

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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HUI SANG PARK,

Plaintiff,

-against- Index No. 54619/2013

THE CITY OF NEW YORK and RICHARD T. BROOMS,

Defendants.

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100 Church Street
New York, New York

July 29, 2014
11:30 a.m.

EXAMINATION BEFORE TRIAL of RICHARD BROOMS,
one of the Defendants herein, held at the above
time and place, taken before Karen Zammit, a
Notary Public of the State of New York, pursuant
to Court Order and stipulations between Counsel.

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APPEARANCES:

GAIR, GAIR, CONASON, STEIGMAN, MACKAUF,
BLOOM & RUBINOWITZ, ESQS.
Attorneys for Plaintiff
80 Pine Street
New York, New York 10005

BY: ANTHONY H. GAIR, ESQ.

MICHAEL CARDOZO
Corporation Counsel
Attorneys for Defendants
100 Church Street
New York, New York 10007

BY: JOHN ORCUTT, ESQ.
FILE NO. 2013-019992

ALSO PRESENT: Keith Kirsch

* * *

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STIPULATIONS

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IT IS HEREBY STIPULATED by and between the
attorneys for the respective parties hereto,
that:

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All rights provided by the CPLR and Part 221
of the Uniform Rules for the Conduct of
Depositions, including the right to object to any
question, except as to form or to move to strike
any testimony at this examination is reserved;
and, in addition, the failure to object to any
question or to move to strike any testimony at
this examination shall not be a bar or waiver to
make such motions at, and is reserved to, the
trial of this action.

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[STIPULATIONS (cont.)]

The filing of the original of this deposition
is waived.

IT IS FURTHER STIPULATED, a copy of this
examination shall be furnished to the attorney
for the witness being examined without charge.

* * *

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2 R I C H A R D B R O O M S, the witness herein,
3 having first been duly sworn by the Notary
4 Public, was examined and testified as follows:

5 EXAMINATION

6 BY MR. GAIR:

7 Q What is your name?

8 A Richard Brooms.

9 Q What is your business address?

10 A 58-50 57th Road, Maspeth, New York.

11 MR. GAIR: I want to make two
12 statements for the record. Mr. Orcutt,
13 counsel for the City, has been kind enough
14 to provide me with a MV-104 executed by
15 Mr. Brooms on July 15, 2013, which was
16 inadvertently not provided to me by the
17 prior City attorney. He has given that to
18 me, for the record.

19 I also have the second one that was
20 filled out and we will find out why. I am
21 satisfied that I have it and it is no
22 problem.

23 MR. ORCUTT: One small correction.
24 The date is extremely hard to read and I
25 could not tell if it was February 18th or

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2 March 18th, but closer in time, I believe,
3 you can ask Mr. Brooms about it, but I
4 think it is closer in time than the other
5 one. It is the first one that he did, so
6 July would not make sense.

7 MR. GAIR: Okay. Off the record.

8 [Whereupon, a discussion was held
9 off the record.]

10 MR. GAIR: At the time of trial if
11 Mr. Brooms is no longer working for the
12 City of New York I assume you will give us
13 his last known address or you will accept
14 service?

15 MR. ORCUTT: We will accept service
16 for him and we will reach out to him. If
17 he refuses to cooperate with us then we
18 will give you his last known address.

19 Q Good morning, Mr. Brooms. How are
20 you?

21 A Good.

22 Q My name is Anthony Gair and I
23 represent the plaintiff in this case, Hui Sang
24 Park. This is an action brought against yourself
25 and the City of New York for allegedly causing

1 R. Brooms

2 personal injuries suffered by Miss Park on
3 February 15, 2013.

4 A Yes.

5 Q I am not one to go into a lot of
6 instructions because I am sure your attorney gave
7 you instructions, but I want to tell you one
8 thing.

9 A lot of the questions that I will
10 ask you, you will know where they'll end up. Do
11 me a favor and wait until I finish to give the
12 answer because the court reporter cannot take us
13 both down at the same time, okay?

14 A Yes.

15 Q Please keep your voice up. It is a
16 small room, but sometimes it gets hard to hear.
17 Answer me verbally. The court reporter cannot
18 take down nods of the head or gestures, okay?

19 A Yes.

20 Q Do you have any questions for me?

21 A No.

22 MR. GAIR: Off the record.

23 [Whereupon, a discussion was held
24 off the record.]

25 Q Mr. Brooms, prior coming here to

1 R. Brooms
2 testify at this deposition today did you review
3 any documents regarding the accident involving
4 Hui Sang Park which occurred on February 15,
5 2013?

6 MR. ORCUTT: By counsel, I showed
7 him the photographs that we marked at the
8 deposition last week and the CSO Response
9 that was previously exchanged that has the
10 MV-104s and his DOT internal report we just
11 went over.

12 MR. GAIR: Okay.

13 MR. ORCUTT: You can ask him if he
14 remembers anything else.

15 MR. GAIR: Case Scheduling Order?

16 MR. ORCUTT: Yes, the CSO Response
17 that MTU exchanged. I think it just has
18 MV-104s and DOT internal reports.

19 MR. GAIR: Did he review the second
20 one with the signature?

21 MR. ORCUTT: Yes, the one that I
22 just gave you today.

23 MR. GAIR: I mean the second
24 Response.

25 MR. ORCUTT: Yes.

1 R. Brooms

2 MR. GAIR: Thank you.

3 Q Other than the documents that your
4 attorney has just mentioned that you reviewed, do
5 you recall reviewing anything else in order to
6 testify here today?

7 A No.

8 Q I don't want to hear what you spoke
9 about, but you met with your attorney prior to
10 coming here to testify?

11 A Yes.

12 Q On how many occasions?

13 A Twice.

14 MR. GAIR: Off the record.

15 [Whereupon, a discussion was held
16 off the record.]

17 Q You met with counsel twice, one of
18 those times being today; is that correct?

19 A Yes, twice in total.

20 Q What is your date of birth, sir?

21 MR. ORCUTT: Objection. You can
22 give your age.

23 A I am 30 years old.

24 Q You are 30 years old now?

25 A Yes.

1 R. Brooms

2 Q Are you currently employed?

3 A Yes.

4 Q By whom are you employed?

5 A The Department of Transportation.

6 Q That's the Department of
7 Transportation of the City of New York?

8 A Yes.

9 Q How long have you been employed by
10 the Department of Transportation of the City of
11 New York?

12 A For seven years.

13 Q What is your current position with
14 the Department of Transportation?

15 A Supervisor.

16 Q How long have you been a
17 supervisor?

18 A For two years.

19 Q On February 15, 2013 were you also
20 a supervisor?

21 A Yes.

22 Q Could you tell me generally as a
23 supervisor what your duties and responsibilities
24 are?

25 A I do inspections of the guys work,

1 R. Brooms

2 we install streets signs.

3 Q Would you go after a street sign
4 was installed and make sure that it was installed
5 properly or would you work some way differently
6 in inspecting street signs?

7 A We do both, I do both. It varies.
8 Sometimes I go in after the fact and check.
9 Sometimes when they are doing installations I am
10 there with them.

11 Q Would it depend upon the type of
12 street sign being installed?

13 A No. I don't want to say high
14 profile, but depending where the job is or what
15 type of job, I might be there.

16 Q Prior to becoming a supervisor with
17 the Department of Transportation did you have a
18 different job title?

19 A I was traffic device maintainer.

20 Q How long were you a traffic control
21 device maintainer?

22 A For five years.

23 Q You stated you have been a
24 supervisor for approximately two years; is that
25 correct?

1 R. Brooms

2 A Yes.

3 Q Do you remember ballpark the date
4 that you became a supervisor -- it is a
5 promotion?

6 A Yes.

7 Q Could you tell me ballpark the date
8 you were promoted to supervisor at the Department
9 of Transportation?

10 A I am not sure of the date.

11 Q It was sometime prior to the date
12 of this accident; is that correct?

13 A Yes.

14 Q Do you know if it was a month
15 before, two months ago, five months before?

16 A I can't really say. I am not sure.

17 Q Could you tell me what a traffic
18 control device maintainer does, the job you did
19 before you became a supervisor?

20 A We installed street signs, stop
21 signs, alternate side parking, repair supports.
22 That's basically it, what we do.

23 Q When you became promoted to a
24 supervisor is that the type of work that you
25 would go and inspect to make sure it was done

1 R. Brooms

2 properly?

3 A Yes.

4 Q Prior to becoming employed by the
5 City of New York did you have a job?

6 A Yes.

7 Q Where were you employed before the
8 City of New York?

9 A Before the City of New York I was
10 employed at the airport, JFK.

11 Q What did you do at JFK?

12 A Security guard.

13 Q How long were you a security guard
14 at JFK?

15 A Under a year, maybe nine months.

16 Q Was that your first formal job?

17 A No, sir.

18 Q What was your job before that?

19 A I was in the Navy.

20 Q How long did you serve in the Navy?

21 A For four years.

22 Q Do you remember the time period
23 that you served in the Navy?

24 A 2002, and I was discharged in 2006.

25 Q You enlisted in the Navy; is that

1 R. Brooms

2 correct?

3 A Yes.

4 Q What was the highest rank that you
5 attained while you were in the Navy?

6 A E-4.

7 Q What is that?

8 A I just enlisted.

9 Q Enlisted grade four?

10 A Yes.

11 Q You got an honorable discharge; is
12 that correct?

13 A Yes.

14 Q Were you deployed overseas while
15 you were in the service?

16 A Yes, sir.

17 Q Where were you deployed?

18 A A few places.

19 Q Generally?

20 A I did a Europe tour, a lot of
21 tours. I have been to Iraq, Kuwait.

22 MR. GAIR: Okay.

23 Q Were you assigned while you were in
24 the Navy to any particular type of ship or were
25 you assigned to different types of ships?

1 R. Brooms

2 A One ship.

3 Q What was that?

4 A The USS Saipan.

5 Q What kind of ship is that?

6 A It is called an assault ship. It
7 is a little smaller than an aircraft carrier as
8 far as size.

9 Q Did you have any one particular
10 assignment during your tenure in the Navy during
11 those four years?

12 A They call it machinist mate. I
13 work with engines.

14 Q Did that include repairing engines
15 and that type of thing?

16 A Yes.

17 Q Did you see any combat while you
18 were in the Navy?

19 A What do you mean?

20 Q Did you ever have any actual
21 hostile engagements with the enemy?

22 A The ship, yes, the ship did.

23 Q You were always on the ship?

24 A Yes.

25 Q When were you first licensed to

1 R. Brooms

2 operate a motor vehicle?

3 A I can't exactly remember what age I
4 was.

5 Q Would it have been approximately
6 your 18th birthday?

7 A I can't remember the exact age.

8 Q On February 15, 2013 how long had
9 you been licensed to operate a motor vehicle?

10 A On February 15, 2013 how long was I
11 licensed?

12 Q How long had you had a license?

13 A I am not sure, sir.

14 Q Were you licensed at one time in
15 Virginia?

16 A Yes.

17 Q Was your license in Virginia
18 because you had enlisted in the Navy and had
19 become licensed in Virginia as a result of that
20 or something else?

21 A The reason why I had a Virginia
22 license?

23 Q Yes.

24 A Yes, I got my license in Virginia.

25 Q Was that when you got it for the

1 R. Brooms

2 first time?

3 A Yes.

4 Q Were you in the Navy when you got
5 it for the first time?

6 A Yes.

7 Q When you left the Navy in 2006 did
8 you give up that Virginia license and were you
9 issued a New York license?

10 A Yes.

11 Q Did you have to take any test of
12 any kind in New York in order to get your New
13 York license or did you just have to trade in
14 your Virginia license?

