

1 IN THE SUPERIOR COURT OF FULTON COUNTY

2 STATE OF GEORGIA

3  
4 MALCOM SMITH,

5 Plaintiff,

6 vs.

CIVIL ACTION FILE  
NO. 2012-CV-223874

7 PATIENCE AJUZIE,

8 Defendant.  
~~~~~

9  
10 VIDEOTAPED DEPOSITION OF

11  
12 KEISHA DENISE NEAL

13  
14 October 16, 2013

15 3:42 p.m.

16  
17 Suite 1040

18 900 75 Circle Parkway

19 Atlanta, Georgia

20  
21 Richard Bursky, RMR, CRR, CCR-2509  
22  
23  
24  
25

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(Original exhibits have been attached to the original transcript.)

1 VIDEOTAPED DEPOSITION OF KEISHA DENISE NEAL

2 October 16, 2013

3 (Reporter disclosure made pursuant to  
4 Article 10.B. of the Rules and Regulations of the Board  
5 of Court Reporting of the Judicial Council of Georgia.)  
6

7 THE VIDEOGRAPHER: We are on the record. The  
8 time is approximately 3:42. This is the beginning  
9 of Tape 1 of the videotaped deposition of Keisha  
10 Neal in the matter of Smith versus Ajuzie.

11 Today's date is October 16, 2013. My name  
12 Terry Wetz, legal video specialist.

13 Would counsel present please identify  
14 themselves and who they represent for the record.

15 MR. BUTLER: Jeb Butler on behalf of the  
16 Plaintiff Malcom Smith.

17 MR. HIESTAND: Trevor Hiestand for the  
18 Defendant Ajuzie.

19 THE VIDEOGRAPHER: Thank you, counsel.

20 Would the court reporter please swear the  
21 witness.

22 KEISHA DENISE NEAL,  
23 having been first duly sworn, testifies as follows:

24 MR. BUTLER: This will be the deposition, the  
25 videotaped deposition of Ms. Keisha Neal, taken

1       pursuant to notice, subpoena and agreement, taken  
2       pursuant to the Civil Practice Act, for all  
3       purposes permitted by the act, including use at  
4       trial.

5                We are sitting here at that office of defense  
6       counsel, Mr. Trevor Hiestand.

7                               DIRECT EXAMINATION

8       BY-MR.BUTLER:

9                Q.   Ma'am, would you state your name for the  
10       record, please?

11               A.   Keisha Neal.

12               Q.   Did you observe a wreck at the intersection of  
13       Northside Drive and Martin Luther King Drive on or  
14       about December 3, 2010?

15               A.   I did.

16               Q.   Tell us how you came to be at that  
17       intersection, where you were coming from and on what  
18       road?

19               A.   I was on MLK. I was leaving a restaurant and  
20       I was headed to the highway to go home.

21               Q.   What direction -- I am going to show you what  
22       has been marked as Plaintiff's Exhibit 1, which is just  
23       a Google map of the intersection.

24                       (Pleading's Exhibit 1 was marked for  
25       identification.)

1 (Witness reviewing document.)

2 Q. I am not going to ask you to draw anything on  
3 it, but I thought you might my find it useful as a  
4 reference.

5 A. Okay.

6 Q. Were you heading east on MLK?

7 A. I was going towards downtown.

8 Q. How about this, as we look at Plaintiff's  
9 Exhibit 1, which is in front of you, were you on MLK  
10 going from left to right?

11 A. I was going from right to left. Is that  
12 right?

13 Q. Let's take a look at Plaintiff's 1.

14 A. So I was here going that way. Would that be  
15 right to left?

16 Q. I think that this is our pizzeria up here.

17 A. Do I have it the wrong way? Okay. This is  
18 the pizzeria, so I was here.

19 Q. So that would put you going, if this is north,  
20 if we look at this arrow, and if you were where your  
21 finger is, that puts you going east on Martin Luther  
22 King Drive; is that right?

23 A. Okay.

24 Q. Does that sound right to you?

25 A. Okay.

1 Q. Do you understand that the -- where were you  
2 headed at the time of the wreck? I am not sure if I  
3 asked you that.

4 A. To the highway.

5 Q. The restaurant that you were coming from, tell  
6 us the name of it and where it is or was.

7 A. I believe it is called Busy Bee. It is still  
8 there. It is a soul food restaurant. And it is  
9 probably about maybe two or three blocks back on MLK on  
10 the right-hand side.

11 Q. In other words, if we were looking at  
12 Plaintiff's Exhibit 1, and the arrow was pointing up,  
13 the Busy Bee would be to the left of the image?

