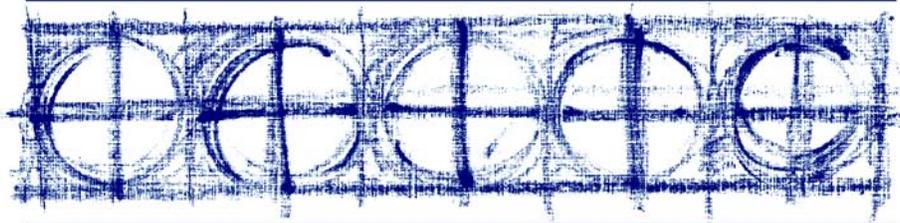


Idaho Law Foundation Law Related Education Program

2011 Idaho High School Mock Trial Program

Case Materials

IDAHO LAW FOUNDATION



Helping the profession serve the public

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Version Changes

VERSION 2.0

Version 2.0, dated January 7, 2011 includes the following changes:

1. Added an introduction and acknowledgments (page 2)
2. Changed Reilly Jackson's witness statement (page 25) to correct his/her age from 17 to 16.
3. Edited the first page of Exhibit 1 (page 32) to:
 - a. Correct the Date of Birth for Alex McMasters (changed to 4/25/1992)
 - b. Correct the Date of Birth for Jess Paxton (changed to 6/2/1992)
 - c. Change McMasters' injury from A to B under Unit 1
 - d. Change Jackson's injury from B to A under Unit 1
4. Edited the second page of Exhibit 1 (page 33) to:
 - a. Change the Initial Point of Impact from 01 to 11
 - b. Change the Principle Point of Impact from 12 to 11
5. Edited Exhibit 3 (page 37) to:
 - a. Correct the age of Reilly Jackson (from 17 to 16 YOA)
 - b. Change Alex McMasters' and Reilly Jackson's injuries from serious to non-life-threatening
 - c. Change Jess Paxton's injuries from serious to life-threatening
6. Edited Exhibit 4 (page 43) to:
 - a. Correct the ages for Alex McMasters (from 16 to 18), Reilly Jackson (from 17 to 16), and Jess Paxton (from 17 to 18)
 - b. Change Alex McMasters' and Reilly Jackson's injuries from serious to non-serious.
7. Added information about Exhibit 10 on page 58

VERSION 3.0

Version 3.0, dated January 14, 2011 includes the following changes:

1. Edited paragraph 31 in the Answer (page 9) to delete reference to Idaho Code § 49-720 and added a new paragraph 32 to incorporate the reference to Idaho Code § 49-720. Note that the previous paragraph 32 becomes paragraph 33.
2. Added Stipulation 10 (page 10)
3. Updated Idaho Code references concerning alcohol consumption and seatbelt laws in St. James' Report (page 42)
4. Updated Jury Instruction No. 10 (page 62).

VERSION 4.0

Version 4.0, dated February 1, 2011 includes the following changes:

1. Changed reference from Idaho Code § 49-640 to Idaho Code § 49-641 on page 42.
2. Added Jury Instruction 10J (page 62)

Introduction & Acknowledgements

Welcome to the *2011 Idaho High School Mock Trial* season! The staff and volunteers of the Law Related Education Program are excited that you have decided to participate in this wonderful program.

This year we are excited to give mock trial teams the opportunity to try a civil case that involves an accident between a car and a bicycle. While this year's case is largely original, the case developers included ideas and materials from two previous cases as source information in the development of this year's case. These cases include:

- The **2009 – 2010 Arizona High School Mock Trial Program's** case *State of Arizona vs. Parker Plunkett* written by Lance R. Broberg and Tiffany F. Broberg
- The **2010 Utah Law Related Education Mock Trial Program's** case *Sydney Young v. Riley Gardner*, adapted from the Tennessee Mock Trial Competition, rewritten and adapted to Utah law by Michelle M. Roybal

We are grateful to the mock trial programs in Arizona and Utah for granting us permission to utilize their wonderfully written case materials.

Without the help of the **Mock Trial Subcommittee** of the Law Related Education Program these case materials could never have come to fruition. The Law Related Education Program would like to thank Committee members **Brenda Bauges, Greg Dickison, Mike Fica, Dave Lloyd, and Ted Tollefson** for all their hard work and support. Our particular thanks go out to **Gary Brush** from the Idaho State Police who helped us add a strong element of reality to this case and without whom we would not have many of the wonderful exhibits included with these case materials.

As you participate in this year's mock trial season, please remember the nearly 200 volunteers who make this competition possible each year. Your Teacher Sponsor and Attorney Coach will likely spend countless hours helping to prepare you for competition. You will also meet judges and coordinators who gladly give of their free time to support the mock trial program. Make sure you take the time to thank all these volunteers for their commitment to making the mock trial program a wonderful experience for you.

Please feel free to contact Carey Shoufler at (208) 334-4500 or cshoufler@isb.idaho.gov with any questions or concerns at any time throughout the season. Best of luck to you and your team as you prepare for the 2011 mock trial season.

Complaint and Demand for Jury Trial

Theodore S. Tollefson, Esq.
Tollefson, Bauges & Shoufler, LLP
Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE EIGHTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF LEWIS

JESS PAXTON)	Case No. MT2011
)	
Plaintiff)	
)	
vs.)	COMPLAINT AND DEMAND
)	FOR JURY TRIAL
ALEX MCMASTERS)	
)	
Defendant)	

Plaintiff, Jess Paxton, by and through his/her attorneys, files this Complaint against Defendant Alex McMasters by complaining and alleging as follows:

JURISDICTION AND VENUE

1. Plaintiff Jess Paxton (“Plaintiff” or “Paxton”) is a resident of the state of Idaho, County of Lewis, City of Hickory.
2. Defendant Alex McMasters (“Defendant” or “McMasters”) is a resident of the state of Idaho, County of Lewis, City of Hickory.
3. Defendant is subject to the jurisdiction of Idaho state courts under Idaho Code § 5-514(b).
4. The Idaho State District Court for the Eighth Judicial District of the County of Lewis has original jurisdiction over this matter under Idaho Code § 1-705 and venue is appropriate within Lewis County under Idaho Code § 5-404.

GENERAL ALLEGATIONS

5. On June 23, 2010, at 9:23 PM, McMasters was driving his/her car north on Summit Street.

6. At the same approximate time, Paxton was riding his/her bicycle south on Summit Street.

7. As Paxton entered the intersection of Summit Street and Jones Avenue, McMasters attempted to make a left turn on to Jones Avenue.

8. McMasters failed to use his/her turn signal at the time of the incident.

9. McMasters was texting while driving at the time of the incident.

10. McMasters consumed alcohol before driving on the night of the incident.

11. By failing to yield to Paxton and by blocking Paxton's lane of travel, McMasters caused a collision to occur.

12. By failing to yield to Paxton and by blocking Paxton's lane of travel, McMasters caused Paxton to suffer serious and permanent injuries.

13. McMasters' negligence caused Paxton to suffer substantial present and future economic and non-economic damages including, but not limited to, personal injuries, physical and emotional pain, suffering, disability, disfigurement, emotional distress, medical and related expenses, lost income, loss of earning capacity, and loss of society, companionship, and consortium, all in amounts to be determined at trial.

COUNT I – NEGLIGENCE – DRIVING

14. Plaintiff incorporates and re-alleges the allegations contained in paragraphs 1 through 13.

15. Defendant McMasters owed Paxton a duty to exercise due care in driving his/her vehicle.

16. Paxton had the right-of-way while operating a bicycle on Summit Street.

17. McMasters failed to yield the right-of-way to Paxton and blocked Paxton's lane of travel on Summit Street with his/her vehicle.

18. McMasters failed to exercise reasonable care in operating his/her vehicle by driving while intoxicated, texting while driving, and failing to use a turn signal.

19. McMasters' failure to operate his/her vehicle in a reasonable manner caused the collision and resulting damages to Paxton.

20. The negligence of McMasters proximately resulted in damage to Paxton in an amount to be established at the time of trial.

COUNT II– NEGLIGENCE PER SE

21. Plaintiff incorporates and re-alleges the allegations contained in paragraphs 1 through 20.

22. Certain Idaho statutes define the applicable standard of care in this negligence action, and violation of these statutes by McMasters constitutes negligence per se.

23. Defendant is negligent per se because he/she violated Idaho Code § 49-903 requiring headlights be on between sunset and sunrise.

24. Defendant is negligent per se because he/she violated Idaho Code § 49-808 requiring that a driver signal before turning.

25. Defendant is negligent per se because, by texting while driving, he/she violated Idaho Code § 49-1401 prohibiting inattentive driving.

26. Defendant is negligent per se because he/she violated Idaho Code § 18-8004 prohibiting driving under the influence of alcohol.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Jess Paxton demands a trial by jury and requests and prays that judgment be entered against Alex McMasters as follows:

A. That Paxton be awarded compensation for all injuries and damages caused by Defendant's negligent and/or wrongful conduct;

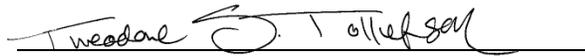
B. That Paxton be awarded attorney fees and costs;

C. That Paxton be awarded post-judgment interest on the amount of judgment;

D. That Paxton be awarded attorney fees and costs incurred in attempting to collect on the judgment, if any; and

E. That Paxton be awarded such other and further relief as the Court deems just and equitable under the circumstances.

DATED this 19th day of July, 2010.



By: Theodore S. Tollefson

For Tollefson, Bauges & Shoufler, LLP
Attorneys for Plaintiff, Jess Paxton

Answer

Michael J. Fica, Esq.
Fica, Lloyd, Brush & Dickison, LLP
Attorneys for Defendant

IN THE DISTRICT COURT OF THE EIGHTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF LEWIS

JESS PAXTON)	Case No. MT2011
)	
Plaintiff)	
)	
vs.)	ANSWER
)	
ALEX MCMASTERS)	
)	
Defendant)	

Defendant Alex McMasters (“Defendant” or (“McMasters”)), by and through his/her attorneys, files his/her Answer to the Complaint and Demand for Jury Trial (the “Complaint”) filed by Plaintiff Jess Paxton (“Plaintiff” or “Paxton”), as follows:

ANSWER

McMasters denies each and every allegation, matter, and thing alleged in the Complaint unless hereinafter specifically admitted.

1. In response to Paragraph 1 of the Complaint, Defendant admits.
2. In response to Paragraph 2 of the Complaint, Defendant admits.
3. In response to Paragraph 3 of the Complaint, Defendant admits.
4. In response to Paragraph 4 of the Complaint, Defendant admits.

GENERAL ALLEGATIONS

5. In response to Paragraph 5 of the Complaint, Defendant admits.
6. In response to Paragraph 6 of the Complaint, Defendant admits.

7. In response to Paragraph 7 of the Complaint, Defendant admits.
8. In response to Paragraph 8 of the Complaint, Defendant denies.
9. In response to Paragraph 9 of the Complaint, Defendant denies.
10. In response to Paragraph 10 of the Complaint, Defendant denies.
11. In response to Paragraph 11 of the Complaint, Defendant denies.
12. In response to Paragraph 12 of the Complaint, Defendant denies.
13. In response to Paragraph 13 of the Complaint, Defendant denies.

COUNT I – NEGLIGENCE – DRIVING

14. In response to Paragraph 14 of the Complaint, Defendant restates all of the foregoing responses as if fully stated herein.

15. In response to Paragraph 15 of the Complaint, Defendant denies.
16. In response to Paragraph 16 of the Complaint, Defendant denies.
17. In response to Paragraph 17 of the Complaint, Defendant denies.
18. In response to Paragraph 18 of the Complaint, Defendant denies.
19. In response to Paragraph 19 of the Complaint, Defendant denies.
20. In response to Paragraph 20 of the Complaint, Defendant denies.

COUNT II– NEGLIGENCE PER SE

21. In response to Paragraph 21 of the Complaint, Defendant restates all of the foregoing responses as if fully stated herein.

22. In response to Paragraph 22 of the Complaint, Defendant denies.
23. In response to Paragraph 23 of the Complaint, Defendant denies.
24. In response to Paragraph 24 of the Complaint, Defendant denies.
25. In response to Paragraph 25 of the Complaint, Defendant denies.
26. In response to Paragraph 26 of the Complaint, Defendant denies.

AFFIRMATIVE DEFENSES

27. Defendant avers that Jess Paxton owed Alex McMasters a duty to exercise due care in riding his/her bicycle.

28. Defendant had the right-of-way while driving his/her car on Summit Street.

29. Plaintiff failed to yield the right-of-way to Defendant and blocked Defendant's lane of travel on Jones Avenue with his/her bicycle.

30. Plaintiff failed to exercise reasonable care in operating his/her bicycle because he/she was under the influence of alcohol and was wearing ear buds, which hampered Plaintiff's ability to be aware of his/her surroundings.

31. Plaintiff was negligent per se because he/she violated Idaho Code §§ 49-723 and ~~49-720~~ requiring reflectors and lights be affixed to bicycles between sunset and sunrise ~~and requiring bicycles to yield the right-of-way to vehicles at intersections.~~

~~32. Plaintiff was negligent per se because he/she violated Idaho Code § 49-720(4) requiring bicycles to signal an intention to turn.~~

~~33.~~ Plaintiff's failure to operate his/her bicycle in a reasonable manner caused the collision and resulting damages to himself/herself.

PRAYER FOR RELIEF

WHEREFORE, Defendant Alex McMasters requests and prays that the court grant the following relief:

A. That Defendant not be found liable for Plaintiff's alleged injuries in this matter.

DATED this 11th day of August, 2010.