15 A Trade in my license.

16 Q Did you have to take any type of
17 test in Virginia when you got your license for
18 the first time, referring to road test, not
19 written test?

20 A Yes.

21 Q You took a road test?

22 A Yes.

23 Q That was administered by the State
24 of Virginia?

25 A Yes.

1 R. Brooms

2 Q Other than that road test
3 administered by the State of Virginia did you
4 have to take any other type of road test back at
5 that time when you first got your license?

6 A No.

7 Q You took a written test as well?

8 A Yes.

9 Q You passed them both?

10 A Yes.

11 Q Back on February 15, 2013 what type
12 of license did you have, meaning was it any
13 particular category of license?

14 A Commercial driver's license.

15 Q What type of vehicle did that
16 commercial driver's license permit you to
17 operate?

18 A Commercial vehicles.

19 Q When you say commercial vehicles
20 you are talking about vehicles with commercial
21 tags on them; is that correct?

22 A Yes.

23 Q Prior to February 15, 2013 had your
24 license to operate a motor vehicle ever been
25 suspended or revoked for any reason?

1 R. Brooms

2 A No.

3 Q Did you have any restrictions on
4 your driver's license, meaning such as having to
5 wear eyeglasses, that type of thing?

6 A No.

7 Q Have you ever had to take any point
8 reduction courses?

9 A Have to?

10 Q Have you ever had to?

11 A No.

12 Q When you first applied for your job
13 with the Department of Transportation of the City
14 of New York what category job did you apply for?

15 A I applied for the traffic control
16 device maintainer.

17 Q As a traffic control device
18 maintainer were you required in the course and
19 scope of your job to operate motor vehicles?

20 A Yes.

21 Q Would those have been commercial
22 motor vehicles?

23 A They vary.

24 Q When you say they vary, what type
25 of vehicles generally?

1 R. Brooms

2 A Generally the work trucks, they are
3 not commercial. Sometimes they have backup
4 trucks, those are commercial.

5 Q What is a backup truck?

6 A It is a bigger truck. When you
7 work in high traffic areas you need a backup
8 truck to -- I guess it is to regulate traffic.

9 People are coming to set up a work
10 zone. You need the backup truck so in case
11 somebody hits it they hit the backup truck and
12 not the vehicle in the work zone.

13 It is a bigger truck and I don't
14 know what the piece is called, but it has
15 something in the back, and you set up cones
16 around the back of the truck to keep the work
17 zone.

18 Q To protect the work zone?

19 A Yes.

20 Q That's why it is called a backup
21 truck?

22 A Yes.

23 Q It backs up the crew who is doing
24 the work?

25 A Yes.

1 R. Brooms

2 MR. GAIR: Fair enough.

3 Q Did you also operate commercial
4 vans?

5 A Yes.

6 Q Were you involved in a motor
7 vehicle accident on February 15, 2013?

8 A Yes.

9 Q Were you operating a motor vehicle
10 at the time of the accident?

11 A Yes.

12 Q What type of motor vehicle were you
13 operating at the time of the accident?

14 A A van.

15 Q That was a van with commercial
16 plates on it; is that correct?

17 A It has official plates.

18 Q You are talking about DOT plates?

19 A Yes.

20 Q Was that vehicle assigned a
21 specific number by the Department of
22 Transportation?

23 A Yes.

24 Q Was that number 1433?

25 A Yes.

1 R. Brooms

2 Q Was the license plate number on
3 that vehicle L865599?

4 A I don't remember the license plate
5 number.

6 Q Was that van a vehicle that you had
7 driven before February 15, 2013?

8 A Yes.

9 Q Was that what could be termed your
10 regular vehicle, you would use it on a regular
11 basis?

12 A Yes.

13 Q Prior to February 15, 2013 how long
14 had you used that vehicle on a regular basis?

15 A I couldn't give you an exact
16 number. I can't give you an exact time.

17 MR. GAIR: I am going to mark some
18 photographs as Plaintiff's Exhibits 1
19 through 8.

20 [Whereupon, the photographs were
21 hereby marked as Plaintiff's Exhibits 1
22 through 8 for identification, as of this
23 date, by the reporter.]

24 Q Mr. Brooms, I have marked
25 photographs of a van as Plaintiff's Exhibits 1

1 R. Brooms
2 through 8. I will ask you to take a look at them
3 and tell me if any of them fairly and accurately
4 depict the van or a portion of the van that you
5 were operating at the time of the accident on
6 February 15, 2013?

7 A Okay. What was the question?

8 Q I have asked you to look at
9 Plaintiff's Exhibits 1 through 8, which depict a
10 van. Do any of these eight photographs depict
11 the van or a portion of the van that you were
12 operating on February 15, 2013 at the time of the
13 accident?

14 A You are asking me if that looks
15 like the van?

16 Q Is that the van?

17 A That looks like the van.

18 MR. ORCUTT: Off the record.

19 [Whereupon, a discussion was held
20 off the record.]

21 MR. GAIR: I will mark as
22 Plaintiff's Exhibit 9 the Defendant's
23 Response to the CSO, Case Scheduling Order,
24 dated January 27, 2014.

25 I will also mark as Plaintiff's

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R. Brooms

Exhibit 10 Defendant's Supplemental
Response to the Case Scheduling Order dated
April 17, 2014.

[Whereupon, the documents were
hereby marked as Plaintiff's Exhibits 9 and
10 for identification, as of this date, by
the reporter.]

MR. GAIR: Now I will mark as
Plaintiff's Exhibit 9-A the MV-104 that was
given to me today that apparently was the
first MV-104 filled out by Mr. Brooms and
it has a date that we think is either
February or March 15th of 2013.

[Whereupon, the document was
hereby marked as Plaintiff's Exhibit 9-A
for identification, as of this date, by the
reporter.]

Q Mr. Brooms, I want to show you what
is entitled a Report of Motor Vehicle Accident
that was just given to us today and I have marked
it as Plaintiff's Exhibit 9-A. Is your signature
on that report?

A Yes.

Q Is all of the writing on that

1 R. Brooms

2 report yours?

3 A Yes.

4 Q Could you tell us regarding the
5 date whether that first number is a two or a
6 three?

7 A I see it, but I can't make it out.

8 Q Would you agree it is either a two
9 or a three?

10 A Yes.

11 Q And the rest of the date is 15 of
12 2013?

13 A It like like the 18th to me. I am
14 not sure.

15 MR. ORCUTT: I thought it was 18
16 also.

17 Q It is either February or March 18th
18 of 2014?

19 A Yes.

20 Q Is all of the writing on this
21 report yours?

22 A Yes.

23 Q I will show you Plaintiff's
24 Exhibit 9, which consists of ten pages. I will
25 show you another report of a Motor Vehicle

1 R. Brooms

2 Accident dated May 17, 2013 in this exhibit.

3 Have you seen that document before?

4 A Yes.

5 Q Does your signature appear on that
6 document?

7 A Yes.

8 Q Is that on the bottom left-hand
9 corner of the document?

10 A No, the right-hand corner.

11 MR. GAIR: Right.

12 Q What about the name where it is
13 written on the left?

14 A Yes.

15 Q You wrote that?

16 A Yes.

17 Q Is all of the writing on that
18 document your writing?

19 A Yes.

20 Q This document is entitled Report of
21 Motor Vehicle Accident; is that correct?

22 A Yes.

23 Q Have you ever filled one of those
24 out before other than the one that we just
25 marked?

1 R. Brooms

2 A Other than this one?

3 Q Other than Plaintiff's Exhibit 9-A,
4 have you ever filled out an MV-104 before?

5 A No.

6 Q Do you know this document to also
7 be known as an MV-104?

8 A Yes.

9 Q On this document did you write down
10 the plate number, referring to the Report of
11 Motor Vehicle Accident contained within
12 Plaintiff's Exhibit 9, did you write down the
13 plate number of the vehicle that you were
14 operating at the time of the accident?

15 A Yes.

16 Q What is the plate number that you
17 wrote down?

18 A L865599.

19 Q Showing you the photograph that I
20 marked today as Plaintiff's Exhibit 1, it shows a
21 van. Does that have a license plate depicted on
22 it?

23 A Yes.

24 Q What is the plate number on that
25 license plate?

1 R. Brooms

2 A L865599.

3 Q That's the same license plate
4 number that you wrote down on the MV-104; is that
5 correct?

6 A Correct.

7 Q Does that help you refresh your
8 recollection as to whether the van depicted in
9 Plaintiff's Exhibit 1 fairly and accurately
10 depicts the van or a portion of the van that you
11 were operating at the time of the accident?

12 A The license plates match.

13 Q What about the van itself?

14 A From what we just went over?

15 Q Yes.

16 A It tells me that the license plates
17 are the same.

18 Q You can't tell us one way or the
19 other whether that was the van you were
20 operating?

21 A The van looks like the Ford vans
22 that we have, but the light is broken and I don't
23 remember that to be the case when I had the van.

24 Q I am not talking about the exact
25 condition of the van. I am only asking you if

1 R. Brooms

2 this depicts the van that you were driving at the
3 time of the accident?

4 A It is similar. It looks like the
5 van, yes.

6 Q Going back to the Response to the
7 Case Scheduling Order, Plaintiff's Exhibit 9,
8 within those documents there is a document
9 entitled Supervisor's Evaluation Report Vehicle
10 Accident/Incident. Do you see that?

11 A Yes.

12 Q Do you know who David Alan is?

13 A That was my supervisor at the time.

14 Q At the time of the accident on
15 February 15, 2013?

16 A Yes.

17 Q Did David Alan come to the scene of
18 the accident?

19 A No.

20 Q Did you meet with David Alan
21 following the accident of February 15, 2013?

22 A Yes.

23 Q When did you first meet with David
24 Alan?

25 A When I got back to the shop.

1 R. Brooms

2 Q On the date of the accident?

3 A Yes.

4 MR. GAIR: I will mark the
5 Supervisor's Evaluation Report as
6 Plaintiff's Exhibit 9-B.

7 [Whereupon, the document was
8 hereby marked as Plaintiff's Exhibit 9-B
9 for identification, as of this date, by the
10 reporter.]

11 Q I have marked what you are looking
12 at, the Supervisor's Evaluation Report, as
13 Plaintiff's Exhibit 9-B. What garage did you
14 meet with Mr. Alan at?

15 A The shop, 58-50 57th Road.

16 Q In Maspeth?

17 A Yes.

18 Q How long after the accident of
19 February 15, 2013, approximately what time of day
20 did you meet with him?

21 A Around lunchtime, maybe noon.

22 Q Did you drive the van back to the
23 garage?

24 A Yes.

25 Q Had you spoken to David Alan on the

1 R. Brooms

2 phone before you met with him at the garage?

3 A Yes.

4 Q Did you call him on your cell
5 phone?

6 A I have two phones, a cell phone and
7 the work phone. I am not sure which one I used,
8 but one of the two phones.

9 Q Did you have a cell phone bearing
10 number 718-536-5050?

11 A Yes.

12 Q Do you still have that same cell
13 phone number?

14 A Yes.

15 Q What carrier did you use?

16 A T-Mobile.

17 Q Do you still use T-Mobile?

18 A Yes.

19 Q Do you recall the number of the DOT
20 phone that you were given?

21 A No, I don't recall it.

22 Q How soon after the accident of
23 February 15, 2013 did you call David Alan?

24 A Ten minutes after.

25 Q Other than David Alan, before you

1 R. Brooms

2 got back to the garage that day did you speak to
3 any other Department of Transportation employees
4 about the accident?

