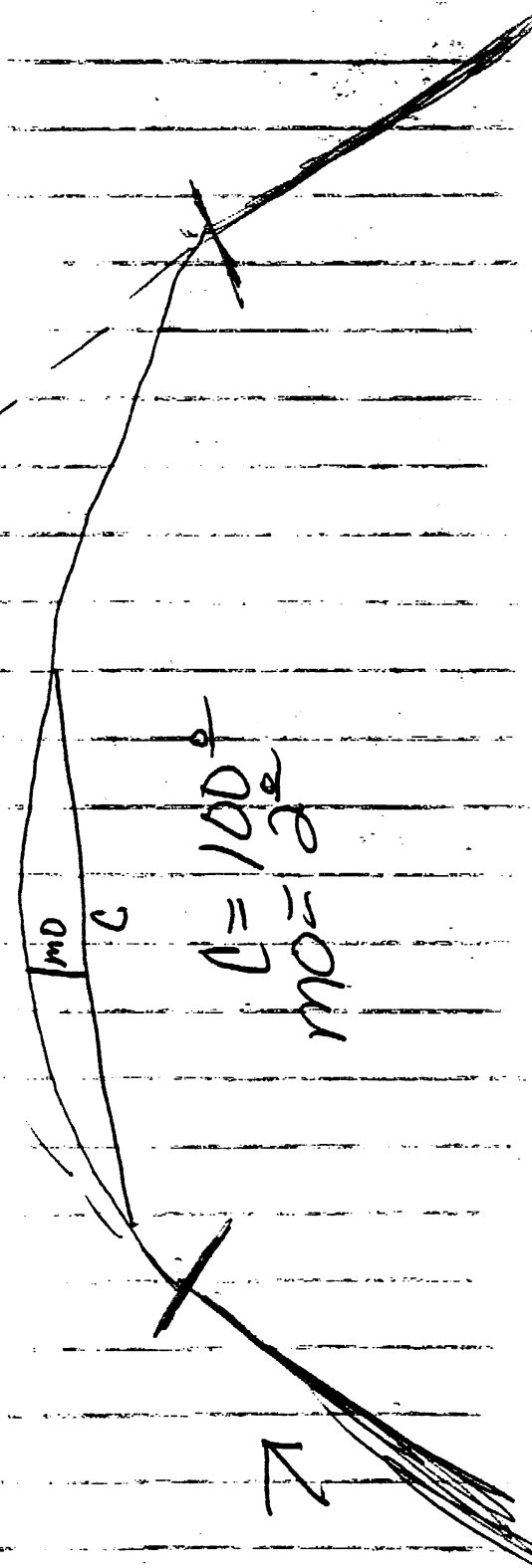
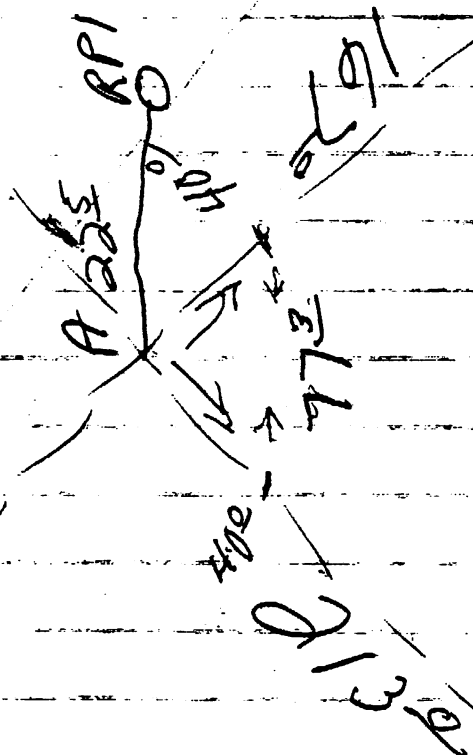
P to A	26 ²
to B	55
to C	6 ²
to D	57 ¹¹
to E	4 ¹⁰
to F	67 ²
to G	18 ²
H	91 ²
I	35 ²
J	97 ⁰
K	33 ⁷
L	110 ¹¹
M	
m	44 ⁴
n	110 ⁶
o	51 ⁵
p	116 ¹⁰
q	52