By: Michael J. Fica

For Fica, Lloyd, Brush & Dickison, LLP
Attorneys for Defendant, Alex McMasters

Stipulations

1. The action has been separated into two trials. The only elements that need to be proven in this trial are negligence and causation. The issue of damages will be addressed in a subsequent trial if necessary.
2. Any products liability actions against Dodge arising from any alleged faulty car components have been settled and the parties stipulate that Dodge is therefore not a necessary party to this action.
3. All time-stamps on text messages are accurate representations of when the messages were actually sent and/or received. No time delays that may be typical of such transmissions are to be assumed or argued.
4. All exhibits included in the case materials are authentic and accurate and the proper chain of custody with regard to the exhibits has been maintained.
5. If the defendant has admitted facts in the Answer, those facts are therefore uncontested and need not be proven at trial. Therefore, all parties may refer to these uncontested facts during trial.
6. The signatures on the witness statements and all other documents are authentic.
7. The dates of witness statements are not relevant and therefore not included. No challenges based on the dates of the witness statements will be entertained. All statements were taken after the accident but before trial.
8. The jury instructions have been agreed to by all parties.
9. Trial time will not permit the use of all the exhibits provided in the following materials. Each party must select and use only those exhibits that best support and illustrate that party's theory of the case.
10. The lighting in the photographs included in Exhibit 10 does not represent the daylight conditions at the time of the accident.

Witness Statements

PLAINTIFF WITNESS STATEMENTS

Jess Paxton

1 My name is Jess Paxton. I just turned 18 years old in May and am going to be a senior at
2 City High School. My family moved to Hickory, Idaho from Seattle about five years ago
3 because my dad got what he thought was a good job with FuturTech and my mom thought it
4 would be safer to raise us kids in a smaller town where we couldn't get into as much
5 trouble.

6 On the night of the accident, Wednesday, June 23rd, I went to my friend Sarah's house
7 to watch some soccer. She had recorded the World Cup Soccer match and I was excited
8 because I got to see the United States beat Algeria and move on to the Round of 16. Landon
9 was awesome!

10 I admit now, and I already admitted to that detective, that we had snuck some beers that
11 night while we were watching the game, but it had been a while between when I had a beer
12 and when the accident happened. I'm not a big drinker, but the kids in Europe always drink
13 while they are watching soccer; what's the big deal?

14 I love soccer. I have been playing since I was four years old and have always thought that
15 I would go on to play in college and, who knows, maybe even professional soccer. I had just
16 been selected captain of the varsity soccer team at my high school last spring and a lot of
17 recruiters were talking to my family about me playing soccer at their colleges.

18 With my father getting laid off last year because of the bad economy, soccer was really
19 supposed to be my ticket to college. Now all of that may have changed.

20 As soon as the soccer game was over, I remember looking at the clock and seeing that it
21 was almost 9:00 PM. I realized that I needed to get home right away because I had promised

22 my mom that I would walk the dog before it got too late. I had been promising her all week
23 and I kept blowing it off, so I was worried that she was going to be mad at me.

24 I took off from Sarah's house and started running towards home, but I soon realized that
25 I could not possibly run fast enough to get home by 9:30. So, I saw this bike in someone's
26 front yard and I decided to borrow it so I could get home in time. I figured I could use it that
27 night and then ride it back over to the house the next morning and no one would even know
28 it was gone. No harm, no foul, right? Anyway, I hopped on the bike and headed home. I
29 hoped if I rode fast enough, I would get home by 9:30.

30 My parents have never liked it when any of us kids ride down Summit Road on our bikes
31 because there's a lot of traffic on that street and there have been a few accidents with cars
32 and bikes in the last year. But I decided to go that way anyway, because it's the quickest way
33 home.

34 I was headed down Summit Road, just about to cross Jones Street. I saw this black
35 pickup truck – it was kind of a small truck, but I'm not sure what kind. I slowed down to
36 make sure it wasn't going to turn and to make sure the driver saw me because it was getting
37 dark outside and the truck didn't have its lights on and I don't remember if the bike had any
38 reflectors. I didn't see a turn signal anyway, so I just kept going. All of the sudden, the car
39 came speeding right at me. I remember that I heard the car make that kind of screeching
40 sound cars make when they take a corner too fast.

41 It all happened so fast that it's hard to remember everything. I tried to really quickly turn
42 my bike to avoid getting hit, but I was too late. The car hit me. I flipped up and off my bike
43 and I just went flying over the car. I landed in the street and the back of my head hit the
44 pavement really hard. I didn't have a bike helmet on because, well, there wasn't a helmet
45 around the bike I borrowed, so I didn't really have access to one.

46 I remember feeling really light-headed and looking around and seeing my iPod smashed
47 and my bike smashed up even worse on the street. The rest gets kind of fuzzy.

48 I was lying in the street. A few people were gathered around me asking me if I was all
49 right or if I needed any help. This one person took out my ear buds and asked me if I had
50 been listening to music while I was riding my bike. I told him/her that I hadn't been
51 listening to music and that's the truth. I put my ear buds in so they wouldn't fall off and get
52 lost on the way home. I realize now that it was Mr./Mrs. Cosgrove that had helped me. My
53 family has known him/her for years and I used to mow his/her lawn.

54 But the person I remember the best is Alex, who it turns out was the driver of the car
55 that hit me, leaning over me with a fancy new EnV cell phone glued to his/her ear. S/he
56 was saying something like, "I hit someone." And then, "Well, find someone to fix this. You
57 know people." To me, s/he sounded like s/he was slurring a little bit and her/his breath
58 reeked of alcohol.

59 The next thing I remember, I'm riding in an ambulance to the hospital and then there are
60 people in the hospital examining me. I had a broken collar bone, and a really bad concussion
61 and a whole bunch of scrapes and bruises all over my body. I was in a lot of pain; I still am,
62 really.

63 My life could be very different because of this accident. I won't be able to play soccer
64 this fall, which is huge for me. This season will be when all the college recruiters are making
65 decisions on who to get to their colleges; on who to give scholarships to. And, I won't be in
66 the running because I'll just be standing on the sidelines watching.

67 And, even when my collar bone does heal completely, I still might not be able to play
68 soccer anymore. My doctor told me that with a head injury I am in greater danger of causing
69 permanent brain damage if I play soccer.

70 My entire future could be changed because of what Alex did. I don't understand why
71 s/he wasn't paying attention and being more careful while driving. This accident could have
72 cost me my life and still might cost me and my family a better quality life.

73 No matter what Alex or Reilly or whatever other people they hire says, what I say is the
74 truth. I'm not making any of this up. I'm not going after the McMasters' family as some kind
75 of vendetta or because they are a family with a lot of money.

76 I know they think I'm a liar because of the whole cheating thing with my soccer team,
77 but I didn't have anything to do with that. I had heard rumors about a key being passed
78 down to soccer players, but I never used a key to break into the school.

79 It doesn't matter anyway. This is not about some dumb school issue. It's about Alex
80 McMasters and how Alex drove into me with a car. It's as simple as that. I just want Alex's
81 family to do what is right.

82 **WITNESS ADDENDUM**

83 I have reviewed this statement, and I have nothing of significance to add at this time. The
84 material facts are true and correct.

85 Signed,

86 

Jess Paxton

Sydney Cosgrove

1 My name is Sydney Cosgrove. I'm 55 years old and have lived in Hickory for the last
2 fifteen years. Before that I lived in Portland, Oregon, for 15 years, where I moved after
3 graduating from the University of Colorado in Boulder. I work at a local environmental
4 engineering firm, and I am an avid cyclist. Since the time I first learned to ride a bicycle it
5 has been my preferred mode of transportation. We do own a car, just because my spouse
6 insists. In fact we bought one of those Priuses when they first came out – we got it through
7 the Cash for Clunkers program. I insisted that whatever we got it had to be "green." I don't
8 drive it much, but my spouse has never complained.

9 Anyway, on June 23rd I was out walking my dog, like I usually do about that time of
10 night. Things have been stressful at the firm for the past few months. What with all those
11 ridiculous climate change deniers and the hard economy, people just aren't spending as
12 much on environmental engineering as they used to. We've been facing some cut backs,
13 and, well, it's been on my mind a lot. So I don't sleep that well, and when the sleeping
14 medication doesn't work I like to take the dog out for a late walk when it's quiet and I can
15 unwind.

16 I was walking north on Summit toward the intersection of Summit and Jones. About a
17 block from the intersection a black Dodge Dakota passed me going the same direction. I
18 can't stand those gas guzzler SUVs! The people who drive those things think they're
19 invincible in them, and that just makes them more dangerous.

20 As I looked I remember seeing a bluish or greenish light, like the light of a cell phone. I
21 thought, "what a knucklehead!" Like I said, I'm an avid cyclist – I bike to and from work
22 every day, and I do a lot of recreational biking on the weekends. We cyclists have to keep a
23 close eye on cars because drivers sure don't pay any attention to us. What with make-up and
24 food and fiddling with the radio – and now cell phones and iThis and iThat – drivers live in
25 iSolation. Sure, you can make it illegal to text and drive, but then drivers only pay attention

26 to cops. It really frosts me when I see a driver using a cell phone. And apparently this moron
27 was also DRUNK!

28 As the Dakota passed I could tell by the light that I had a smudge on my bifocals, so I
29 took them off to clean them with my handkerchief. I'm really nearsighted and blind as a bat
30 without my glasses. All of the sudden I heard the sound of squealing tires, like a car was
31 losing control. I whipped my glasses on and looked up just in time to see the Dakota swerve
32 to the right.

33 From the angle I could tell that the driver had been turning left and then changed his/her
34 mind. As the Dakota swerved right I could see a bicycle in the headlights. The rider looked
35 surprised and terrified. S/he tried to go to his/her left to avoid the Dakota, but it was too
36 late. The bicycle hit the Dakota and the rider flew off, went over the hood of the Dakota and
37 landed in the street. The Dakota kept going and smashed into a fence.

38 Well, I ran as fast as I could to the intersection to see if the cyclist needed help. It turned
39 out to be Jess Paxton! I couldn't believe it. Jess used to mow my lawn until s/he got too
40 busy with soccer. S/he is a really great kid. I always admired Jess for his/her diligence in
41 pursuing his/her dream. Anyway, there s/he was lying in the road and looking pretty
42 disoriented. s/he was pretty banged up and I could tell s/he was in a lot of pain. S/he didn't
43 have a helmet on, and I know better than to try to move someone who is injured – that
44 should be left to the professionals. I took his/her ear buds out so I could talk to him/her,
45 but other than that I left him/her alone. Boy, seeing Jess like that really shook me up.

46 By then the driver had gotten out of the Dakota and was looking at the cyclist – and
47 talking on his/her cell phone! It didn't sound like s/he called for help, either. I heard
48 him/her call the other person “mom” and s/he said something about “fix this.” Since the
49 driver seemed to have more important things to do, I called emergency services.

50 It sure didn't look to me like that Dakota had its turn signal on, but I may not have been
51 able to tell that from the brake lights. It all happened so fast. I'm sure there was no turn

52 signal on when it went by me, and I only had my glasses off for a few seconds before I heard
53 the noise and looked up. I don't remember whether I heard a horn or not. I mean, I was
54 listening to music, but I wasn't driving so that's okay.

55 By the way, it was exactly 9:23pm when the accident happened. I know, because I
56 looked at the time on my iPhone as I was running to help. I knew the police would want to
57 know that so I made a point of looking.

58 It's really a shame when this kind of thing happens. Obviously it's bad for the poor rider.
59 Jess has had his/her dream of playing soccer and maybe even going to college destroyed. But
60 it's also bad for biking in general. Portland and Boulder were very bike-friendly cities, but
61 Hickory - well, drivers just don't pay attention.

62 Why should I feel bad for Alex? Obviously, nobody wants to be in his/her situation, but
63 if you drink, drive and dial what do you expect to happen? I understand his/her mother is in
64 the state legislature. Maybe having someone so prominent do something so careless and hit a
65 cyclist as a result will bring some attention to the problem so that drivers will be more alert
66 and just PAY ATTENTION!

67 **WITNESS ADDENDUM**

68 I have reviewed this statement, and I have nothing of significance to add at this time. The
69 material facts are true and correct.

70 Signed,

71 Sydney Cosgrove

Devon St. James

1 My name is Devon St. James. I have a Master's Degree in Mechanical Engineering and
2 am a Professor at the University of Utah in the Engineering Department.

3 In addition to my position with the University of Utah, I am the President of St. James
4 and Associates, a firm specializing in providing accident reconstruction and expert witness
5 testimony in cases involving serious injury or fatalities. I charge \$300.00 per hour for my
6 accident reconstructive services and \$500.00 per hour for expert witness testimony. While
7 these rates may be higher than other experts in the industry charge, my clients know that my
8 expertise is worth the additional expense.

9 As President of St. James and Associates, I have been reconstructing crashes and
10 providing expert testimony for the last 5 years. Based on my nationally recognized
11 expertise, I have been asked to reconstruct several high profile crashes throughout the
12 United States. I have provided expert testimony on behalf of the Plaintiff in each of these
13 cases.

14 I know from personal experience what it is like to be hit by a car while riding on a
15 bicycle. Five years ago I was riding one of my Pinarello racing bikes when I was hit by some
16 idiot using a cell phone while he was driving. After that it became clear to me that it is
17 almost always the inattention of the automobile driver that is the cause of these bike and car
18 collisions.

19 I was hired by the Plaintiff Jess Paxton in this matter to perform a crash reconstruction
20 analysis in response to the improperly performed analysis completed by Detective Teri
21 Osgood. In order to prepare my analysis, I reviewed Detective Osgood's Crash
22 Reconstruction Report, photographs, witness statements, and scale diagrams of the accident
23 scene.

24 I also conducted my own investigation of the accident site on August 25, 2010. I started
25 by using my state of the art Vericomm 2000 to take three skids to establish the relevant drag
26 factor. How Detective Osgood could base his analysis on the results of skids taken with the
27 use of a 10 pound drag box is beyond me. Unlike the analysis prepared by detective Osgood,
28 my analysis is based on the use of state of the art equipment and my calculations using a drag
29 factor of .94 are far more accurate. If Detective Osgood would have used a Vericomm
30 2000, s/he would have realized that his/her analysis was flawed.

31 From my review of the crash scene photographs, I was also able to determine that
32 Detective Osgood made a critical error in investigating the physical evidence at the accident
33 site. While antilock brakes such as those on McMasters' Dodge Dakota can make
34 intermittent skid marks as they reach the point of skid and then release, such skid marks
35 have a very distinctive pattern. The skid marks in the photographs taken by Detective
36 Osgood do not match the pattern resulting from use of antilock brakes. Instead the
37 photographs reveal that the intermittent skid marks were actually made when the Dodge
38 Dakota entered the intersection at an excessive rate of speed and the wheels of the vehicle
39 were forced to both rotate and slide at the same time.

