

In The Matter Of:
~ [REDACTED] v. *Joseph Eletto Transfer, et al.*~

[REDACTED]
03/29/2017

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IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA

Plaintiff,
vs. CIV. NO. ON FILE
JOSEPH ELETTO TRUCK
INC., VANLINER, CE
Y, and
Defendants.

VIDEO DEPOSITION OF

March 29, 2017

10:23 a.m.

14 Piedmont Center
2525 Piedmont Road, NE, Suite 900
Atlanta, Georgia

Brandie L. Stephens, RPR, CCR-B-1592

Quentin Hendrix, Videographer

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APPEARANCES OF COUNSEL

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On behalf of the Defendants:
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Also Present: Ms. Alexis Bischoff

(Plaintiff's Exhibit A was marked for identification.)

MR. BUTLER: This will be the deposition of in the case of against Eletto, et al., taken pursuant to notice and agreement, taken pursuant to the Civil Practice Act for all purposes permitted by the Act, including use at trial.

I've already marked as Exhibit A a copy of the notice of deposition.

And with that, we're ready to video.

MR. SMITH: We'll read and sign.

THE VIDEOGRAPHER: We are now on video record. Today is March the 29th, 2017. The time is 10:24 a.m. This is the beginning of tape No. 1.

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

EXAMINATION

BY MR. BUTLER:

Q. State your name for the record, please.

A.

Q. As we go through this deposition, I don't think we'll be here real long, but if you need a break at any time let me know and we'll take one.

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1 **A. (Nods head affirmatively.)**
 2 Q. If I ask a question that isn't clear and
 3 it doesn't make sense or you don't understand what
 4 I'm asking, let me know and I'll rephrase it in a
 5 way so that you do understand.
 6 **A. Okay.**
 7 Q. If I ask a question and you answer, I'll
 8 assume that you understood it; is that fair?
 9 **A. Yes, it is.**
 10 Q. All right. I wanted to ask you about the
 11 collision that we're here about which occurred on
 12 September the 3rd, 2015.
 13 Do you remember that day and remember the
 14 collision?
 15 **A. Yes.**
 16 Q. Tell me how you started that day, what
 17 time you started and where you went.
 18 **A. I started at 4:00 o'clock a.m.**
 19 Q. All right.
 20 **A. And I went to -- from my home on [REDACTED]**
 21 **[REDACTED] to -- I'm not sure of the address of**
 22 **the job right now --**
 23 Q. Uh-huh.
 24 **A. -- because it's been a while, but I went**
 25 **to the job, got out of my car, went into the job,**

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1 **loaded my truck and I left around maybe 7:30 that**
 2 **morning.**
 3 Q. Let me stop you. And I'll put a couple
 4 of pieces in there.
 5 4:00 a.m. that's when you woke up?
 6 **A. No. I woke up at 3:30 a.m.**
 7 Q. All right. Is 4:00 a.m. when you left
 8 your house?
 9 **A. Uh-huh.**
 10 Q. All right.
 11 MR. SMITH: Is that a yes?
 12 THE WITNESS: No. I made it to -- I'm
 13 sorry. I made it to work at 4:00 a.m.
 14 Q. (By Mr. Butler) You're at work at 4:00
 15 a.m.?
 16 **A. Yes.**
 17 Q. All right.
 18 **A. It's, like, 15 minutes away.**
 19 Q. I see. And where were you going -- where
 20 were you at 4:00 a.m., what physical location?
 21 **A. I was at the job in the warehouse.**
 22 Q. Is that the Macy's warehouse?
 23 **A. Yes.**
 24 Q. All right. Tell me what happened after
 25 you got to Macy's at 4:00 a.m.

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1 **A. I loaded my truck and went in to receive**
 2 **my paperwork and got in the truck and did my**
 3 **inspection and I also -- I left from the job.**
 4 **Stopped by the dispatcher and let her check my cab**
 5 **and my back and I proceeded on to my location of**
 6 **my first stop.**
 7 Q. All right. You said you loaded your
 8 truck.
 9 Was [REDACTED] helping you do that?
 10 **A. Yes.**
 11 Q. All right. And then --
 12 **A. No. That day, he wasn't, no. He didn't**
 13 **help me that particular day. He was late and I**
 14 **picked -- I'm sorry.**
 15 Q. That's okay.
 16 **A. I picked him up from home. He was home.**
 17 **And he stays -- he stays, like, 15 minutes away**
 18 **also. And I swung by and picked him up and we got**
 19 **on the road about seven, 7:30.**
 20 Q. I see. So you were in the Eletto truck
 21 when you picked up Mr. [REDACTED]
 22 **A. Yes. I was in the Ryder's truck.**
 23 Q. In the Ryder's truck.
 24 And you were under dispatch from Eletto?
 25 **A. Yes.**

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1 Q. Meaning, they were telling you where to
 2 go and what to drop off and that kind of thing?
 3 **A. Well, I called in to the dispatch and let**
 4 **them know that I'm at my first stop and that I'm**
 5 **leaving my first stop and what's my next stop. So**
 6 **I was in the procedure of going to, I think, my**
 7 **maybe third stop.**
 8 Q. I see. After you called in to dispatch,
 9 did they tell you what your next stop would be?
 10 **A. Yes. They would notify me that the time**
 11 **range of the stop and where should I -- where**
 12 **would I -- you know, how long would it take me to**
 13 **get there so they could notify the next client.**
 14 Q. And then you would go, I presume, to
 15 wherever it was dispatch said your next stop was?
 16 **A. Yes.**
 17 Q. You mentioned, I think, an inspection a
 18 minute ago.
 19 **A. Uh-huh.**
 20 Q. Where were you when you did your pretrip
 21 inspection?
 22 **A. In the warehouse -- at the dock of the**
 23 **warehouse.**
 24 Q. That's the Macy's warehouse?
 25 **A. Yes.**

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1 Q. I at one point knew the approximate
2 address of that. Where is it generally?
3 A. I'm still trying -- it's in Stone
4 Mountain, but I can't remember -- Starr Parkway.
5 Q. Starr Parkway?
6 A. Yes.
7 Q. With two "R"s, right?
8 A. Yes.
9 Q. All right. We'll return to some of that
10 again in a minute here, but I have you now -- you
11 picked up Mr. [REDACTED] at 7:30, right?
12 A. Around 7:30, yes.
13 Q. Around 7:30. Tell me what happened next.
14 A. We proceeded to the QT on -- I can't
15 remember the intersection of that QT, but we
16 proceeded to get gas --
17 Q. Uh-huh.
18 A. -- in the truck. So we had to go and get
19 gas. And we made it -- we made it there around
20 maybe 8:15, 8:20.
21 Q. All right.
22 A. And we also got us some snacks and some
23 lunch for that day.
24 Q. Uh-huh.
25 A. And we proceeded to the highway.

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1 Q. All right. Did you start making the
2 deliveries for Macy's?
3 A. Yes. Yes. I had made maybe one, maybe
4 two deliveries.
5 Q. What was the delivery you made right
6 before this collision?
7 A. It was -- it wasn't too far from Piedmont
8 Road -- not Piedmont Road, but Peachtree --
9 Peachtree Parkway.
10 Q. All right. About how far do you think?
11 A mile? Two miles? A quarter mile?
12 A. Maybe about four, four and-a-half.
13 Q. Four and-a-half miles from the place
14 where the collision occurred?
15 A. Uh-huh.
16 MR. SMITH: Is that a yes?
17 THE WITNESS: Yes.
18 Q. (By Mr. Butler) And that's where the --
19 you just described a place as being four
20 and-a-half miles from where the collision
21 occurred. That place is where you made the last
22 delivery before the collision; is that correct?
23 A. Yes, it is.
24 Q. Tell me how the collision happened.
25 A. I was coming up on the intersection. I

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1 was directly behind the crane truck and the light
2 was red, everything was stopped, everybody was at
3 a complete stop. I came up on the truck and I
4 came to a complete stop. And I had my feet on the
5 side of the brake pedal as normal as I think
6 everybody do. And the brake pedal was worn, but
7 my knowledge of the brake pedal being worn was,
8 you know -- I didn't have no knowledge of it being
9 worn. I was just driving the truck that I was
10 given. And at the time I -- I'm not sure, but I'm
11 thinking that the truck was switched out and they
12 gave me a new truck. And I pulled up behind him.
13 He was already outside of the truck doing
14 something to the back of the truck. I have no
15 idea what he was doing, but my feet actually
16 slipped off the brake pedal in between the brake
17 and the gas. And I had on boots, so it was kind
18 of hard for me to get my boot away from between
19 the brake pedal. So I threw it in park and it
20 still rolled forward because of the weight of the
21 truck, as I can say. And it bumped his truck just
22 a little, but he was standing in between the
23 truck. It didn't bump his body. It didn't pin
24 him between the truck. It just bumped his arm and
25 he jumped out of the way.

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1 And that's when I got out of the truck
2 and asked him was he okay and if he wanted to call
3 the police, which he said he was all right. Don't
4 worry about it. And I said, no, man. I said, you
5 look like you -- you know, you might be hurt. And
6 he said, yeah, it's just my arm. And I said, man,
7 why don't you come and sit down on the step of my
8 truck. And he sat down on the step of my truck.
9 And as he was saying, man, it's okay. It's all
10 right, I'm -- it's just my arm, man, you just, you
11 know, hurt my arm. I said, it looks a little
12 swollen, man, so we might want to call the
13 ambulance. And at that time [REDACTED] was calling the
14 ambulance and I was also, too.
15 And he -- after that we were just
16 standing around waiting for everything to
17 happen -- waiting for the police and the ambulance
18 to arrive. And he told me -- he stated that -- he
19 said, man, I ain't -- I ain't worried about it.
20 He said, this is a good thing for me because this
21 is just going to be some vacation time for me. I
22 said, man, is you all right? I ain't worrying
23 about nothing -- none of that stuff what you're
24 saying, man. Is you okay? And he was, like,
25 yeah, I'm okay, man. He said, man, I'm fixing to

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1 go home and lay back, you know, and drink me some
 2 beers and do -- you know, do other stuff, he was
 3 saying, so forth and so on. And I was like, man,
 4 you know -- I was looking at the rear, like, he's
 5 really tripping out saying, you know, stuff like
 6 that to me. I'm, like, he's saying stuff like,
 7 you know, this is my vacation. Don't worry about
 8 it. Then the police arrived. He jumped up off
 9 the step of my truck that I asked him, you know,
 10 to sit down to make sure he don't -- you know,
 11 he's all right and said I tried to kill him. I
 12 smashed him in between the trucks. And I
 13 didn't -- I said, man, are you serious? I said,
 14 you just told me you was okay. You was fine, only
 15 your arm was hurting. He was, like, he smashed my
 16 whole body in the truck. And the officer said,
 17 look, she pulled me to the side and said, don't
 18 worry about that because she saw that he was
 19 telling a fib. And she did the report or
 20 whatever. She said she had to write the report up
 21 how it was explained. And I said I understand.
 22 And I called Eletto to let them know that
 23 the wreck had occurred. And at that time we
 24 pulled over in the -- it was, like, a little
 25 shopping mall on the side. We pulled over there

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1 and we did the rest of the paperwork and stuff and
 2 we took pictures.
 3 And also the guy, whoever his boss was
 4 had pulled up. And he was taunting me and, you
 5 know, he was walking around my truck taking
 6 pictures. He took pictures of me. He took
 7 pictures of my truck. You know, he was looking at
 8 me in an intimidating way. And I was, like, well,
 9 I should take pictures of his truck and take
 10 pictures of you guys, you know, to have for myself
 11 then. So that's what I did.
 12 And we exchanged -- me and the police, we
 13 exchanged information and she took my information
 14 and gave me my tickets and I went about my way and
 15 went back to the company, dropped the truck off
 16 and I went back home -- no, I didn't. No, I
 17 didn't. I did finish that day out. I finished
 18 that day out.
 19 Q. Meaning, you finished making the
 20 deliveries --
 21 A. Yes.
 22 Q. -- you were supposed to make?
 23 A. Yes, I did.
 24 Q. Right after?
 25 A. Right after the wreck, I went back to the

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1 deliveries, went on ahead and finished the
 2 deliveries. I took the truck back and I came back
 3 to work that morning. And nothing was said that
 4 morning, but I needed to talk to my supervisor and
 5 he told me he was going to get with me.
 6 I went out that next day -- I went out
 7 three days prior to that day and that's when I met
 8 Mr. [REDACTED] on that Friday.
 9 Q. The Friday after the wreck?
 10 A. Uh-huh.
 11 Q. Is when you met Mr. [REDACTED]
 12 A. I think it was that Friday after the
 13 wreck. If it wasn't that Friday, it was that
 14 Monday.
 15 Q. Okay.
 16 A. I'm not sure.
 17 Q. That's [REDACTED] we're talking about --
 18 A. Yes.
 19 Q. -- right?
 20 A. Yes.
 21 Q. All right. There's -- I thank you for
 22 your answer. There's pieces in it I've got to go
 23 back and kind of pull out and ask you about in
 24 more detail, so I'll do that now.
 25 One of the things I think you said was

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1 that Mr. [REDACTED] was not pinned between the
 2 vehicles, instead he jumped out and didn't get
 3 hit; is that right?
 4 MR. SMITH: Object to form.
 5 THE WITNESS: No.
 6 Q. (By Mr. Butler) No? Tell me what you
 7 said, then.
 8 A. No. He did -- he was -- he wasn't pinned
 9 between the vehicles, but it did bump his arm.
 10 Q. Okay.
 11 A. He was moving -- as he was moving, he --
 12 whatever he was dealing with looked like some wood
 13 to me. He pushed it back and it bumped his arm
 14 like that. And as it bumped his arm, the truck
 15 actually really stopped, like, before it hit the
 16 truck, but it did get close enough to bump his arm
 17 like that. It didn't -- we didn't -- the trucks
 18 didn't make any contact.
 19 Q. All right. Was Mr. -- you know
 20 Mr. [REDACTED] is the guy who was between the trucks.
 21 A. Do I know him?
 22 Q. Well, I just want to make sure when I say
 23 his name, you know who I'm talking about.
 24 A. I don't even know his name.
 25 Q. If I call him Mr. [REDACTED] will you know

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1 who I'm talking about?
 2 **A. No.**
 3 Q. All right. The -- I'll call him the guy
 4 who was in front of your truck, then.
 5 **A. Yes, I would.**
 6 Q. All right. Are you saying the guy who
 7 was in front of your truck was not pinned between
 8 your truck and the crane?
 9 **A. No, he was not pinned between the truck**
 10 **and the crane.**
 11 Q. Was he able to get out and move around
 12 before you backed your truck up?
 13 **A. Yes. He was -- he was out -- he was**
 14 **never pinned anywhere.**
 15 Q. All right.
 16 **A. He was out from the truck before I got**
 17 **out of the truck.**
 18 Q. I wanted to ask you about that. When --
 19 I think you said that when you pulled up at the
 20 stoplight, Mr. [REDACTED] was -- or my client was
 21 already out of his truck and behind the crane; is
 22 that right?
 23 **A. Yes.**
 24 Q. So the first time you ever saw him he was
 25 outside the truck and standing on the asphalt?