YAW
51 @
~~51 @~~

342

RP to RP

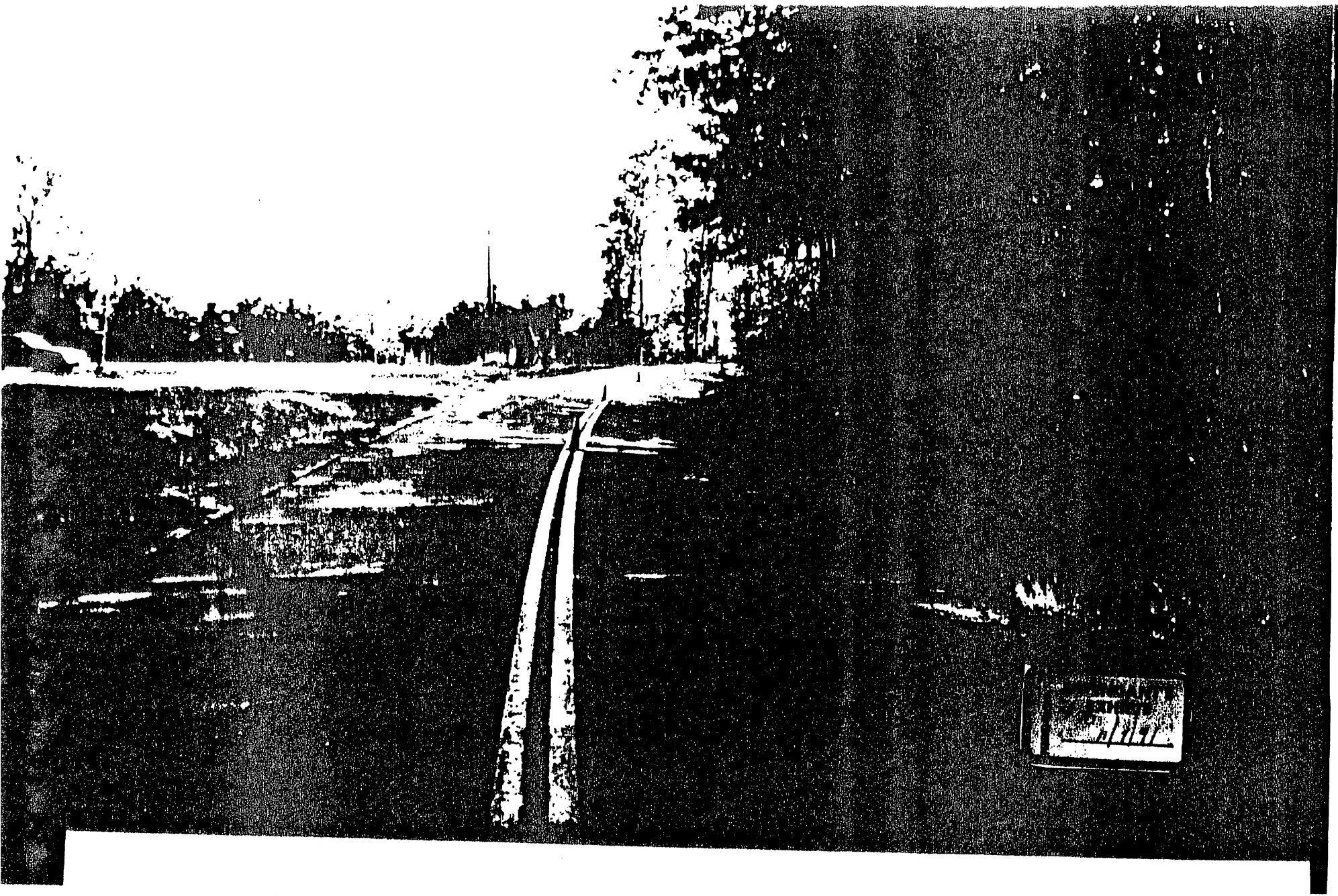
225



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#69