5 A Before I got back, no.

6 Q Did you speak to any other
7 Department of Transportation employees when you
8 got back other than David Alan about the
9 accident?

10 A I called Control. I am not sure
11 what time it was actually.

12 Q You don't know who you spoke to?

13 A No, whoever answered.

14 Q What did you do when you called
15 Control, is that a normal thing to do?

16 A When an accident occurs, yes.

17 Q What did you tell Control?

18 A That I was involved in an accident.
19 I gave them a brief idea where the location was,
20 the time. The police were en route to the scene.

21 Q The police had not arrived yet?

22 A I don't remember how it exactly
23 happened.

24 Q Did you give them a brief
25 description of what happened or did you just

1 R. Brooms

2 report the fact that an accident had occurred?

3 A I reported that an accident
4 happened, that I was involved in an accident.

5 Q You didn't give them any details at
6 that time?

7 A I don't remember exactly the
8 conversation, how it went. I gave them the
9 vehicle that I was in and my name.

10 Q Going back to the Supervisor's
11 Evaluation Report, which I have marked as
12 Plaintiff's Exhibit 9-B and is contained within
13 Plaintiff's Exhibit 9, do you see at the top
14 where it has a line for vehicle number?

15 A Yes.

16 Q It says 1433; is that correct?

17 A Yes.

18 Q We went over this, but does that
19 refer to the vehicle number assigned to the van
20 that you were operating by the Department of
21 Transportation on February 15, 2013?

22 A Yes.

23 Q Going back to Plaintiff's
24 Exhibit 1, the photograph for identification,
25 does that have that same number on the van, 1433?

1 R. Brooms

2 A I see 433. The first number looks
3 a little altered.

4 Q Could you tell us if that depicts
5 the vehicle that you were operating at the time
6 of the accident on February 15, 2013, not the
7 exact condition of the vehicle?

8 A What do you mean by depict?

9 Q I don't care about the frost on the
10 window or dents on the lights. I am asking you
11 is that the van that you were operating at the
12 time of the accident on February 15, 2013?

13 A I can't say yes or no if it was the
14 van. The license plate is similar, the numbers
15 look to be the same. It is similar to the vans
16 that we normally operate.

17 Q How about Plaintiff's Exhibit 6,
18 that's also a photograph a portion of a van; is
19 that correct?

20 A Yes.

21 Q Do you see where it is marked in
22 yellow with a number?

23 A Yes.

24 Q What number?

25 A 4233.

1 R. Brooms

2 Q That's the number that was assigned
3 by the Department of Transportation to the van
4 that you were operating at the time of the
5 accident?

6 A Yes.

7 Q Does that photograph, Plaintiff's
8 Exhibit 6, depict a portion of the van that you
9 were operating at the time of the accident on
10 February 15, 2013?

11 A Yes, it looks like a portion of the
12 van.

13 Q The same question for Plaintiff's
14 Exhibit 7?

15 A It looks like the vehicle, yes.

16 Q I will show you Plaintiff's
17 Exhibit 2, another photograph depicting a van.
18 That depicts a van; is that correct?

19 A Yes.

20 Q There is a yellow number written on
21 the window?

22 A Yes.

23 Q What is that?

24 A 1433.

25 Q Which is the number assigned to the

1 R. Brooms

2 van that you were operating at the time of the
3 accident on February 15, 2013; is that correct?

4 A Yes.

5 Q Does that indicate to you that that
6 picture depicts the van that you were operating
7 at the time of the accident?

8 A It looks like the van, yes.

9 Q It is the van, isn't it?

10 A I can't say. Certain things don't
11 like -- it looks like the van, but there are
12 certain things on the van. The light being
13 broken, I can't remember the van that way.

14 MR. GAIR: I don't care about
15 broken lights or scratches on the door. I
16 don't care about it was winter when these
17 photographs were taken because you can see
18 frost on the windshield. I don't care
19 about any of that.

20 Q I am asking you if this photograph,
21 Plaintiff's Exhibit 2, shows the van that you
22 were operating on the date of the accident, does
23 it show the van?

24 A The license plate and the number,
25 yes.

1 R. Brooms

2 Q And the van?

3 A Yes.

4 Q That's the van you were driving on
5 February 15, 2013?

6 A From the license plate and the
7 numbers, that's the way it looked, yes.

8 MR. GAIR: Off the record.

9 [Whereupon, a discussion was held
10 off the record.]

11 Q Showing you a photograph marked as
12 Plaintiff's Exhibit 4, does this photograph show
13 a portion of the van that you were operating at
14 the time of the accident on February 15, 2013?

15 A Yes.

16 Q I will ask you the same question
17 regarding Plaintiff's Exhibit 8. I am showing
18 you Plaintiff's Exhibit 8 for identification.

19 Does this photograph show a portion
20 of the van that you were operating at the time of
21 the accident on February 15, 2013?

22 A Yes.

23 Q Showing you a photograph which has
24 been marked as Plaintiff's Exhibit 3 for
25 identification, does this photograph show a

1 R. Brooms

2 portion of the van that you were operating at the
3 time of the accident on February 15, 2013?

4 A From the numbers, yes.

5 Q I will show you a photograph which
6 has been marked as Plaintiff's Exhibit 5 for
7 identification.

8 Does this photograph show a portion
9 of the inside of the van that you were operating
10 at the time of the accident on February 15, 2013?

11 A I can't answer that. It doesn't
12 look like it.

13 Q Does it look similar?

14 A Yes.

15 Q It shows a steering wheel?

16 A Yes.

17 Q And it shows the seat?

18 A Yes.

19 Q It shows the driver's seat; is that
20 correct?

21 A Yes.

22 Q Is the driver's seat and the
23 steering wheel and whatever else is shown in that
24 picture similar to the driver's seat and wheel of
25 the van that you were operating at the time of

1 R. Brooms

2 the accident on February 15, 2013?

3 A Yes, it is similar.

4 Q Do you know how many vans such as
5 the ones depicted in these photographs, one
6 through eight, were run out of the Maspeth shop
7 back in February on February 15, 2013?

8 A No, sir.

9 Q Do you know approximately?

10 A No, I don't know.

11 Q I had asked you before about people
12 that you may have spoken to at the Department of
13 Transportation regarding this accident and you
14 mentioned you called the accident in to Control;
15 is that correct?

16 A Yes.

17 Q Is it fair to say that the next
18 Department of Transportation person that you
19 spoke to with regard to the accident would have
20 been David Alan back at the Maspeth garage?

21 A Yes.

22 Q When I refer to it as the Maspeth
23 garage am I referring to it the way you refer to
24 it or do you call it something else?

25 A We just call it the shop.

1 R. Brooms

2 Q Do you know the day of the accident
3 that this accident happened on?

4 A A Friday.

5 Q Is it fair to say that you had
6 operated the same van the entire vehicle from
7 Monday through Friday?

8 A Yes.

9 Q You operated this van every week
10 unless it was out of service; is that correct?

11 A I can't say every week, no.

12 Q It was your regular van?

13 A Yes.

14 Q If you didn't operate this
15 particular van, the one shown in Plaintiff's
16 Exhibits 1 through 8 and bearing license number
17 L865599, you would operate a similar type van; is
18 that correct?

19 A Yes.

20 Q They are all the same model, were
21 they not?

22 A Yes.

23 Q You mentioned that when you spoke
24 to Control you told them the police were coming;
25 is that correct?

1 R. Brooms

2 A Yes, or 911.

3 Q Did you call 911?

4 A Yes.

5 Q Did you call them on your cell
6 phone?

7 A Yes.

8 Q Your personal cell phone?

9 A I don't know which one.

10 Q At some point the police arrived
11 after the accident; is that correct?

12 A Yes.

13 Q From the time that the accident
14 occurred until the police arrived approximately
15 how much time elapsed, if you know?

16 A I don't know exact time, a few
17 minutes. It was rather quick.

18 Q When the police arrived did they
19 arrive in what is known as a radio motor patrol
20 car, a marked police car?

21 A Yes.

22 Q How many cars arrived to the scene
23 of the accident?

24 A One car.

25 Q It had the siren on the top, like

1 R. Brooms

2 the police cars we see around the City; is that
3 correct?

4 A Yes.

5 Q A marked police car?

6 A Yes.

7 Q You spoke to the police officers
8 when they arrived or an officer?

9 A Yes.

10 MR. GAIR: Let's mark as
11 Plaintiff's Exhibit 11 a copy of the police
12 report, two pages. A copy of the same
13 report was provided to us by the City of
14 New York in response to the Case Scheduling
15 Order, for the record.

16 [Whereupon, the document was
17 hereby marked as Plaintiff's Exhibit 11 for
18 identification, as of this date, by the
19 reporter.]

20 Q I believe you stated that before
21 you came here to testify today you looked at the
22 City of New York's Response to the Case
23 Scheduling Order, did you look at these different
24 documents?

25 A Yes, we went over it.

1 R. Brooms

2 Q In here is the police report; is
3 that correct?

4 A Yes.

5 Q Let me give you Plaintiff's
6 Exhibit 9, which is the Response to the Case
7 Scheduling Order, and I will direct your
8 attention to the police accident report which is
9 contained therein and which I have marked
10 separately as Plaintiff's Exhibit 11. Do you
11 have that in front of you?

12 A Yes.

13 Q Going down to the accident
14 description/officers notes, do you see that?

15 A Yes.

16 Q It states, TLP/0. Would you
17 stipulate that means time and place of
18 occurrence?

19 MR. ORCUTT: Yes, I will stipulate
20 that.

21 Q "Driver states making turn West
22 31st Street and Sixth Avenue where pedestrian was
23 struck. Driver didn't see pedestrian, nor where
24 she came from." Is that what you told the police
25 officer?

1 R. Brooms

2 A I told the police officer what
3 happened. Maybe he wrote down -- I told him what
4 I felt happened at the accident.

5 MR. GAIR: Please listen to the
6 question.

7 Q There were two police officers; is
8 that correct?

9 A Yes.

10 Q A driver and a radio guy, right?

11 A Yes.

12 Q It states here, after accident
13 description, officer's notes, "Driver states
14 making turn West 31st Street and Sixth Avenue
15 where pedestrian was struck. Driver didn't see
16 pedestrian, nor where she came from."

17 Did you tell the police officer
18 what I just read to you?

19 A No.

20 Q Are you saying the police officer
21 wrote down what you told him incorrectly?

22 A I don't know what the officer wrote
23 down. That's not what I told him.

24 Q We do know what the officer wrote
25 down from police report, is that correct, we can

1 R. Brooms

2 all read?

3 A Yes.

4 MR. GAIR: Off the record.

5 [Whereupon, a discussion was held
6 off the record.]

7 Q The police officer wrote down,
8 "Driver states making turn West 31st Street and
9 Sixth Avenue where pedestrian was struck. Driver
10 didn't see pedestrian, nor where she came from."
11 Did you tell the police officer that?