Page 18

1 **A. Yes, in a five-lane highway.**
 2 Q. So you did not see him get out of his
 3 truck and did not see him walking back to the rear
 4 of his truck?
 5 **A. No. No. He was already out of the truck**
 6 **fumbling with whatever it was. The light do take**
 7 **a long time at that stop.**
 8 Q. Yeah.
 9 **A. So he was out of his truck maybe -- I**
 10 **came from the first light and that's, like, a**
 11 **quarter of a mile. So he was out of his truck**
 12 **maybe 12 to 13 seconds before I even got there.**
 13 Q. Did you see him 12 to 13 seconds?
 14 **A. Yes, I did.**
 15 Q. All right.
 16 **A. And I even -- I even stated to my**
 17 **passenger that he don't suppose -- I said, he**
 18 **don't supposed to be out of that truck in the**
 19 **middle of the highway like that.**
 20 Q. Yeah.
 21 **A. And he was out of his truck. And I had**
 22 **no idea that the incident was going to occur. And**
 23 **I wouldn't have never hurt nobody like that, you**
 24 **know.**
 25 Q. At any point before the collision, did

Page 19

1 you and the guy who was in front of your truck
 2 ever make eye contact?
 3 **A. No. No. He was turned that-a-way and I**
 4 **was turned this-a-way. When he -- when he made --**
 5 **when he turned to me, he heard my park brake -- my**
 6 **park clicking.**
 7 Q. Uh-huh.
 8 **A. You know, when you throw a car in park it**
 9 **click, click, click.**
 10 Q. Uh-huh.
 11 **A. And it had a little clicking noise. And**
 12 **he turned back and jumped out of the way and he**
 13 **pushed whatever it was he was -- and it looked**
 14 **like some wooden blocks. He pushed them out of**
 15 **the way. And he -- it bumped his arm and he**
 16 **stepped over to the side and he was, like, oh,**
 17 **man, oh, man. I jumped out the truck and**
 18 **proceeded to help him. And he told me he was all**
 19 **right.**
 20 Q. So he heard your truck coming and jumped
 21 out the way?
 22 **A. No, he didn't hear it coming and jumped**
 23 **out the way. He heard when I threw it in park and**
 24 **the clicking noise from the parking brake or**
 25 **whatever or the gear.**

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1 Q. Uh-huh.
 2 **A. That's what it was, the clicking noise**
 3 **from the gear. He heard that. That's when he**
 4 **jumped out the way.**
 5 Q. He jumped out of the way when he heard
 6 the sound that was made by you putting your truck
 7 in park?
 8 **A. Right.**
 9 Q. All right.
 10 **A. I did have a heavy load on there that**
 11 **day.**
 12 Q. How heavy was the load?
 13 **A. I'm not sure, because it wasn't -- it**
 14 **didn't weigh up enough for it to be on the scale.**
 15 Q. Okay. What makes you say it was a heavy
 16 load?
 17 **A. Because I had some big pieces. I was in**
 18 **the 26 box truck with some big pieces.**
 19 Q. Up until the time of this collision, did
 20 you realize that the brake pedal was worn?
 21 **A. No.**
 22 Q. You said something about the truck being
 23 switched out. Tell me what you mean by that.
 24 **A. Well, they have a contract with Ryder's**
 25 **and they seem to -- you know if -- really first**

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1 come first serve with the trucks. And that
 2 particular day -- you know, some days -- if you
 3 don't empty your truck on the first day, so you go
 4 back and get the same truck and just, you know, do
 5 your route from there, but it was empty on that
 6 day. I emptied it and I think Mr. [REDACTED] my
 7 supervisor at the time, he gave me keys to another
 8 truck. And -- but I'm not sure if it was the same
 9 truck or not, but he did -- he did tell me
 10 something, like -- well, he told me, you just get
 11 that truck at dock 23. And I was, like, okay,
 12 cool. And that's the truck I went and loaded.
 13 Q. You're not sure if you'd ever driven that
 14 particular truck before?
 15 A. No.
 16 Q. How many days had you driven for Eletto
 17 before the day of this collision?
 18 A. I'm not sure.
 19 Q. Was it, like, your first day on the job,
 20 your second day?
 21 A. No.
 22 Q. Had you driven more than five times for
 23 them before this?
 24 A. Yes.
 25 Q. Okay. When did you start driving for

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1 Eletto?
 2 A. In August.
 3 Q. Late August, early August? Do you
 4 remember the day?
 5 A. No, I don't.
 6 Q. Was it early or late in the month?
 7 A. I think it was early.
 8 Q. Okay. So you think you had driven for
 9 Eletto since early August 2015?
 10 A. Yes. I'm sorry.
 11 Q. No problem. I'll ask that question again
 12 so we get a clean record.
 13 A. That's my wife. She's outside.
 14 Q. You can answer it if you need to.
 15 A. No. No. She's fine where I'm at. She's
 16 good at that.
 17 Q. Okay. You said you think you had driven
 18 for Eletto since early August of 2015; is that
 19 right?
 20 A. Yes. Yes.
 21 Q. All right. You said you had come to --
 22 before the collision happened you had come to a
 23 complete stop behind my client and his crane; is
 24 that right?
 25 A. Yes, sir.

Page 23

1 Q. How far -- when you came to a complete
 2 stop, how far was your truck from the back of the
 3 crane?
 4 A. I would say about a car length.
 5 Q. A car length?
 6 A. Yes, because I -- we was talking at least
 7 a car length.
 8 Q. One car length?
 9 A. Yes.
 10 Q. How much is that in feet; do you know?
 11 A. In feet, I can't say.
 12 Q. All right. You said that your foot
 13 slipped off the brake pedal, right?
 14 A. Exactly.
 15 Q. And the truck started rolling forward.
 16 Why didn't you put your -- pick your foot
 17 up and put it down on the brake pedal?
 18 A. It was stuck between the gas pedal and
 19 the brake pedal. I had on steel toe boots.
 20 Q. What brand?
 21 A. And -- I'm not sure about the brand.
 22 Wal-Mart.
 23 Q. All right. What size shoe do you wear?
 24 A. I wear a nine and-a-half, but I bought a
 25 ten.

Page 24

1 Q. So your foot was stuck behind the brake
 2 pedal and gas pedal?
 3 A. Yes.
 4 Q. How far away from the back of the crane
 5 were you when you put your truck in park?
 6 A. I can't say. It was -- it was enough to
 7 hear the -- maybe five to six clicks -- four or
 8 five clicks.
 9 Q. Was it about halfway from your stopping
 10 point to the crane when you put it in park?
 11 A. Yes. And I also -- after I put it in
 12 park, I also swung my other feet to hit the brake,
 13 but my feet was stuck up under there. It didn't
 14 get the brake as soon as I thought.
 15 Q. All right. So your right foot was stuck
 16 behind the brake pedal and the accelerator; is
 17 that correct?
 18 A. Uh-huh.
 19 Q. And where was your left foot?
 20 A. My left foot was over on the floor of the
 21 truck.
 22 Q. Why couldn't you hit the brake pedal with
 23 your left foot?
 24 A. I tried it and it was hitting my foot.
 25 It was hitting my shoe instead of -- and it

Page 25

1 wouldn't go down, because I was trying to snatch
2 it out at the same time and I had the -- and I put
3 it in park --

4 Q. Uh-huh.

5 A. -- and it clicked on up a little bit and
6 it didn't even bump his truck. It hit his arm and
7 he snatched his arm out.

8 Q. Yeah. You referred to his truck and I've
9 been saying the crane. We're talking about the
10 same thing, right?

11 A. Yeah, crane, yeah.

12 Q. Whatever it is --

13 A. It just --

14 Q. -- I just want to make sure we're --

15 A. It just bumped his arm. It didn't even
16 hit the crane. We didn't have no contact --
17 metal-to-metal contact.

18 Q. All right. After the collision, I
19 believe you said [REDACTED] told you not to call
20 the police.

21 A. He said it was -- he was all right. I
22 said, I'm going to still call the policeman and
23 the ambulance, you know, to check you out or
24 whatever, come take a seat on the step of my
25 truck. And he was, like, no, no, I'm all right.

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1 I said, man, take a seat. So he took a seat on
2 the truck. And he proceeded to say the things
3 that he said. And I was, like, man, let me check
4 your arm, you know, make sure you're all right. I
5 looked at it and I said, yeah, it's a little
6 swollen, man. He talking about that ain't
7 nothing, man, that's vacation time. I'm going to
8 sit back and, you know, have me some days off. I
9 need -- I need some vacation time, stuff like
10 that. That was what he was talking about. I was
11 trying -- I was more concerned about him being
12 okay.

13 Q. So you were concerned about him, but he
14 was concerned about vacation?

15 A. Yes.

16 Q. Did he tell you do call the police or
17 don't call the police or did he not say one way or
18 the other?

19 A. Well, he said -- at that time he did say
20 -- no, he didn't say don't call the police.

21 Q. Uh-huh.

22 A. But he said something similar to I
23 can't -- I can't remember was it don't call the
24 police or he already called the police or what --
25 I know [REDACTED] told me he was on the phone with the

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1 ambulance.

2 Q. Uh-huh.

3 A. So it was so much going on in that time,
4 so I really can't say right there.

5 Q. Did the guy who was in front of your
6 truck, that is Mr. [REDACTED] tell you that it was
7 just his arm?

8 A. Yes.

9 Q. And you said that, I think, both you and
10 [REDACTED] called 911; is that right?

11 A. Uh-huh.

12 Q. Yes?

13 A. Yes, sir.

14 Q. The reason I'm doing that --

15 A. I understand.

16 Q. Okay. And Mr. [REDACTED] said to you, that
17 ain't nothing, it's just vacation time?

18 A. Yes, he did --

19 Q. And he told you it was a good --

20 A. -- several times.

21 Q. I believe you testified that Mr. [REDACTED]
22 told you it was a good thing this had happened
23 because he needed some vacation time.

24 A. Yes, he did.

25 Q. Mr. [REDACTED] told you -- you said that he

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1 was fixing to go home, lay back and drink some
2 beers?

3 A. If I'm not sure, he said beers or
4 champagne, one of those.

5 Q. Anyway, so you're saying Mr. [REDACTED] told
6 you he was fixing to go home, lay back and drink
7 either beer or champagne?

8 A. Yes, he did.

9 Q. When the police arrived, you said
10 Mr. [REDACTED] jumped up off the steps of your truck;
11 is that right?

12 A. Yes.

13 Q. And Mr. [REDACTED] then told the police that
14 you tried to kill him?

15 A. Yes, he did.

16 Q. Now, was that an Officer [REDACTED]?

17 A. I'm not sure. I'm not sure of the
18 officer's name anymore.

19 Q. How many officers were out there?

20 A. It was about five.

21 Q. Okay. Was the officer to whom -- well,
22 strike that.

23 And one of the officers told you, you
24 said, don't worry about this because the officer
25 could tell that Mr. [REDACTED] was lying?

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1 A. Yes. That was the female officer.
 2 Q. And you said you took some photos in a
 3 parking lot, I think?
 4 A. Yes. They took photos of me. They took
 5 photos of [REDACTED] They took photos of the truck --
 6 of my truck. And he just stood in front of me and
 7 looked at me so intimidating I -- I almost lost my
 8 cool, but I said, no, I'm ain't going to do that.
 9 I said, I'll just take pictures of his truck and
 10 take pictures of him.
 11 Q. How many pictures did you take?
 12 A. I maybe took about five or six pictures.
 13 Q. What were they of?
 14 A. The back of his truck, the front of my
 15 truck, a picture of him, a picture of Mr. [REDACTED]
 16 so you say, or the man that I hit at the road.
 17 Q. Yeah.
 18 A. And that was about it.
 19 Q. Okay. So your pictures included pictures
 20 of both the crane and your truck?
 21 A. Yes.
 22 Q. And Mr. [REDACTED] the guy who you hit?
 23 A. Yes.
 24 Q. Who was -- who was this person who came
 25 up and was, I guess, looking at you in an

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1 intimidating way?
 2 A. I don't know his name, but I was told by
 3 the police that that was his boss.
 4 Q. That was Mr. [REDACTED] boss?
 5 A. Yes, because I did notify the police that
 6 I didn't appreciate the way he was looking at me
 7 because he made me feel a little uncomfortable,
 8 like I had did something to his truck. He was
 9 looking around the truck and he came and looked at
 10 me like, you know, you did something to me.
 11 Q. Uh-huh.
 12 A. And I didn't.
 13 Q. Were there any marks on your truck caused
 14 by this collision?
 15 A. No.
 16 Q. Any marks on the crane?
 17 A. No.
 18 Q. I think you said earlier that the guy who
 19 showed up on the scene was taunting you?
 20 A. Yes --
 21 Q. All right.
 22 A. -- taunting looks.
 23 Q. Taunting looks.
 24 You said you exchanged information with
 25 someone?