40 In addition, Detective Osgood's determination that the turn signal on the Dodge Dakota
41 was in use at the time of the accident is not supported by the physical evidence. The
42 evidence of shock "damage" described by Detective Osgood is at best inconclusive. That the
43 turn signal was not in use at the time of the collision is also indicated by the eyewitness
44 testimony of Sydney Cosgrove.

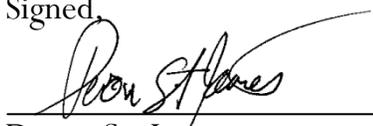
45 Finally, Detective Osgood failed to interview Alex McMasters immediately after the
46 accident. If s/he had, s/he would have learned that McMasters was slurring his/her speech
47 immediately after the accident and that his/her breathe reeked of alcohol. Based on this
48 testimony, a blood test should have been ordered and evidence of McMasters being under

49 the influence of alcohol at the time of the collision would have been preserved. I am
50 confident that alcohol was a contributing factor in this accident.

51 As a result of my investigation and analysis, I completed a Crash Reconstruction Report
52 dated September 15, 2010, which explains my conclusion that Alex McMasters, and not my
53 client Jess Paxton, was the cause of the collision.

54 **WITNESS ADDENDUM**

55 I have reviewed this statement, and I have nothing of significance to add at this time. The
56 material facts are true and correct.

57 Signed, 
58 Devon St. James

DEFENSE WITNESS STATEMENTS

Alex McMasters

1 My name is Alex McMasters. I am 18 years old and am going to be a senior at St.
2 Augustine's Prep. You may have heard of my family. My mom is state senator and my dad
3 owns McMasters' Chef, probably the best restaurant in this town. My family has lived in
4 Hickory for generations. Not to sound conceited, but we're really one of the best known
5 families in this town.

6 Actually, you may even have heard of me. Last spring I tried out for *American Idol*; even
7 made it to Hollywood Week. I'm a great singer and some day I'm going to be a star. I think
8 that's why Jess Paxton is trying to sue me; s/he saw me and heard my family name and saw
9 dollar signs in his/her eyes.

10 I don't know Jess, but I know about Jess. Our town is pretty small and everyone read
11 about Jess and the rest of his/her soccer team getting caught in that cheating scandal last
12 year. Let's face it; Jess is not a very honorable person and the way s/he is going after my
13 family is just more proof of that.

14 On June 23, the night of the accident, I was driving my friend Reilly home. We had
15 gone to the movies that night to see *Knight and Day*, which had just come out that day, and
16 then stopped at our friend Patrick's house to wish him a happy birthday. There were a lot of
17 people at Patrick's because his parents let him have a keg of beer at his birthday party.

18 Patrick's parents have a rule that you can drink at their house as long as you are not
19 driving and you don't take the alcohol out of the house. Pat's parents know that kids are
20 going to drink and they think it's better that they are drinking in a place where there are
21 adults to keep an eye on them.

22 Since I was driving that night, I couldn't have anything to drink. I think Reilly may have
23 had a couple of beers. I remember seeing him/her with a cup in his/her hand standing near

24 the keg of beer. Then Hunter, Patrick's girlfriend, spilled her beer on me. She can be such
25 an idiot when she's been drinking.

26 I knew it was only a matter of time before Hunter picked some stupid fight with Patrick,
27 which was my cue to get out of there. Besides, Reilly was on restriction again, who knows
28 what for; s/he is always in trouble for some reason or another. I think it was because of the
29 underage drinking ticket issue. I mean, did s/he really think s/he could hide something like
30 that from his/her parents?

31 His/her mother let him/her go out with me that night as long as s/he got home by 9:30
32 PM; I know, random time, but that's Reilly's mom for you. Reilly realized that it was after
33 9:00 PM and started freaking out that s/he was going to be late getting home late and have
34 to be on restriction for another week.

35 We were driving home and texting our friend Patrick. Just like I predicted, Patrick's
36 girlfriend Hunter was being her usual nasty self with him and we were trying to convince
37 him to dump her and send her packing. But then, she found out what we said and was
38 sending her nasty grams to us too. So much drama.

39 It was my phone, but Reilly was sending most of the messages for me. I am positive I was
40 only texting myself when we were at stop lights and that was pretty easy to do since my new
41 EnV has a full keyboard. But, I would never text while I am driving. My mom has drilled it
42 into my head how unsafe that is.

43 It was kind of hectic in the car with Reilly worried about being late and Patrick upset
44 with his girlfriend, but I was still paying attention to the road. We get to Summit and Jones
45 and I turned on my signal to turn left and all of the sudden I see this kid on a bicycle. At
46 first, it looked like s/he was stopping so I could turn so I just slowed down to turn and
47 didn't stop, but all of the sudden Jess darts right out into the road without even looking.

48 I go to slam on my brakes but instead of stopping immediately, the car just starts to skid.
49 I honked the horn several times to warn him/her, but s/he was wearing ear buds, so s/he
50 must have been listening to her/his iPod and didn't seem to hear me.

51 I tried to turn the car to get out of Jess' way, but it was too late. His/her bike slammed
52 into my car and s/he went flying. The car was just out of control and slammed into a fence.
53 I hate that crummy old pickup truck. It's always having problems. If only my parents had
54 gotten me a new car like I asked them to, who knows; maybe none of this would have
55 happened.

56 I admit, I should have been wearing my seat belt, but at least my airbags deployed when
57 my car hit that fence. Still, the force of the airbag broke my nose and gave me two black
58 eyes. Luckily, Reilly was wearing his/her seatbelt and s/he didn't slam his/her head into the
59 front window, but s/he broke her/his wrist when s/he jammed it into the dashboard to
60 brace him/herself for the crash.

61 I was hurting, bleeding and scared, but I found my cell phone on the floor under the
62 steering wheel where it had landed during the accident. I got out of the car to find out about
63 that kid on the bike (who I now know was Jess) and call my mom. I probably wouldn't
64 admit this to her, but my mom is the smartest person I know and she always knows the right
65 thing to do in any situation.

66 So, I told her that someone had been hit and that I had crashed the car. I asked her what
67 we needed to do to fix it. She told me to stay put and that she was on her way. I didn't call
68 911 because I was sure that someone else had already made that call.

69 Soon after that, an ambulance came and took me and Reilly and Jess to the hospital. The
70 doctors fixed us up and our parents came and took us home.

71 I know that Jess Paxton was hurt a lot worse than we were and I feel badly about that.
72 But the thing is, this accident was not my fault. I mean, the kid stopped to let me turn and
73 then darted right into the road.

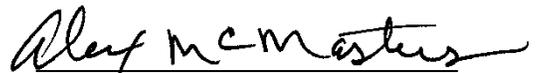
74 I was not texting and driving. I didn't drink and drive. I'm a safe driver and I was being
75 safe that night. Really, Jess was the one who wasn't paying attention.

76 How can you slow down to let people pass and then just ride right into a car? How can
77 you ride your bike and listen to your iPod if you want to keep from getting hurt? If you are
78 really worried about head injuries, shouldn't you be wearing your helmet? I'm really sorry
79 that Jess might not be able to play soccer anymore, but s/he should look in the mirror if
80 s/he wants to know who to blame for that.

81 **WITNESS ADDENDUM**

82 I have reviewed this statement, and I have nothing of significance to add at this time. The
83 material facts are true and correct.

84 Signed,


85 Alex McMasters

Reilly Jackson

1 My name is Reilly Jackson. I ~~just turned 17~~ am 16 years old and am going to be a junior
2 at St. Augustine's Prep. I have lived in Hickory since I was four years old and Alex
3 McMasters has been my best friend since kindergarten.

4 The night of the accident I was just glad to get out of the house. I had been grounded
5 most of the summer because of a little incident with underage drinking. I didn't tell my
6 parents that I had gotten a ticket, but not because I was trying to hide it from them. It was
7 because I wanted to act responsibly and take care of the problem myself. Besides, the night I
8 got the ticket, I wasn't even drinking. I was just holding the beer for one of my friends.

9 I had not gotten into any trouble all summer, so I was able to convince my mom to let
10 me go to a movie with Alex. I was supposed to go home right after the movie, but Alex
11 wanted to stop by Patrick's house to wish him a happy birthday. Since s/he was the one
12 driving the car, I had to go along. Besides, my mom did say to be home by 9:30 and it was
13 only 8:00 when we got to Patrick's.

14 I only had one beer. I learned my lesson about drinking in public when I got my ticket,
15 but I think it's OK to have a beer at a friend's house. I mean, it is someone's private home
16 so it's nobody's business what they do on their own private property, right? Besides,
17 Patrick's parents were there to make sure nothing got out of hand.

18 I know Alex wasn't out to get drunk that night, either, since s/he was kind of the
19 designated driver. I never saw Alex drink a beer and the only time s/he wasn't in my line of
20 sight was when s/he went outside to talk to Patrick about Hunter. But, I know Alex is a
21 responsible person, and I know s/he would never drive drunk.

22 I noticed that it was after 9:00 and I told Alex we needed to head out. At that point,
23 s/he was kinda steamed. S/he hates Patrick's girlfriend, Hunter, and is always trying to get
24 Patrick to cut her loose. I saw Hunter and Alex exchange some words, but I don't know

25 what they said. I'm sure Hunter was being obnoxious. She has this way of getting under
26 Alex's skin.

27 When we get into the car, Alex still seemed angry and then the texts start flying. Patrick
28 wants to know what Alex did to make Hunter angry. Hunter is sending her usual foul
29 messages. Alex is trying to respond to all of this and I am helping. Alex would dictate the
30 messages to me and I would type them and send them to Hunter and Patrick. I was sort of
31 like the car secretary. Alex talks, I type. Alex was not the one sending texts.

32 I was just trying to stay chill in the car. I'm not interested in the All My Children stuff
33 those three always get into. My life is enough of a soap opera without all of that stuff. I can
34 tell Alex is steaming, reading the texts from Patrick and Hunter. I just wanted to get home
35 on time.

36 When we get to Summit and Jones, Alex kind of slows down to get ready to turn onto
37 Jones. I'm fairly certain Alex put on the turn signal. S/he is a good driver and in my
38 experience driving with him/her, s/he always follows the rules of the road. I mean, in the
39 time s/he has been driving s/he has never gotten even one ticket.

40 I don't think either one of us saw Jess on the bike until it was too late. Alex honked the
41 horn to try to let Jess know to get out of the way but for some reason Jess just didn't turn
42 the bike fast enough. Alex slammed on the brakes and tried to turn the car to avoid the bike
43 rider. Alex yelled something about not being able to stop fast enough and the next thing I
44 know we are slamming into a fence.

45 I'm glad I was wearing my seat belt. I think the accident could have been a lot worse if I
46 hadn't. I broke both of my wrists, but they will heal a lot better than if I had broken my head
47 open. I had dropped Alex's cell phone when we got into the accident and Alex was freaking
48 out, yelling at me to find the phone so s/he could call his/her mom and get her take on
49 what we needed to do. Because of my broken wrists, I was having a hard time moving so I

50 just stayed put in the car. I know Alex got out and went to check on Jess to make sure s/he
51 was all right.

52 The next thing I know, these paramedic guys are taping me up and putting me in the
53 back of an ambulance. Once my wrists were in casts my parents came and took me home. I
54 saw Jess and s/he looked like s/he had been in a war zone. But it's her/his own fault. S/he
55 had to see us slow down to make the turn and s/he just kept going. S/he didn't even try to
56 avoid the accident. It's a bummer that s/he got hurt, but sometimes an accident is just an
57 accident.

58 I don't think it's right that s/he's trying to pin this on Alex. And that's what s/he's
59 doing – going after an innocent person. I mean, who should believe a thing s/he says after
60 the cheating scandal s/he got caught up in. Cheaters are liars and once a liar, always a liar.
61 That's what I say.

62 **WITNESS ADDENDUM**

63 I have reviewed this statement, and I have nothing of significance to add at this time. The
64 material facts are true and correct.

65 Signed,

66 
Reilly Jackson

Teri Osgood

1 My name is Teri Osgood. I am a Detective with the Idaho State Police. I have been a
2 police officer for 20 years since receiving my Bachelor's Degree in Criminal Justice.

3 I was trained in accident reconstruction through law enforcement classes taught at the
4 Idaho Peace Officer's Standards and Training Academy (POST). The classes included Basic
5 Crash Investigation, Advanced Crash Investigation, Crash Reconstruction Training and
6 yearly refreshers.

7 I have been a State Police Accident Reconstructionist for the last 10 years and am
8 currently responsible for teaching the Basic and Advanced Crash Investigation courses at
9 POST.

10 During my time as a State Police Accident Reconstructionist, I have responded to and
11 investigated over 1200 crashes involving motor vehicles. I have reconstructed
12 approximately 80 motor vehicle crashes involving either serious injury or fatalities. I have
13 also testified in several cases resulting from motor vehicle crashes that I have investigated.

14 I received a call on June 23, 2010 at approximately 21:30 hours to report to the scene of
15 an accident at the intersection of Summit Street and Jones Avenue in Hickory, Idaho.
16 Officers on the scene had reported a collision between a bicycle and an automobile and I was
17 dispatched to conduct an accident investigation.

18 I arrived at the scene of the accident at 21:45 hours and was informed by the first officer
19 on the scene that the collision had involved a Black 2003 Dodge Dakota with a driver and
20 passenger and an 18 speed road cycle. The driver of the Dodge Dakota was identified as
21 Alex McMasters. I was immediately concerned because I know Alex's family quite well. The
22 bicycle rider was identified as Jess Paxton. I was told that both Alex and Jess Paxton were
23 receiving treatment from the paramedics who had arrived shortly before.

24 At that time, I noted the Dodge Dakota on the east side of Summit Street approximately
25 74.2 feet north of the Point of Impact. The front of the Dodge Dakota had impacted a fence
26 post approximately 61.9 feet from the shoulder of Summit Street. I noted that the bicycle
27 had sustained significant damage as a result of the collision. I did not observe any reflectors
28 on the bicycle.