12 MR. ORCUTT: Objection as asked and
13 answered.

14 Q Am I reading what the officer wrote
15 that you told him correctly?

16 A That is not my statement.

17 MR. ORCUTT: He just asked if he is
18 reading this correctly off the report.

19 A Yes, you are reading it. You are
20 saying I told the officer this?

21 MR. GAIR: No, I am not saying
22 that.

23 Q Did I read correctly what the
24 officer wrote down as what you told him about the
25 accident correctly?

1 R. Brooms

2 MR. ORCUTT: Objection, vague, but
3 you can answer it.

4 A You are reading what the officer
5 wrote?

6 MR. GAIR: I don't mean to confuse
7 you.

8 Q The officer states that you told
9 him about the accident, right?

10 A Yes.

11 Q I read to you what the officer
12 stated you said to him; is that correct?

13 A (No response.)

14 Q I read it to you from the police
15 report?

16 A I am getting confused.

17 MR. GAIR: I am not asking you
18 whether the officer wrote down correctly
19 what you told him or incorrectly or
20 anything else.

21 Q I read you what the officer wrote
22 down as to what you told him about the accident,
23 correct?

24 A Yes.

25 Q Did I read that to you correctly,

1 R. Brooms

2 what the officer wrote?

3 A Yes.

4 Q I will show you what was marked as
5 Plaintiff's Exhibit 9-A, which is the Report of
6 Motor Vehicle Accident, the MV-104 that we have
7 been given today. Is this the first MV-104 that
8 you filled out?

9 A Yes.

10 MR. GAIR: I will mark as
11 Plaintiff's Exhibit 9-C a copy of the
12 Report of Motor Vehicle Accident that was
13 provided to us by the City of New York in
14 what has been marked as Plaintiff's Exhibit
15 9, the response to the CSO.

16 [Whereupon, the document was
17 hereby marked as Plaintiff's Exhibit 9-C
18 for identification, as of this date, by the
19 reporter.]

20 MR. GAIR: This MV-104 is dated May
21 17, 2013.

22 MR. ORCUTT: Okay.

23 Q Where were you when you filled out
24 the first MV-104?

25 A The shop.

1 R. Brooms

2 Q You filled that out in either
3 February or March, right?

4 A Correct.

5 Q If you had to take an educated
6 guess, not a guess, but an educated guess, would
7 you say that was in February?

8 A Yes.

9 Q Is the middle number a 15 or an 18,
10 can you tell?

11 A Eighteen.

12 Q Did someone ask you to fill that
13 out?

14 A Yes, I was told to fill out the
15 form.

16 Q By whom?

17 A My supervisor, David Alan.

18 Q When did he tell you that?

19 A When I came back to the shop.

20 Q Did you fill it out that day?

21 A I think I started to fill it out
22 that day, yes.

23 Q Did you give it back to David Alan
24 that day?

25 A No.

1 R. Brooms

2 Q When did you give it to him?

3 A When I finished it.

4 Q When did you finish it?

5 A Probably the 18th. The day I
6 signed it is when I finished it.

7 Q Did you give it to him on that
8 date?

9 A Yes.

10 Q Did you personally hand it to him?

11 A Yes.

12 Q At the garage?

13 A Yes.

14 Q Did he look at it?

15 A Yes.

16 Q Did he make any comments about it?

17 A No.

18 Q At some point in time did David
19 Alan or someone else from the City or the
20 Department of Transportation ask you to fill out
21 another MV-104, a Report of Motor Vehicle
22 Accident?

23 A Yes.

24 Q Who asked you to do that?

25 A The vehicle coordinator.

1 R. Brooms

2 Q Who was that?

3 A Fred Schraft.

4 Q Who was he employed by?

5 A The Department of Transportation.

6 Q Where does he work out of, what
7 garage?

8 A The same shop.

9 Q Maspeth?

10 A Yes.

11 Q Is he still there?

12 A Yes.

13 Q What is the vehicle coordinator?

14 A In charge of vehicles. I don't
15 know his exact job description.

16 Q You knew him before the date of the
17 accident; is that correct?

18 A Yes.

19 Q Did he have an office at the
20 garage?

21 A Yes.

22 Q Was he involved in any way with
23 processing reports of accidents, if you know?

24 A Processing them?

25 Q As far as you know, not asking you

1 R. Brooms

2 to guess, what does a vehicle coordinator do?

3 A I don't know.

4 Q Do you know if a vehicle
5 coordinator is involved in processing or handling
6 reports of accidents?

7 A Yes. I gave him the paperwork,
8 yes.

9 Q What paperwork did you give to
10 Mr. Schraft?

11 A I gave this to my supervisor
12 (indicating).

13 Q You are referring to Plaintiff's
14 Exhibit 9A, the MV-104; is that correct?

15 A Yes.

16 Q That was David Alan?

17 A Yes.

18 Q What did you give to Mr. Schraft?

19 A Nothing. I didn't give it to him
20 personally.

21 Q You didn't give any report of this
22 accident to Mr. Schraft?

23 A No, to my supervisor.

24 Q David Alan?

25 A Yes.

1 R. Brooms

2 Q When you filled out that MV-104,
3 Plaintiff's Exhibit 9A, did you have the City
4 police report that we have marked as Plaintiff's
5 Exhibit 11?

6 A No, sir.

7 Q When did Mr. Schraft ask you to
8 fill out another MV-104?

9 A I don't remember the exact date and
10 time.

11 Q The MV-104 that we were first
12 provided with in Plaintiff's Exhibit 9, the
13 City's Response to the CSO, is dated May 17,
14 2013; is that correct?

15 A Yes.

16 MR. ORCUTT: Now 9-C as well.

17 MR. GAIR: Correct.

18 Q That's all in your writing,
19 Plaintiff's Exhibit 9-C; is that correct?

20 A Yes.

21 Q When did Mr. Schraft ask you to
22 fill out a second MV-104?

23 MR. ORCUTT: Objection as asked and
24 answered.

25 A I don't remember the exact time.

1 R. Brooms

2 Q Was it within a week, if you know,
3 of May 17, 2013?

4 A I don't recall.

5 Q Did he call you in his office?

6 A The word came from David Alan.

7 Q The word came from David Alan by
8 phone or orally?

9 A He told me in person.

10 Q Where was that?

11 A That shop.

12 Q Where in the shop?

13 A Our office.

14 Q Whose office?

15 A David Alan's. At the time we
16 shared an office.

17 Q There were two desks and two chairs
18 and other stuff in there or what was in the
19 office?

20 A Desks and chairs, computers.

21 Q What did David Alan say to you
22 regarding preparing a second MV-104?

23 A That it was incomplete. I had to
24 fill it out again and submit it.

25 Q Did he tell you why it was

1 R. Brooms

2 incomplete?

3 A I can't remember if he went into
4 detail.

5 Q Where did you fill out this report?

6 A In the office.

7 Q That you shared with David Alan?

8 A Yes.

9 Q Did David Alan help you fill out
10 this report?

11 A No.

12 Q Did you fill it out on your own?

13 A No.

14 Q Did you ask anyone any questions
15 about how to fill it out?

16 A No.

17 Q Did you have the police report
18 prepared by the City of New York that we have
19 marked as Plaintiff's Exhibit 11 when you
20 prepared this report?

21 MR. ORCUTT: Which one?

22 MR. GAIR: 9-C, the second MV-104.

23 A Yes.

24 Q When you prepared the second MV-104
25 did you have the New York City Police Accident

1 R. Brooms

2 Report in front of you while you were doing so?

3 A Yes.

4 Q Did you finish completing this
5 report, Plaintiff's Exhibit 9-C, the second one
6 you filled out, did you finish that in one
7 sitting, completing that?

8 A I can't remember. I can't remember
9 if it was one sitting or not right now.

10 Q You definitely didn't have to ask
11 anyone any questions?

12 A For the second one, no.

13 Q Before you prepared the second
14 MV-104 Report of Motor Vehicle Accident, which we
15 have marked as Plaintiff's Exhibit 9-C, did you
16 actually read the New York City Police Accident
17 Report which we have marked as Plaintiff's
18 Exhibit 11?

19 A Before I prepared this?

20 Q Yes.

21 A I looked at it, yes.

22 Q You read it?

23 A Yes.

24 Q With regard to police reports, do
25 you know what overlays are?

1 R. Brooms

2 A No.

3 Q You see on your MV-104 in the back
4 you have this sheet with numbers on it?

5 A Yes.

6 Q You used these numbers to fill out
7 the report, right?

8 A Yes.

9 Q When you had the police report did
10 you have a similar overlay or did you just have
11 the two pages?

12 A I don't remember there being an
13 overlay.

14 Q In any event, showing you
15 Plaintiff's Exhibit 11, is this the police
16 report, these two pages, the police report that
17 you had and that you read when you filled out the
18 MV-104 dated May 17, 2013 which was marked as
19 Plaintiff's Exhibit 9-C?

20 A Were they back to back one page?

21 Q Did you have this report, whether
22 it was one page with writing on both sides, is
23 this the report that you had?

24 A Yes, this is the report. I didn't
25 have two pages. It was one page.

1 R. Brooms

2 Q There was writing on both sides?

3 A Yes.

4 Q This one has writing on two sides,
5 but it is the same report, right?

6 A Yes.

7 Q You read the description of the
8 accident; is that correct?

9 A Yes.

10 Q We just went over that and you told
11 me that what the police officer wrote down as to
12 you what told him about the happening of the
13 accident was incorrect, you read that at the time
14 that you filled out this MV-104 dated May 17,
15 2013; is that correct?

16 A Yes, sir.

17 Q At the time that you filled out
18 this MV-104 dated May 17, 2013, which has been
19 marked as Plaintiff's Exhibit 9-C, did you
20 disagree with what the police officer had
21 written, that you told him about how the accident
22 happened in the police report, Plaintiff's
23 Exhibit 11?

24 A I am having problems with that.
25 The way you are saying it. It just says

1 R. Brooms

2 officer's notes. I am not understanding the
3 question.

4 MR. GAIR: I am sorry.

5 A It says it is the officer's notes.

6 Q It says, "accident description/
7 officer's notes," that's printed?

8 A Yes.

9 Q "Driver states making turn West
10 31st Street and Sixth Avenue where pedestrian was
11 struck. Driver didn't see pedestrian, nor where
12 she came from."

13 You have told us that the officer
14 wrote down incorrectly what you told him, is that
15 a fair statement?

16 A That's not what I said, yes. It
17 says she was struck at 31st Street and Sixth
18 Avenue. The accident occurred on 31st Street.

19 Q "Driver didn't see pedestrian, nor
20 where she came from." Is that part correct?

21 A Yes.

22 Q You told him that?

23 A Yes, I did.

24 Q You never saw the pedestrian before
25 the accident occurred; is that correct?

1 R. Brooms

2 A I never saw her, no.

3 Q You completed the second MV-104
4 dated May 17, 2013; is that correct?

5 A Yes.

6 MR. GAIR: I will mark as
7 Plaintiff's Exhibit 9-D a document entitled
8 Supervisor's Evaluation Report Vehicular
9 Accident/Incident.

10 [Whereupon, the document was
11 hereby marked as Plaintiff's Exhibit 9-D
12 for identification, as of this date, by the
13 reporter.]

14 Q Looking at Plaintiff's Exhibit 9-D,
15 Supervisor's Evaluation Report Vehicle
16 Accident/Incident, do you see that?