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1 A. With the police.
 2 Q. With the police.
 3 After this collision you said you
 4 finished your deliveries that you were supposed to
 5 make for that day and then turned the truck back
 6 into Macy's, right?
 7 A. Yes.
 8 Q. About what time did you turn the truck
 9 back into Macy's?
 10 A. I'm not sure what time I got in because
 11 it varies.
 12 Q. Was it after dark?
 13 A. Yeah, it was. If I'm not sure, it was.
 14 If I'm sure, it was.
 15 Q. I can't --
 16 A. Most times -- most days I'm turning the
 17 truck in 11, 10:30, 11:00 o'clock, but on that
 18 particular day, I had a heavy load, but it was not
 19 as many pieces -- as many stops as I usually have.
 20 Q. Anyway, the time you turned the truck in
 21 would it have been after 7:00 p.m.?
 22 A. I'm not sure, man. I have to check for
 23 that.
 24 Q. Well, I'm just looking for a ballpark
 25 figure here. After 5:00 p.m.?

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1 A. I can't --
 2 MR. SMITH: Object to form.
 3 THE WITNESS: I can't give you one, man,
 4 right now.
 5 Q. (By Mr. Butler) How many deliveries did
 6 you make after this collision?
 7 A. I'm not sure.
 8 Q. Was it more than one?
 9 A. Yeah, it was more than one.
 10 Q. More than five?
 11 A. Maybe. Maybe.
 12 Q. Okay. What day of the week did this
 13 collision happen; do you remember?
 14 A. I don't even know what day it was. I'm
 15 not sure what day it was.
 16 Q. Let me pull up my calendar and see if we
 17 can figure it out.
 18 MR. SMITH: I think it was a Wednesday,
 19 but double-check that.
 20 MR. BUTLER: All right.
 21 Q. (By Mr. Butler) I'm showing that
 22 September the 3rd, 2015 was a Thursday.
 23 Does that sound right?
 24 A. Yeah, that sounds about right.
 25 Q. So did you meet with Mr. [REDACTED] the day

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1 after the wreck or was it a few days later?
 2 **A. It was a few days later.**
 3 Q. So probably then, I guess, it was that
 4 Monday, September 7th; does that sound right?
 5 **A. Yeah, I think it was.**
 6 Q. All right. Did you ever drive for Eletto
 7 again after this collision?
 8 **A. Yes.**
 9 Q. How many times?
 10 **A. I'd say maybe three before I was called**
 11 **back by my supervisor, because he was telling me**
 12 **that he was going to get on -- going to let me**
 13 **know what to do and everything --**
 14 Q. Who's that?
 15 **A. -- because I guess he had to call**
 16 **Mr. [REDACTED] and -- or call the corporate office**
 17 **and see what they wanted to do.**
 18 Q. Is that -- your supervisor is that
 19 Mr. [REDACTED]
 20 **A. Yes, Mr. [REDACTED]**
 21 Q. All right. Did you ever drive this same
 22 truck for Eletto again?
 23 **A. No.**
 24 Q. Do you know who did?
 25 **A. No.**

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1 Q. What truck did you drive -- go back to a
 2 truck you had driven before after this collision?
 3 **A. As I can remember or what Mr. [REDACTED] was**
 4 **telling me, he gave me keys to another truck.**
 5 **That's what I was trying to explain. I don't know**
 6 **if that was the same truck. I wouldn't know,**
 7 **because we don't do it by numbers or we don't do**
 8 **it by letters or anything like that. It's just**
 9 **here go your keys and you take this dock.**
 10 Q. So he would tell you what dock to go to
 11 to pick up whatever truck you were driving that
 12 day?
 13 **A. Right.**
 14 Q. Did the guy who you collided with ever
 15 wave or do anything to get your attention before
 16 the collision?
 17 **A. Ever do what now?**
 18 Q. Ever wave or do anything to get your
 19 attention before the collision?
 20 **A. No. No.**
 21 Q. Did he holler out when he was hit?
 22 **A. Yes.**
 23 Q. Could you hear it in the cab of the
 24 truck?
 25 **A. Yes. He said, oh.**

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1 Q. Were your --
 2 **A. I had my windows down.**
 3 Q. Your windows were down?
 4 **A. Yes.**
 5 Q. You mentioned that after your foot
 6 slipped off the brake your foot was touching the
 7 accelerator.
 8 Was your foot pressing the accelerator?
 9 **A. No.**
 10 Q. How fast do you think your truck was
 11 going when you hit the guy in front of your truck?
 12 **A. It wasn't going fast. It wasn't -- I**
 13 **wasn't driving it. I was at a complete stop. It**
 14 **rolled. It rolled maybe 0.2 miles or something.**
 15 **I mean, 2.**
 16 Q. 0.2 or 2?
 17 **A. 0.2.**
 18 Q. All right. How long was it between when
 19 your truck started rolling and when you made
 20 contact with Mr. [REDACTED]
 21 **A. How long?**
 22 Q. Yeah.
 23 **A. As in --**
 24 Q. Like, one second, two seconds, half a
 25 second?

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1 **A. Maybe three seconds, maybe four seconds**
 2 **or something, maybe five.**
 3 Q. So from when your truck started rolling
 4 until you made contact with Mr. [REDACTED] was three
 5 to five seconds?
 6 **A. Yes.**
 7 Q. All right. What was Mr. [REDACTED]
 8 saying as your truck was rolling up towards the
 9 crane and Mr. [REDACTED]
 10 **A. He said, hey, hey, hey, hey, hey. And I**
 11 **was -- I was, like, my feet stuck, my feet stuck.**
 12 **And he said -- he just yelled out hey, hey, hey,**
 13 **hey. And as I was, you know, trying to get my**
 14 **other feet to stop the brakes and throw it in**
 15 **park, he was panicking himself, but the truck had**
 16 **rolled on up and bumped Mr. [REDACTED]**
 17 Q. Okay. So as it's rolling, Mr. [REDACTED] was
 18 saying, hey, hey, hey and you were saying my feet
 19 are stuck, my feet are stuck?
 20 **A. Yeah. I'm telling him my feet stuck**
 21 **between the pedal, man. And that's -- that's how**
 22 **much time we had within that -- within that brake**
 23 **from my truck to his crane.**
 24 Q. Yeah. That's the three to five seconds
 25 we were talking about?

1 **A. Yes.**
 2 **Q. All right.**
 3 **MR. BUTLER:** Well, let's take a quick
 4 break. We've been going about an hour and we'll
 5 come back to it.
 6 **THE VIDEOGRAPHER:** Going off video
 7 record.
 8 (Recess from 11:07 a.m. to 11:14 a.m.)
 9 **MR. BUTLER:** Grant, before I forget, we
 10 would request the photographs that Mr. [REDACTED]
 11 took.
 12 **MR. SMITH:** I don't think we've got them.
 13 Did you --
 14 **THE WITNESS:** I got a new phone and it
 15 was in my old phone.
 16 **MR. SMITH:** I don't think they ever
 17 turned them in. We checked. I think you've got
 18 all the pictures we've got.
 19 And I'm checking -- I just realized that
 20 there's a master Ryder lease and I'm checking to
 21 see -- my understanding is we picked up this truck
 22 on the first and I'm trying to see if we have any
 23 documentation for that.
 24 **MR. BUTLER:** Okay.
 25 **MR. SMITH:** And I'm also trying to figure

1 out documentation -- you know, he rode with
 2 trainers for a while and he rode solo and I'm
 3 trying to get documentation for that. My
 4 challenge is, is today's [REDACTED] last day and the
 5 company's shutting down. So --
 6 **MR. BUTLER:** All right.
 7 **MR. SMITH:** -- I'll do the best I can.
 8 **MR. BUTLER:** All right. Let's go back on
 9 video.
 10 **THE VIDEOGRAPHER:** We're back on video
 11 record.
 12 **Q. (By Mr. Butler)** Before we went on video,
 13 but after steno, Mr. [REDACTED] you said you got a
 14 new phone.
 15 When did you get a new phone?
 16 **A. I'm not sure when I got a new phone, but**
 17 **I did get a new phone because of water damage to**
 18 **my other phone.**
 19 **Q. Did you get -- was this in 2016?**
 20 **A. 2015.**
 21 **Q. 2015?**
 22 **A. Yes.**
 23 **Q. Like, the day after the wreck, a couple**
 24 **of weeks after the wreck, a couple of months after**
 25 **the wreck?**

1 **A. A couple of months.**
 2 **Q. A couple of months?**
 3 **A. It might have been 2016, maybe January of**
 4 **2016.**
 5 **Q. All right. So a few months after this**
 6 **collision is when you got the new phone?**
 7 **A. Uh-huh.**
 8 **Q. Let me make a note. I just learned**
 9 **something I need to ask about later.**
 10 All right. I want to ask you about some
 11 things that happened after the collision. I
 12 believe you testified that you got out of your
 13 truck and helped Mr. [REDACTED] up, helped him to the
 14 steps of your truck.
 15 **A. No. He wasn't on the ground or anything.**
 16 **Q. Oh, excuse me, then.**
 17 Did you guide him to the steps of your
 18 truck or how did that happen?
 19 **A. Yes, I guided him to the steps of my**
 20 **truck to take a seat. He didn't want to sit down,**
 21 **but I asked him to sit down.**
 22 **Q. The moment that you got out of your**
 23 **truck, where was Mr. [REDACTED] and what was he doing?**
 24 **A. He was on the side of both trucks. And**
 25 **he was saying, oh, man, my arm, man, my arm, my**

1 **arm. And he said -- he said, my arm, my arm. And**
 2 **I was, like, man, is you okay. He was, like,**
 3 **yeah, I'm all right, he said, but -- you know, he**
 4 **said, man, you smashed my arm. And I said let me**
 5 **see your arm, because he was down like -- he was**
 6 **holding his arm in front of him. He had his back**
 7 **to me.**
 8 **Q. He was kind of hunched over holding his**
 9 **arm?**
 10 **A. Right. He was hunched over holding his**
 11 **arm. And I told him, let me see it. I asked him**
 12 **to let me see his arm. And he said, I'm all**
 13 **right. And I said, man, let me see your arm. I**
 14 **said -- and I looked when he showed it to me I**
 15 **said, your arm look a little swollen, man. I said**
 16 **come sit down on the step of my truck. And he**
 17 **said, I'm all right, man. I'm all right. I said,**
 18 **man, come on sit down on the step of the truck.**
 19 **So I grabbed him by his other arm and escorted him**
 20 **to my truck to sit on the step.**
 21 **Q. What did his arm look like?**
 22 **A. It was -- it was swollen.**
 23 **Q. How swollen?**
 24 **A. It was bigger than the other one.**
 25 **Q. Did Mr. [REDACTED] have any other injuries**

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1 other than his arm?
 2 **A. He didn't say anything about any other**
 3 **injuries, but his arm had marks on it.**
 4 Q. What kind of marks?
 5 **A. From, you know, being squeezed in between**
 6 **the trucks, like little skint marks.**
 7 Q. Little what marks?
 8 **A. Little skint marks.**
 9 Q. Spell that word for me, if you will.
 10 **A. Marks --**
 11 Q. Or just describe them.
 12 **A. Okay. He had marks like scratches.**
 13 Q. Oh, I see.
 14 So you're saying he had scratches on his
 15 arm?
 16 **A. Yeah.**
 17 Q. Other than the injuries to Mr. [REDACTED]
 18 arm, did you see any evidence of any other injury?
 19 **A. No. No. He was walking fine. He was --**
 20 **he was fine.**
 21 Q. Did you say he was walking fine?
 22 **A. And I actually asked him, I said,**
 23 **anything else on you, man? Anything else wrong**
 24 **with you, man? And he was, like, no, I'm all**
 25 **right, man.**

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1 Q. So you asked him if anything else was
 2 wrong and he said no?
 3 **A. Yes. Yes, I did.**
 4 Q. Did you say that Mr. [REDACTED] was walking
 5 around fine?
 6 **A. Yes.**
 7 Q. All right. Did you ever see Mr. [REDACTED]
 8 fall down?
 9 **A. No.**
 10 Q. Was he ever on the ground at any point
 11 during this whole series of events?
 12 **A. No, not that I -- from my knowledge, no.**
 13 Q. When Mr. [REDACTED] got up from the steps of
 14 your truck, did he have any trouble getting up?
 15 **A. No. You can ask the ambulance that, the**
 16 **police. They could explain that better than I**
 17 **can.**
 18 Q. So you're saying he did not have any
 19 trouble getting up?
 20 **A. No.**
 21 Q. And we could ask the police or ambulance
 22 guy about that?
 23 **A. Yes.**
 24 Q. Is all that correct?
 25 **A. Yes.**

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1 Q. All right. When you took a picture of
 2 Mr. [REDACTED] what angle was the picture? Was it
 3 like --
 4 **A. Not Mr. [REDACTED]**
 5 Q. Oh, excuse me, then.
 6 **A. His boss or whoever he was.**
 7 Q. Uh-huh.
 8 **A. I took a picture of that guy.**
 9 Q. Did you tell [REDACTED] or anyone else
 10 at Eletto that you had taken the pictures?
 11 **A. Yeah. I told Mr. [REDACTED] that I had took**
 12 **pictures of everything. And I was only taking the**
 13 **pictures, you know, because he was taking pictures**
 14 **of us.**
 15 Q. Yeah.
 16 **A. You know, I didn't see no need for the**
 17 **pictures or anything like that because the**
 18 **situation was -- had already been resolved due to**
 19 **the wreck itself.**
 20 Q. When did you tell Mr. [REDACTED] that
 21 you had taken the pictures?
 22 **A. The same day when I called in.**
 23 Q. The day of the wreck?
 24 **A. Yes.**
 25 Q. Did you make any other -- shoot a video

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1 or do any other kind of recording other than the
 2 pictures you took?
 3 **A. I'm not sure if I shot video. I might**
 4 **have did, but I'm not sure.**
 5 Q. Okay. Did you take any pictures or shoot
 6 any video of the brake pedal in your truck?
 7 **A. I think I did take a picture of it, but I**
 8 **don't think I took a video, no.**
 9 Q. You took a picture of the brake pedal,
 10 but no video; is that right?
 11 **A. Yes.**
 12 Q. I want to ask you about conversations or
 13 things you overheard on the scene of the
 14 collision.
 15 Do you know what I mean when I say the
 16 scene of the collision?
 17 **A. Yes, as being at the collision.**
 18 Q. Yeah. Is there anything that you
 19 overheard Mr. [REDACTED] say that we haven't already
 20 discussed?
 21 **A. No, other than he was all right. He**
 22 **tried to kill me. He smashed me in between the**
 23 **trucks, which is not true. That was about it and**
 24 **he need a vacation and don't worry about it, this**
 25 **was -- this will just be his vacation time and**

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1 things like that. That was the only thing he
 2 actually talked about.
 3 Q. All right.
 4 A. He did mention his -- his family needing
 5 him at home.
 6 Q. Okay. So he said the collision was a
 7 good thing because his family needed him at home?
 8 A. Yes. He did say that also.
 9 Q. You mentioned a conversation you had with
 10 the -- a female officer in which --
 11 A. Well, actually, she didn't actually say
 12 out of her mouth, but she told me to come with
 13 her. Don't worry about it. I see what's going
 14 on. That's actually what she was saying -- what
 15 she had said, because she couldn't say that she
 16 saw him telling a fib, but she actually -- and
 17 from eye contact with me and her, she was telling
 18 me that -- and she also said, you're all right,
 19 because I see what's going on. And it was like in
 20 a -- you know, I know what's going on way.
 21 Q. All right.
 22 MR. BUTLER: [REDACTED], would you see if you
 23 can find an officer's name other than [REDACTED].
 24 Q. (By Mr. Butler) We're going to look and
 25 see if I can find another officer's name.