29 At that point, I received a phone call on my personal cell phone. I did not recognize the
30 number but when I answered, I immediately recognized the voice of Senator McMasters.
31 After identifying herself, Senator McMasters indicated she was calling to obtain an update on
32 the status of her child. I know Senator McMasters very well. She serves as Chairperson of
33 the Senate subcommittee responsible for oversight of the State Police Budget. I have had the
34 opportunity to work with her on several funding requests during her several terms as a State
35 Senator. I know Senator McMasters' husband, George, as well. George owns a restaurant
36 called McMasters Chef, which sponsors my son's softball team. We often take the team to
37 McMasters Chef after games and are always treated to a great meal.

38 I told Senator McMasters that I had just arrived on the scene but would immediately
39 determine Alex's status. She stated that she was glad that I would be the one completing the
40 reconstruction of the accident because she knew she could trust me and that I would do a
41 thorough job, which I always do.

42 After confirming that the injuries to Alex and Jess Paxton were not life threatening, I
43 began my investigation. I saw that Alex was fine and then talked to Jess Paxton who
44 admitted to me that s/he drank a beer that evening. I did not charge him/her with underage
45 drinking. Paxton did not seem drunk or smell of alcohol. The kid was really hurting already
46 and really seemed out of it. I didn't see any need to penalize someone who had been honest
47 with me. Of course, if I had known that s/he had also stolen a bicycle, which s/he did not
48 tell me, things might have been different.

49 I then interviewed a Sidney Cosgrove who was a witness to the accident. Cosgrove
50 advised me that s/he had not moved the bicycle rider after the accident. Cosgrove indicated
51 that s/he believed that the reflectors on the bike had been smashed during the accident
52 because s/he saw plastic pieces of what appeared to be reflectors near where the bike had
53 landed. I found no such evidence and the bike itself did not have any reflector brackets. S/he
54 also stated that s/he did not believe the car had its turn signal on at the time of the collision
55 although s/he admitted that s/he had taken off her/his glasses immediately prior to the
56 collision.

57 I then conducted an evaluation of the physical evidence at the scene by conducting skid
58 tests, examining the damage to the Dodge Dakota including collecting the left turn signal
59 bulb from the vehicle and examining the bicycle for evidence of compliance with Idaho
60 Code lighting requirement. As a result of my investigation, I completed a Crash
61 Reconstruction Report dated July 5, 2010, which explains my conclusion that the bicyclist
62 Jess Paxton was at fault for the collision.

63 **WITNESS ADDENDUM**

64 I have reviewed this statement, and I have nothing of significance to add at this time. The
65 material facts are true and correct.

66 Signed,

67 Teri Osgood

Exhibits

The subsequent pages of this section include the following exhibits:

Exhibit 1: Idaho Vehicle Collision Report

Exhibit 2: Map of the Accident Scene

Exhibit 3: Devon St. James' Accident Reconstruction Report

Exhibit 4: Teri Osgood's Accident Reconstruction Report

Exhibit 5: Turn Signal Light Bulb

Exhibit 6: VTI Report on Texting and Driving

Exhibit 7: LG EnV Cellular Phone Data Sheet

Exhibit 8: Newspaper Article on City High Cheating Scandal

Exhibit 9: Text Message Transcript and Cover Letter

Exhibit 10: Accident Scene Photos

EXHIBIT 1: IDAHO VEHICLE COLLISION REPORT

Idaho Vehicle Collision Report										Agency Code	Officer #	Report District	Case No.	Page 1																																														
ITD-90 5-95M 27-010500-0 Revised 11/29/96										SP00	1831	7	MOCK TRIAL																																															
Date of Collision	Day of Collision	Time	Police Dispatched	Police Arrived	EMS Dispatched	EMS Arrived	Location	City or Town																																																				
6/23/2010	Wednesday	21:23	21:25	21:32	21:25	21:33	Miles <input type="checkbox"/> N <input type="checkbox"/> E <input checked="" type="checkbox"/> IN <input type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/> OF	Hickory																																																				
Intersection of 2 streets	Complete Box #	Name of Street	<input type="checkbox"/> On Private Property		# of Lanes	Posted Speed	County	Interchange #																																																				
1, 2	1	ON Summit St			2	35	Lewis																																																					
Intersection of Street and Parking Lot / Driveway / Alley	1, 2, 3	In the Intersection with:		Posted Speed	R. R. Crossing #	Latitude (GPS)																																																						
1, 2, 3	2	Jones Ave		25																																																								
Non-Intersection	1, 3	Outside an Intersection		Name of Cross Street or # of Ref. Mile Post Marker		Collision Loc Mile Point		Longitude (GPS)																																																				
		<input type="checkbox"/> Miles <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W <input type="checkbox"/> Feet <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> OF																																																										
UNIT 1 <input checked="" type="checkbox"/> Vehicle <input type="checkbox"/> Pedestrian <input type="checkbox"/> Pedalcyclist					Vehicle Owner Last First M.I. Unit Type																																																							
Driver Last First M.I. <input type="checkbox"/> Same as Driver					McMasters George A 07																																																							
<input type="checkbox"/> Hit & Run McMasters Alex					Address 1839 Custer Street Hickory, ID 59022																																																							
Street Address Home Phone					Vehicle Year Make (Dodge-Chev.) Model (Dart-Nova) Style (2 Dr.)																																																							
1839 Custer Street					2003 Dodge Dakota Pickup																																																							
City State Zip Code Work Phone					Vehicle Color License Plate No. State																																																							
Hickory ID 59022					Black 12B4000 ID																																																							
Driver's License No. State Idaho Code # / Violation <input type="checkbox"/> Cited					Vehicle Identification No. Est. Cost of Damage																																																							
SI884642L ID Not Cited					LIT853BI4H67N6865 2000																																																							
Sex Date of Birth Prot Dev. Injury Ejection Trapped Transported					Insurance Carrier Name Policy Number																																																							
-U 4/25/1992 00 B 01 01 01					Allstate 45-31-46N-107-25-45W																																																							
Passenger Names and Addresses (Unit 1 only, additional passengers on page 3)																																																												
Reilly Jackson 1876 Reno Ave Hickory ID 59022 Seating Sex Date of Birth Prot Dev. Injury Ejection Trapped Transported																																																												
UNIT 2 <input type="checkbox"/> Vehicle <input type="checkbox"/> Pedestrian <input checked="" type="checkbox"/> Pedalcyclist					Vehicle Owner Last First M.I. Unit Type																																																							
Driver Last First M.I. <input type="checkbox"/> Same as Driver					NA NA NA 02																																																							
<input type="checkbox"/> Hit & Run Paxton Jess					Address NA, NA, NA																																																							
Street Address Home Phone					Vehicle Year Make (Dodge-Chev.) Model (Dart-Nova) Style (2 Dr.)																																																							
625 Benteen Street					NA NA NA Non-Vehicle																																																							
City State Zip Code Work Phone					Vehicle Color License Plate No. State																																																							
Hickory ID 59022					NA NA NA																																																							
Driver's License No. State Idaho Code # / Violation <input type="checkbox"/> Cited					Vehicle Identification No. Est. Cost of Damage																																																							
UNLICENSED N/A Not Cited					NA 200																																																							
Sex Date of Birth Prot Dev. Injury Ejection Trapped Transported					Insurance Carrier Name Policy Number																																																							
-U 6/2/1992 00 A T 01 01					NA NA																																																							
Passenger Names and Addresses (Unit 2 only, additional passengers on page 3)																																																												
Injured Transported To: Hickory Medical Center By: Hickory Ambulance																																																												
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Locality		Officer # 1831	Case No. MOCK TRIAL	Page 2
07	1 Business/Commercial 2 Industrial/Manufacturing	3 School/Playground 4 Recreational Area	5 Agricultural 6 Undeveloped	7 Residential
02	Light Conditions			
	1 Day 2 Dawn/Dusk	3 Dark - Street Lights On 4 Dark - Street Lights Off	5 Dark - No Street Lights	
01	Weather Conditions - Two Selections Possible			
	1 Clear 2 Cloudy	3 Rain 4 Snow	5 Sleet/Hail 6 Fog	7 Blowing Dust/Sand 8 Severe Cross Winds
01	Road Surface Conditions			
	1 Dry 2 Wet	3 Slush 4 Ice	5 Snow 6 Mud	7 Water 8 Other
00	Other Road Conditions			
	0 None 1 Ruts/Bumps/Holes 2 Slick Asphalt (Bleeding) 3 Washboard	4 High/Low Shoulder 5 Loose Gravel/Seal Coat 6 Under Construction 7 Lane Closed	8 Flooded A Poor Pavement Markings	9 Other
Road Type		Road Surface Type		
1 2-Way & Raised/Depressed Divider 2 2-Way & 2-Way Left Turn Lane Divider 3 One-Way 4 2-Way & No Divider A 2-Way & 2 Double Yellow Painted Divider		1 Concrete 2 Paved (Asphalt/Brick) 3 Gravel/Stone 4 Dirt		
Roadway Geometrics		Traffic Control		
1 Straight 1 Upgrade/Downgrade		2 Curve 3 Hillcrest 4 Level		
0 None 1 Stop Sign 2 Yield 3 Traffic Signal		4 Flashing Beacon 5 Traffic Signal-Ped. Only 6 R. R. Gates/Signal 7 R. R. Flashing Beacon		
SPECIFY 1 Functioning 2 Not Functioning 3 Removed		8 Officer/Flagger A School Bus Signal B No-Pass Barrier Line C Construction Signing		
UNIT # 1 CONTRIBUTING CIRCUMSTANCES - 3 Possible UNIT # 2				
00	0 None 2 Speed Too Fast 3 Too Slow for Traffic 4 Improper Overtaking	5 Improper Lane Change 6 Following Too Close 7 Drove Left of Center 8 Off Roadway / Over Corrected 10 Improper Backing	11 Improper Turn 12 Failed to Signal 13 Failed to Yield 14 Passed Stop Sign 15 Disregarded Signal 16 Tire Defect	17 Wheel Defect 18 Light Defect 19 Other Vehicle Defect 21 Alcohol Impaired 24 Drug Impaired
00	23 Vision Obstruction 24 Asleep/Drowsy 25 Sick 26 Fatigued 27 Physical Impairment	28 Improperly Parked 31 Previous Accident 32 Distraction in/on Vehicle (List) 35 Improper use of Turn Lane 99 Other		
00	VISION OBSTRUCTION			
00	0 None 1 Curve in Road 2 Hill Crest 3 Roadway Slope/Snowbank 4 Trees/Crop/Brush 5 Reflection from Surface 6 Bright Sunlight	7 Bright Headlights 8 Weather Conditions 10 Rain/Snow/Ice on Windows 11 Cracked/Dirty Windows	12 Splash/Spray from Other Vehicle 18 Vehicle Stopped on Roadway 13 Moving Vehicle 14 Parked Vehicle	15 Traffic Sign 16 Billboard/Fence 17 Building 99 Other
11	POINT OF IMPACT			
11	Auto / Motorcycle / Tractor with Semi Trailer	Trailing Unit #1	Trailing Unit #2	
	13 Top & Windows 14 Undercarriage	33 Top 34 Undercarriage	53 Top 64 Undercarriage	
03	EXTENT OF DEFORMITY			
	0 None 1 Vary Minor 2 Minor 3 Minor/Moderate 4 Moderate 5 Moderate/Severe 6 Severe 7 Very Severe			
Towed Due to Damage <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Towed By: Calhoun Towing	Towed By: Not Towed	Towed Due to Damage <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Driver of UNIT # 1		ALCOHOL / DRUG INVOLVEMENT		Driver of UNIT # 2
1	1 Neither Alcohol or Drugs Detected 2 Yes - Alcohol 3 Yes - Drugs 4 Yes - Both			
01	Alcohol / Drug Test			
01	1 None Given 2 Test Refused 3 Blood Test 4 Urine Test 5 Breath Test 6 Field Test			
BAC Test Results: / Drug Used (if known):		Drug Test Results: NA		BAC Test Results: / Drug Used (if known): / Drug Test Results:
UNIT # 1 COMMERCIAL VEHICLE UNIT # 2				
Refer to Instruction Sheet before completing				
Cargo Body				
1 Bus 2 Van/Enclosed Box 3 Cargo Tank 4 Flatbed 5 Dump 6 Concrete Mixer 7 Auto Transporter 8 Garbage/Refuse 9 Other 10 Pickup Bed				
# Axles	GVWR-Power	GVWR-All Trailers	ICC # For Load	DOT # For Load
Hazardous Material Placard: <input type="checkbox"/> Yes <input type="checkbox"/> No		Spilled: <input type="checkbox"/> Yes <input type="checkbox"/> No		Haz-Mat #
Carrier Name & ICC# or DOT# for Load obtained from...				
1 Shipping Papers 2 Vehicle Side 3 Driver 4 Log Book 9 Other				
(If Carrier different from Vehicle Owner)			(If Carrier different from Vehicle Owner)	
Carrier Name			Carrier Name	
Address			Address	
City State Zip			City State Zip	

Event	Unit # of Units Involved	Event Location	EVENTS - List events for ALL units in the order they occurred			Case No. MOCK TRIAL	Page 3
15	1 2	01	1 Overtake	14 Pedestrian	24 Bridge Rail	41 Culvert	Sideswiped Same 52 Sideswiped Opposite 53 Angle 58
10	1	01	2 Separation of Units	15 Pedalcycle	25 Overpass	42 Curb	
54	1	04	3 Cargo Loss/Shift	16 Railroad Train	26 Guardrail Face	43 Ditch	Turning Events Head-On 54 Angle 59 Rear-End 58 Same Dir 62
			4 Jack-Knifed	17 Domestic Animal	27 Guardrail End	44 Embankment	
			5 Ran off Road	18 Wild Animal	28 Median Barrier	45 Fence	50 Head-On
			6 Down Hill Runaway	19 Other Object	30 Highway Traffic	46 Mailbox	51 Rear-End
			7 Fire/Explosion	20 Parked Vehicle	31 Overhead Sign support	47 Tree	52 Beaked Into
			8 Gas/Inhalation	21 Impact Attenuator	32 Street Light Support	48 Building Wall	53 Parked Veh.
			9 Other Noncollision	22 Bridge/Pier/Abutment	33 Utility Pole	49 Other Fixed Object	54 Other
			10 Loss of Control	23 Bridge Parapet End	39 Other Pole		
			11 Fell/Pushed/Jumped		40 Delineator Post		
			12 Non-Collision Injury				
			13 Immersion				
			14 Came Back on Road				
			15 Drove I/R of Center				