14 A. Correct.

15 Q. And where was it you were heading to once you  
16 got to the highway?

17 A. To Fayetteville, Georgia, 75 South.

18 Q. Do you understand this wreck to have involved  
19 a black Kia SUV and a gold colored SUV?

20 A. Yes.

21 Q. The gold colored SUV, could that have been a  
22 Tahoe, or do you know one way or the other?

23 A. I am not sure.

24 Q. From your vantage point at the intersection,  
25 was the Tahoe coming from your left or from your right?

1 A. From my right.

2 Q. And was the Kia coming from your left or from  
3 your right?

4 A. I am not certain.

5 Q. I understand that you didn't see the Kia at  
6 any point before the collision; is that right?

7 A. Correct.

8 Q. If we refer to the gold SUV as having been  
9 headed north, does that make sense to you, given that  
10 it was coming from your right?

11 A. Okay, and you said this arrow is north?

12 Q. Yes, that arrow by the Plaintiff's Exhibit 1  
13 sticker is indicating north, yes.

14 A. Correct.

15 Q. Where was the gold SUV -- let me ask you this:  
16 What were you doing at the intersection when this wreck  
17 occurred? Were you stopped or traveling through it or  
18 going straight or what?

19 A. I was stopped at the red light attempting to  
20 go straight.

21 Q. Had you been sitting at the light for a little  
22 while?

23 A. Yes.

24 Q. When did you first see the gold SUV?

25 A. As it was approaching the turn signal to turn



1 on to MLK off of Northside, that's when I first paid  
2 notice of it.

3 Q. Did it appear that the gold SUV was about to  
4 make a left turn from Northside on to MLK?

5 A. Correct.

6 Q. Were there other vehicles that you could  
7 observe that were either making or lining up to make  
8 that left turn from Northside on to MLK?

9 A. Yes.

10 Q. Do you recall a number of them that you saw?

11 A. By the time I noticed, I can recall four  
12 vehicles in the left turning lane.

13 Q. Let's take them and we will talk about them,  
14 and number them 1 through 4, in the order of 1 being  
15 the one that would have made the left turn first and 4  
16 being the one that would have made the left turn last.

17 A. Okay.

18 Q. In terms of the first of those vehicles, which  
19 we will call Vehicle No. 1, what did you see that  
20 vehicle do?

21 A. I saw that vehicle make a left turn on the  
22 green arrow on to MLK off of Northside.

23 Q. What about Vehicle No. 2?

24 A. I saw Vehicle No. 2 approaching the light to  
25 turn to make the left turn, but it slowed down because

1 the arrow turned to yellow.

2 Q. Did Vehicle No. 2 ultimately make that left  
3 turn?

4 A. No, it did not. It got to the top of the  
5 intersection and it stopped.

6 Q. Is Vehicle No. 3, is that the gold SUV?

7 A. Yes.

8 Q. What did Vehicle No. 3 do?

9 A. Vehicle No. 3 jumped from behind Vehicle No. 2  
10 to attempt to catch the yellow arrow to make it on to  
11 MLK before it turned red.

12 Q. You mentioned this Vehicle No. 3, the gold  
13 SUV, I think you used the word jump, and I forgot what  
14 words you used next, but describe for us more  
15 particularly what it did, which way, if either way, did  
16 the gold SUV veer?

17 A. Okay, it was in the left turning lane, the  
18 four vehicles. It came out to the middle lane to go  
19 around Vehicle No. 2 to attempt to make that left turn  
20 still on to MLK.

21 Q. So it sounds like the gold SUV turned to its  
22 right in order to get --

23 A. Okay, exactly, it came out to the right to try  
24 to make a left turn.

25 Q. Was the gold SUV attempting to make that left

1 turn in front of Vehicle No. 2?

2 A. Correct.

3 Q. I'd like to ask you some about the black Kia.

4 Did you see the black Kia at any point before this  
5 wreck occurred?

6 A. I did not.

7 Q. Do you know what lane the black Kia was in as  
8 it entered the intersection of Northside Drive and  
9 Martin Luther King?

10 A. I do not.

11 Q. Do you know what the Kia was doing with regard  
12 to whether it was going straight or turning left or  
13 turning right before this wreck occurred?

14 A. I do not.

15 Q. Did you actually see the gold SUV and the  
16 black Kia collide?

17 A. I did not.

18 Q. Is that because -- well, were you trying to  
19 drive your own car and figure out what you needed to  
20 do?