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1 Did you have any other conversation with
 2 any police officers on the scene of the collision?
 3 A. Other than giving them my paperwork, my
 4 insurance, my DOT and my license, no.
 5 Q. What was [REDACTED] saying on the
 6 scene?
 7 A. They didn't even question him at all.
 8 Q. I know, but when you and he were talking.
 9 A. Well, he wasn't saying anything too much
 10 of nothing. We didn't talk as much as after the
 11 police came I was outside the truck, he was still
 12 inside the truck. And he proceeded to stay inside
 13 the truck as everything resolved right there at
 14 the intersection. Then we came down to the little
 15 shopping mall or whatever that was. He got out of
 16 the truck then.
 17 Q. Is it the shopping mall where you took
 18 some of the pictures?
 19 A. Yes, when I took all the pictures. It
 20 wasn't at the intersection.
 21 Q. Okay. Did the police come to the
 22 shopping mall?
 23 A. Yeah. They escorted us over.
 24 Q. Did you talk with the officer, say
 25 anything with the officers at the shopping mall

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1 that we haven't already talked about?
 2 A. No. No.
 3 Q. What did the --
 4 A. They took his report. They took my
 5 report. And they wrote a report.
 6 Q. Which of the officers talked with
 7 Mr. [REDACTED]
 8 A. It was a male. I have no idea of his
 9 name.
 10 Q. Did that officer spend a lot of time
 11 talking with Mr. [REDACTED] could you tell?
 12 A. Well, no, because they was trying to get
 13 him to the hospital. And as they proceeded to put
 14 him on the bed, they asked him a few questions,
 15 which I don't know what it is because they wanted
 16 everybody to get back after they got him on the
 17 stretcher and everything. They talked to him
 18 about something. And they proceeded to escort us
 19 off the road over to the shopping mall.
 20 Q. All right. What was [REDACTED] saying once
 21 you got -- when you got back in the truck and went
 22 down to the shopping mall?
 23 A. He didn't say anything really. If he
 24 did, I can't remember.
 25 Q. Do you remember anything he said on the

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1 scene of the collision or at the shopping mall
 2 after the impact happened?
 3 A. Say that again.
 4 Q. Do you remember anything that Mr. [REDACTED]
 5 said on the scene of the wreck or at the shopping
 6 mall after the impact happened?
 7 A. No. He was -- after the impact, he was
 8 on his phone before me trying to get the police
 9 out, ambulance -- well, he called 911.
 10 Q. Was he asking you what happened or --
 11 A. No. No. He was, like, hey, hey, hey,
 12 hey, when I was pulling up.
 13 Q. Right.
 14 A. And that was it. That's all I heard from
 15 him.
 16 Q. After the collision?
 17 A. Because I was outside the truck, but I
 18 did ask him, I said, hey, after they took and put
 19 Mr. [REDACTED] or the man I hit behind the truck --
 20 Q. Uh-huh.
 21 A. -- after they put him on the stretcher, I
 22 said, you heard what he said, right? And he was,
 23 like, yeah, I heard what he said now.
 24 Q. Oh. So Mr. [REDACTED] overheard what?
 25 A. Him saying that he was okay, it was

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1 vacation time and the other things that I
2 explained to you.
3 Q. All right. So [REDACTED] overheard the
4 comments about vacation time and I'm okay --
5 A. Yeah, and also --
6 Q. -- and I'm going to drink some champagne
7 or beer?
8 A. Right. Right.
9 Q. Is that right?
10 A. And the other thing about his kids
11 needing him at home and things like that, because
12 I still had my door open to the cab.
13 Q. So [REDACTED] overheard all that?
14 A. Yes.
15 Q. All right. Did you talk with the
16 emergency medical folks at all?
17 A. No, other than they asked me was I okay
18 and I was, like, yeah.
19 Q. After you called 911, what was your next
20 phone call?
21 A. My next phone call was to dispatch.
22 Q. Did you call dispatch before or after
23 911?
24 A. After.
25 Q. All right. What did you tell dispatch?

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1 A. That I had just had a wreck at -- on
2 Peachtree Parkway and it wasn't a bad incident,
3 but it was an incident enough for the police and
4 the ambulance to come out. And I told them about
5 the guy being in between, you know, the trucks or
6 whatever.
7 Q. What did dispatch say?
8 A. She told me she was going to get with my
9 supervisor and have them give me a call back. And
10 at that time the police were asking me for all my
11 paperwork and everything. And my supervisor I had
12 to call him back to get the paperwork from the
13 truck. That's why I think it was another truck
14 that I had gotten before the truck that I had.
15 Q. Did your supervisor call you?
16 A. Yes, he did call me back while I was in
17 the -- after we pulled over in the shopping mall.
18 Q. What did your supervisor say?
19 A. He was asking questions about how things
20 was going and did I have my DOT on me or did I
21 have all my stuff that I needed. And I told him,
22 yeah, I found everything. And he said he'll see
23 me when I get back in the office. He asked me did
24 I get a ticket and I told him, yeah, I got a
25 ticket and asked me did I hurt anybody and I told

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1 him, yeah, he -- I hurt a guy's arm. He was
2 outside the truck. I explained to him he was
3 outside the truck at the stoplight and I explained
4 the situation to him. And I proceeded to go on my
5 next stop.
6 Q. How was that ticket resolved? It was
7 following too closely, right?
8 A. Yeah. That's what it was, but it
9 shouldn't have been.
10 Q. How was the ticket resolved?
11 A. Mr. [REDACTED] paid the ticket off, from
12 my understanding.
13 Q. All right. And do you know how the court
14 resolved it? Did you plead guilty? Did you plead
15 not guilty? Did you plead nolo? What happened?
16 A. It was nolo. He told me that it was --
17 that if -- he asked me did I -- was I comfortable
18 with pleading nolo.
19 Q. Who asked you that?
20 A. Mr. [REDACTED]
21 Q. [REDACTED]
22 A. Yes.
23 Q. And what did you say?
24 A. I told him I didn't think I could plead
25 nolo. I had pled nolo in a license case before --

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1 Q. Uh-huh.
2 A. -- once. And I didn't think I could do
3 it within so much -- so length of time and I
4 explained that to him. He was, like, oh, you
5 okay. If you -- he said -- I said, yeah, well, I
6 can plead nolo then. So I took the nolo. I took
7 it over the phone. It was over the phone. And I
8 told him, yes, I would plead nolo if everything
9 was, you know, going to be okay. And he said, you
10 okay, we'll just pay the ticket and you plead nolo
11 and that will be the end of that until things --
12 other things come forth.
13 Q. Did you ever go to court over that
14 ticket?
15 A. No.
16 Q. Were you represented by a lawyer for that
17 ticket?
18 A. Yes.
19 Q. Who?
20 A. I'm not sure of his name. Mr. [REDACTED]
21 told me it was a lawyer from the company.
22 Q. Did you pay that lawyer or did the
23 company pay that lawyer?
24 A. Mr. [REDACTED]
25 Q. Mr. [REDACTED] paid the lawyer?

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1 **A. Yes. I was told that my lawyer -- he**
 2 **told me that his lawyer would take care of it.**
 3 Q. I understand.
 4 Did anyone from your company come out to
 5 the scene of the wreck or to the shopping mall?
 6 **A. No.**
 7 Q. Anyone from your company take pictures
 8 other than you?
 9 **A. No.**
 10 Q. By your company, I mean Eletto; is that
 11 what you understood me to mean?
 12 **A. Uh-huh. Yes.**
 13 Q. Did you make any written or verbal
 14 statements to either Eletto or Vanliner Insurance?
 15 **A. Excuse me?**
 16 Q. Did you make any written or verbal
 17 statements of what happened to either Eletto or to
 18 Vanliner Insurance?
 19 **A. Yes. I wrote a statement.**
 20 Q. To who?
 21 **A. To Eletto.**
 22 Q. Did you write one for Vanliner?
 23 **A. I'm not sure if it was Vanliner or Eletto**
 24 **really, but I wrote it and gave it back to my**
 25 **supervisor.**

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1 Q. Do you know who Vanliner is?
 2 **A. Yes.**
 3 Q. Okay. All right. I'm going to show you
 4 what I'll mark as Plaintiff's Exhibit B.
 5 (Plaintiff's Exhibit B was marked for
 6 identification.)
 7 Q. (By Mr. Butler) There's not much room
 8 for the sticker. I'll put the sticker on the
 9 bottom of this one.
 10 You can see on Plaintiff's Exhibit B says
 11 at the top Vanliner loss report form, right?
 12 **A. Uh-huh.**
 13 Q. Is that a yes?
 14 **A. Yes.**
 15 Q. And then it says, 146338 to the right of
 16 that, correct?
 17 **A. Correct.**
 18 Q. In red there, I've put a box around a
 19 description.
 20 Is that your description?
 21 **A. Yes.**
 22 Q. So you wrote that?
 23 **A. Yes, I think I did.**
 24 Q. Okay. I'll show you what I'll mark as
 25 Plaintiff's Exhibit C.

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1 (Plaintiff's Exhibit C was marked for
 2 identification.)
 3 Q. (By Mr. Butler) And Plaintiff's Exhibit
 4 C says at the top, driver's statement, right?
 5 **A. Excuse me?**
 6 Q. Plaintiff's Exhibit C says, driver's
 7 statement at the top, right?
 8 **A. Yes.**
 9 Q. And then at the bottom right, it's a
 10 two-page exhibit, it says, Eletto 00002 and Eletto
 11 00003 --
 12 **A. Uh-huh.**
 13 Q. -- is that right?
 14 **A. Yes.**
 15 Q. Is this your statement?
 16 **A. Yeah. This looks more like my**
 17 **handwriting.**
 18 Q. Okay. Is that your signature at the
 19 bottom?
 20 **A. Yes.**
 21 Q. All right. And then on the first page, I
 22 put a box around what I think is your driver's
 23 license number; is that right or was your driver's
 24 license number at the time. It will be on the
 25 first page there. There's a red box in the top

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1 left.
 2 **A. Yes, that's my number.**
 3 Q. That is your number?
 4 **A. Uh-huh.**
 5 Q. Is that a yes?
 6 **A. Yes.**
 7 Q. Thank you. I want to ask you about who
 8 at Eletto you spoke with regarding this collision.
 9 I know --
 10 **A. [REDACTED].**
 11 Q. All right. [REDACTED] who?
 12 **A. I don't know her last name.**
 13 Q. What's her job title or whatever?
 14 **A. Dispatcher.**
 15 Q. All right. You spoke with [REDACTED]
 16 we've established, on the Monday following the
 17 collision, right?
 18 **A. Yes.**
 19 Q. How many times did you speak with
 20 Mr. [REDACTED]
 21 **A. Once that morning and he asked me to hold**
 22 **up before I go out.**
 23 Q. When you say once that morning, are you
 24 referring to the Monday after the collision?
 25 **A. Yes. If I'm sure, it was that Monday,**

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1 but it could have been a couple of days after.
 2 Q. After what?
 3 A. The collision. After the collision on
 4 Peachtree Parkway.
 5 Q. Yeah.
 6 A. It could have been maybe more days than
 7 that weekend. I don't know if it was that Monday
 8 or that Wednesday.
 9 Q. Okay. How many times did you speak with
 10 Mr. [REDACTED]
 11 A. I spoke with him once that day.
 12 Q. And did you speak with him again after
 13 that?
 14 A. Yes.
 15 Q. How many times?
 16 A. Well, at that time we spoke a little
 17 longer than what we had spoke on that first day.
 18 Q. How many times total did you speak with
 19 Mr. [REDACTED] --
 20 A. Twice.
 21 Q. -- after this collision?
 22 A. Twice.
 23 Q. What did you talk about the second time?
 24 A. My job.
 25 Q. What did he tell you?

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1 A. He told me that he was going to have to
 2 lay me off.
 3 Q. Did he say why?
 4 A. Due to the collision. He wanted to get
 5 everything resolved before I go back to work.
 6 Q. Did you ever go back to work for Eletto?
 7 A. No.
 8 Q. When was the second time you talked with
 9 Mr. [REDACTED] when he told you that they were laying
 10 you off?
 11 A. When was it?
 12 Q. Yeah.
 13 A. I have no idea.
 14 Q. Was it --
 15 A. I know where it was. I know where it
 16 was, but I don't know what date.
 17 Q. Well, tell me where it was.
 18 A. It was in the warehouse.
 19 Q. So Mr. [REDACTED] was here in Georgia in the
 20 warehouse?
 21 A. Yes.
 22 Q. Y'all met face-to-face?
 23 A. Yes.
 24 Q. Is this the warehouse in Stone Mountain?
 25 A. Yes, it is, Starr Parkway.