UNIT # 1 **01** ← FIRST EVENT RELATIONSHIP TO JUNCTION → UNIT # 2 **01**

0 Nonjunction
1 In Intersection
2 Intersection Related
3 At Driveway/Alley
4 Driveway/Alley Related
5 On Ramp
6 Ramp Related
7 At Railroad Crossing
8 Railroad Crossing Related
9 Other

FIRST Harmful Event **15**
MOST Harmful Event **15**
Driver / Ped Action **04**

GENERAL DIRECTION OF TRAVEL (If turning, select direction before turning)

General Direction of Street	Unit Direction	General Direction of Street	Unit Direction
<input checked="" type="checkbox"/> South / North	<input checked="" type="checkbox"/> North <input type="checkbox"/> South	<input checked="" type="checkbox"/> South / North	<input type="checkbox"/> North <input checked="" type="checkbox"/> South
<input type="checkbox"/> West / East	<input type="checkbox"/> East <input type="checkbox"/> West	<input type="checkbox"/> West / East	<input type="checkbox"/> East <input type="checkbox"/> West

On Street **Summit St** On Street **Summit St**

FIRST Harmful Event **15**
MOST Harmful Event **15**
Driver / Ped Action **99**

Sketch the scene

Driver Actions

- Going Straight
- Turning Right
- Right Turn on Red
- Turning Left
- Left Turn on Red
- U-Turn
- Merging
- Changing Lanes
- Passing
- Negotiating Curve
- Stopped in Traffic
- Slowing in Traffic
- Starting in Traffic
- Parking
- Entering Drivwy./Alley
- Leaving Drivwy./Alley
- Backing
- Avoiding Obstacle
- Avoiding Veh./Ped.
- Pursuing Vehicle
- Fleeing Pursuit
- Racing
- Parked Vehicle
- Driverless Vehicle in Motion

Pedestrian/Pedalcycle Actions

- Crossing at Painted Intersection
- Crossing at Unpainted Intersection
- Crossing at Non-Intersection X-walk
- Crossing Not at Intersection
- Walk/Ride with Traffic in Bike Lane
- Walk/Ride with Traffic No Bike Lane
- Walk/Ride Facing Traffic in Bike Lane
- Walk/Ride Facing Traffic No Bike Lane
- Standing on Roadway
- Playing on Roadway
- Working on Roadway
- Enter/Leave School Bus
- Not on Roadway
- Other

Property Damage	(Name of Object Struck - Owner Name and Address)	Estimated Damage
Fence * C. Gall *	1840 Jones Ave. Hickory Idaho	\$ 150

Narrative / Additional Information / Additional Passengers (indicate unit # and all information for additional passengers)

NOTE: See addendum page for crash narrative.

WITNESSES Name Address Home Phone Work Phone

Sydney Cosgrove 824 Calhoun Drive, Hickory Idaho

Investigating Officer's Name and # *Det. Teri Osmond* 10/25/10 Photos Y N Approved By *[Signature]* Date *6-27-10*

Send ORIGINAL to: Office of Highway Safety, P. O. Box 7129, Boise, Idaho 83707-1129

EImpact 3.8

Narrative / Additional Information / Additional Passengers:

001 On June 23, 2010, at approximately 9:23 PM, Alex McMasters (Driver 1) was driving his/her 2003
002 Black Dodge Dakota (Unit 1), northbound on Summit Street. At the same time, Jess Paxton (Driver
003 2), was riding his/her bicycle (Unit 2), southbound on Summit Street. As McMasters vehicle
004 reached the intersection of Summit Street and Jones Ave., she/he attempted to turn west onto
005 Jones Ave. At approximately the same time, Paxton was entering the intersection on his/her
006 bicycle, still traveling southbound on Summit Street. Paxton's bicycle collided with the left
007 front fender of McMasters' Dakota. McMasters' Dakota continued in a northeast direction, running
008 off the road and colliding with a fence, and coming to an uncontrolled rest, facing northeast.
009 Paxton was totally ejected from his/her bicycle and landed in the roadway southeast of the point
010 of collision.

Additional Medical Care Providers:

Property Damage Information

EXHIBIT 2: MAP OF ACCIDENT SCENE

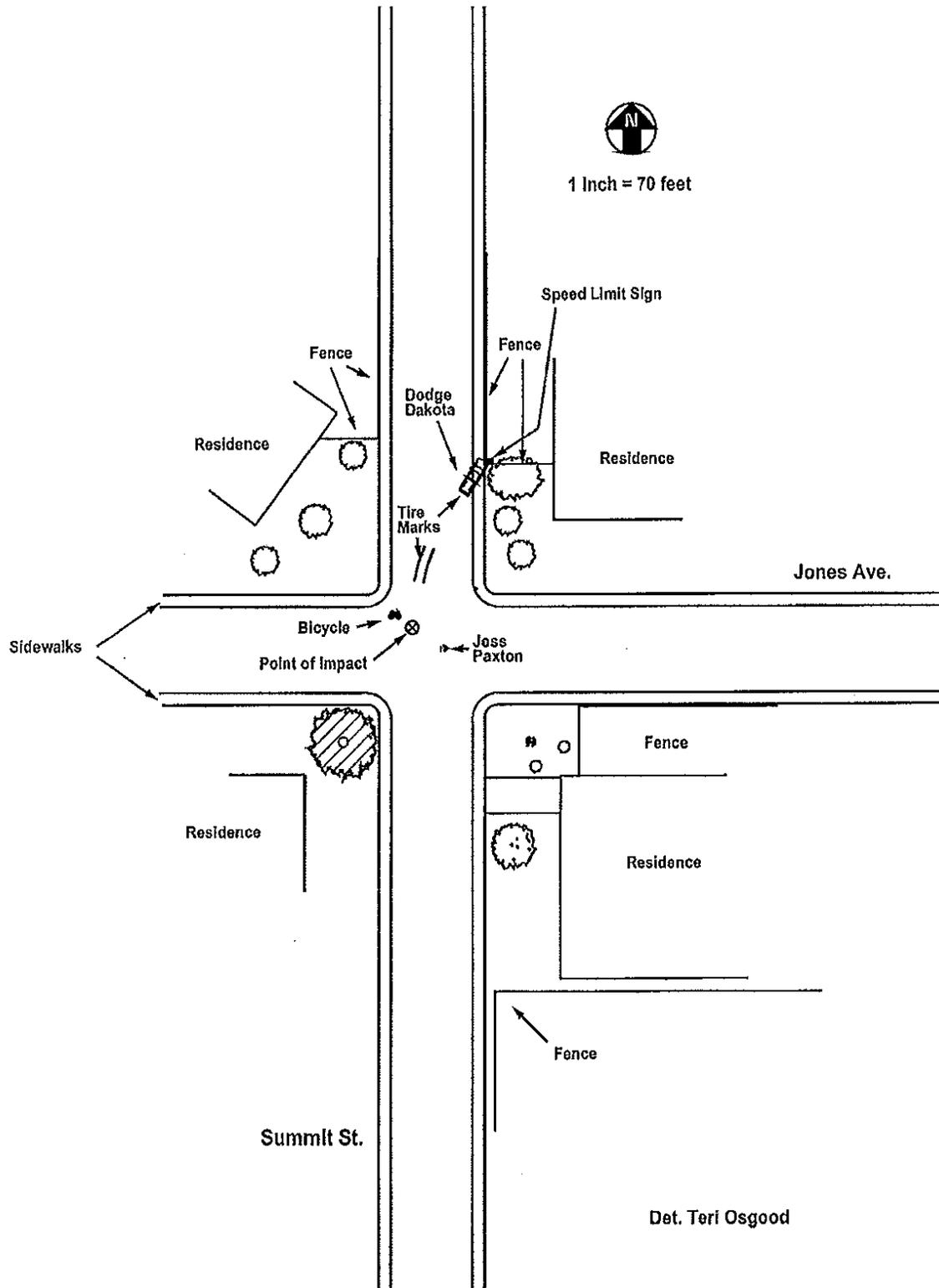


EXHIBIT 3 ST. JAMES' ACCIDENT RECONSTRUCTION REPORT

REPORT INFORMATION

Date of Report: September 15, 2010

Location of Crash: Summit Street and Jones Avenue; Hickory, Idaho

Date of Crash: June 23, 2010

Time of Crash: 9:23 PM

VEHICLES, OCCUPANTS, AND WITNESSES

Unit 1: Black 2003 Dodge Dakota

Driver: Alex McMasters, 18 YOA, sustained a ~~serious~~ **non-life-threatening** injury

Passenger: Reilly Jackson, ~~17 YOA~~ **16 YOA**, sustained a ~~serious~~ **non-life-threatening** injury

Unit 2: 18 Speed, Street Bicycle

Driver: Jess Paxton, 18 YOA, sustained a ~~serious~~ **life-threatening** injury

Witnesses: Sydney Cosgrove, 55 YOA

INFORMATION ANALYSIS IS BASED ON

- Officer Reports
- Photographs
- Statements
- Scale Diagram
- Measurements
- Officer Synopsis

SKID TESTS

On August 25, 2010, I took three skid tests using my Vericom VC2000, in the intersection of Summit Street and Jones Avenue. I used the average drag factor of .94, for my calculations, based on the following results.

- .93
- .96
- .94

OTHER PHYSICAL EVIDENCE

On September 3, 2010, I examined the photographs taken, by Detective Osgood, which showed the bulb from McMasters' left front turn signal. Based on my training and experience I don't believe the shock impact present on this bulb conclusively shows the turn signal was activated at the time of impact. I could see a slight deformity of the filament inside the bulb. The bulb is still operable indicating a very slow speed impact, for example bumping into a garage door or curb when the turn signal was activated. I believe the shock impact present in this bulb could have happened at anytime in the past, but not during this crash where we have a bike traveling 15 mph colliding with a vehicle going 31 mph. In my

opinion, if the turn signal would have been activated the filament would have shown a lot more deformity.

ROADWAY INFORMATION

- The intersection of Summit Street and Jones Avenue is an uncontrolled intersection.
- The road is constructed of asphalt.
- Neither Summit Street nor Jones Avenue has any painted lane marking.
- Sidewalks shoulder both roads. Beyond the sidewalks are private residences.
- The speed limit on Summit Street is 35 MPH.
- The speed limit on Jones Avenue is 25 MPH.

ROADWAY AND VEHICLE EVIDENCE

- The skid marks that Detective Osgood indicated were caused by McMasters' Dodge antilock braking system, allowing the rear tires to intermittently lock up because of very little weight on the rear axle are actually "YAW" tire marks made from McMasters' vehicle when s/he turned toward the center of the intersection and over corrected. What Detective Osgood indicates is intermittent tire marks are actually striations made from McMasters' tires rotating and sliding at the same time.
- There is impact damage to the corner post of a fence located on the eastside of Summit Street, north of Jones Avenue.
- There is a gouge in the roadway, near the beginning of McMasters' skid marks, made by Paxton's bicycle rim, slamming into the ground, at the point of impact with McMasters' vehicle.
- There is a blood spot on the roadway, located southeast of the point of impact where Paxton's head hit the asphalt as s/he landed on the ground after impact.
- Paxton's bicycle has severe frontend damage where it struck the left front corner of McMasters' vehicle.
- McMasters' vehicle has impact damage to the left front corner where it was struck by Paxton's bicycle. It also has damage to the front right corner bumper where it struck the fence post.

SPEED CALCULATIONS

Unit 1

Based on Detective Osgood's measurements and his/her scale drawing, I measured a 15 foot cord and a 5" middle ordinate from McMasters' Yaw Tire Marks. I converted the 5" middle ordinate to .41' middle ordinate so I could insert it into the formula shown below. Using the 15' cord and .41' middle ordinate, I calculated a radius of 68.8. I then used the Yaw tire mark's radius and average drag factor of .94, and applied them to the critical speed formula below to calculate McMasters' speed right after colliding with the bicycle.

Chord: 15 feet

Middle Ordinate: 5 inches or .41'

Radius: 68.8

$$R = \frac{C^2}{8 \times M} + \frac{M}{2}$$
$$R = \frac{15.0000^2}{8 \times 0.4100} + \frac{0.4100}{2}$$
$$R = \frac{225.0000}{3.2800} + \frac{0.4100}{2}$$
$$R = 68.5975 + 0.2050$$
$$R = 68.8025$$

AR = (R ± Cntr of Mass Adjustment)
AR = 68.8025 + 0.0000
AR = 68.8025

Radius Formula

Radius: 68.8

Drag Factor: .94

Post Impact Speed: 31 MPH

$$S = 3.86 \times \sqrt{R \times (\mu \pm e)}$$
$$S = 3.86 \times \sqrt{68.8000 \times (0.9400 - 0.0000)}$$
$$S = 3.86 \times \sqrt{68.8000 \times 0.9400}$$
$$S = 3.86 \times \sqrt{64.6720}$$
$$S = 3.86 \times 8.0418$$
$$S = 31.0413$$

Critical Speed Formula

Unit 2

I calculated the Unit 2 (Paxton's bicycle) speed at impact by using the Vault formula shown below. I used measurements taken by Detective Osgood, which included: the distance Paxton flew after hitting McMasters' vehicle; the height of Paxton's center mass (chest area) when s/he was riding the bicycle; and the departure angle the bicycle rider left the bicycle, at the point of impact. Through my training and experience, I know to use a 45 degree angle when the exact angle is not known.

I converted the bicycle's speed from mile per hour (MPH) to feet per second (fps), see formula listed below. I was then able to place the bicycle, on a scale drawing, at the location it would have been prior to the crash, in relationship to time-in-seconds. This allowed me to determine which Unit reached the intersection first.