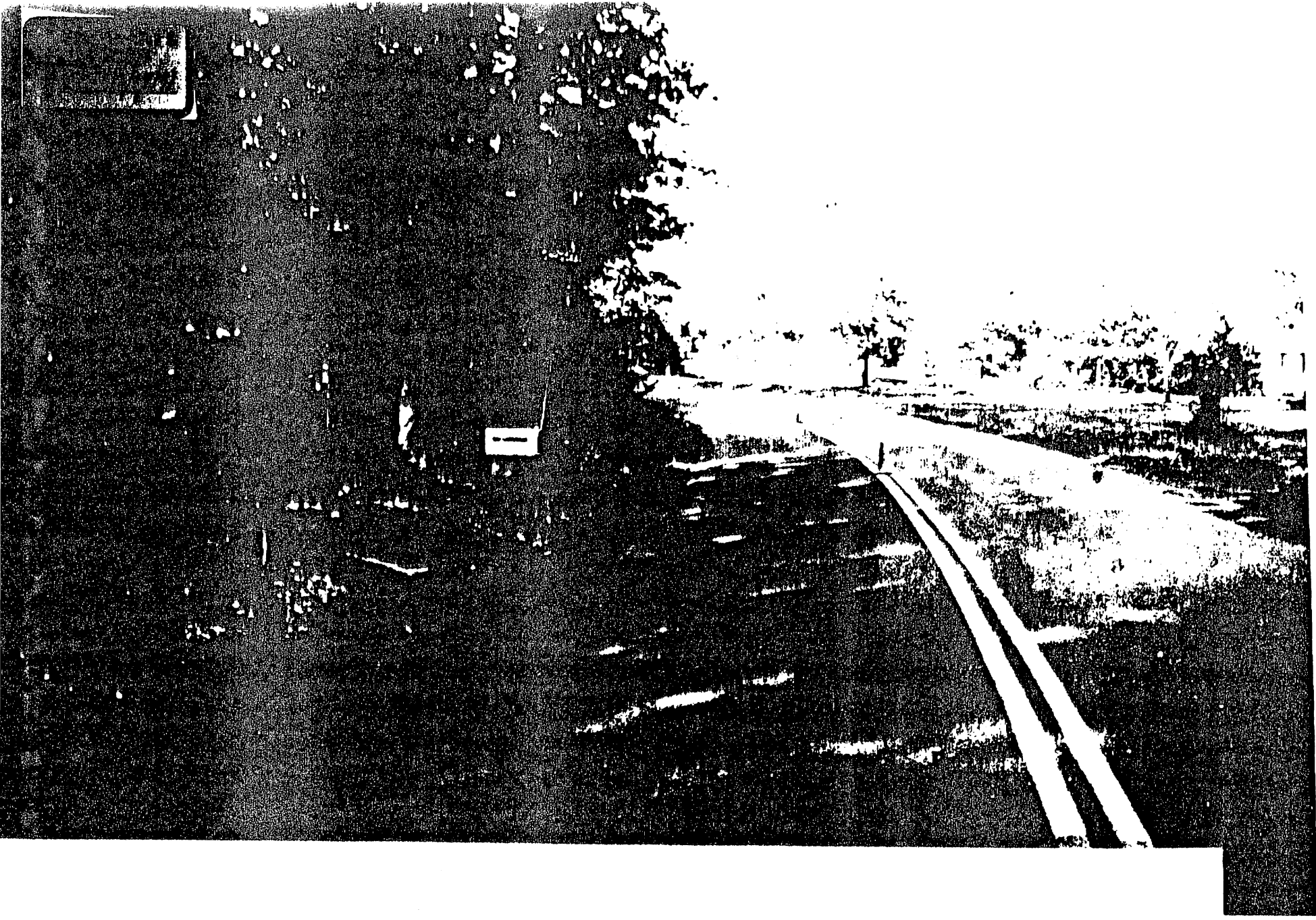
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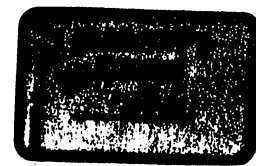