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1 Q. Starr Parkway.
 2 How long did y'all talk for?
 3 A. Maybe -- well, it's a big warehouse and
 4 we walked from his office from -- well, from the
 5 front office to the back of the warehouse, so
 6 maybe 20 minutes.
 7 Q. Y'all met for about 20 minutes or talked
 8 for about 20 minutes?
 9 A. Uh-huh. Yes.
 10 Q. Was that your last day working for
 11 Eletto?
 12 A. Yes, it was.
 13 Q. And you've never worked for Eletto again
 14 since that day?
 15 A. No, but I did call and I did go to the
 16 job a couple of times to check on my status. And
 17 I got a call back from Mr. [REDACTED] stating that he
 18 wouldn't be able to hire me back.
 19 Q. Okay. I had a question I was going to
 20 ask you and it just slipped my mind.
 21 Did you ever tell Mr. [REDACTED] about the
 22 brake pedal being worn?
 23 A. Yes. I explained to him about that.
 24 Q. When did you explain that to him?
 25 A. After everything occurred, because I had

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1 no -- at the time I didn't -- you know, wasn't --
 2 it wasn't -- it wasn't something that I really
 3 thought was going to hinder me from driving.
 4 Q. What you didn't -- what was it you did
 5 not think would hinder you from driving?
 6 A. The brake pedal being worn.
 7 Q. At what time are you talking about?
 8 A. On the day of the wreck.
 9 Q. Okay. Did you tell Mr. [REDACTED] about the
 10 brake pedal the first time you talked to him?
 11 A. Yes. Yes. I told the dispatcher when I
 12 first called her.
 13 Q. So you told the dispatcher and then you
 14 told Mr. [REDACTED] the first time y'all talked?
 15 A. I told the dispatcher, then I told
 16 Mr. [REDACTED] my supervisor. And then when I
 17 spoke with Mr. [REDACTED] I also explained that to
 18 him, too.
 19 Q. All right. I got you.
 20 You told [REDACTED], the dispatcher, [REDACTED]
 21 [REDACTED] and [REDACTED]
 22 A. Yes.
 23 Q. How many times did you speak with
 24 Mr. [REDACTED] after this collision?
 25 A. I spoke with Mr. [REDACTED] maybe that whole

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1 week.

2 Q. Every day for the whole week following
3 the collision?

4 A. Yes, sir.

5 Q. All right. Did you ever have any e-mails
6 or communicate in writing with [REDACTED] or [REDACTED] or
7 anyone else at Eletto?

8 A. State that again.

9 Q. Did you ever have any e-mails or
10 communicate in writing with [REDACTED] [REDACTED] [REDACTED]
11 [REDACTED] or anyone else at Eletto?

12 A. Other than the paperwork we have here,
13 no.

14 (Plaintiff's Exhibit D was marked for
15 identification.)

16 Q. (By Mr. Butler) I'm going to show you
17 what I've marked as Plaintiff's Exhibit D to your
18 deposition. Plaintiff's Exhibit D looks like it
19 used to say, owner operator data sheet at the top,
20 but it's kind of got cut off. Does that look
21 right to you?

22 A. Yeah. Yes.

23 Q. Anyway, on the -- at the bottom it says
24 Eletto 000017, right?

25 A. Yes.

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1 Q. In the middle here in the red box, it
2 says, liability insurance own or Eletto, and
3 Eletto is circled; is that right?

4 A. Yes, it is.

5 Q. Do you know of -- do you understand that
6 Vanliner is Eletto's liability insurer?

7 A. No, I didn't know at the time.

8 Q. Do you know that now?

9 A. From you telling me and showing me on
10 this paperwork, yes.

11 Q. Okay. Is there to the best of your
12 knowledge any other liability insurance that could
13 apply here other than Eletto's?

14 A. Can you explain that again?

15 Q. Yeah. Do you know of any other insurance
16 that might apply to this case other than Eletto's
17 insurer who was Vanliner?

18 A. No.

19 Q. All right. Have you ever had any
20 conversations with anybody at Vanliner?

21 A. No.

22 Q. Ever talked with someone named [REDACTED]
23 [REDACTED]

24 A. From my understanding, no, I didn't speak
25 with anyone at Vanliner.

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1 Q. Other than what's contained in
2 Plaintiff's Exhibit B, have you ever had any
3 written communications or e-mails with anyone at
4 Vanliner?

5 A. (No response.)

6 Q. Let me rephrase my question. I think I
7 might have asked it unclear.

8 A. I don't remember even writing this.

9 Q. Was there -- do you recall ever having
10 any written communications or e-mails with
11 Vanliner?

12 A. No.

13 Q. All right. Did anyone from Vanliner ever
14 call you?

15 A. If they did, it's been a while. I can't
16 remember.

17 Q. Do you believe that the brake pedal being
18 worn caused this collision?

19 A. I know it did.

20 Q. Did you ever talk about that with [REDACTED]
21 [REDACTED]

22 A. After the fact, yes.

23 Q. Say again.

24 A. After the fact, yes.

25 Q. Oh, so after the collision, you and

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1 Mr. [REDACTED] talked about the brake pedal?

2 A. Yes.

3 Q. When did you talk about it?

4 A. In the parking lot of the little shopping
5 area.

6 Q. Was that the only time you talked about
7 it or did y'all talk about it later that day or
8 some other time?

9 A. Well, I actually pointed it out to him
10 and showed him.

11 Q. So you showed Mr. [REDACTED] the brake
12 pedal --

13 A. Yes.

14 Q. -- while you were in the parking lot
15 there?

16 A. Yes, I did.

17 Q. To the best of your knowledge, when did
18 Eletto or Ryder repair the brake pedal?

19 A. I have no idea. I parked the truck and I
20 never got it -- back in it until that Monday,
21 until the day of me meeting Mr. [REDACTED]

22 Q. All right.

23 A. And I was sitting in my truck. I got
24 back in the truck because I still had some items
25 on the truck that I thought I was going to be able

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1 to go out and deliver, but unfortunately,
2 Mr. [REDACTED] called me from the truck and that was
3 my last time in the truck.

4 Q. Did -- to the best of your knowledge, did
5 Eletto or Ryder ever make any repairs to the
6 transmission?

7 A. I have no idea.

8 Q. And you said you don't know whether they
9 made any repairs to the brake pedal, I think; is
10 that right?

11 A. No, I have no idea.

12 Q. I believe you said earlier that you did a
13 pretrip inspection on the truck on the morning of
14 September 3rd, 2015; is that right?

15 A. Yes.

16 Q. And that's something you're supposed to
17 do, right?

18 A. Daily.

19 Q. Daily?

20 A. Daily.

21 Q. Every day before you get in the truck?

22 A. I agree.

23 Q. Did you fill out a pretrip inspection
24 report?

25 A. Yes, I did.

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1 Q. Did you turn it in?

2 A. Yes. The only way you can get your
3 paperwork is to have a pretrip finished and
4 signed.

5 Q. And by -- you say your paperwork, you
6 mean the papers you need to go out and make the
7 deliveries?

8 A. Yes.

9 Q. Who did you turn the pretrip inspection
10 report in to?

11 A. I don't know the guy's name, but he's the
12 guy that take all the pretrip inspection paperwork
13 before the dispatcher give out your paperwork for
14 your load.

15 Q. So before you ever left the warehouse on
16 the morning of September 3rd, 2015, you had
17 already turned in your pretrip inspection report?

18 A. Yes.

19 Q. And the person you turned it in to I
20 guess you don't know his name, but he's somebody
21 who works for Eletto; is that right?

22 A. Yes. He's -- if I can say, he's a
23 Mexican guy.

24 Q. Okay. Was that guy -- well, strike that.
25 Have you seen that pretrip inspection

Page 67

1 report since you turned it in?

2 A. No, I haven't.

3 Q. Has anyone at Eletto ever asked you to
4 look for it?

5 A. No.

6 Q. Has anyone at Eletto ever asked you about
7 it?

8 A. No.

9 Q. Has anyone at Eletto ever asked you
10 whether you turned in that pretrip inspection
11 report?

12 A. No.

13 Q. Has anyone at Eletto ever asked you
14 whether you completed a pretrip inspection report?

15 A. No.

16 Q. And I'm going to ask the same series of
17 questions on Vanliner, although I think I know
18 what your answers are going to be.

19 Has anyone at Vanliner ever asked you
20 about that pretrip inspection report?

21 A. No.

22 Q. Has anyone at Vanliner ever asked you if
23 you turned in that pretrip inspection report?

24 A. No.

25 Q. Has anyone at Vanliner ever asked you

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1 whether you completed that pretrip inspection
2 report?

3 A. No.

4 Q. Before today has anyone ever asked you
5 whether you completed the pretrip inspection
6 report?

7 A. No.

8 Q. You're also supposed to do a post-trip
9 inspection report at the end of the day; is that
10 right?

11 A. Excuse me?

12 Q. You're also supposed to do a post-trip
13 vehicle inspection report at the end of the day,
14 right?

15 A. Yes. That's cleaning out your truck,
16 basically.

17 Q. Huh?

18 A. It's cleaning your truck, basically.

19 Q. Okay. I meant to ask you this. The
20 pretrip inspection report, that includes looking
21 at the brakes, right?

22 A. Not -- no, not the brake pedal.

23 Q. All right. Does it include -- what does
24 it include looking at related to the brake system?

25 A. It includes the emergency brakes, whether

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1 they work or not. It includes the brake light,
 2 but not the brake itself.
 3 Q. Did you look at the brake itself?
 4 A. No, I didn't, not until the incident
 5 occurred.
 6 Q. It's called the service brake, right, the
 7 brake we're talking about?
 8 A. Is it the service brake?
 9 Q. Yeah.
 10 A. The brake next to the gas pedal, right?
 11 Q. Yeah.
 12 A. Yes.
 13 Q. Okay. When you do a pretrip inspection,
 14 what do you do to test the brake lights?
 15 A. You push your brake -- I push my
 16 emergency brake down, let it up and I also crank
 17 -- not crank it, but turn the key over to check
 18 all my gauges and lights.
 19 Q. Do you check the brake lights at the back
 20 of the truck?
 21 A. Yes.
 22 Q. How do you do that?
 23 A. My helper, he supposed to stand at the
 24 back and I smash the brakes two times and he say,
 25 yeah, they're working, check the blinkers and so

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1 forth and so on.
 2 Q. I see. All right. The post-trip
 3 inspection that you -- that also involves checking
 4 the service brakes, doesn't it?
 5 A. No.
 6 Q. Are you saying service brakes are not a
 7 part of the post-trip inspection?
 8 A. No, not -- not actually looking at the
 9 brake pedal seeing if it's worn, no.
 10 Q. Well, are the service brakes generally
 11 involved in the post-trip inspection?
 12 A. Excuse me?
 13 Q. Are the service brakes generally involved
 14 in the post-trip inspection?
 15 A. Generally as in looking at the brake
 16 pedal?
 17 Q. No, as in checking the brake system.
 18 A. Checking it, yes.
 19 Q. Did you do a post-trip inspection on
 20 September 3rd, 2015?
 21 A. No. I still had merchandise on the truck
 22 and I was asked to park it and come inside and as
 23 the time went by, me and the supervisor we parted
 24 and I gave him the keys and I went home and he
 25 went home.

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1 Q. You were supposed to do a post-trip
 2 inspection, right?
 3 A. No. I wasn't done with the truck.
 4 Q. Is it true or false that at the
 5 completion of each day's work the driver is
 6 supposed to do a post-trip inspection?
 7 A. Well, as in -- if you're talking about
 8 cleaning your truck out and making sure you don't
 9 have any flat tires and that's about it.
 10 Q. Is it true or false that at the
 11 completion of a day's work a driver is supposed to
 12 do a post-trip inspection?
 13 A. No, that's not true.
 14 Q. All right. And you said, I think, that
 15 you did not do a post-trip inspection on
 16 September 3rd, 2015?
 17 A. No, I didn't.
 18 Q. All right. I asked you a bad question.
 19 It's unclear whether, "no, I didn't," was the
 20 answer to my question. I'll ask it a different
 21 way.
 22 Did you do a post-trip inspection on
 23 November 3, 2015 [sic]?
 24 A. A post-trip?
 25 Q. That's correct. That's the question.

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1 A. As in -- could you explain what a
 2 post-trip is one more time?
 3 Q. You know what a post-trip inspection is,
 4 don't you?
 5 A. No.
 6 Q. You don't know what a post-trip
 7 inspection is?
 8 A. No.
 9 Q. Do you know what a driver vehicle
 10 inspection report is?
 11 A. Yes.
 12 Q. Is a driver vehicle inspection report
 13 involved in a post-trip inspection?
 14 A. As of the end of your day you write your
 15 daily briefing, you know, that's about it. As a
 16 post-trip inspection is basically cleaning your
 17 truck and making sure you don't have any flat
 18 tires.
 19 Q. Is it true that at the end of the day
 20 you're supposed to create a vehicle inspection
 21 report?
 22 A. Yes.
 23 Q. Did you do that on November -- excuse me.
 24 Did you do that on September the 3rd, 2015?
 25 A. I do that every day.