Distance: 18'
Height: 3'
Departure angle: 45 degrees
Impact Speed: 15.16 mph

$S = \frac{3.86 \times D}{\sqrt{D \pm h}}$	$S = \frac{3.86 \times 18.0000}{\sqrt{18.0000 + 3.0000}}$
$S = \frac{69.4800}{\sqrt{21.0000}}$	$S = \frac{69.4800}{4.5825}$
$S = 15.1620$	

Vault Formula

Vehicle: 31 MPH = 45.5 fps

$V = 1.466.. \times S$
$V = 1.466.. \times 31.0400$
$V = 45.5253$

MPH to fps Conversion Formula

Bicycle: 15.2 MPH = 22.2 fps

$V = 1.466.. \times S$
$V = 1.466.. \times 15.2000$
$V = 22.2933$

MPH to fps Conversion Formula

STATEMENTS

- Paxton stated s/he had consumed alcohol prior to the crash.
- Paxton stated s/he had ear buds in his/her ears, but was not listening to music. S/he stated they were in his/her ears so s/he didn't lose them on the ride home.
- Paxton stated McMasters didn't have his/her headlights activated.
- Paxton stated s/he wasn't wearing a helmet.
- Paxton stated McMasters' breath reeked of alcohol and s/he was slurring his/her words while talking on his/her cellular phone.
- Paxton stated s/he slowed down on his/her bicycle prior to impact.
- Paxton stated s/he did not see a turn signal activated prior to the collision.
- McMasters stated s/he was driving the vehicle that collided with Paxton
- McMasters stated s/he didn't consume any alcohol prior to the crash, but did have beer spilled on his/her person.

- McMasters stated s/he and his/her passenger Reilly Jackson were both texting other persons, on McMasters' cellular phone, prior to the crash.
- McMasters observed Paxton slow down prior to the crash.
- McMasters stated s/he attempted to avoid the collision by turning to the right and not making the left hand turn. S/he also slammed on his/her brakes, but s/he was unable to avoid the collision. S/he stated when s/he slammed on the brakes his/her vehicle started to slide.
- McMasters stated s/he lost control after the collision and struck a fence.
- McMasters stated s/he was not wearing a seatbelt, but his/her passenger Reilly Jackson was wearing his seatbelt.
- McMasters stated s/he activated her/his turn signal prior to attempting the left turn and prior to seeing Paxton.
- Jackson stated McMasters slowed prior to attempting the left turn onto Jones Avenue.
- Jackson stated s/he did not see Paxton until just prior to the collision.
- Jackson stated s/he was holding McMasters cellular phone at the time of the collision.
- Cosgrove stated s/he observed a "bluish or greenish Light" coming from McMasters' Dakota as it passed him/her on Summit Street. Cosgrove believes the light s/he observed was being transmitted from an active cellular phone.
- Cosgrove stated s/he was a block away from the intersection of Summit Street and Jones Avenue, which is approximately 300 feet.
- Cosgrove stated the Dakota had its headlights activated.
- Cosgrove stated his/her cellular phone indicated the time of the collision was 9:23 PM.
- Cosgrove stated Paxton had ear buds in his/her ears.
- Cosgrove stated s/he did not see the Dakota's turn signals activate during the crash sequence, but was not sure if s/he would have been able to separate them from the brake lights.

VEHICLE DYNAMICS

On June 23, 2010, at approximately 2123 hours, Alex McMasters was driving his/her Dodge Dakota, northbound on Summit Street. At the same time McMasters' vehicle reached Jones Avenue, Jess Paxton was riding his/her 18-Speed, Street bicycle southbound on Summit Street and also reached Jones Avenue. McMasters' attempted to make a left turn onto Jones Avenue as Jess Paxton rode through the intersection. When McMasters and Paxton realized that they were going to collide, each attempted to avoid the collision. Paxton attempted to avoid McMasters' vehicle by turning left toward the center of the intersection. Paxton's bicycle struck the left front corner of McMasters' Dodge. Paxton was thrown from his/her bicycle landing approximately 18 feet from the point of impact. McMasters lost control of his/her vehicle and it went into a critical speed skid creating a "Yaw" tire mark. McMasters continued across Summit Street, until the front of his/her vehicle hit the corner of a fence, which is secured by a cement post. McMasters' vehicle came to an uncontrolled rest approximately 82 feet from the point of impact; on the east side of Summit Street, north of Jones Avenue. Paxton's bicycle came to an uncontrolled rest approximately 10.6 feet from the point of impact.

Speed calculations based on McMasters' Critical Speed Skid Yaw Tire Marks indicated his/her speed just after impact with Paxton was approximately 31 mph.

Speed calculations based on Paxton vault from his/her bicycle was 15 mph.

Using time and distance calculations based from both units speed indicated that McMasters' vehicle reached the apex of the intersection at approximately the same time as Paxton's bicycle.

CAUSATIONAL FACTORS

- McMasters was driving too fast to safely turn the corner from Summit Street to Jones Avenue at 31 MPH.
- McMasters failed to activate his/her turn signal indicating his/her intent to make a left turn in violation of Idaho Code 49-808. The light bulb evidence is inconclusive and does not prove McMasters' turn signal was activated at the time of the collision. No evidence exists that indicates the small amount of filament shock shown in the light bulb photograph occurred during this crash. Neither Paxton nor Cosgrove observed McMasters' turn signal activated.
- McMasters failed to yield to through traffic in an uncontrolled intersection in violation of Idaho Code ~~49-640~~ 49-641. Both McMasters and Paxton reached the intersection at approximately the same time. Paxton gave no signal indicating his/her intent to complete any traffic movement other than ride straight through the intersection.
- McMasters' speed at the intersection increased the potential of a serious injury to Paxton.
- McMasters smelled of alcohol and s/he slurred his/her words indicating s/he consumed alcohol prior to the collision in violation of Idaho Codes 23-604 and 18-804.
- McMasters was driving in an inattentive manner in violation of Idaho Code 49-1401(3) while s/he was driving and texting at the same time. McMasters stated s/he was driving and texting and Cosgrove stated s/he observed a light coming from the vehicle just prior to the crash indicating a cellular phone was in use.
- McMasters failed to wear a seatbelt in violation of Idaho Code 49-673(4), which increased the seriousness of the injury s/he received during the crash.
- Paxton's bicycle didn't have any lights or reflectors, but it should be noted that it was dusk not dark at the time of the collision.

EXHIBIT 4: OSGOOD'S ACCIDENT RECONSTRUCTION REPORT

REPORT INFORMATION

Investigating Officer: Detective Teri Osgood
Investigating Department: Idaho State Police
Date of Report: July 5, 2010
Location of Crash: Summit St. and Jones Avenue Hickory, Idaho
Date of Crash: June 23, 2010
Time of Crash: 09:23 PM

OCCUPANTS, VEHICLES AND WITNESSES

Unit 1 Driver:

Alex McMasters (~~Serious~~ Non-Serious Injury) ~~16 YOA~~ 18 YOA

Unit 1 Passengers:

Reilly Jackson (~~Serious~~ Non-Serious Injury) ~~17 YOA~~ 16 YOA

Unit 1:

Black 2003 Dodge Dakota

Unit 2 Driver:

Jess Paxton (Serious Injury) ~~17 YOA~~ 18 YOA

Unit 2:

18 Speed, Street bicycle

Witnesses:

Sydney Cosgrove 55 YOA

INFORMATION ANALYSIS IS BASED ON

- Officer Reports
- Photographs
- Statements
- Scale Diagram
- Measurements
- Officer Synopsis

SKID TESTS

On June 23, 2010, I took three skid tests using my 10 pound drag box in the intersection of Summit Drive and Jones Avenue. I used the average drag factor of .83, for my calculations, based from the following results.

- .81
- .84
- .85

OTHER PHYSICAL EVIDENCE

On June 23, 2010, I removed the left turn signal bulb from McMasters' Dodge Dakota. I examined and photographed the bulb to see if the filament showed Impact Shock. Impact Shock is movement of the filament inside the bulb. The filament will bend and/or break in the direction of force, when the light is activated, at the time of impact. The element clearly showed shock damage, which indicates that McMasters had his/her left turn signal on at the time of the crash.

ROADWAY INFORMATION

- The intersection of Summit Street and Jones Avenue is an uncontrolled intersection.
- The road is constructed of asphalt.
- Neither Summit Street nor Jones Avenue has any painted lane marking.
- Sidewalks shoulder both roads. Beyond the sidewalks are private residences.
- The speed limit on Summit Street is 35 MPH.
- The speed limit on Jones Avenue is 25 MPH.

ROADWAY AND VEHICLE EVIDENCE

- There are short intermittent skid marks after the point of impact going in a northeast direction, caused by McMasters' Dodge antilock braking system, allowing the rear tires to intermittently lock up because of very little weight on the rear axle and McMasters's attempted controlled turn and brake action.
- There are straight skid marks approximately 2.14 feet long made by the Dodge just prior to hitting the fence.
- There is impact damage to the corner post of a fence located on the eastside of Summit Street, north of Jones Avenue.
- There is a gouge in the roadway, near the beginning of McMasters' skid marks, made by Paxton's bicycle rim, slamming into the ground, at the point of impact with McMasters' vehicle.
- There is a blood spot on the roadway, located southeast of the point of impact where Paxton's head hit the asphalt as s/he landed on the ground after impact.

- Paxton's bicycle has severe frontend damage where it struck the left front corner of McMasters' vehicle.
- McMasters' vehicle has impact damage to the left front corner where it was struck by Paxton's bicycle. It also has damage to the front corner bumper where it struck a fence post.

Unit 1

SPEED CALCULATIONS

I calculated the speed of Unit 1 by measuring the distance of both sets of skid marks left by McMasters' Dodge Dakota. I obtained the drag factor of the road with my 10 pound drag box. I then calculated the speed loss of each set of skids using the Minimum speed formula listed below. Once I calculated the speed loss from both set of skid marks, I combined both speeds, using the combined speed formula listed below. The combined speed is the speed of the Dakota at the point of impact with the bicycle.

I converted the Dakota's speed from mile per hour (MPH) to feet per second (fps), see formula listed below. I was then able to place the Dakota, on a scale drawing, at the point it would have been prior to the crash, in relationship to time-in-seconds. This allowed me to determine which Unit reached the intersection first, etc.

Skid Mark 1 length: 16.2 feet
Drag Factor: .83
Speed: 20.08 MPH

$$\begin{aligned}
 S &= \sqrt{30 \times D \times f} \\
 S &= \sqrt{30 \times 16.2000 \times 0.8300} \\
 S &= \sqrt{403.3800} \\
 S &= 20.0843
 \end{aligned}$$

Minimum Speed Formula

Skid Mark 2 length: 2.14 feet
Drag Factor: .83
Speed: 7.2 MPH

$$\begin{aligned}
 S &= \sqrt{30 \times D \times f} \\
 S &= \sqrt{30 \times 2.1400 \times 0.8300} \\
 S &= \sqrt{53.2860} \\
 S &= 7.2997
 \end{aligned}$$

Minimum Speed Formula

Combined Speed: 20.05 MPH with 7.3 MPH
IMPACT SPEED: 21.3 mph

$$S = \sqrt{S^2(1) + S^2(2) + \dots S^2(n)}$$

$$S = \sqrt{(20.0800)^2 + (7.2000)^2 + (0.0000)^2 + (0.0000)^2 + (0.0000)^2 + (0.0000)^2 + (0.0000)^2 + (0.0000)^2}$$

$$S = \sqrt{403.2064 + 51.8400 + 0.0000 + 0.0000 + 0.0000 + 0.0000 + 0.0000 + 0.0000}$$

$$S = \sqrt{455.0464}$$

$$S = 21.3318$$

Combined Speed Formula

Unit 2

SPEED CALCULATIONS

I calculated Unit 2's speed (Paxton's bicycle) at impact by using the Vault formula shown below. I measured the distance Paxton flew after hitting McMasters' vehicle. I then measured the height, by measuring from the ground to Paxton's center mass (chest area) when s/he was riding the bicycle. I didn't have any evidence to give me the exact departure angle. A departure angle is the angle the bicycle rider left the bicycle at the point of impact. Through my training and experience, I know to use a 45 degree angle when the exact angle is not known.

I converted the bicycle's speed from mile per hour (MPH) to feet per second (fps), see formula listed below. I was then able to place the bicycle, on a scale drawing, at the location it would have been prior to the crash, in relationship to time-in-seconds. This allowed me to determine which Unit reached the intersection first, etc.

Distance: 18'

Height: 3'

Departure angle: 45 degrees

IMPACT SPEED: 15.16 mph

$S = \frac{3.86 \times D}{\sqrt{D \pm h}}$	$S = \frac{3.86 \times 18.0000}{\sqrt{18.0000 + 3.0000}}$
$S = \frac{69.4800}{\sqrt{21.0000}}$	$S = \frac{69.4800}{4.5825}$
$S = 15.1620$	

Vault Speed Formula

Vehicle: 21.3 MPH = **31 fps** (Feet per Second)

$$\begin{aligned}V &= 1.466.. \times S \\V &= 1.466.. \times 21.4000 \\V &= 31.3866\end{aligned}$$

MPH to fps Conversion Formula

Bicycle: 15.2 MPH = **22 fps**

$$\begin{aligned}V &= 1.466.. \times S \\V &= 1.466.. \times 15.2000 \\V &= 22.2933\end{aligned}$$

MPH to fps Conversion Formula

STATEMENTS

- Paxton stated s/he had consumed alcohol, “some beers” prior to the crash. S/he also stated s/he doesn’t drink often.
- Paxton stated s/he had ear buds in his/her ears.
- Paxton stated s/he left Sarah’s house after 9:00 PM and started running home, but then took a bike from the neighborhood upon realizing that s/he would not be able to make it home by 9:30 pm. S/he rode fast toward home. Because of other obligations, s/he hoped to reach home by 9:30 PM. Paxton stated McMasters didn’t have his/her headlights activated.
- Paxton stated s/he wasn’t wearing a helmet.
- Paxton stated McMasters’ breath reeked of alcohol and that s/he was slurring his/her words while talking on his/her cellular phone.
- Paxton stated s/he slowed down on the bicycle prior to impact.
- McMasters stated s/he was driving the vehicle that collided with Paxton
- McMasters stated s/he didn’t consume any alcohol prior to the crash, but did have beer spilled on his/her person.
- McMasters stated s/he and his/her passenger Reilly Jackson were both texting other persons, on his/her cellular phone, prior to the crash. McMasters stated s/he only texted while stopped at stop lights.
- McMasters observed Paxton slow down prior to the crash.
- McMasters stated s/he activated her/his turn signal prior to attempting the left turn and prior to seeing Paxton.
- McMasters stated s/he honked his/her horn to warn Paxton prior to the crash
- McMasters stated s/he attempted to avoid the collision by turning to the right and not making the left hand turn. S/he also slammed on his/her brakes, but s/he was unable to avoid the collision. S/he stated when s/he slammed on the brakes his/her vehicle started to slide.
- McMasters stated s/he lost control after the collision and struck a fence.
- Jackson stated McMasters slowed prior to attempting the left turn onto Jones Avenue.
- Jackson stated s/he did not see Paxton until just prior to the collision.
- Jackson stated s/he was holding McMasters’ cellular phone at the time of the collision.
- Cosgrove stated s/he observed a “bluish or greenish Light” coming from McMasters’ Dakota as it passed him/her on Summit Street. Cosgrove believes the light s/he observed was being

transmitted from an active cellular phone. Cosgrove stated s/he was a block away from the intersection of Summit St. and Jones Avenue, which is approximately 300 feet.