307



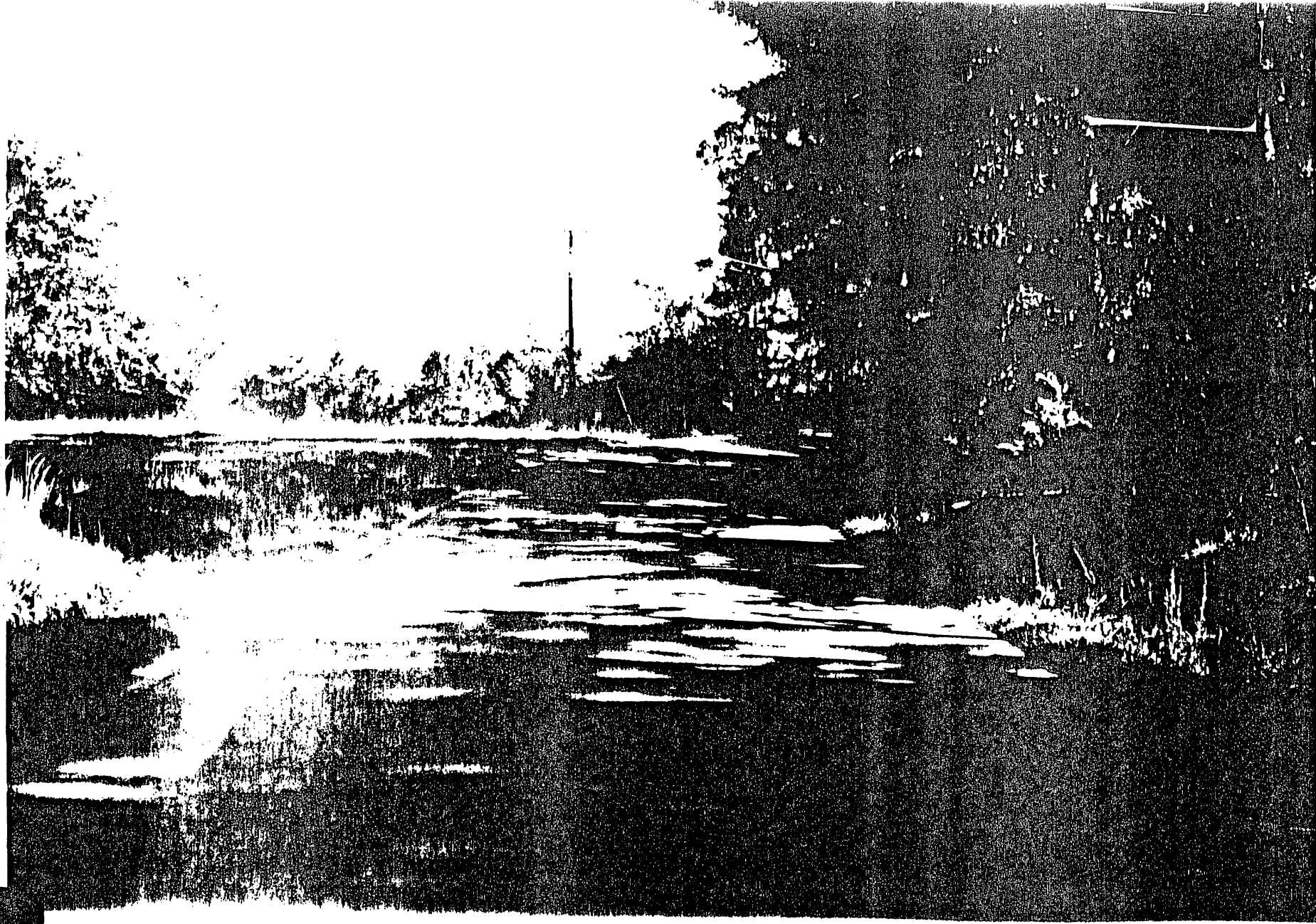
308

#75



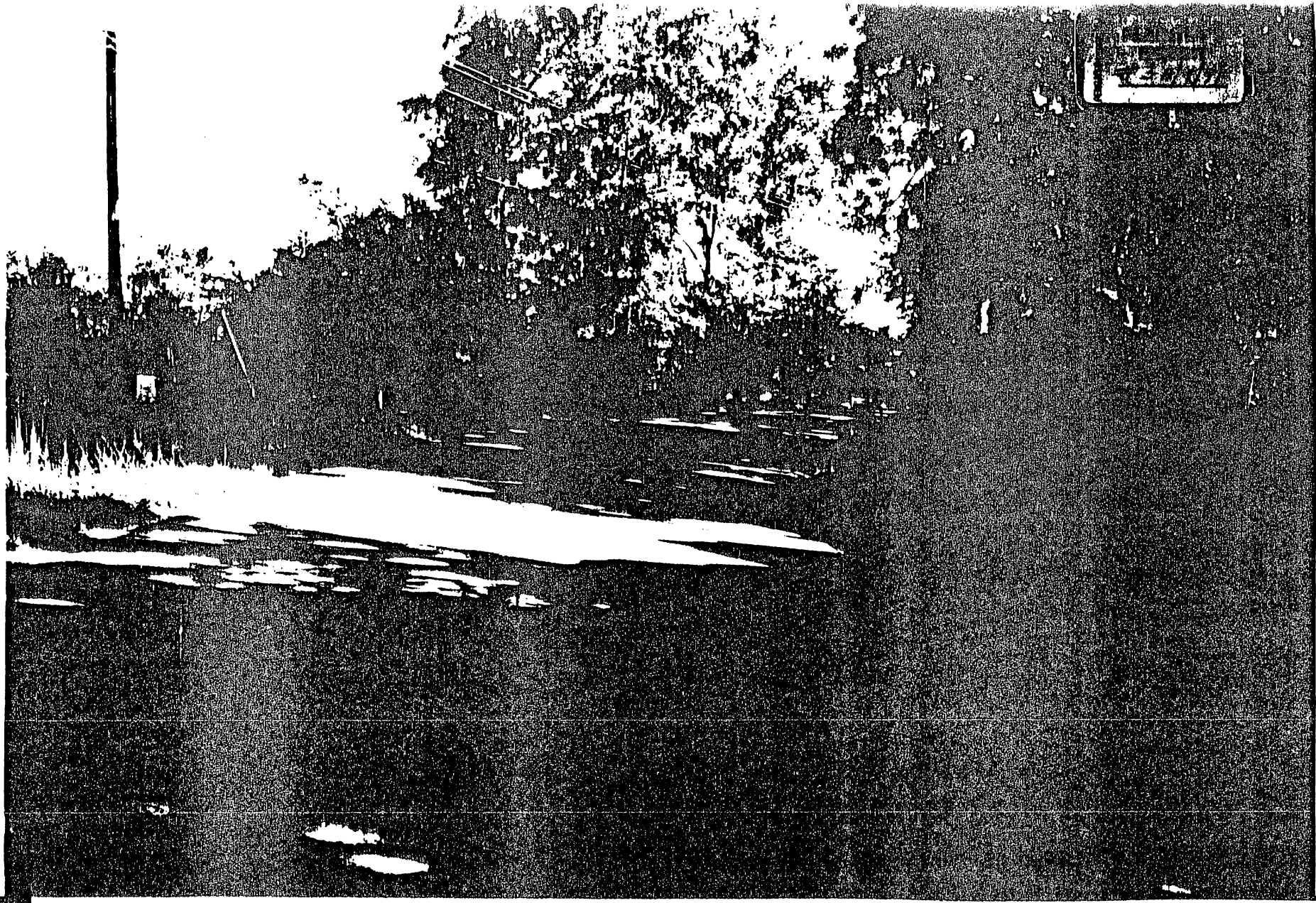