21 A. I was -- my light was about -- my light was  
22 red. It was about to turn green, but it had not. And  
23 I had just gotten off the phone before my light  
24 changed, so I was checking to my right and to my left,  
25 not having any particular focus on anything.

1 I just recall the impact, the noise of the  
2 impact. But I did not physically visually see the  
3 impact. And if I did, it happened so fast that I do  
4 not recall.

5 Q. So you either didn't see or do not recall the  
6 exact moment of impact?

7 A. I do not.

8 Q. Is that a fair statement?

9 A. That is a fair statement.

10 Q. In terms of exactly where in the intersection  
11 the impact occurred, could you tell us, you could like  
12 draw a mark --

13 A. I would say towards the middle of the  
14 intersection.

15 Q. Is that towards the middle of the  
16 intersection, is that as specific as you can be?

17 A. Yes.

18 Q. More specific than that as to whether it was  
19 more toward one side or the other, you are just not  
20 sure because you didn't see it, is that fair?

21 A. In the middle of the intersection, that's  
22 where I would rest.

23 Q. Just to get a clean question and answer, could  
24 you say that it was more to one side or the other or  
25 could you not say that?

1 A. I cannot say that.

2 Q. Ms. Neal, I would assume that you saw the  
3 black Kia and the gold SUV at some point after the  
4 collision when they had come to rest when it was all  
5 over, is that fair?

6 A. Yes.

7 Q. But in terms of how the vehicles moved  
8 immediately after the point of impact, can you say one  
9 way or the other?

10 A. I cannot.

11 Q. Did you observe or do you recall exactly how  
12 they moved immediately after the collision?

13 A. I do not.

14 Q. You have described the traffic light for  
15 northbound traffic, that is to say, traffic that was  
16 going in the direction that the gold SUV was going  
17 originally, right?

18 A. Yes.

19 Q. Did you visually observe what the light was  
20 for traffic that was going south on Northside Drive?

21 A. I did not.

22 Q. You can't say one way or the other whether the  
23 Kia ran a light or did anything like that, is that true?

24 A. I can't say.

25 Q. You just don't know whether it ran a light?

1 A. I do not know.

2 Q. Did you stay on the scene of the wreck after  
3 the wreck had occurred?

4 A. I did.

5 Q. Did you ever talk to police officers?

6 A. Yes, I did.

7 Q. Were there multiple police officers there?

8 A. Yes.

9 Q. Tell us about your conversation with those  
10 police officers, please.

11 A. It was a chaotic scene, as I stated. It was  
12 several police officers and EMS, fire departments.

13 The first couple of police officers were  
14 basically trying to navigate traffic and just keep all  
15 the witnesses together until they could get someone to  
16 come and get their information. So it was maybe two,  
17 maybe one or two, maybe three officers that I actually  
18 engaged with briefly before I actually gave my  
19 information to an officer.

20 Q. I think you said you gave your information to  
21 an officer. Just to be clear, what information are you  
22 talking about having given to the officer?

23 A. I gave the officer my name, my contact  
24 information and where I -- that I was in my vehicle and  
25 where I was at the time of the accident.

1 Q. Do you mean that you were telling him like you  
2 were on MLK and stopped at the light?

3 A. Right, that I was stopped at the red light.

4 They were trying to differentiate between the  
5 foot traffic and the traffic that was actually -- the  
6 people that were on foot that were witnesses and the  
7 people that were actually driving that were witnesses.

8 And so at that time I stated that I was  
9 driving, my vehicle was pulled over on the sidewalk on  
10 Northside, and my name and my contact information, that  
11 I was at the red light at MLK at the time.

12 Q. Did you ever -- you described a moment ago --  
13 strike that.

14 Did you ever tell any of the police officers  
15 about the gold SUV jumping out of his lane, like you  
16 described for us just a minute ago?

17 A. I did not.

18 Q. Why?

19 A. They did not ask me.

20 Q. Was this a calm and orderly seen or a chaotic  
21 scene?

22 A. Extremely chaotic.

23 Q. Do you have any explanation as to why the  
24 police officers might not have asked you that question?

25 A. They were busy.

1 Q. Did you have any indication about whether the  
2 police officers were going to call you after you gave  
3 them your contact information?

4 A. Yes, that's what we were told, that they would  
5 call and get our statements, they would have someone to  
6 call and get our statements. There were about five or  
7 six of us at that time.

8 Q. Did anyone from the police office ever call to  
9 get your statement?

10 A. No, they did not.

11 Q. If the police officers had called to get your  
12 statement, would you have given them your statement?