17 A Yes.

18 Q Do you recognize the writing on
19 this page?

20 A No. I have seen the form before.

21 Q Do you see where it has David
22 Alan's name printed?

23 A Yes.

24 Q Do you see there is a signature
25 there?

1 R. Brooms

2 A Yes.

3 Q Do you recognize David Alan's
4 signature?

5 A No.

6 Q Were you present when this was
7 filled out?

8 A No, I am not sure.

9 Q You are not sure?

10 A I don't know when he filled it out.

11 Q It is dated February 27th; is that
12 correct?

13 A It is hard to say.

14 Q You don't remember one way or the
15 other whether you were present at the time; is
16 that correct?

17 A Correct.

18 Q Did David Alan discuss this form
19 with you before you filled it out?

20 A No, he didn't.

21 Q Does David Alan still work for the
22 Department of Transportation?

23 A Yes.

24 Q Is he still at the Maspeth garage?

25 A Yes.

1 R. Brooms

2 Q You see in the middle there is a
3 box with writing in it?

4 A Yes.

5 Q There is a box. Do you see where
6 it says "identify source and driver"?

7 A Yes.

8 Q Does that indicate to you one way
9 or the other if the information printed in the
10 box was gotten from you by David Alan or does it
11 not indicate that?

12 A Yes.

13 Q Yes what?

14 A It indicates that it came from the
15 driver.

16 Q That's you?

17 A Yes.

18 Q It says here, "Mr. Brooms made a
19 turn onto West 31st Street," right?

20 A Yes.

21 Q "After he completed the turn a
22 woman crossing North 31st Street from between
23 parked vans --

24 MR. ORCUTT: I think it is West
25 31st Street.

1 R. Brooms

2 MR. GAIR: I am sorry.

3 Q "After he completed the turn a
4 woman crossing West 31st Street from between
5 parked vans fell and the rear left tire rolled
6 over her." Did I read that correctly?

7 A Yes.

8 Q Do you know where David Alan got
9 that information from?

10 A From me.

11 Q You never saw the pedestrian before
12 the accident; is that correct?

13 A I didn't see her before, no.

14 Q How could you say that's what
15 happened?

16 A We discussed it when I got back to
17 the shop. We discussed what happened with the
18 accident. To the best of what I could make out,
19 it happened so fast, that's what I told him.

20 Q This was just based on speculation,
21 wasn't it?

22 A It was the best that I could make
23 out. It happened so fast.

24 Q We agree that you never saw the
25 pedestrian before the accident occurred; is that

1 R. Brooms

2 correct?

3 A Yes, correct.

4 Q When David Alan and you got
5 together and David Alan wrote this out, "Mr.
6 Brooms made a turn onto West 31st Street. After
7 he completed the turn a woman crossing West 31st
8 Street from between parked vans fell and the rear
9 left tire rolled over her."

10 MR. ORCUTT: I need to object
11 because he didn't say David Alan wrote it.

12 MR. GAIR: Okay.

13 Q You never saw that happen, did you?

14 A I didn't see it happen, no.

15 Q This was just based upon what you
16 and David Alan thought may have happened; is that
17 correct?

18 A No, sir.

19 Q What was it based on then?

20 A I was at the accident and we came
21 back to the shop. I don't know when he wrote
22 this.

23 Q It is dated February 27, 2013,
24 right?

25 A That's when he did it, correct. We

1 R. Brooms

2 spoke about it. He asked me what happened. I
3 told him what happened with the accident and what
4 I could make out of it is what I told him. We
5 didn't write this together.

6 Q You never told him that what he
7 wrote here in Plaintiff's Exhibit 9-D is what
8 actually happened, did you?

9 A Say that again.

10 Q I read twice what David Alan wrote
11 happened at the time of the accident, right, I
12 read it to you?

13 A What we talked about, yes.

14 Q You never told him that, did you?

15 A That's what we spoke about. I told
16 him what happened and that's what he wrote.

17 Q You never saw the pedestrian before
18 the accident so how could you tell him that's
19 what you saw?

20 A When I got back to the shop David
21 Alan he asked me what happened and I tried to
22 make out to the best of what I could make out
23 from the accident what happened.

24 Q This is what may have happened?

25 A This is what I got, yes.

1 R. Brooms

2 Q From what you got from where?

3 A From what made sense from what
4 happened at the accident.

5 Q Do you have any formal training in
6 accident reconstruction?

7 A No, sir.

8 Q Did you ever speak to any witnesses
9 who told you that this is what happened?

10 A No, sir.

11 Q This statement that David Alan
12 wrote is based, is it not, purely on your
13 speculation as to what may have occurred?

14 A Yes, sir.

15 Q It may be true and it may not be
16 true; is that correct?

17 A Yes, sir.

18 Q One thing we do know is true is
19 that you never saw this pedestrian before the
20 accident occurred; is that correct?

21 MR. ORCUTT: Objection. What was
22 the question? It sounded like a statement.

23 MR. GAIR: Off the record.

24 [Whereupon, a discussion was held
25 off the record.]

1 R. Brooms

2 MR. GAIR: Please read it back.

3 [Whereupon, the requested portion
4 of the record was hereby read by the
5 reporter.]

6 MR. ORCUTT: You can answer it.

7 A Correct.

8 MR. GAIR: I will mark as
9 Plaintiff's Exhibit 10-A a document
10 entitled at the bottom, "Operator's
11 Statement (include job being performed at
12 time of accident)."

13 [Whereupon, the document was
14 hereby marked as Plaintiff's Exhibit 10-A
15 for identification, as of this date, by the
16 reporter.]

17 Q I will show you a document marked
18 as Plaintiff's Exhibit 10-A. It is included
19 within Plaintiff's Exhibit 10, which is the City
20 of New York's Supplemental Response to the Case
21 Scheduling Order, okay?

22 A Yes.

23 Q Do you see at the bottom of 10-A it
24 is typed out?

25 A Yes.

1 R. Brooms

2 Q Then there is writing underneath?

3 A Yes.

4 Q Is that your writing?

5 A Yes, it is.

6 Q Then there is a place where it says
7 "operator's name, Richard Brooms." Is that your
8 writing?

9 A Yes.

10 Q Is that your signature there?

11 A Yes.

12 Q What is the date?

13 A February 15, 2013.

14 Q Supervisor name, David Alan, is
15 that correct?

16 A Yes.

17 Q Then there is a signature?

18 A Yes.

19 Q Do you recognize that as David
20 Alan's signature?

21 A I don't know what his signature
22 looks like.

23 Q It looks like it says David Alan?

24 A Yes.

25 Q All of this writing is yours; is

1 R. Brooms

2 that correct?

3 A Yes.

4 Q Could you read what you wrote,
5 please.

6 A "I was making a left turn down 31st
7 Street off of Sixth Avenue, waited until
8 crosswalk was clear before proceeding. A woman
9 came from between two parked vans and tripped and
10 the back of the tire of the van I was driving
11 rolled over her."

12 Q We have gone over David Alan's
13 statement which he got from you?

14 A Yes.

15 Q This statement that you just read,
16 this is not something that you saw happen, is it?

17 A I didn't see the accident happen,
18 it happened so fast.

19 Q This is also based on your
20 speculation as to what may have occurred; is that
21 correct?

22 A Yes.

23 Q Or may not have happened as well?

24 A Correct.

25 Q You don't know how the accident

1 R. Brooms

2 occurred, do you?

3 A No, I don't.

4 Q All you know is that the pedestrian
5 was struck by the van that you were driving; is
6 that correct?

7 A Yes.

8 Q I am showing you your second MV-104
9 that I have marked as Plaintiff's Exhibit 9-C.
10 We went over it briefly. Do you see down under
11 four, "how did the accident happen" is printed?

12 A Yes.

13 Q You didn't fill that out?

14 A No.

15 Q Is there any particular reason why
16 you didn't fill that out?

17 A No.

18 Q Is the reason because you didn't
19 know how the accident occurred?

20 A I don't know why I didn't fill it
21 out.

22 Q What time did you get to work on
23 the morning of February 15, 2013?

24 A 6:00 a.m.

25 Q How did you get to work?

1 R. Brooms

2 A I drove the work van.

3 Q The van that was involved in the
4 accident?

5 A Yes.

6 Q Was that a van that you were
7 allowed to keep with you?

8 A Yes.

9 Q You drive it home after the shift
10 ends?

11 A Yes.

12 Q Did you drive it to the Maspeth
13 garage?

14 A In the morning, yes.

15 Q Did you get a particular trip or
16 job sheet that day, what was your first job going
17 to be in the morning?

18 A I go in and do work on the
19 computer.

20 Q Then what?

21 A I am not sure of the question.

22 Q At some point you drove into the
23 City, into Manhattan?

24 A Yes, I was doing inspections of the
25 guys work.

1 R. Brooms

2 Q Of signs being put up or what work
3 were you inspecting?

4 A Yes, the work that the guys did the
5 day before.

6 Q Where did this accident happen,
7 what intersection?

8 A 31st Street off of Sixth Avenue.

9 Q Had work been done in that area?

10 A In the vicinity, yes. I don't
11 remember exactly where the location was, but
12 around the area. I was en route to the job site.

13 MR. GAIR: I will mark as
14 Plaintiff's Exhibit 12 the New York City
15 Department of Transportation weekly vehicle
16 trip log sheet.

17 [Whereupon, the document was
18 hereby marked as Plaintiff's Exhibit 12 for
19 identification, as of this date, by the
20 reporter.]

21 MR. ORCUTT: Off the record,
22 please.

23 [Whereupon, a discussion was held
24 off the record.]

25 Q I will show you what has been

1 R. Brooms

2 marked as Plaintiff's Exhibit 12. Do you
3 recognize that document?

4 A Yes.

5 Q What is it?

6 A It is a vehicle trip sheet.

7 Q Is that a document that is kept in
8 the van that you use?

9 A Yes.

10 Q Whose responsibility is it to fill
11 out that trip sheet?

12 A The driver.

13 Q In this case it would be you?

14 A Yes.

15 Q At the top of Plaintiff's Exhibit
16 12 it says 1433; is that correct?

17 A Yes.

18 Q Then it has the plate number; is
19 that correct?

20 A Yes.

21 Q Could you read it?

22 A L865599.

23 Q That's the DOT number and the plate
24 number of the van that we have identified as you
25 having been driving at the time of the accident;

1 R. Brooms

2 is that correct?

3 A Yes.

4 Q I showed you pictures and some of
5 them you could identify and some you could not,
6 correct?

7 A Yes.

8 Q Going down to the bottom, you see
9 where it is written in, "December 15, 2013,
10 driver, Brooms." That's your writing; is that
11 correct?

12 A Yes.

13 Q 8:25 is the start time?

14 A Yes.

15 Q What does that mean?

16 A When I left the shop.

17 Q Then it has the mileage on the
18 odometer; is that correct?

19 A Yes.

20 Q 59,665, right?

21 A Yes.

22 Q You were leaving from Maspeth; is
23 that correct?

24 A Yes.

25 Q That means the Maspeth garage?

1 R. Brooms

2 A Yes.

3 Q Your destination was West 29th
4 Street in Manhattan, correct?

5 A Yes.

6 Q Does that indicate to you that work
7 had been done there?

8 A Yes.

9 Q You arrived there at 9:00; is that
10 correct?

11 A Yes.

12 Q Then the odometer was 59,672; is
13 that correct?

14 A Yes.

15 Q You drove about seven miles?

16 A Yes.

17 Q The next line, start 10:00, it has
18 the same mileage, 59,672; is that correct?

19 A Yes.

20 Q It has you traveling from West 31st
21 Street; is that correct?

22 A Yes, to Maspeth.

23 Q You arrived at Maspeth at 10:30
24 a.m.?

25 A Yes.

1 R. Brooms

2 Q The odometer reading was 59,180; is
3 that correct?

4 A Yes.

5 Q It could not be 180, could it?

6 A It was 680, right. It was probably
7 just a mistake.

8 Q Would you agree this last line was
9 written after the accident occurred?

10 A Yes.

11 Q Was that 10:00 put in at the time
12 that you left the scene of the accident?

13 A I can't remember exactly when I put
14 it in.

15 Q It could have been when you got
16 back to the garage?

17 A Yes.

18 Q Do you remember when this accident
19 occurred, what time of day, approximately?

20 A I am not sure. Sometime around --
21 I can't tell you exactly.

22 Q Just approximately?

23 A 9:00 or 9:15.

24 Q You were at the scene for
25 approximately 45 minutes; is that correct?

1 R. Brooms

2 A Yes.

3 Q Then you left and you went back to
4 the garage?

5 A Yes.

6 Q At the time of the accident on
7 February 15, 2013 you were driving in the course
8 and scope of your employment by the Department of
9 Transportation of the City of New York; is that
10 correct?