303

#1



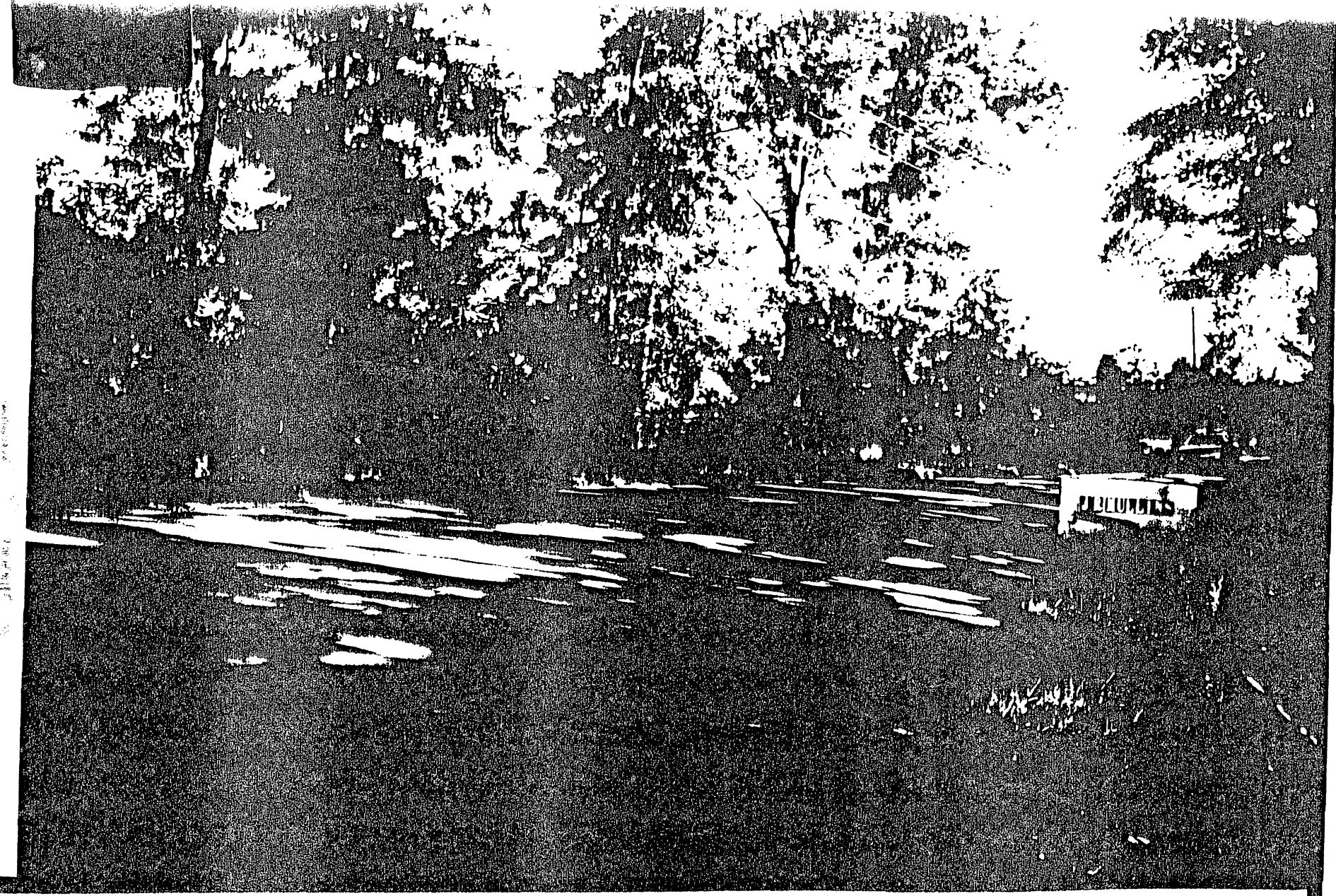
310

#2



#3

FIG 1



212

#4

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#5