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1 Q. So you did create a vehicle inspection
2 report after your day's work on September the
3 3rd --
4 A. Yes.
5 Q. -- 2015?
6 A. Yes. I have to. We have books for that.
7 Q. You did do that?
8 A. Yes.
9 Q. All right. Did you turn it in?
10 A. Yes. I have to every morning.
11 Q. Who did you turn it in to?
12 A. I turned it in to dispatcher.
13 Q. Is that [REDACTED] ?
14 A. Sometimes.
15 Q. Who was it that day?
16 A. I have no idea.
17 Q. Anyway, you turned -- on September the
18 3rd, 2015, you turned the vehicle inspection
19 report that you completed at the end of the day in
20 to the dispatcher; is that right?
21 A. Yes.
22 Q. And that is the dispatcher that worked
23 for Eletto, right?
24 A. Yes.
25 Q. Has anyone at Eletto ever asked you about

1 you what I'll mark as Plaintiff's Exhibit E.
2 (Plaintiff's Exhibit E was marked for
3 identification.)
4 Q. (By Mr. Butler) All right. You're
5 familiar generally with -- aren't you, with the
6 Federal Motor Carrier Safety Regulations?
7 A. Yes.
8 Q. And what I've highlighted here appears to
9 be the FMCSR or Federal Motor Vehicle Safety
10 Regulation that deals with driver vehicle
11 inspection reports; is that right?
12 A. Yeah.
13 Q. All right.
14 A. Yes.
15 Q. This talks -- this is the regulation that
16 governs you when you're driving a commercial
17 vehicle, right?
18 A. Uh-huh. This involving me when I'm
19 driving a commercial vehicle, yes.
20 Q. I was looking for the yes. I think you
21 said uh-huh. That's all it was.
22 A. Yes.
23 Q. All right.
24 A. Uh-huh. Yes. Sorry about that.
25 Q. It's no problem.

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1 that post-trip vehicle inspection report?
2 A. No.
3 Q. Has anyone at Eletto ever asked you
4 whether you completed that post-trip vehicle
5 inspection report?
6 A. No.
7 Q. Has anyone at Vanliner ever asked you
8 about that post-trip vehicle inspection report?
9 A. No.
10 Q. Has anyone at Vanliner ever asked you
11 whether you completed that post-trip vehicle
12 inspection report?
13 A. No.
14 Q. Has anyone at all before today ever asked
15 you whether you completed a post-trip vehicle
16 inspection report on September the 3rd, 2015?
17 MR. SMITH: Objection. Calls for
18 attorney-client privilege, but subject to that,
19 you can answer. Don't tell him about any
20 conversations you and I had or anybody from my
21 office, but he's talking about any non-lawyers
22 that talked to you about that.
23 THE WITNESS: No, not that I'm familiar
24 with.
25 Q. (By Mr. Butler) Okay. I'm going to show

1 I'll show you another exhibit --
2 actually, we've got five minutes left on the tape.
3 Let's change the tape out.
4 THE VIDEOGRAPHER: Going off video
5 record. The time is 11:59 a m.
6 (Recess from 11:59 a m. to 12:04 p.m.)
7 THE VIDEOGRAPHER: We're back on video
8 record. The time is 12:04 p m. This is the
9 beginning of tape No. 2.
10 (Plaintiff's Exhibit F was marked for
11 identification.)
12 Q. (By Mr. Butler) Mr. [REDACTED] I'm going
13 to show you what I've marked as Plaintiff's
14 Exhibit F. Exhibit F is a legal document or legal
15 pleading called -- it's a response to request for
16 admissions.
17 Have you ever looked at a document like
18 this before?
19 A. Yes.
20 Q. You have? Okay. Good.
21 A. Yes. I was sent one in the mail.
22 Q. You probably -- I'm sorry?
23 A. I said, I was actually sent one in the
24 mail.
25 Q. Okay. Well, I'll describe the way it

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1 works, although you may already know, but
2 generally, my client, Mr. [REDACTED] through me will
3 make a statement there and they're numbered
4 statements. Here, the first one is 13. And then
5 on behalf of you, your lawyers will reply and
6 then in this pleading they replied again. They,
7 like, amended or clarified or whatever their
8 response.

9 Do you see the statement and the
10 response, then the amended response on the first
11 page?

12 A. Yes.

13 Q. All right. Flip with me to page 2 and
14 let's look at No. 38 at the bottom there.

15 A. Page 2, No. 38?

16 Q. Yes, sir.

17 A. Okay.

18 Q. Do you see where it says, quote,
19 plaintiff was not at fault for the collision, end
20 quote?

21 A. Yes.

22 Q. And under that the response says, deny,
23 right?

24 A. Uh-huh.

25 Q. If you flip to the next page the amended

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1 response says, for his amended response to request
2 to admit No. 38, Defendant [REDACTED] states that
3 based on the information presently available he
4 does not have any evidence showing plaintiff was
5 at fault for the collision. As such, Defendant
6 [REDACTED] admits in parts and denies as written
7 request to admit No. 38.

8 Did I read that right?

9 A. Yeah, you read it from the paper correct,
10 yes.

11 Q. Okay. Do you stand by that response?

12 A. I'm not sure about that.

13 Q. Okay.

14 A. Is the client -- is your client supposed
15 to be outside of a vehicle in the middle of a busy
16 road?

17 Q. Well, let me ask you first whether you
18 agree or disagree with the language that's
19 highlighted on page 3 of the request for
20 admissions, which is Plaintiff's Exhibit F?

21 A. Well, I can't answer that, because I
22 think that it was part -- you know, he was part at
23 fault for that collision happening to himself.

24 Q. So you think Mr. [REDACTED] is part at fault?

25 A. Yes.

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1 Q. What percentage of fault do you think is
2 his?

3 MR. SMITH: Object to form. Go ahead.

4 THE WITNESS: Taking responsibility for
5 doing -- pulling over as a -- as a -- as you say a
6 truck driver.

7 Q. Uh-huh.

8 A. If you're going to do anything pertaining
9 to your truck on the outside, you should pull
10 over, put your cones down and measure your truck
11 from the road.

12 Q. All right. What do -- you said measure
13 your truck from the road. Tell me what you mean
14 by that.

15 A. Well, your truck should be clear of any
16 other vehicles and the cones should be a barrier
17 for that reason.

18 Q. All right. What percentage of the fault
19 do you think is on Mr. [REDACTED] like 25 --

20 MR. SMITH: Object -- go ahead.

21 Q. (By Mr. Butler) -- 25 percent, 50
22 percent, 75 percent, 100 percent?

23 MR. SMITH: Object to form.

24 Q. (By Mr. Butler) You can answer.

25 A. I'd say 50/50.

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1 Q. Okay. Who's the other 50 percent on?

2 A. Me.

3 Q. Okay. So in your mind the collision is
4 50 percent on Mr. [REDACTED] and 50 percent on you?

5 A. Yes, sir.

6 Q. I want to talk about the 50 percent that
7 you think is on Mr. [REDACTED]

8 You mentioned a minute ago, I think --
9 you think -- you believe he should have pulled
10 over and put down cones?

11 A. Yes. That was my big -- that was the
12 biggest thing, you know, that -- that's one of the
13 biggest things in driving that cause accidents,
14 getting out of your truck at the wrong time.

15 Q. Uh-huh.

16 A. You know, and that was really literally
17 the wrong place and the wrong time to be getting
18 out of the truck in the middle -- we was in the
19 third lane. We was one lane from the fourth and
20 fifth lane -- well, the fifth -- the fourth lane
21 and the turning lane. And he was in the middle of
22 the street out of his truck. And he was first at
23 the light also.

24 Q. Have you seen the police report?

25 A. No.

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1 Q. All right. I'm just going to rip off a
2 page.

3 MR. BUTLER: Tear off this page, if you
4 will.

5 MS. BISCHOFF: (Complies with request.)
6 (Plaintiff's Exhibit G was marked for
7 identification.)

8 Q. (By Mr. Butler) I'm going to show you
9 what I've marked as Plaintiff's Exhibit G, which
10 I'll represent to you is a diagram of the
11 collision from the police report.

12 Does that diagram look accurate to you?

13 **A. From -- from the time that I was stopped
14 or from the time that he was -- his arm was hit?**

15 Q. I don't know. I guess at the time his
16 arm was hit. It has AOI, which is area of impact.

17 **A. Well, I don't -- that don't look
18 accurate. That looks like he's pinned between the
19 trucks to me.**

20 Q. Okay. Other than -- so the trucks look
21 like they're too close together to you?

22 **A. Yeah. They wasn't -- we wasn't -- I
23 wasn't that close, if you're saying closeness. I
24 wasn't that close, no.**

25 Q. Other than the trucks being too close

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1 together, does the diagram contained in
2 Plaintiff's Exhibit G look accurate to you?

3 MR. SMITH: Object to form.

4 THE WITNESS: No, that don't look
5 accurate to me.

6 Q. (By Mr. Butler) Okay. What else is
7 wrong?

8 **A. It's too close.**

9 Q. Right. Let me do the question again.

10 Other than the trucks being too close
11 together, other than that, does the diagram in
12 Plaintiff's Exhibit G look accurate to you?

13 MR. SMITH: Same objection.

14 THE WITNESS: As far as me being directly
15 behind him, yes.

16 Q. Are the trucks in the correct lane?

17 **A. No.**

18 Q. All right. What lane should they be in?

19 **A. In the lane with the lines.**

20 Q. Okay. I'm going to hand you a blue pen.

21 **A. Yes. This -- okay, one, two, three,
22 four, five. No, I think -- is that a five-lane
23 highway, right? One, two, three, four, five,
24 right. That's a five-lane highway and it only
25 have -- it only have four with the median. Right?**

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1 Q. Okay. So you're saying there should be
2 another lane in the diagram?

3 **A. Yes.**

4 Q. Another lane going right to left on the
5 page?

6 **A. Another lane, yes.**

7 Q. It does look like there's a turn lane
8 there.

9 **A. Well, the turn lane --**

10 Q. Does that change your answer or no?

11 **A. Excuse me?**

12 Q. I was asking if the present -- I was
13 going to point out the turn lane and see if that
14 changed your answer.

15 **A. Yes, that do change. The turning lane is
16 supposed to be where the median is. And we was in
17 the lane with the lines. We was two lanes from
18 the right and three lanes from the left.**

19 Q. All right. I'm going to pass you a blue
20 pen. Put a box, if you will, where the -- in your
21 opinion the truck should be.

22 **A. Okay (Complies with request.)**

23 Q. All right. Thanks.

24 We've now talked about in Plaintiff's
25 Exhibit G in your view the trucks are too close

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1 together and they're in the wrong lane.

2 Is anything else inaccurate about
3 Plaintiff's Exhibit G?

4 **A. No.**

5 Q. All right. You've mentioned that --
6 we've talked about pulling over and putting down
7 cones.

8 **A. Uh-huh.**

9 Q. What else, if anything else, in your mind
10 did Mr. [REDACTED] do wrong?

11 **A. That was all, by getting out the truck in
12 the middle of a busy highway. It's -- you can't
13 go no more wronger than that I don't think.**

14 Q. Is there anything else that he did wrong?

15 **A. Well, as far as our conversation, I think
16 he was -- he shouldn't have been talking like
17 that, you know, if he was hurt. You know, I think
18 that was kind of odd.**

19 Q. All right. Talking about things that
20 happened before the collision, other than not
21 pulling over, putting out cones, is there anything
22 else that in your mind Mr. [REDACTED] did wrong?

23 **A. No.**

24 Q. I want to show you what I'll mark as
25 Plaintiff's Exhibit H --

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1 (Plaintiff's Exhibit H was marked for
2 identification.)
3 Q. (By Mr. Butler) -- which I'll represent
4 to you is a copy of your MVR results, your driver
5 history, from the state of Georgia.
6 **A. Uh-huh.**
7 Q. Look it over -- it's not but two pages --
8 and tell me if anything on it appears incorrect to
9 you.
10 **A. No.**
11 Q. Everything on Exhibit H looks correct?
12 **A. Yes.**
13 Q. All right. I want to ask you a little
14 bit about your jobs before Eletto.
15 I understand that the job you had right
16 before you went to work for Eletto was with Pizza
17 Hut; is that right?
18 **A. Yes.**
19 Q. What were you doing with Pizza Hut?
20 **A. Delivery driver.**
21 Q. Delivering pizzas in a car?
22 **A. Yes, in a van.**
23 Q. In a van. All right. How big was the
24 van?
25 **A. Standard.**

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1 Q. Like a four-wheel van, like --
2 **A. Yeah.**
3 Q. -- anyone could drive?
4 **A. Yes.**
5 Q. Before that, I show you working at
6 Peoples Choice Payee Services.
7 **A. Yes.**
8 Q. What was that?
9 **A. It was a company that works out of Social**
10 **Security -- with Social Security clients and I**
11 **made deliveries for that company also.**
12 Q. What were you delivering?
13 **A. Mail deliveries, packages.**
14 Q. In what kind of vehicle?
15 **A. Truck and car.**
16 Q. What kind of truck?
17 **A. Four wheel -- 4 x 4 pickup.**
18 Q. Pickup truck?
19 **A. Yes.**
20 Q. So not a commercial vehicle?
21 **A. No.**
22 Q. And the van you were driving with Pizza
23 Hut was not a commercial vehicle?
24 **A. No.**
25 Q. The truck you were in on the day of the

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1 collision was a commercial vehicle?
2 **A. Yes.**
3 Q. Before Peoples Choice I see Quest
4 Staffing.
5 **A. Yes.**
6 Q. Tell me what you were doing there?
7 **A. Warehouse.**
8 Q. Okay. Were you loading and unloading
9 stuff?
10 **A. Yes.**
11 Q. Had you ever driven a commercial vehicle
12 before you went to work for Eletto?
13 **A. Yes. At -- I actually went to school in**
14 **Indiana before I went to Ohio.**
15 Q. All right. School in Indiana --
16 **A. Uh-huh.**
17 Q. -- what kind of school was that?
18 **A. Trucking school.**
19 Q. Is that where you got your commercial
20 driver's license learners permit?
21 **A. No. I actually left Indiana because of**
22 **the length of time that I had to stay at school**
23 **and I couldn't come home. So I had to leave**
24 **because I had some personal things going on at**
25 **home.**

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1 Q. Were you living in Ohio at the time?
2 **A. No. I was living in Indiana at the time.**
3 Q. All right. Did you complete trucker
4 school in Indiana?
5 **A. No.**
6 Q. All right. You mentioned -- how much of
7 it did you go through?
8 **A. Three weeks.**
9 Q. How long would you have had to stay to
10 complete it?
11 **A. Three more weeks.**
12 Q. And you mentioned Ohio a minute ago.
13 **A. Uh-huh.**
14 Q. What was that about?
15 **A. Not Ohio. I'm sorry. Not Ohio, but**
16 **Iowa.**
17 Q. Iowa?
18 **A. Right.**
19 Q. Another four letter state with a lot of
20 vowels?
21 **A. That's where I received my permit at.**
22 Q. What did you do in Iowa?
23 **A. Truck driver.**
24 Q. And that's where you got your CDL
25 learners permit?