11 A Yes.

12 Q You had their permission and
13 consent to operate the motor vehicle that you
14 were operating at the time of the accident; is
15 that correct?

16 A Yes.

17 Q Had you, in the 24 hours prior to
18 the accident, had anything of an alcoholic nature
19 to drink?

20 A I can't remember, sir.

21 Q You could have or you might not
22 have?

23 A Maybe I had a glass of wine.

24 Q Was it your custom to have a glass
25 of wine at dinner, let's say?

1 R. Brooms

2 A Not every night, but yes. I may
3 have a glass of wine.

4 Q You don't know one way or the
5 other?

6 A No, I don't.

7 Q Were you on any prescription
8 medications within the 24 hours prior to the
9 accident of February 15, 2013?

10 A No, sir.

11 Q Did you take any type of drugs
12 within 24 hours prior to the accident?

13 A No, sir.

14 Q Have you ever been convicted of a
15 felony?

16 A No, sir.

17 MR. GAIR: Off the record.

18 [Whereupon, a discussion was held
19 off the record.]

20 Q When you left the Maspeth garage it
21 was about seven miles to 29th Street in
22 Manhattan; is that correct?

23 A Yes.

24 Q You went to West 29th Street in
25 Manhattan?

1 R. Brooms

2 A Yes.

3 Q Do you recall the cross street?

4 A No.

5 Q It was on the West Side somewhere?

6 A Yes.

7 Q Are there any other trip sheets
8 that you fill out in the regular course of
9 business other than this weekly trip log sheet?

10 A No.

11 Q Do you carry a driver's logbook?

12 A No.

13 Q You didn't fill out any other type
14 of accident reports other than the one that I
15 showed you?

16 A No.

17 Q Other than this document that I
18 have shown you, the Supervisor's Evaluation
19 Report from David Alan, do you know whether or
20 not he filled anything else out?

21 A No.

22 Q Showing you Plaintiff's Exhibit 9,
23 three pages in there is a document that says City
24 of New York Department of Transportation Driver's
25 Accident/Incident report, do you see that?

1 R. Brooms

2 A Yes.

3 Q Do you recognize any of the writing
4 on that?

5 A Yes.

6 Q Whose writing is that?

7 A That's mine.

8 Q All of it?

9 A Yes.

10 Q It gives your name on the bottom?

11 A Yes.

12 Q What is supervisor TDM?

13 A Traffic maintainer.

14 Q You had a Class B license; is that
15 correct?

16 A Yes.

17 Q That refers to the driver's
18 license?

19 A Yes.

20 Q Class B, that does not allow you to
21 drive tractor trailers, it basically allows you
22 to drive commercial type vehicles?

23 A Yes.

24 Q You would not be able to drive a
25 semi tractor trailer with that license, would

1 R. Brooms

2 you?

3 A No.

4 Q When you first got the job with the
5 Department of Transportation did you have to take
6 any driving courses?

7 A Yes.

8 Q Tell me about what type of driving
9 courses that you had to take?

10 A A two-week course with Sanitation
11 to get my CDL, in order to be able to take the
12 road test.

13 Q Your commercial driver's license?

14 A Yes.

15 Q That's because it is the New York
16 City Department of Sanitation who gives that
17 course?

18 A Yes.

19 Q Tell me what that course consisted
20 of, that two-week course, was it classroom and
21 driving or only one or the other?

22 A A day or two of classroom and the
23 rest was driving.

24 Q With regard to the classroom, what
25 did that consist of as far as you can recall?

1 R. Brooms

2 A Safety, precautions, different
3 components of the vehicle, tires, steering wheels
4 different, brakes, heights.

5 Q When you got the classroom
6 instruction was that given with regard to
7 particular vehicles or different types of
8 vehicles?

9 A Did we use different vehicles?

10 Q In the course of your job you drove
11 on a regular basis a commercial van; is that
12 correct?

13 A Yes.

14 Q We have shown you pictures and some
15 of them depict the van; is that correct?

16 A Yes.

17 Q The classroom part of this course,
18 did that concentrate on using that type of van or
19 other types of vehicles?

20 A Just a general commercial vehicle.

21 Q Any type of vehicle that would need
22 a commercial plate to operate?

23 A Yes.

24 Q Including vans of the kind that was
25 involved in the accident; is that correct?

1 R. Brooms

2 A Yes.

3 Q We see on this document, the third
4 page in on Plaintiff's Exhibit 9, do you see
5 where it is printed accident location, "give full
6 street name." Do you see that?

7 A Yes.

8 Q What did you write?

9 A "Sixth Avenue at 31st Street."

10 Q Why did you write that down as the
11 location of the accident?

12 A That's the cross streets.

13 Q You told us before the accident
14 occurred on 31st Street?

15 A Yes.

16 Q Would it be fair to say that at the
17 time of the accident or immediately prior thereto
18 you were making a left-hand turn from Sixth
19 Avenue onto 31st Street westbound?

20 A I don't know direction, but I was
21 on Sixth Avenue making a turn onto 31st Street.

22 Q A left?

23 A Yes.

24 Q At the time of the accident?

25 A At the time of the accident I was

1 R. Brooms

2 on 31st Street.

3 Q Had you just completed the left
4 turn?

5 A Yes.

6 Q You never saw the pedestrian before
7 the accident, we have established that, true?

8 A Yes, I didn't see her before the
9 accident.

10 Q How do you know that you completed
11 the left turn?

12 A I cleared the crosswalk.

13 Q What made you aware that you had
14 been involved in an accident?

15 A I felt like a thump, almost like a
16 safety cone, a thump.

17 Q Did you hear a noise?

18 A I can't remember if I heard a noise
19 or not.

20 Q Where did the thump come from?

21 A It sounded like from the driver's
22 side from the rear.

23 Q Where was your van at the time that
24 you heard the thump?

25 A I was on 31st Street.

1 R. Brooms

2 Q How much time elapsed from the time
3 that you completed your left turn from Sixth
4 Avenue until you heard the thump?

5 A I am not sure.

6 Q You don't know?

7 A I am not sure.

8 Q Could it have been a second?

9 A It happened so fast, I am not sure
10 exactly of the time.

11 Q Could it have been two seconds?

12 A I am not sure, sir. It was quick,
13 I am not sure of the time.

14 Q There is a marked crosswalk on 31st
15 Street at Sixth Avenue; is that correct?

16 MR. ORCUTT: Objection.

17 MR. GAIR: I will go over that,
18 okay.

19 Q Do you have any documents or any
20 way that you might refresh your recollection as
21 to where you went on West 29th Street to inspect
22 the signage that had been put up?

23 A No, I don't have any documents.

24 MR. GAIR: I am going to need a
25 deposition of David Alan.

1 R. Brooms

2 Q From the time you left the Maspeth
3 garage on February 15, 2013 up until the time
4 that you got to West 29th Street could you tell
5 us the route that you took, how you got into
6 Manhattan?

7 A No, sir.

8 Q According to Plaintiff's Exhibit 12
9 you had been on 33rd Street in Manhattan on
10 Monday; is that correct?

11 A Yes.

12 Q It doesn't say where on 33rd
13 Street, does it?

14 A No.

15 Q Do you have a recollection as to
16 where?

17 A No.

18 Q That was the only other time that
19 you had been into Manhattan that week prior to
20 the Friday; is that correct?

21 A For the job, yes.

22 Q In a given week how often would you
23 drive into Manhattan on the job?

24 A It varies.

25 MR. ORCUTT: I think there is a

1 R. Brooms

2 Manhattan on Thursday also.

3 MR. GAIR: I am sorry. I missed
4 that.

5 Q You went to West Broadway, you see
6 where it says West Broadway?

7 A Yes.

8 Q You were traveling from West
9 Broadway on December 14th, Thursday?

10 A Yes.

11 Q Do you recall how you got to West
12 Broadway?

13 A No.

14 Q Do you still work at the Maspeth
15 garage?

16 A Yes.

17 Q Do you still drive into Manhattan
18 to inspect signage?

19 A If it calls for it, yes. There are
20 different locations.

21 Q To get to the west side of
22 Manhattan, let's say on 31st Street and Sixth
23 Avenue, how would you get there from the Maspeth
24 garage?

25 A There are different routes.

1 R. Brooms

2 Q Is there one route in particular
3 that you would take?

4 A No, sir.

5 Q Would you have to cross a bridge?

6 A It depends which route I take. I
7 might take it to the tunnel or 59th Street
8 Bridge, depending on traffic.

9 Q On Friday, February 15, 2013 do you
10 have any idea how you got into the City?

11 A No, sir.

12 Q Are there any documents maintained
13 by the Department of Transportation with regard
14 to installation of the signage that you inspected
15 at 29th Street that we can ask for to show us
16 where you went on 29th Street?

17 A I would not know about that.

18 Q Would you remember what the sign
19 was that you were looking at on that date?

20 A No, sir.

21 Q You don't make notes of that type
22 of thing?

23 A Yes, I do.

24 Q What do you do with them?

25 A It goes into the computer.

1 R. Brooms

2 Q They are put on the computer and
3 they can be printed out, right?

4 A Yes.

5 Q Is that a hand held computer that
6 you carry with you?

7 A No.

8 Q What happens, you get to the place
9 where the sign is and you inspect it and then you
10 go back to the office and from the notes you put
11 the information into the computer?

12 A Yes.

13 Q What do you do with your notes?

14 A It is on the computer.

15 Q You throw your written notes out?

16 A No, I just check to see if the job
17 was completed. I don't make notes.

18 Q All you put into the computer is
19 that the job is completed?

20 A Yes.

21 Q Would that computer entry, job
22 completed, show where the job was located?

23 A Yes.

24 Q Would that still be maintained by
25 the Department of Transportation, that computer

1 R. Brooms

2 entry that you make?

3 A Yes.

4 Q Did you make a computer entry for
5 the job on 29th Street that you looked at on
6 February 15, 2013?

7 A No.

8 Q Is that because of the accident?

9 A Yes.

10 Q There is no record of where that
11 job was anywhere?

12 A For 29th Street, when we do runs, I
13 am not sure if there is a job specifically on
14 29th Street. When we do runs -- the guys worked
15 the day before. If they had four jobs, I inspect
16 the four jobs.

17 Q What do you do, put down the last
18 job you were at?

19 A The first one I get there I might
20 write it down or when I leave. The first one I
21 get to I will put down the area, not exactly, I
22 will just put 29th Street. Sometimes you just
23 put down I left Maspeth and went to West
24 Broadway.