- Cosgrove stated s/he had his/her glasses off at the time of the collision. S/he stated s/he is “nearsighted and blind as a bat” without his/her glasses.
- Cosgrove stated the Dakota had its headlights activated.
- Cosgrove stated his/her cellular phone indicated the time of the collision was 9:23 pm.
- Cosgrove stated Paxton had ear buds in his/her ears.
- Cosgrove stated s/he did not see the Dakota’s turn signals activate during the crash sequence, but was not sure if s/he would have been able to separate them from the brake lights.

VEHICLE DYNAMICS

On June 23, 2010, at approximately 9:23 PM, Alex McMasters was driving his/her Dodge Dakota northbound on Summit Street. At approximately the same time, McMasters’ vehicle reached Jones Avenue Jess Paxton was riding his/her 18 Speed, Street bicycle, southbound on Summit Street and also reached Jones Avenue. McMasters attempted to make a left turn onto Jones Avenue as Jess Paxton rode through the intersection. When McMasters and Paxton realized that they were going to collide each attempted to avoid the collision. Paxton attempted to avoid McMasters’ vehicle by turning left toward the center of the intersection. McMasters attempted to avoid Paxton’s bicycle by braking and turning left toward the middle of the intersection. Paxton’s bicycle struck the left front corner of McMasters’ Dodge. Paxton was thrown from his/her bicycle landing approximately 18 feet from the point of impact. McMasters continued across Summit St., leaving approximately 16.2 feet of skid. The vehicle then travelled northeast leaving no tire marks until just prior to colliding with the corner of a fence, where all four tires left a straight skid of 2.25 feet. His/her vehicle came to an uncontrolled rest, after colliding with a fence, approximately 82 feet from the point of impact with Paxton’s bicycle, on the east side of Summit St., north of Jones Avenue Paxton’s bicycle came to an uncontrolled rest approximately 10.6 feet from the point of impact.

Speed calculations based on the combined speed of both set of McMasters’ skid marks indicated his/her speed at impact with Paxton was approximately 21 mph.

Speed calculations based on Paxton vault from his/her bicycle was 15 mph.

Using time and distance calculations based on both units speed indicates that McMasters’ vehicle reached the apex of the intersection prior to Paxton’s bicycle.

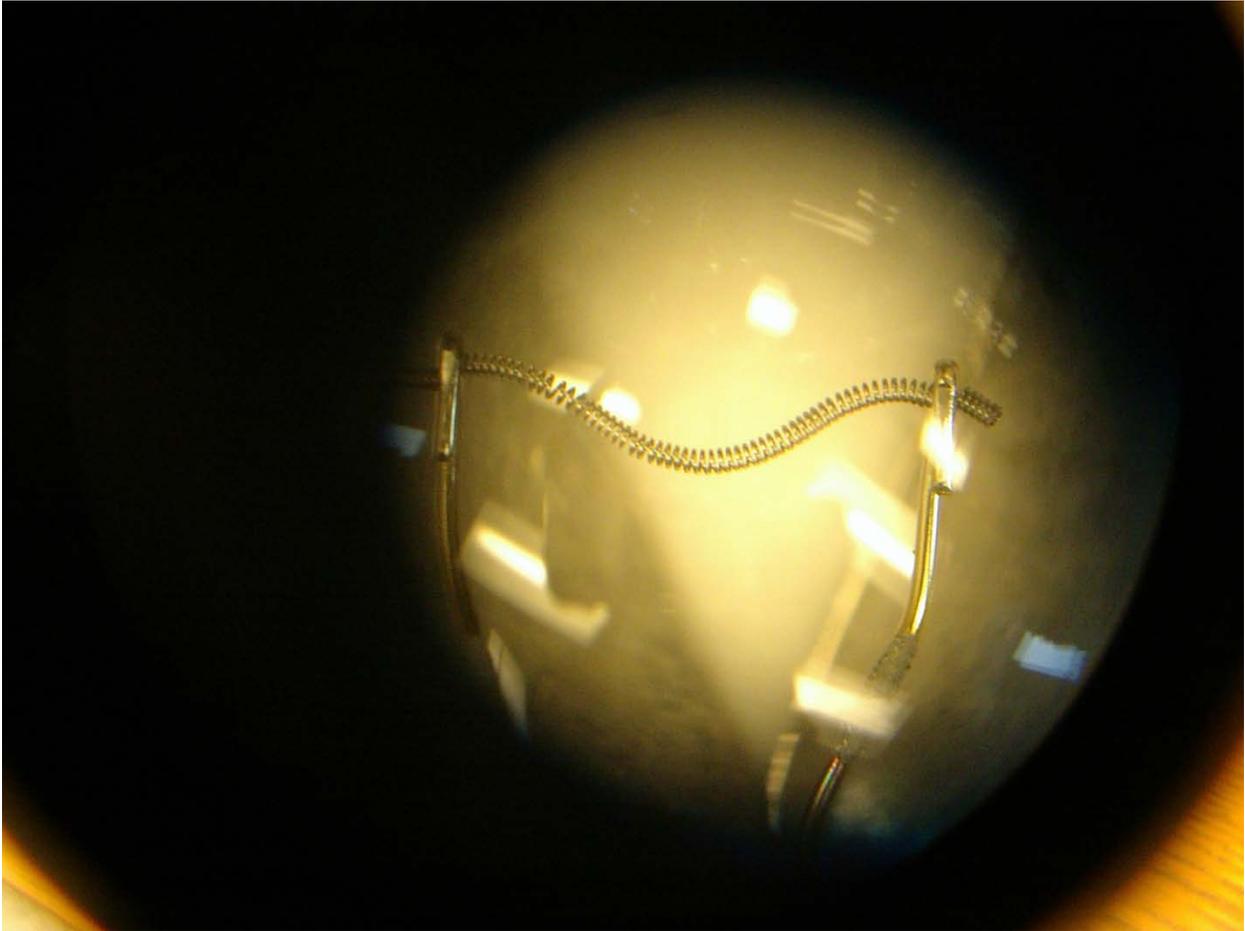
CAUSATIONAL FACTORS

- McMasters’ vehicle reached the intersection prior to Paxton’s bicycle.
- McMasters was attempting to make a left hand turn from Summit Street on Jones Avenue, when Paxton failed to exercise due care in violation of Idaho Code 49-714, when s/he entered the intersection after McMasters was already in the intersection and had begun his/her left hand turn.
- McMasters’ left turn signal was activated prior to attempting the left hand turn giving Paxton prior knowledge of McMasters’ intent to make a left hand turn. The filament in McMasters’

left front turn signal bulb clearly showed impact shock, indicating the turn signal was activated at the time of impact.

- The bicycle Paxton was riding didn't have any lights or reflectors in violation of Idaho Code 49-723. Reference Idaho Code 49-903, official sunset time in Hickory was 9:11 PM.
- Paxton had consumed alcohol, "some beers," prior to the crash. S/he also stated s/he doesn't drink often.
- Paxton failed to wear a safety helmet causing him/her serious injury.

EXHIBIT 5: TURN SIGNAL LIGHT BULB



Left front turn signal light bulb; zoom up showing the filament

EXHIBIT 6: VTI REPORT ON TEXTING AND DRIVING



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New Data from VTTI Provides Insight into Cell Phone Use and Driving Distraction

Blacksburg, Va., July 27, 2009 – Several large-scale, naturalistic driving studies (using sophisticated cameras and instrumentation in participants' personal vehicles) conducted by the Virginia Tech Transportation Institute (VTTI), provide a clear picture of driver distraction and cell phone use under real-world driving conditions. Combined, these studies continuously observed drivers for more than 6 million miles of driving. A snapshot of risk estimates from these studies is shown in the table below.

"Given recent catastrophic crash events and disturbing trends, there is an alarming amount of misinformation and confusion regarding cell phone and texting use while behind the wheel of a vehicle. The findings from our research at VTTI can help begin to clear up these misconceptions as it is based on real-world driving data. We conduct transportation safety research in an effort to equip the public with information that can save lives," says Dr. Tom Dingus, director of the Virginia Tech Transportation Institute.

In VTTI's studies that included light vehicle drivers and truck drivers, manual manipulation of phones such as dialing and texting of the cell phone lead to a substantial increase in the risk of being involved in a safety-critical event (e.g., crash or near crash). However, talking or listening increased risk much less for light vehicles and not at all for trucks. Text messaging on a cell phone was associated with the highest risk of all cell phone related tasks.

CELL PHONE TASK	Risk of Crash or Near Crash event
Light Vehicle/Cars	
Dialing Cell Phone	2.8 times as high as non-distracted driving
Talking/Listening to Cell Phone	1.3 times as high as non-distracted driving
Reaching for object (i.e. electronic device and other)	1.4 times as high as non-distracted driving
Heavy Vehicles/Trucks	
Dialing Cell phone	5.9 times as high as non-distracted driving
Talking/Listening to Cell Phone	1.0 times as high as non-distracted driving
Use/Reach for electronic device	6.7 times as high as non-distracted driving
Text messaging	23.2 times as high as non-distracted driving

Explanation of Findings

Eye glance analyses were conducted to assess where drivers were looking while involved in a safety-critical event and performing cell phone tasks. The tasks that draw the driver's eyes away from the forward roadway were those with the highest risk.

Driving Transportation with Technology

VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY
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Several recent high visibility trucking and transit crashes have been directly linked to texting from a cell phone. VTTI's research showed that text messaging, which had the highest risk of over 20 times worse than driving while not using a phone, also had the longest duration of eyes off road time (4.6 s over a 6-s interval). This equates to a driver traveling the length of a football field at 55 mph without looking at the roadway. Talking/listening to a cell phone allowed drivers to maintain eyes on the road and were not associated with an increased safety risk to nearly the same degree.

Recent results from other researchers using driving simulators suggest that talking and listening is as dangerous as visually distracting cell phone tasks. The results from VTTI's naturalistic driving studies clearly indicate that this is not the case. For example, talking and listening to a cell phone is not nearly as risky as driving while drunk at the legal limit of alcohol. Recent comparisons made in the literature greatly exaggerate the cell phone risk relative to the very serious effects of alcohol use, which increases the risk of a fatal crash approximately seven times that of sober driving. Using simple fatal crash and phone use statistics, if talking on cell phones was as risky as driving while drunk, the number of fatal crashes would have increased roughly 50% in the last decade instead of remaining largely unchanged.

These results show conclusively that a real key to significantly improving safety is **keeping your eyes on the road**. In contrast, "cognitively intense" tasks (e.g., emotional conversations, "books-on-tape", etc.) can have a measurable effect in the laboratory, but the actual driving risks are much lower in comparison.

VTTI's recommendations (based on findings from research studies)

- Driving is a visual task and non-driving activities that draw the driver's eyes away from the roadway, such as texting and dialing, should always be avoided.
- Texting should be banned in moving vehicles for all drivers. As shown in the table, this cell phone task has the potential to create a true crash epidemic if texting-type tasks continue to grow in popularity and the generation of frequent text message senders reach driving age in large numbers.
- "Headset" cell phone use is not substantially safer than "hand-held" use because the primary risk is associated with both tasks is answering, dialing, and other tasks that require your eyes to be off the road. In contrast, "true hands-free" phone use, such as voice activated systems, are less risky if they are designed well enough so the driver does not have to take their eyes off the road often or for long periods.
- All cell phone use should be banned for newly licensed teen drivers. Our research has shown that teens tend to engage in cell phone tasks much more frequently, and in much more risky situations, than adults. Thus, our studies indicate that teens are four times more likely to get into a related crash or near crash event than their adult counterparts.

The Disconnect Between Naturalistic and Simulator Research

It is important to keep in mind that a driving simulator is *not* actual driving. Driving simulators engage participants in tracking tasks in a laboratory. As such, researchers that conduct simulator studies must be cautious when suggesting that conclusions based on simulator studies are applicable to actual driving. With the introduction of naturalistic driving studies that record drivers (through continuous

video and kinematic sensors) in actual driving situations, we now have a scientific method to study driver behavior in real-world driving conditions in the presence of real-world daily pressures. As such, if the point of transportation safety research is to understand driver behavior in the real-world (e.g., increase crash risk due to cell phone use), and when conflicting findings occur between naturalistic studies and simulator studies, findings from the real-world, and not the simulator-world, must be considered the gold standard.

It is also critical to note that some results of recent naturalistic driving studies, including those highlighted here as well as others (e.g., Sayer, Devonshire and Flanagan, 2007) are at odds with results obtained from simulator studies. Future research is necessary to explore the reasons why simulator studies sometimes do not reflect studies conducted in actual driving conditions (i.e., the full context of the driving environment). It may be, as Sayer, Devonshire and Flanagan (2007) note, that controlled investigations cannot account for driver choice behavior and risk perception as it actually occurs in real-world driving. If this assessment is accurate, the generalizability of simulator findings, at least in some cases, may be greatly limited outside of the simulated environment.

NOTE: Dr. Rich Hanowski, Director of the Center for Truck and Bus Safety at VTTI, will be presenting the results of his study directed at Driver Distraction in Commercial Motor Vehicle Operations, at the First International Conference on Driver Distraction and Inattention in Gothenburg, Sweden, September 28-29, 2009.