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1 **A. Uh-huh.**
 2 Q. Did you ever get your full CDL?
 3 **A. No.**
 4 Q. How long were you in Iowa?
 5 **A. I'd say about a month and-a-half.**
 6 Q. Month and-a-half?
 7 **A. Uh-huh.**
 8 Q. Did you graduate?
 9 **A. No, I didn't graduate, but I got my**
 10 **permit. And at the time I got my permit, they**
 11 **wanted me to stay for 12 months in Iowa. And I**
 12 **had to sign over my rights to -- from here to Iowa**
 13 **and I didn't want to do that.**
 14 Q. What was the thing -- what was the
 15 institution called that you went to in Iowa?
 16 **A. CRST.**
 17 Q. CRST. Is that a trucker school?
 18 **A. Yes, it is.**
 19 Q. All right. And you did not complete it;
 20 is that true?
 21 **A. No, I didn't complete it as to get my**
 22 **CDL, no.**
 23 Q. Okay. I asked a bad question, so I'm
 24 going to redo it again.
 25 Did you complete the course at CRST such

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1 that you could get your CDL?
 2 **A. No.**
 3 Q. You had a CDL learners permit, right?
 4 **A. Right.**
 5 Q. That required you to be in the vehicle
 6 with someone who had a CDL, right?
 7 **A. And also to drive the vehicle with**
 8 **someone who have a CDL.**
 9 Q. What is different -- tell me what the
 10 difference is.
 11 **A. I could be a passenger or a driver with a**
 12 **person that have full CDL.**
 13 Q. You could drive?
 14 **A. Yes.**
 15 Q. Okay.
 16 **A. I did drive.**
 17 Q. Okay, but in order to drive a commercial
 18 vehicle with your CDL learners permit, you needed
 19 to have someone in the truck with you who had a
 20 full CDL; is that right?
 21 **A. Correct.**
 22 Q. I'm going to show you --
 23 **A. Or a teacher.**
 24 Q. Huh?
 25 **A. Or a teacher.**

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1 Q. Or a teacher?
 2 **A. Yes.**
 3 (Plaintiff's Exhibit I was marked for
 4 identification.)
 5 Q. (By Mr. Butler) I'm going to show you
 6 what I've now marked as Plaintiff's Exhibit I.
 7 This Plaintiff's Exhibit I says, application for
 8 services at the top, doesn't it?
 9 **A. Uh-huh.**
 10 Q. Does it have application for services at
 11 the top?
 12 **A. Yes, it does.**
 13 Q. And is this your application to go work
 14 for Eletto?
 15 **A. That do look like it.**
 16 Q. Well, it's got your signature on the
 17 bottom of the second page, right?
 18 **A. Yeah, it looks like I wrote a little fast**
 19 **on this.**
 20 Q. Is that your signature at the bottom
 21 of --
 22 **A. Yeah, it is.**
 23 Q. -- the second page?
 24 **A. Yeah, it is.**
 25 Q. And if we flip to the second to last page

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1 here, it says, Eletto 00024 at the bottom. Do you
 2 see it?
 3 **A. Uh-huh. Yes.**
 4 Q. On that page labelled 00024 of
 5 Plaintiff's Exhibit I, we have your signature
 6 again, right?
 7 **A. Yes.**
 8 Q. And this is your certification about
 9 whether you've been in any previous wrecks in the
 10 last 12 months; is that correct?
 11 **A. Yes.**
 12 Q. That's dated September 1, 2015, correct?
 13 **A. Correct.**
 14 Q. This page we're looking at that's marked
 15 00024 is something you had to do before you could
 16 start driving for Eletto, right?
 17 **A. Correct.**
 18 Q. All right. Let's look back to the very
 19 first page of Plaintiff's Exhibit I, which is
 20 marked 00020. Are you there?
 21 **A. Uh-huh. Yes, I am.**
 22 Q. What is 53-foot van there in the middle
 23 of the page?
 24 **A. 53-foot van, I have drove -- that's what**
 25 **I drove after I came back from school.**

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1 Q. When did -- for whom did you drive the
2 53-foot van?
3 **A. No, that's what I drove at school.**
4 Q. Was that in Iowa or --
5 **A. Yes, Iowa.**
6 Q. -- Indiana?
7 **A. Iowa.**
8 Q. Okay. So that's -- the 53-foot van is
9 what you were driving in order to get your
10 commercial learners permit, right?
11 **A. Yes. Yes.**
12 Q. Okay. Let's see. I'm going to mark
13 something as Exhibit J.
14 (Plaintiff's Exhibit J was marked for
15 identification.)
16 Q. (By Mr. Butler) And Exhibit J appears to
17 be the part of the federal regulations that says
18 you've got to have someone who has a CDL in the
19 truck with you when you're driving on a permit; is
20 that right?
21 **A. Yes, sir, but it's a -- you know, it's a**
22 **limit to the size of the truck. It's not a must**
23 **for a 26-footer.**
24 Q. Yeah. I'm with you.
25 I want to show you now --

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1 (Plaintiff's Exhibit K was marked for
2 identification.)
3 Q. (By Mr. Butler) -- what I've marked as
4 Plaintiff's Exhibit K.
5 **A. Okay.**
6 Q. To get a CDL, you have to have a regular
7 driver's license first, correct?
8 **A. Uh-huh.**
9 Q. And what we're looking here at Exhibit K
10 is the only copy of your driver's license I've
11 ever received.
12 Does this look like a copy of your
13 driver's license?
14 **A. Yes.**
15 Q. Is this the license you had at the time
16 of the collision?
17 **A. I had -- I had two.**
18 Q. You had two driver's licenses?
19 **A. Yes.**
20 Q. You're not supposed to have two driver's
21 licenses, are you?
22 **A. Well, I had went and -- I received one**
23 **and I lost one, so I went and got another, but I**
24 **found the other.**
25 Q. Where is the driver's license that is not

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1 pictured here in Plaintiff's Exhibit K?
2 **A. I have it right here.**
3 Q. All right. Pass it down here and I'll
4 take a picture of it.
5 **A. (Complies with request.)**
6 Q. Can you pass it down, just kind of throw
7 it.
8 **A. (Complies with request.)**
9 (Mr. Butler took a photograph of
10 Mr. [REDACTED] driver's license.)
11 Q. (By Mr. Butler) Thank you. All right.
12 I'll have to mark that up later.
13 How many -- before -- well, strike that.
14 (Discussion off the record.)
15 Q. (By Mr. Butler) I wanted to ask you
16 about the force of the impact, Mr. [REDACTED] I
17 think you said earlier that --
18 MR. BUTLER: Grant, I'm going to use this
19 exhibit here in a second, but I only have one
20 copy.
21 MR. SMITH: That's fine.
22 Q. (By Mr. Butler) I wanted to ask you
23 about the -- how hard the impact was between your
24 truck and Mr. [REDACTED] I think you said earlier
25 that it wasn't real hard, if I remember that

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1 right.
2 MR. SMITH: Object to form.
3 THE WITNESS: It was a light impact.
4 Q. (By Mr. Butler) How did you describe it?
5 **A. It was a light impact, but from the**
6 **weight of the truck, I think that's what gave him**
7 **a swollen arm.**
8 Q. Hit the table about as hard as you think
9 the truck hit his arm, please.
10 **A. It was like (indicating).**
11 Q. Move the papers, if you will, and do it
12 one more time so it won't be in the way of the
13 video camera.
14 **A. (Complies with request.)**
15 Q. All right. Thank you.
16 I wanted to ask you about what I'll mark
17 as Plaintiff's Exhibit L.
18 (Plaintiff's Exhibit L was marked for
19 identification.)
20 Q. (By Mr. Butler) All right. What does it
21 say at the top of Plaintiff's Exhibit L in bold
22 there in all caps?
23 **A. Prior on duty statement.**
24 Q. And that's a description of how many
25 hours you worked on the certain days that are

1 listed there in the chart; is that right?

2 **A. I don't see the hours, but I see the**

3 **days.**

4 Q. What do the zeros underneath the days

5 mean?

6 **A. That means no hours.**

7 Q. Okay. So Plaintiff's Exhibit L tells us

8 that you worked no hours on any of those days

9 listed in the chart; is that correct?

10 **A. That's what the chart says. I have no**

11 **idea if I worked these days or not.**

12 Q. Doesn't it -- does it have your signature

13 at the bottom?

14 **A. Yeah, that's my signature.**

15 Q. Okay. Did you sign something that wasn't

16 true?

17 **A. I might have, because if these -- I have**

18 **to check these days and hours unless it was after**

19 **the wreck.**

20 Q. Well, the dates are before the wreck, I

21 think, aren't they?

22 **A. 8/26, 27 and 28. It depends on what day**

23 **I started and I don't know.**

24 Q. So are you saying you don't know whether

25 the things you wrote on Plaintiff's Exhibit L are

1 accurate or inaccurate?

2 **A. I don't even know if I wrote this, man.**

3 **I've never seen it before.**

4 Q. So your testimony is you've never seen

5 Plaintiff's Exhibit L before today?

6 **A. Yeah. I've never seen this. I don't**

7 **remember it.**

8 Q. Okay. Is there anyone else who you think

9 might have filled it out and signed it for you?

10 MR. SMITH: Object to form.

11 THE WITNESS: No, not that I know of. I

12 have no idea if anyone did that or not.

13 Q. (By Mr. Butler) Did you have a problem

14 at Eletto with other people filling stuff out for

15 you and signing your name to it?

16 **A. No, but I had a couple of run-ins with**

17 **some workers that I was -- if this is when I first**

18 **started, I worked with other people before I**

19 **started driving myself. So I did work almost two**

20 **weeks with different drivers and I had problems**

21 **with my money.**

22 Q. So do you think --

23 **A. I didn't get my money from some of them.**

24 Q. Do you think some other driver filled out

25 that sheet and signed your name to it?

1 **A. I have no idea.**

2 MR. SMITH: Object to form.

3 THE WITNESS: I have no idea.

4 Q. (By Mr. Butler) All right. How many

5 days had you driven for Eletto before the day of

6 this collision?

7 **A. I can't say, man. I really don't know.**

8 Q. Was it, like, 10 or 12, one or two, a

9 hundred?

10 **A. I don't want to lie to you and I don't**

11 **want to tell you something that I don't know. I**

12 **really don't know.**

13 Q. If [REDACTED] said he thought it was

14 your first day, would you have any reason to

15 disagree with that?

16 **A. Yes.**

17 Q. You would disagree with that?

18 **A. Yes.**

19 Q. What days did you drive before this?

20 **A. I drove weeks before that day.**

21 Q. Multiple times during those weeks?

22 **A. Yes, except Sundays. I drove some**

23 **Saturdays.**

24 Q. All right. Did you drive -- was [REDACTED]

25 [REDACTED] with you those days?

1 **A. Not every day, but most of them.**

2 Q. Okay. What was your next job after

3 Eletto?

4 **A. Aaron's Rental.**

5 Q. Aaron's Rental. Were you driving a

6 commercial vehicle for them?

7 **A. Yes, I was.**

8 Q. What are you doing now?

9 **A. I'm out of a job right now.**

10 Q. What did you do after Aaron's?

11 **A. That was my last job. Well, I drove --**

12 **no. No. No. I take that back. I'm sorry. I**

13 **drove for Smyrna Thrift Store.**

14 Q. Were you driving a commercial vehicle for

15 them?

16 **A. Yes, a box truck.**

17 Q. All right. Was -- have you worked

18 anywhere other than the Smyrna rental place and

19 Aaron's since you worked at Eletto?

20 **A. No.**

21 Q. Have you spoken with [REDACTED] since

22 the day of the collision?

23 **A. Yes, I have.**

24 Q. How many times?

25 **A. Well, he's my wife's nephew's dad, so --**

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1 Q. Okay.
 2 A. So I can speak with him every day if I
 3 would like, but we don't talk like that anymore.
 4 Q. When was the last time you talked with
 5 him?
 6 A. It's been about maybe -- I talked with
 7 him some weeks after the wreck and told him I
 8 might need his help in court and he said he was
 9 cool, he'd try to be there, just let him know.
 10 And that was the last time I talked to him.
 11 Q. So the last time you talked with him is
 12 when you said you might need some help in court?
 13 A. Yeah.
 14 Q. And that was the few weeks after the
 15 wreck?
 16 A. Yes. After I received my package.
 17 Q. All right. Did you know [REDACTED] before
 18 y'all worked together at Eletto?
 19 A. Yes.
 20 Q. How did y'all come to work together at
 21 Eletto? Did you apply together?
 22 A. No. No. No. I applied first and he
 23 told me I couldn't drive on my own without a
 24 helper because it was going to be a lot of work.
 25 So I called [REDACTED] and asked him did he want to

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1 work with me and he said, yes. And that was a
 2 week later -- excuse me. That was a week later
 3 because I had to do training first. So I went out
 4 with a couple of more guys. I even did an
 5 out-of-town route before I even started driving.
 6 Q. All right. Have you spoken with
 7 Mr. [REDACTED] since the day of the collision?
 8 A. No.
 9 Q. Do you remember the object on the back of
 10 the crane that Mr. [REDACTED] was pushed up against?
 11 A. That his arm was pushed up against?
 12 Q. Yeah.
 13 A. It looked like some wood or something to
 14 me.
 15 Q. Here's what I'm driving at. Let me show
 16 you a -- Exhibit M to your depo.
 17 (Plaintiff's Exhibit M was marked for
 18 identification.)
 19 Q. (By Mr. Butler) -- is going to be a
 20 picture.
 21 Does that appear to be a picture of your
 22 truck and the crane -- the back of the crane?
 23 A. Yes. Yes. Yes.
 24 Q. All right. I see on the back of the
 25 crane there's this, like, black bar looking thing.