25 Q Then you put it into the computer?

1 R. Brooms

2 A Yes.

3 Q Because of the accident you never
4 made a computer entry for that date; is that
5 correct?

6 A Yes.

7 Q Did you make a computer entry about
8 the accident?

9 A No.

10 Q Were there any passengers in the
11 vehicle at the time of the accident?

12 A No.

13 Q You stopped at 29th Street?

14 A Yes.

15 Q Did you get out of the van?

16 A Not that I can remember, no.

17 Q Do you remember looking at the job?

18 A No. I might have just stopped to
19 fill out the mileage card.

20 Q On Plaintiff's Exhibit 12?

21 A Yes.

22 Q We know how many miles were on the
23 van at 29th Street by the odometer reading that
24 you filled in at 9:00; is that correct?

25 A Yes, just to keep it accurate.

1 R. Brooms

2 Q Did that van that you were using
3 have a GPS in it?

4 A No.

5 Q Did you use a hand held GPS?

6 A No.

7 Q You didn't use your phone or Google
8 maps?

9 A No.

10 Q You just knew how to get where you
11 were going?

12 A Yes.

13 Q Do you recall how long you were at
14 the 29th Street job before you left?

15 A I don't recall.

16 Q Do you recall getting onto Sixth
17 Avenue?

18 A I was on Sixth Avenue, yes.

19 Q You went to the job on 29th Street;
20 is that correct?

21 A No. I might have pulled over and
22 made my mileage on this (indicating).

23 Q On 29th Street you stopped and made
24 a reading; is that correct?

25 A Yes.

1 R. Brooms

2 Q Why did you do it on 29th Street?

3 A It might have just been where I
4 pulled over. It doesn't mean the job was there.

5 When I get to Manhattan I have to
6 make mileage because I will be driving around the
7 borough and it would not be right. I make a
8 mileage note. Now I am in Manhattan, so I make a
9 mileage note.

10 Q You had other jobs to check out in
11 Manhattan while you were there?

12 A Yes.

13 Q Is there any listing of where the
14 jobs were located that you would have had to
15 check out after 29th Street?

16 A Yes.

17 Q Where was that kept?

18 A On the computer.

19 Q That would have been put in the
20 computer in order for you to go where you had to
21 go, right?

22 A Yes.

23 Q What is that called?

24 A That's the daily run for the guys,
25 for the workers, their daily run sheet.

1 R. Brooms

2 Q Would that daily run sheet by a
3 daily run sheet for February 15, 2013?

4 A Yes.

5 Q Tell me the exact name of it?

6 A I think that's what it is referred
7 to as, daily run sheet.

8 Q By whom?

9 A Contract Signs is the unit.

10 Q By the Contract Signs of the DOT?

11 A Just Contract Signs, DOT.

12 Q By the Contract Signs Unit of the
13 DOT?

14 A Yes.

15 Q You would look at the computer at
16 the Maspeth garage to see where you had to go in
17 Manhattan, right?

18 A You pick one. It is a run of every
19 job that the crews do. You pick a specific crew
20 and take their run and follow the run they did,
21 the jobs they went to the day prior.

22 Q How many people are doing this, you
23 are one person who checks out jobs, there are
24 other DOT employees who check out other jobs?

25 A In my unit, me and another

1 R. Brooms

2 supervisor.

3 Q You are not solely Manhattan
4 because there are other jobs that are not in
5 Manhattan, correct?

6 A Yes.

7 Q For February 15, 2013 you picked
8 out checking out jobs that had been completed in
9 Manhattan?

10 A Yes.

11 Q Those jobs would have been
12 completed as of February 15, 2013; is that
13 correct?

14 A Yes.

15 Q Those were the jobs you decided to
16 check out to see if they had been done correctly?

17 A Yes.

18 Q Do you make anyone aware of that,
19 which jobs you will check out?

20 A When I come back I enter in what I
21 checked out in the computer.

22 Q If I asked for the information that
23 was put into the computer as to the signage
24 completed in Manhattan on February 15, 2013 would
25 I be able to find where you had gone?

1 R. Brooms

2 A I didn't go to a specific job on
3 29th Street. I filled out the mileage card when
4 I got to 29th Street. The daily run sheet that
5 you have there is a list of the jobs that the
6 guys have and I pick a crew and whatever jobs
7 they have been to and that is what I check out.

8 Q This would have been the Manhattan
9 crew?

10 A Yes. The guys that went to
11 Manhattan that day before, yes.

12 Q This would be the daily run sheet
13 by the Contract Signs unit of the DOT for
14 Manhattan, for jobs in Manhattan?

15 A Correct.

16 MR. ORCUTT: Could there be more
17 than one crew in Manhattan?

18 THE WITNESS: Yes.

19 Q There is no way for us to know
20 because it was never completed which ones you
21 actually looked at or were going to look at?

22 A Correct.

23 Q We know it might have been in the
24 area of 29th Street?

25 A Right. One crew has maybe five or

1 R. Brooms

2 six jobs.

3 Q They all would have been in
4 Manhattan?

5 A No. It varies.

6 Q We know at least one in was
7 Manhattan?

8 A Yes.

9 Q You would not have gone to 29th
10 Street just to write down the odometer; is that
11 correct?

12 A Right.

13 Q Other than 29th Street did you make
14 any other stops in Manhattan that day?

15 A No, that's the only stop I remember
16 and then the accident.

17 Q What was the weather like that day?

18 A Fair. Nothing sticks out in my
19 mind.

20 Q Was it raining?

21 A I can't remember rain.

22 Q Was it cold?

23 A It was in February, I don't know.

24 Q Did that van have a CD player in
25 it?

1 R. Brooms

2 A No.

3 Q A radio?

4 A Yes.

5 Q You didn't have Sirius, did you?

6 A No.

7 Q While you were driving in Manhattan
8 prior to the accident did you use your cell phone
9 at all?

10 A When I was at the shop maybe, not
11 driving the vehicle.

12 Q When is the last time that you used
13 your personal cell phone before the accident of
14 February 15, 2013, if you remember?

15 A I can't remember.

16 Q The van that you were driving was
17 an automatic or standard transmission?

18 A Automatic.

19 Q Where is the gear lever, is it on
20 the column or the floor?

21 A By the steering wheel.

22 Q There is no clutch?

23 A No.

24 Q Do you know what kind of brakes the
25 vehicle had, air brakes, something else?

1 R. Brooms

2 A Standard brakes.

3 Q Did you have any problems with the
4 operation of the vehicle prior to the time of the
5 accident?

6 A No.

7 Q Did you have your front lights on
8 at the time of the accident on February 15, 2013?

9 A I can't remember.

10 Q Going back to the classroom
11 training that you had, you mentioned you were
12 taught things about safety?

13 A Yes.

14 Q Were you taught anything about
15 safety while driving in Manhattan, in the City?

16 A I don't remember if they went over
17 different boroughs.

18 Q Did they go over safety with regard
19 to pedestrians?

20 A I can't remember. It was a while
21 ago that I took the course.

22 Q Did they give you any hand-outs?

23 A I can't remember.

24 Q Do you have any hand-outs from the
25 course?

1 R. Brooms

2 A No.

3 Q What did the field training consist
4 of, the driving?

5 A Just handling the larger vehicles.

6 Q When you say larger vehicles are
7 you saying larger than the ones we have
8 identified in Plaintiff's Exhibits 1 through 8?

9 A Yes, larger than the van.

10 Q Did you have any training with
11 regard to the van that you were driving at the
12 time of the accident?

13 A No.

14 Q In any course?

15 A No.

16 Q Do you remember how long you were
17 at 29th Street that day?

18 A No.

19 Q Before you made your left turn onto
20 31st Street were you driving on Sixth Avenue?

21 A Yes.

22 Q Is Sixth Avenue a one-way or
23 two-way street?

24 A One-way street.

25 Q It is one-way for traffic going in

1 R. Brooms

2 which direction?

3 A Uptown.

4 Q North?

5 A Uptown. I don't know if it is
6 north.

7 Q Is 31st Street a one-way?

8 A Yes.

9 Q For traffic going in which
10 direction?

11 A I don't know the directions.

12 Q West or east?

13 A If Sixth Avenue is going north it
14 would be west.

15 Q You made a left turn at the time of
16 the accident onto West 31st Street; is that
17 correct?

18 A Yes.

19 Q How many lanes does West 31st
20 Street have for traffic going west?

21 A I am not sure.

22 Q Was the horn in your van working
23 properly at the time of the accident?

24 A Yes.

25 Q Was the steering working properly

1 R. Brooms

2 on that date?

3 A Yes.

4 Q Were the brakes working properly on
5 that date?

6 A Yes.

7 Q Do you remember how long you had
8 been driving on Sixth Avenue before you got to
9 31st Street that day?

10 A No.

11 Q Do you know what street it was that
12 you got onto Sixth Avenue from?

13 A No, I can't remember.

14 Q You have no idea?

15 A No.

16 Q Was it more than ten blocks?

17 A I am not sure.

18 Q Do you know where you were going?

19 A No.

20 Q You made a left onto 31st Street;
21 is that correct?

22 A Yes.

23 Q Why did you do that, where were you
24 going to go?

25 A To the location of the job.

1 R. Brooms

2 Q Which was where?

3 A I don't remember.

4 MR. GAIR: Off the record.

5 [Whereupon, a discussion was held
6 off the record.]

7 MR. GAIR: Please mark these three
8 photographs as Plaintiff's Exhibits 13
9 through 15.

10 [Whereupon, the photographs were
11 hereby marked as Plaintiff's Exhibits 13
12 through 15 for identification, as of this
13 date, by the reporter.]

14 MR. GAIR: Please mark these four
15 photographs as Plaintiff's Exhibits 16
16 through 19.

17 [Whereupon, the photographs were
18 hereby marked as Plaintiff's Exhibits 16
19 through 19 for identification, as of this
20 date, by the reporter.]

21 Q I will show you two photographs
22 marked as Plaintiff's Exhibit 16 and 17. I will
23 ask you if they depict a portion of the
24 intersection of Sixth Avenue and 31st Street?

25 A What was the question?

1 R. Brooms

2 Q Plaintiff's Exhibits 16 and 17
3 depict a portion of the intersection of Sixth
4 Avenue and 31st Street; is that correct?

5 A What is depict?

6 Q Show.

7 A If this is the street?

8 Q Do these photographs show part of
9 Sixth Avenue and part of 31st Street?

10 A I don't know, sir.

11 Q You have no idea?

12 A I can't say. I just see a street.

13 Q I will show you photographs which
14 have been marked as Plaintiff's Exhibits 13, 14
15 and 15. Do they show the intersection or a
16 portion thereof of 31st Street and Sixth Avenue?

17 A I see the signs.

18 Q What signs are you referring to?

19 A Sixth Avenue and 31st Street here
20 (indicating).

21 Q Referring to Plaintiff's Exhibit
22 14?

23 A Yes.

24 Q There is a Starbucks sign?

25 A Yes.

1 R. Brooms

2 Q Is there anything else that
3 indicates to you that Plaintiff's Exhibit 14
4 shows a portion of the intersection of Sixth
5 Avenue and 31st Street?

6 A I see the signs. I remember it was
7 a construction site or something around there. I
8 can see the street signs.

9 Q What about the other photographs,
10 Plaintiff's Exhibit 15 and Plaintiff's Exhibit
11 13?

12 A I see 31st Street on 15.

13 Q And the same thing on Exhibit 13?

14 A Yes.

15 Q Is Plaintiff's Exhibit 14 the best
16 view for you?

17 A That's fine.

18 Q Looking at Plaintiff's Exhibit 14,
19 does Plaintiff's Exhibit 14 depict the portion of
20 Sixth Avenue that you were driving on before you
21 made the left turn onto 31st Street on February
22 15, 2013?