13 A. Yes.

14 Q. Would you given them the same information that  
15 you gave us here today?

16 A. Yes.

17 Q. If the police -- if a police officer had  
18 written in a report that you said that the Kia entered  
19 the Tahoe's lane and caused a head-on collision, would  
20 that officer be correct or incorrect?

21 A. Incorrect.

22 Q. In other words, you would disagree with that?

23 A. I absolutely disagree with that.

24 Q. Did it appear to you that the police officers  
25 were moving slowly and taking their time or rushed?



1 A. Rushed.

2 Q. Have you and I met before, Ms. Neal?

3 A. Yes.

4 Q. When you and I met before, did I ask you for a  
5 statement?

6 A. Yes.

7 Q. Did we write out a statement and you signed it?

8 A. We wrote some things out and we signed it, but  
9 I don't know if that was actually verbatim a statement.  
10 It was just the conversation that we had.

11 Q. Was there a written document that sort of  
12 memorialized the conversation?

13 A. Correct.

14 Q. Did anyone from Ms. Ajuzie's -- strike that.  
15 Did Mr. Hiestand or anyone representing Ms. Ajuzie come  
16 and ask you for your statement?

17 A. No, they did not.

18 Q. If they had, would you have given them a  
19 statement just like you gave me a statement?

20 A. Correct.

21 Q. Or would you have signed a document that  
22 memorialized the conversation just like you signed such  
23 a document with me?

24 A. Correct, had we had a conversation.

25 MR. BUTLER: Let's go off the record. I will

1 look over my notes. I think that will be it.

2 THE VIDEOGRAPHER: We are off the record. The  
3 time is 4:00.

4 (Whereupon, at 4:00 p.m., a recess was taken.)

5 THE VIDEOGRAPHER: We are back on the record.  
6 The time is 4:01. You may continue, sir.

7 MR. BUTLER: No further questions.

8 CROSS EXAMINATION

9 BY-MR.HIESTAND:

10 Q. Ms. Neal, thank you so much. I just want to  
11 clarify some things for the jury about your testimony.

12 You have already described that you were  
13 stopped, and I will just point sort of at this exhibit,  
14 because I think that helps both of us where you were.  
15 You were stopped on Martin Luther King facing eastbound  
16 getting ready to go straight through the intersection,  
17 correct?

18 A. Correct.

19 Q. And you had a red light for your direction of  
20 travel?

21 A. Correct.

22 Q. And I think you said when you saw the gold SUV  
23 trying to enter the intersection, that it appeared as  
24 though at that point it had a yellow turn arrow; is  
25 that correct?

1 A. Correct.

2 Q. You have some familiarity with driving through  
3 Northside Drive in both directions, correct?

4 A. I do.

5 Q. I mean, I know at the time of this accident  
6 you were on Martin Luther King, but you have driven  
7 through the intersection on Northside Drive in both  
8 directions?

9 A. I have.

10 Q. You are familiar with what the lights  
11 generally show when turn signals are on and when  
12 through traffic can go, you are familiar with that?

13 A. I am.

14 Q. At the moment that you had a red light and the  
15 gold Tahoe had a yellow left turn signal for making the  
16 turn from the northbound side, would the southbound  
17 side have had the same signal, that is, it also would  
18 have had a yellow arrow at that point?

19 MR. BUTLER: Objection, calls for speculation.

20 Q. (By Mr. Hiestand) And this is based on your  
21 experience. Is that your understanding?

22 MR. BUTLER: Same objection.

23 THE WITNESS: That's my understanding.

24 Q. (By Mr. Hiestand) Is it also your  
25 understanding that when both the north and the

1 southbound sides have either green arrows or yellow  
2 arrows to turn onto Martin Luther King, the traffic  
3 that is intending to go straight through the  
4 intersection would have a red light and would have to  
5 wait for those turns to complete?

6 MR. BUTLER: Objection, calls for speculation.

7 Q. Is that your also your understanding?

8 A. That's my understanding.

9 Q. You mentioned that you saw the gold SUV come  
10 out from behind a vehicle in the turn lane, and it  
11 looked like it was trying to get into the intersection  
12 before that turn arrow went to red, is that accurate?

13 A. Yes.

14 Q. The last time you saw what the signal was for  
15 that gold SUV when it entered the intersection was that  
16 it was a yellow turn arrow; is that correct?

17 A. Yes.

18 Q. You are not saying that the SUV entered on a  
19 red light or anything like that?

20 A. No. When I saw it I saw it trying to catch  
21 the yellow arrow.

22 Q. You already testified you didn't see how --  
23 which lane the Kia used to enter the intersection,  
24 correct?