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1 A. Right.
 2 Q. Now, if we were looking at the back of
 3 the crane from the perspective of your truck, do
 4 you know what that would look like?
 5 A. Yeah -- no. No. I didn't pay attention
 6 to the bar. I saw him fumbling with this rope
 7 thing right here. That's what it was. He was --
 8 he had his hand in between there -- under there,
 9 rather and he was pulling this thing right here.
 10 And when I pulled up, this -- even the -- my
 11 bumper --
 12 Q. Uh-huh.
 13 A. -- it was already like that.
 14 Q. All right. So the last thing you --
 15 A. When I did an inspection, my bumper was
 16 already like that. It didn't even -- I didn't
 17 even hit him. I didn't hit him with the truck. I
 18 hit his arm in between the truck.
 19 Q. Did your inspection report note that
 20 little dent in the bumper that we see in
 21 Plaintiff's Exhibit M?
 22 A. It shouldn't have, because I explained to
 23 them that it was already there.
 24 Q. Did it or did it not describe the dent in
 25 the bumper?

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1 A. Did it describe the dent in my report --
 2 Q. Yeah.
 3 A. -- in my report?
 4 Q. Right.
 5 A. No. No.
 6 Q. All right. Now, where was Mr. [REDACTED]
 7 arm pinned? Point it out to me if you don't mind.
 8 A. It wasn't pinned anywhere. It was hit.
 9 He was -- his body was over here on the side. He
 10 was fumbling with this, whatever this part right
 11 here is (indicating).
 12 Q. Uh-huh.
 13 A. He was fumbling with that. And he had
 14 his rope -- you see how the rope is coming to the
 15 side?
 16 Q. Yeah.
 17 A. He had the rope in his hand also. He
 18 jumped from the side and the truck hit his arm
 19 right here on the side and the bumper.
 20 Q. All right. I'm going to give you a
 21 marker. I'm going to ask you to circle that.
 22 This is a dark picture, but --
 23 A. I can -- I can show you exactly how --
 24 from looking down, I know exactly where it hit at.
 25 Q. I had a better idea for how to mark this.

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1 **A. This is at the time I had backed up. So**
 2 **it wasn't even -- he wasn't pinned in between the**
 3 **trucks.**

4 Q. Plaintiff's Exhibit M was taken after you
 5 backed up, you said?

6 **A. Yes. Yes.**

7 Q. All right. Let me give you this little
 8 arrow.

9 **A. That would have, like, smashed him if he**
 10 **was in -- he would be still in between the truck.**

11 Q. All right. Let me show you -- I'm
 12 handing you a little arrow here. Stick that on
 13 there so it's pointing to where Mr. [REDACTED] arm
 14 was hit --

15 **A. (Complies with request.)**

16 Q. -- on plaintiff's Exhibit M.

17 **A. His arm was right here (indicating).**

18 Q. All right. Now, if we look at
 19 Plaintiff's Exhibit M, do you see this black metal
 20 thing that is to the right or behind the wood?

21 **A. Uh-huh.**

22 Q. Do you know whether there was a crossbar
 23 or any other metal in that black thing?

24 **A. No. I don't --**

25 Q. You don't remember one way or the other?

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1 **A. No. No.**

2 Q. All right. And then on Plaintiff's
 3 Exhibit M -- pass me your copy, if you don't mind.
 4 I want to see if I can use this arrow as a point.
 5 Yeah.

6 **A. See because he had his body to the side**
 7 **of the truck really, but he was still fumbling. I**
 8 **guess he was pushing that piece into the -- he had**
 9 **unloosened it --**

10 Q. Uh-huh.

11 **A. -- and he was pushing them pieces back**
 12 **together or something like that, but his arm was**
 13 **over here and his body was over here (indicating).**

14 Q. All right.

15 **A. As you can see, the bumper is round and**
 16 **there's no way if he wouldn't have been in the**
 17 **middle -- if he would have been in the middle, I**
 18 **can understand him saying that his body was**
 19 **crushed, but he wasn't there. He was on the side.**
 20 **His arm was leaning here and he had his other arm**
 21 **on the wooden pieces. That's how I really seen**
 22 **the wood. I never remembered the bar.**

23 Q. All right. I'm going to hand you back
 24 Plaintiff's Exhibit M. I'm going to hand you a
 25 double arrow and I'm going to ask you to point

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1 this one on there, put it on horizontally pointing
 2 at the strap that Mr. [REDACTED] was working with.

3 **A. (Complies with request.)**

4 Q. All right. Thank you.

5 And your testimony a moment ago, I
 6 believe, was that Mr. [REDACTED] arm was caught
 7 there where the single arrow points to
 8 Mr. [REDACTED] body was out to the side and not
 9 between your truck and the crane.

10 Did I get that right?

11 **A. Right. Right. The strap was actually**
 12 **hanging from the truck. I think that's why he**
 13 **might have been out from the truck.**

14 Q. I understand.

15 Since you left Eletto, have you spoken
 16 with [REDACTED] [REDACTED]

17 **A. Yes, several times.**

18 Q. Okay. When?

19 **A. I spoke with him every week until he told**
 20 **me that I couldn't -- I was going to be**
 21 **terminated.**

22 Q. Oh, I mean after you were terminated,
 23 have you spoken with [REDACTED] [REDACTED] since then?

24 **A. Yes. He called me about the ticket, and**
 25 **I also talked to him about the other guys who owed**

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1 **me money, and I also talked to him about -- well,**
 2 **I called him a couple of times just to speak with**
 3 **him also.**

4 Q. Were you speaking with him about this
 5 collision?

6 **A. No. We talked about it a couple of times**
 7 **and I explained to him that it wasn't really --**
 8 **you know, it was an honest incident and it wasn't**
 9 **nothing I could do to, you know, not make it**
 10 **happen. And he told me he knew or whatever and he**
 11 **would get back with me, because I was trying to**
 12 **get back to work.**

13 Q. Since you were terminated from Eletto,
 14 how many times would you estimate you've spoken
 15 with Mr. [REDACTED]

16 **A. About ten times.**

17 Q. When was the last time?

18 **A. Some months ago.**

19 Q. Months ago?

20 **A. Yeah.**

21 Q. So, like, sometime in 2017?

22 **A. No. Sometime in 2016.**

23 Q. All right. Sometime in late 2016?

24 **A. Yeah. I called him just to see was he**
 25 **okay.**

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1 Q. See if he was okay?
 2 A. Yeah.
 3 Q. All right. And I think you said y'all
 4 had spoken ten times since you were terminated.
 5 Did you speak fairly regularly since you
 6 were terminated up until late 2016?
 7 A. As I said, I called every week until he
 8 told me that I wasn't going to be able to go back
 9 to work.
 10 Q. Have you spoken with Mr. [REDACTED] since the
 11 collision?
 12 A. No.
 13 Q. Since the day of the collision, I should
 14 say?
 15 A. No, sir. I don't even know --
 16 Q. I already asked you that. Excuse me.
 17 A. Yeah. I don't know Mr. [REDACTED]
 18 Q. Since you were terminated from Eletto,
 19 have you spoken with [REDACTED] [REDACTED]
 20 A. Yes, I spoke with him.
 21 Q. How many times?
 22 A. Maybe three to four times.
 23 Q. Was that about getting your job back or
 24 about this collision?
 25 A. Well, he also left the job at that time

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1 too, so he was -- I asked him would he talk to
 2 someone or talk to [REDACTED] and see could I get my job
 3 back, and he was, like, I'll speak to somebody.
 4 I'll try to help you out. And he talked to me
 5 about another job. And it was basically about,
 6 you know, me finding employment in some areas that
 7 he knew.
 8 Q. All right. Have you ever been arrested
 9 before?
 10 A. Yes.
 11 Q. How many times?
 12 A. Maybe twice.
 13 Q. Twice?
 14 A. Yeah. I've been arrested maybe twice,
 15 maybe three times, not for nothing dramatic.
 16 Q. When was the last time? An approximate
 17 date is fine.
 18 A. About 15.
 19 Q. About 15 years ago?
 20 A. Yeah.
 21 Q. Oh. All right. What for?
 22 A. Driving with no license or something like
 23 that --
 24 Q. All right.
 25 A. -- no insurance.

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1 Q. And what about the other times, what were
 2 they for?
 3 A. Same.
 4 Q. Driving with no license?
 5 A. Falsely -- fighting. Fighting one time
 6 with my ex wife. And I didn't hit her --
 7 Q. Uh-huh.
 8 A. -- but they took me to jail anyway. And
 9 no insurance or something like that. And I was
 10 falsely accused of a crime.
 11 Q. What were you falsely accused of?
 12 A. Breaking and entering and it was -- it
 13 was thrown out that next morning.
 14 Q. With your ex wife, were you charged with
 15 simple battery?
 16 A. Yeah.
 17 Q. Charged with cruelty to children?
 18 A. No.
 19 Q. Sometimes if there's a child present they
 20 throw that charge on you.
 21 A. No, man, I love my kids, man.
 22 Q. If there's a child present they --
 23 A. No. I ran and hid at the neighbors house
 24 in the attic and the police came and got me out of
 25 the attic. So I wasn't around my kids.

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1 Q. All right. Let me look over my notes. I
 2 think we're probably done.
 3 THE VIDEOGRAPHER: Going off the video
 4 record. The time is 12:47 p m.
 5 (Recess from 12:47 p.m. to 12:53 p.m.)
 6 THE VIDEOGRAPHER: We're back on video
 7 record.
 8 Q. (By Mr. Butler) I wanted to ask about
 9 the light at the time with the collision.
 10 Had the light turned green by the time
 11 your truck collided with Mr. [REDACTED]
 12 A. No.
 13 Q. Does [REDACTED] [REDACTED] have a CDL?
 14 A. No, not that I know of, no.
 15 Q. Has he ever had one that you know of?
 16 A. No.
 17 MR. BUTLER: All right. Thank you. No
 18 further questions.
 19 MR. SMITH: No questions.
 20 THE VIDEOGRAPHER: Going off video
 21 record. The time is 12:51 p m.
 22 (Deposition concluded at 12:51 p m.)
 23 (Signature reserved.)
 24
 25

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The following reporter and firm disclosures were presented at this proceeding for review by counsel:

REPORTER DISCLOSURES

The following representations and disclosures are made in compliance with Georgia Law, more specifically:

Article 10(B) of the Rules and Regulations of the Board of Court Reporting (disclosure forms) OCGA 9-11-28(c) (disqualification of reporter for financial interest).

OCGA 15-14-37(a) and (b) (prohibitions against contracts except on a case-by-case basis).

- I am a certified reporter in the State of Georgia.

- I am a subcontractor for Pope Reporting & Video.

- I have been assigned to make a complete and accurate record of these proceedings.

- I have no relationship of interest in the matter on which I am about to report which would disqualify me from making a verbatim record or maintaining my obligation of impartiality in compliance with the Code of Professional Ethics.

- I have no direct contract with any party in this action and my compensation is determined solely by the terms of my subcontractor agreement.

FIRM DISCLOSURES

- Pope Reporting & Video was contacted to provide reporting services by the noticing or taking attorney in this matter.

- There is no agreement in place that is prohibited by OCGA 15-14-37(a) and (b). Any case-specific discounts are automatically applied to all parties, at such time as any party receives a discount.

- Transcripts: The transcript of this proceeding as produced will be a true, correct and complete record of the colloquies, questions, and answers as submitted by the certified court reporter.

- Exhibits: No changes will be made to the exhibits as submitted by the reporter, attorneys, or witnesses.

- Password-Protected Access: Transcripts and exhibits relating to this proceeding will be uploaded to a password-protected repository, to which all ordering parties will have access.

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CERTIFICATE

GEORGIA:

DEKALB COUNTY:

I hereby certify that the total transcript, pages 1 through page 25, represent a true, complete, and correct transcript of the proceedings taken down by me in the case aforesaid (and exhibits admitted, if applicable); that the foregoing transcript is a true and correct record of the evidence given to the best of my ability.

The above certification is expressly withdrawn upon the disassembly or photocopying of the foregoing transcript, unless said disassembly or photocopying is done under the auspices of myself, and the signature and original seal is attached thereto.

I further certify that I am not a relative or employee or attorney of any party, nor am I financially interested in the outcome of the actions.

This, the 11th day of April, 2017.

BRANDIE L. STEPHENS, RPR, CCR-B-1592

VIA FedEx

Date: 4/11/2017

To: Grant Smith, Esq.

Re: Signature of Deponent Antwone Billings

Greetings:

The deponent has reserved the right to read and sign. Please have the deponent review the attached transcript, noting any changes or corrections on the attached Errata.

Once the Errata is signed by the deponent and notarized, please mail it to the offices of Pope Reporting (below).

When the signed Errata is returned to us, we will seal and forward to the taking attorney to file with the original transcript. We will also send copies of the Errata to all ordering parties.

If the signed Errata is not returned within the time below, the original transcript may be filed with the court without the signature of the deponent.

Date Errata due back at our offices: 5/11/2017

Please send completed Errata to:
Pope Reporting & Video, LLC
2474 Lehaven Drive
Tucker, Georgia 30084
(404) 856-0966

ERRATA

JOB NUMBER: 14782

I, the undersigned, do hereby certify that I have read the transcript of my testimony, and that

- _____ There are no changes noted.
_____ The following changes are noted:

Pursuant to Rule 30(7)(e) of the Federal Rules of Civil Procedure and/or OCGA 9-11-30(e), any changes in form or substance which you desire to make to your testimony shall be entered upon the deposition with a statement of the reasons given for making them. To assist you in making any such corrections, please use the form below. If additional pages are necessary, please furnish same and attach.

PAGE _____ LINE _____ CHANGE _____

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DEPONENT'S SIGNATURE

Sworn to and subscribed before me this _____ day of

_____, _____.

NOTARY PUBLIC

My Commission Expires: _____

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