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Driver Distraction in Commercial Motor Vehicles Project Webinar

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EXHIBIT 7: LG enV CELLULAR PHONE DATA SHEET

LG enV TOUCH

Designed for your most discriminating customers, the new LG enV[®] TOUCH combines undeniable style with an unrivaled multimedia experience. The exceptional range of leading-edge features puts the enV TOUCH in the company of the world's finest handsets.

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-  MICROSD[™] MEMORY PORT

EXHIBIT 8: ARTICLE ON CITY HIGH CHEATING SCANDAL

THE HICKORY GAZETTE

Volume XVII, Issue IV

April 2, 2010

Student Athletes Caught in Cheating Scandal

Jane Lambert, City Desk

City High School Principal Ellis Jacks said school officials are investigating a cheating incident that students say involved a stolen master key and some of the school's best athletes.

Eight City High School students will be suspended and receive zeros on their spring mid-term exams as a result of an incident in which a student took pictures of exam answers on a camera phone and emailed them to other students.

Reports are that over perhaps the last 10 years the graduating captain of the school's varsity soccer team has handed the key down to the next varsity captain who is in charge of making sure other team members have access to the building.

While investigating the incident, Jacks said students told officials about a master key to the school that was stolen a number of years ago.

"When one cheating incident was uncovered, a tip led to others who had access to the building using a master key," Jacks said. School officials do not know the last time students used the key, but the cheating incident was discovered last week.

According to Steven Rope, Athletic Director for City High School, the school is treating it as an isolated incident because they lack evidence that more students were involved.

"We're concerned about the reputation of the school, of the students, and particularly of the school's athletes," Rope said. "There are so many instances of student athletes who perform so well, who do so many things, and they do it the right way."

Jacks did not know why these particular students felt the need to cheat, but knows that there is pressure in the school's competitive environment.

"I know what the research says about high schools cheating. I know what the research says about the pressure of students doing well," Jacks said. "We're in a society now that's highly competitive."

"Do I think that students feel pressure to get into the best, most competitive schools? Yes I do," continued the Principal. "I would say that for the most part, I think kids opt to cheat to gain an advantage to do better. What they don't realize is that they hurt their integrity for both the short term and possibly the long term when they choose an unethical path."

Jacks said the response from the student body has been mixed. "Some [of the students] are very angry. Some are very sad. It's been unfortunate that... there's been a divide," Jacks said. "Part of the junior class, they feel that there will be a negative reflection on their class and that people will remember their class as the class involved in the cheating incident with the master key."

EXHIBIT 9: TEXT MESSAGE TRANSCRIPT AND COVER LETTER



B&T
Wireless Phones, Inc.

7 July, 2010

Detective Teri Osgood
Hickory Police Department
125 Main Street
Hickory, ID 59022

Dear Detective Osgood,

It was a pleasure speaking with you on Friday. I was surprised to hear from you after all these years. It has certainly been a while and we will have to find some time to catch up on our days at the University of Idaho.

In any event, pursuant to your request, enclosed herewith is a copy of the text message log for Alex McMasters from 9:00 to 9:30 PM on Wednesday, June 23, 2010. Please feel free to contact me should you need any further assistance.

Again, it was nice to speak with you. It's good to know that an old friend is doing well.

Sincerely,


Cody Sullivan
Vice President, Customer Relations
B&T Wireless Phones, Inc.

Enclosure

phone: 208.555.1212 | fax: 208.555.5555 | 275 Technology Drive, Hickory, ID 83124 | www.btwireless.com

Rep. Cody Sullivan

Account: BT00941567239
Customer: Alex McMasters
Customer #: 2085553428
Date: 6/23/2010
Time: 21:00 to 21:30
DATA: Text Messages Only
Other # 2085552890 (Hunter Merrick)
Other # 2085552558 (Patrick Lewis)

TIME	FROM	TO	MESSAGE
21:02	2085552890	2085553428	What did u say to Pat?
21:03	2085553428	2085552890	idk what did he tell u
21:05	2085552890	2085553428	He said you said to dump me.
21:05	2085552890	2085553428	OMG what did I ever do to u?
21:06	2085553428	2085552890	B4 or after you dumped a beer on me
21:08	2085552890	2085553428	I never dumped a beer on u. Stop lying.
21:09	2085553428	2085552890	right - i just dumped it on myself
21:10	2085552890	2085553428	Did you tell Pat to dump me?
21:11	2085553428	2085552890	pats his own person. he can do what he wants
21:11	2085552890	2085553428	So, did u tell him to dump me?
21:12	2085553428	2085552890	i told him not to put up with ur stuff.
21:12	2085553428	2085552558	dude wth. what did u tell hunter
21:15	2085552558	2085553428	She kept buggin me a/b what you say.
21:15	2085553428	2085552558	thanks for the loyalty, bro
21:17	2085552558	2085553428	She my girl; don't put me in the middle.
21:18	2085553428	2085552558	u asked i told the truth
21:18	2085553428	2085552558	u dont want to know dont ask
21:19	2085552558	2085553428	UR my BFF; I want ur help.
21:19	2085552890	2085553428	I'm waiting.
21:20	2085553428	2085552890	i dont like how u control P. ease up and we b fine
21:21	2085553428	2085552890; 2085552558	H&P i'm outtie. u work it out urself
21:22	2085552890	2085553428	MYOB
21:23	2085553428	2085552890	take ur own advice

EXHIBIT 10: ACCIDENT SCENE PHOTOS

Exhibit 10 includes 6 photos of the accident scene marked Exhibit 10A through Exhibit 10F. These photos are included in a separate document titled “Exhibit 10 – Crash Scene Photos.”

Jury Instructions

INSTRUCTION NO. 1

These instructions explain the duties of jurors and define the law that applies to this case. It is the jury's duty to determine the facts, to apply the law set forth in these instructions to those facts, and in this way to decide the case. The jury's decision should be based upon a rational and objective assessment of the evidence. It should not be based on sympathy or prejudice.

It is the judge's duty to instruct the jury on the points of law necessary to decide the case, and it is the jury's duty to follow the law as the judge instruct. Jurors must consider these instructions as a whole, not picking out one and disregarding others. The order in which these instructions are given or the manner in which they are numbered has no significance as to the importance of any of them.

In determining the facts, jurors may consider only the evidence admitted in this trial. This evidence consists of the testimony of the witnesses, the exhibits admitted into evidence, and any stipulated or admitted facts. While the arguments and remarks of the attorneys may help jurors understand the evidence and apply the instructions, what they say is not evidence. If an attorney's argument or remark has no basis in the evidence, the jurors should disregard it.

The production of evidence in court is governed by rule of law. At times during the trial, the judge may sustain an objection to a question without permitting the witness to answer it, or to an offered exhibit without receiving it into evidence. The judge's rulings are legal matters, and are solely the judge's responsibility. Jurors must not speculate as to the reason for any objection, which was made, or any ruling thereon, and in reaching a decision jurors may not consider such a question or exhibit or speculate as to what the answer or exhibit would have shown. Remember, a question is not evidence and should be considered only as it gives meaning to the answer.

There may have been occasions where an objection was made after an answer was given or the remark was made, and in the judge's ruling on the objection, he/she instructed that the answer or remark be stricken, or directed that jurors disregard the answer or remark and dismiss it from their minds. In the deliberations, jurors must not consider such answer or remark, but must treat it as though they had never heard it.

The law does not require jurors to believe all of the evidence admitted in the course of the trial. As the sole judges of the facts, jurors must determine what evidence they believe and what weight they attach to it. In so doing, jurors bring with them to the courtroom all of the

experience and background of their lives. There is no magical formula for evaluating testimony. In jurors' everyday affairs, they determine for themselves whom they believe, what they believe and how much weight they attach to what they are told. The considerations jurors use in making the more important decisions in their everyday dealings are the same considerations they should apply in their deliberations in this case.

INSTRUCTION NO. 2

The Plaintiff, Jess Paxton, claims that the Defendant, Alex McMasters, was negligent in the operation of a motor vehicle and thereby caused injury to the Plaintiff. The Plaintiff has the burden of proof on each of the following propositions:

1. The Defendant was negligent.
2. The negligence of the Defendant was a proximate cause of the alleged injuries to the Plaintiff.

Jurors will be asked to deliberate on the following question: Was the Defendant negligent, and if so, was the negligence a proximate cause of the alleged injuries to the Plaintiff?

If the jurors find from their consideration of all the evidence that each of these propositions has been proven, they should answer this question "Yes." However, if they find that any of these propositions has not been proven, then the Plaintiff has not met the burden of proof required and the jurors should answer this question "No."

INSTRUCTION NO. 3

The Defendant, Alex McMasters, also claims that the Plaintiff, Jess Paxton, was negligent in the operation of a bicycle and thereby caused his/her own injuries. The Defendant has the burden of proof on each of the following propositions:

3. The Plaintiff was negligent.
4. The negligence of the Plaintiff was a proximate cause of the alleged injuries to the Plaintiff.

Jurors will be asked to deliberate on the following question: Was the Plaintiff negligent, and if so, was the negligence a proximate cause of the alleged injuries to the Plaintiff?

If the jurors find from their consideration of all the evidence that each of these propositions has been proven, they should answer this question "Yes." However, if they find that any of these propositions has not been proven, then the Plaintiff has not met the burden of proof required and the jurors should answer this question "No."

INSTRUCTION NO. 4

The word “negligence” means the failure to use ordinary care in the management of one’s property or person. The words “ordinary care” mean the care a reasonably careful person would use under circumstances similar to those shown by the evidence.

Negligence may thus consist of the failure to do something which a reasonably careful person would do, or the doing of something a reasonably careful person would not do, under circumstances similar to those shown by the evidence. Except in the case of a relevant statute, the law does not say how a reasonably careful person would act under those circumstances. That is for the jurors to decide.

INSTRUCTION NO. 5

The expression “proximate cause” means a cause which, in natural or probable sequence, produced the complained of injury, loss, or damage, and but for that cause the damage would not have occurred. It need not be the only cause. It is sufficient if it is a substantial factor in bringing about the injury, loss, or damage. It is not a proximate cause if the injury, loss, or damage likely would have occurred anyway.

There may be one or more proximate causes of an injury. When the negligent conduct of two or more persons contribute concurrently as substantial factors in bringing about an injury, the conduct of each may be a proximate cause of the injury regardless of the extent to which each contributes to the injury.

INSTRUCTION NO. 6

If the jury finds that both the Plaintiff and the Defendant have proven their cases of negligence against the other party to some degree, then the jury must apportion each party a percentage of fault.

INSTRUCTION NO. 7

In this case the parties have stipulated or agreed that the Plaintiff suffered damages as a result of the accident. The parties have agreed that the amount of damages that should be awarded, if any, will be the subject of a separate trial.

INSTRUCTION NO. 8

When the judge says that a party has the burden of proof on a proposition, or uses the expression “if you find” or “if you decide,” the judge means the jury must be persuaded by a preponderance of the evidence. This means that the proposition is more probably true than not true.

INSTRUCTION NO. 9

It was the duty of both the Plaintiff and the Defendant, before and at the time of the occurrence, to use ordinary care for the safety of both themselves and each other.

INSTRUCTION NO. 10

There were certain statutes in force in the State of Idaho at the time of the occurrence in question which provided that:

- A) Every bicycle in use from sunset to sunrise shall be operated with a light emitting device visible from a distance of at least 500 feet to the front and with a reflector clearly visible from the rear of the bicycle.
- B) Every vehicle upon a roadway from sunset to sunrise shall display headlights.
- ~~C) A person operating a bicycle or human-powered vehicle approaching a stop sign shall slow down and, if required for safety, stop before entering the intersection. After slowing to a reasonable speed or stopping, the person shall yield the right-of-way to any vehicle in the intersection or approaching so closely as to constitute an immediate hazard.~~
- D) No person shall turn a vehicle or bicycle right or left upon a roadway without giving an appropriate signal.
- E) No person shall drive a vehicle inattentively, meaning the conduct of the driver is inattentive, careless, or imprudent in light of the circumstances then existing.
- F) Every person operating a bicycle or human-powered vehicle shall have all of the rights and duties applicable to the driver of any other vehicle and shall exercise due care.
- G) No person shall drive while under the influence of alcohol.
- H) No person under the age of 21 shall purchase, consume, or possess alcoholic beverages.
- I) All occupants of a vehicle shall wear seat belts at all times when the vehicle is in motion.
- J) The driver of a vehicle intending to turn left within an intersection shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection, or so close as to constitute an immediate hazard.

A violation of a statute is negligence, unless compliance with a statute was impossible, or something over which the party had no control, placed the individual in a position of violation of the statute, or an emergency, not of the party's own making, caused the individual to fail to obey the statute, or an excuse specifically provided for within the statute existed.

INSTRUCTION NO. 11

The jury may be presented with evidence that the Defendant may have been consuming alcohol prior to driving. A person driving a motor vehicle is under the influence of an intoxicating beverage when, as a result of drinking an intoxicating beverage, the driver's physical or mental abilities are impaired to the degree that the driver no longer has the capacity to drive a vehicle with the caution characteristic of a sober person of ordinary prudence acting under similar circumstances. Beer is an intoxicating beverage.

INSTRUCTION NO. 12

Whether a party has insurance is not relevant to any of the questions the jury will decide. Any inference, speculation or discussion about insurance must be avoided.

INSTRUCTION NO. 13

Evidence may be either direct or circumstantial. Direct evidence is evidence that directly proves a fact. Circumstantial evidence is evidence that indirectly proves the fact, by proving one or more facts from which the fact at issue may be inferred.

The law makes no distinction between direct and circumstantial evidence as to the degree of proof required; each is accepted as a reasonable method of proof and each is respected for such convincing force as it may carry.

INSTRUCTION NO. 14

The law does not require a juror to believe all of the evidence admitted in the course of the trial, including witness testimony. As the sole judges of the facts, jurors must determine what testimony they find credible and what weight to attach to it. In so doing, jurors bring with them to the courtroom all of the experience and background of their lives.

There is no magical formula for evaluating testimony. In jurors' everyday affairs, they determine for themselves whom they believe, what they believe and how much weight they attach to what they are told. The considerations jurors use in making the more important decisions in their everyday dealings are the same considerations they should apply in their deliberations in this case.