25 A. Correct.

1 Q. You now know today that it would have been  
2 coming from your left as you were sitting at the light,  
3 but you are not sure which lane it was in when it  
4 entered the intersection?

5 A. Correct.

6 Q. It is your impression that the impact occurred  
7 near the middle of the intersection between the two  
8 vehicles?

9 A. Correct.

10 Q. You can't be more precise, though, if it was  
11 more towards the northbound side of the intersection or  
12 more towards the southbound side; is that correct?

13 A. That's correct.

14 Q. You also saw the vehicles after they were at  
15 rest in the intersection, and your best recollection is  
16 that they were somewhere near the middle of the  
17 intersection?

18 A. Correct.

19 Q. You can't be more precise whether they were  
20 closer to the northbound side of intersection or more  
21 close to the southbound side of the intersection, is  
22 that correct?

23 A. That's correct.

24 Q. You mentioned that you spoke with various  
25 officers after the accident; is that correct?

1 A. Correct.

2 Q. And we took your deposition very briefly  
3 before we went on to the video, and do you remember  
4 telling me that you spoke with, either directly or  
5 indirectly you spoke with six or seven officers?

6 A. Yes, give or take.

7 Q. And none of those officers asked you what you  
8 saw happening in the accident; is that correct?

9 A. That is correct.

10 Q. The only thing those officers would have asked  
11 you is where was your vehicle located when you saw the  
12 accident?

13 A. Only one officer asked me that.

14 Q. And that would be the full extent of any  
15 questions that any of the officers asked you about your  
16 observations of this accident?

17 MR. BUTLER: I object to form.

18 THE WITNESS: No. The other officer did ask  
19 before they actually got our information, the  
20 witnesses, and tried to get us all together and  
21 kind of keep us in one area until they could get  
22 one officer to actually come and get our  
23 information. So it was an officer that came to  
24 assess were we witnesses or were we in the vehicle  
25 or family or whatever, so that was the first --

1 Q. (By Mr. Hiestand) Sure. There was --

2 A. -- questions that I answered.

3 Q. There was an officer that first said, are you  
4 a witness, and you said yes?

5 A. Correct.

6 Q. And then the only other question you were  
7 asked would have been where were you when you saw the  
8 accident?

9 A. My name, my contact information and where I  
10 was located at the time of the accident.

11 Q. You never told any police officer that you  
12 observed the black SUV enter the intersection?

13 A. No, I did not.

14 Q. You never told any officer that you saw the  
15 black SUV enter the lane of the gold SUV?

16 A. No, I did not.

17 Q. And you never told any officer that you saw  
18 the black SUV hitting the gold SUV head on?

19 A. No, I did not.

20 MR. HIESTAND: I have no further questions  
21 thank you.

22 REDIRECT EXAMINATION

23 BY-MR.BUTLER:

24 Q. Very briefly, you were asked about the color  
25 of the light as the gold SUV approached the

1 intersection. Do you recall that?

2 A. Yes.

3 Q. At the moment that the gold SUV entered the  
4 intersection, do you know what color the light was?

5 A. I do not.

6 MR. BUTLER: Nothing further.

7 RE CROSS EXAMINATION

8 BY-MR.HIESTAND:

9 Q. When the gold SUV was entering the  
10 intersection, was it moving along at a crawl or did it  
11 look like it was trying to speed up to get into the  
12 intersection?

13 A. It was trying to speed up to catch the yellow  
14 light.

15 MR. HIESTAND: Thank you.

16 MR. BUTLER: Nothing further.

17 THE VIDEOGRAPHER: Stand by, please.

18 This concludes the videotaped deposition. The  
19 time is 4:07. We are off the record.

20 (Whereupon, the deposition concluded at 4:07  
21 p.m.)

22 (It was stipulated and agreed by and between  
23 counsel for the respective parties and the witness  
24 that the signature of the witness to the  
25 deposition be waived.)



C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing pages 1 through 24 a true, complete, and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

This, the 29th day of October, 2013.



RICHARD BURSKY, CCR-2509

COURT REPORTER DISCLOSURE

Pursuant to Article 10.B. of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia which states: "Each court reporter shall tender a disclosure form at the time of the taking of the deposition stating the arrangements made for the reporting services of the certified court reporter, by the certified court reporter, the court reporter's employer, or the referral source for the deposition, with any party to the litigation, counsel to the parties or other entity. Such form shall be attached to the deposition transcript," I make the following disclosure:

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Richard Bursky, CCR-2509