23 A Yes.

24 Q Do you know what synchronized
25 lights are, synchronized traffic lights?

1 R. Brooms

2 A No.

3 MR. GAIR: What I mean by that is
4 traffic lights that do not all change the
5 same color at the same time, in other
6 words, when you are driving you could be
7 driving on a street and you get to an
8 intersection and the light is red, and then
9 it turns green, and the next light is still
10 red, but as you were approaching the next
11 street is turns green. That's what is
12 called synchronized lights. Do you follow
13 me?

14 THE WITNESS: Okay.

15 Q Back on February 15, 2013 do you
16 know whether Sixth Avenue northbound had
17 synchronized lights?

18 A I don't know, sir.

19 Q Could you show us using Plaintiff's
20 Exhibit 14 where your van was on Sixth Avenue
21 immediately prior to you making a left turn?

22 A I was somewhere in this area
23 (indicating).

24 Q You are pointing to the lane on
25 Sixth Avenue towards the top of the photograph;

1 R. Brooms

2 is that correct?

3 A Yes.

4 Q The last lane for moving traffic
5 going north; is that correct?

6 A Yes.

7 MR. ORCUTT: That seems to be
8 abutting what is a bicycle lane.

9 MR. GAIR: Right.

10 Q Is that correct?

11 A Yes.

12 Q What was the street that you had
13 been on prior to getting to 31st Street?

14 A (No response.)

15 Q We know that you went on Sixth
16 Avenue at 31st Street because you made a left
17 turn onto 31st Street; is that correct?

18 A Yes.

19 Q How many blocks had you driven
20 north on Sixth Avenue before you got to 31st
21 Street?

22 A I don't know. I don't know how
23 many blocks.

24 Q Could it have been one or two?

25 A I am not sure.

1 R. Brooms

2 Q Do you know when you left 29th
3 Street if you got immediately onto Sixth Avenue?

4 A I don't know.

5 Q Show me again which lane your
6 vehicle was in as you approached 31st Street?

7 A Right here (indicating).

8 MR. GAIR: Could he mark that,
9 please?

10 MR. ORCUTT: Sure.

11 MR. GAIR: Can he make a circle
12 with an X?

13 MR. ORCUTT: Sure.

14 THE WITNESS: (Complying).

15 Q When you were in that lane were
16 there cars to your right?

17 A To the passenger side?

18 Q As you were driving in the driver's
19 seat driving the van, to your right as you were
20 sitting in the driver's seat, which would be
21 looking towards the passenger seat, in those
22 lanes were there any cars?

23 A I can't say for sure, I don't know.

24 Q Were there any cars immediately in
25 front of you on Sixth Avenue at that time?

1 R. Brooms

2 A I can't say, I don't know.

3 Q Do you see on Plaintiff's Exhibit
4 14 where there are lines that make up a crosswalk
5 with people in them?

6 A Yes.

7 Q Did you see any people crossing
8 Sixth Avenue where those people are walking?

9 A No.

10 MR. ORCUTT: Pointing at the
11 southern crosswalk.

12 A No.

13 Q Did you observe a traffic light for
14 traffic going northbound on Sixth Avenue?

15 A Yes.

16 Q Where was it?

17 A Where the light was?

18 Q Yes.

19 A Straight ahead.

20 Q Is it shown in that photograph,
21 Plaintiff's Exhibit 14?

22 A I see one there.

23 MR. ORCUTT: Pointing at Exhibit
24 15.

25 Q Going to Plaintiff's Exhibit 15,

1 R. Brooms

2 does that exhibit also show Sixth Avenue at the
3 intersection of 31st Street?

4 A Yes.

5 Q Does it also show the lane that you
6 were in on Sixth Avenue as you were driving
7 northbound?

8 A It is kind of cut off.

9 Q How is it cut off?

10 A I see the arrow. It is zooming in.
11 I will use this picture.

12 Q Now using Plaintiff's Exhibit 14,
13 where is the traffic light on Plaintiff's Exhibit
14 14?

15 A Here (indicating).

16 Q It is right below the Starbucks
17 coffee sign; is that correct?

18 A Yes.

19 MR. ORCUTT: The one to the left,
20 because there are two of them.

21 Q The one to the left of the
22 photograph?

23 A Yes.

24 Q What was the color of the light for
25 traffic going north on Sixth Avenue?

1 R. Brooms

2 A Green.

3 Q As you were driving on Sixth Avenue
4 in a northerly direction when was the first time
5 that you observed that traffic light?

6 A I can't remember exactly when I
7 observed the light.

8 Q At the time that you first observed
9 it what color was it?

10 A Green.

11 Q Did it remain green up through the
12 time that you started to go into your left turn?

13 A Yes.

14 Q Did you also observe "walk/don't
15 walk" signs for pedestrians?

16 A I can't say I looked at the walk
17 sign.

18 Q Do you see in this photograph a
19 crosswalk for 31st Street depicted by two white
20 lines?

21 A Yes.

22 Q Could you indicate that?

23 A Here (indicating).

24 MR. GAIR: Could he put a CW there
25 for crosswalk?

1 R. Brooms

2 MR. ORCUTT: Sure.

3 THE WITNESS: (Complying).

4 Q As you were approaching 31st Street
5 was it your intention to make a left onto 31st
6 Street?

7 A Yes.

8 Q We don't know why you were going to
9 make that left as we sit here today; is that
10 correct?

11 A Correct.

12 Q You don't remember where you were
13 going?

14 A Correct.

15 Q As you approached 31st Street did
16 you observe pedestrians within that crosswalk
17 going either in a north or southbound direction,
18 meaning an up down or downtown direction?

19 A Yes.

20 Q Were they within the crosswalk?

21 A Yes.

22 Q How many pedestrians did you
23 observe?

24 A I didn't count them, sir.

25 Q Was it more than 20?

1 R. Brooms

2 A It was rush hour traffic, a lot of
3 people.

4 Q Were they crossing in both
5 directions?

6 A People were walking across, I
7 didn't notice.

8 Q How far were you from the southwest
9 corner of 31st Street when you first saw
10 pedestrians crossing 31st Street in both an
11 uptown and downtown direction, how far was the
12 front of your van?

13 A I am not sure, sir.

14 Q What was the speed of your van as
15 you were at the location that you indicated you
16 were by the X in Plaintiff's Exhibit 14?

17 A I am not sure.

18 MR. GAIR: Please read back that
19 question.

20 [Whereupon, the requested portion
21 of the record was hereby read by the
22 reporter.]

23 Q Were you going more than 30 miles
24 an hour?

25 A No, I was not.

1 R. Brooms

2 Q Were you going more than 25 miles
3 an hour?

4 A No, sir.

5 Q Do you have any idea what the speed
6 was?

7 A I am not sure.

8 Q Do you see where it says RFK on
9 Plaintiff's Exhibit 14?

10 A Yes.

11 Q You marked where your van was prior
12 to the turn on Sixth Avenue?

13 A Yes.

14 Q I will show you this photograph,
15 Plaintiff's Exhibit 17 for identification.
16 Looking at this photograph now, do you see where
17 the yellow cab is?

18 A Yes.

19 Q Does that depict approximately
20 where your van was located when you started to
21 make your left turn?

22 A No.

23 Q Why not, what is wrong with that?

24 A The driver looks like he was closer
25 to the bike lane there.

1 R. Brooms

2 Q Going back to Plaintiff's Exhibit
3 14, can you tell us, using Plaintiff's Exhibit
4 14, where your van was on Sixth Avenue when you
5 started to turn your wheels to the left to make a
6 left turn onto 31st Street?

7 A I was here and I came up right
8 around here and started making the turn, but
9 there were people in the crosswalk, so I stopped
10 about here (indicating).

11 Q You are pointing to the middle of
12 the street?

13 A Yes, about the middle (indicating).

14 MR. ORCUTT: I think it is the bike
15 lane and there seems to be two arrows.

16 Q Is that where your vehicle was?

17 A Yes.

18 Q Was it angled at all to the left?

19 A Yes.

20 MR. GAIR: Could we mark that with
21 an LT for left turn?

22 MR. ORCUTT: Sure.

23 THE WITNESS: (Complying).

24 Q Did you have your left turn signal
25 on?

1 R. Brooms

2 A Yes.

3 Q Were there any cars in front of you
4 waiting to make a left turn?

5 A No.

6 Q I think you said you stopped there
7 for some amount of time?

8 A Yes.

9 Q You stopped there for some amount
10 of time because pedestrians were crossing in the
11 crosswalk; is that correct?

12 A Yes.

13 Q When I say crossing, they were
14 crossing on 31st Street; is that correct?

15 A Yes.

16 Q Between the two white lines where
17 you wrote the CW; is that correct?

18 A Yes.

19 Q How long did you stop there before
20 making a left?

21 A I am not sure of the time, sir.

22 Q Was it less than ten seconds, could
23 you tell me that?

24 A It was more than ten seconds.

25 Q Was it more than 20 seconds?

1 R. Brooms

2 A I don't know. I waited until it
3 was clear.

4 Q Was it more than 15 seconds?

5 A I don't know.

6 Q It was more than ten seconds. Do
7 you know if it was more than 15 seconds?

8 A I am not sure.

9 Q Was it more than 12 seconds?

10 A Do you want me to guess?

11 MR. GAIR: No, I don't.

12 A I waited until the crosswalk was
13 clear, that's all I know.

14 Q It was at least ten seconds that
15 you stopped there?

16 A Yes, sir, more than ten seconds,
17 but I don't know how much more.

18 Q At some point in time did
19 pedestrians stop walking within that crosswalk on
20 31st Street?

21 A Yes, it was clear.

22 Q On the west side of the street?

23 A Yes.

24 Q Before you began your left turn did
25 you happen to observe any vehicles pass you on

1 R. Brooms

2 Sixth Avenue heading uptown?

3 A No, sir.

4 Q None?

5 A I was not paying attention to that.
6 I was waiting for it to clear so I could make my
7 turn.

8 Q There was nothing that obstructed
9 your vision of 31st Street as you looked in that
10 direction?

11 MR. ORCUTT: Of the western
12 crosswalk?

13 MR. GAIR: Yes.

14 A No, sir.

15 Q Were you looking through the front
16 windshield of the van?

17 A Yes.

18 Q After you say that you didn't see
19 any other pedestrians what did you do with regard
20 to the operation of your van?

21 A I proceeded to make my turn.

22 Q Using this photograph could you
23 show us how far you got until you heard that
24 thump that you testified about before?

25 A I am not sure exactly of the area.

1 R. Brooms

2 Q You don't know?

3 A No, I am not sure exactly. I know
4 I cleared the crosswalk. My wheel was
5 straightened out.

6 Q How do you know that the back of
7 your van cleared the crosswalk?

8 A I had passed the crosswalk. You
9 said to mark it and I can't mark it.

10 Q There is a white line on 31st
11 Street which we can call the westerly line; is
12 that correct?

13 A Yes.

14 Q Then there is another white line
15 across 31st Street which we can call the easterly
16 crosswalk line; is that correct?

17 A Yes.

18 Q After you made the left turn how do
19 you know that no portion of the rear of your van
20 was within the westerly crosswalk line on 31st
21 Street, how would you know that?

22 A I straightened out my vehicle. I
23 made the turn and straightened out the vehicle.
24 I looked at my mirrors, just to glance to check,
25 and everything seemed fine.

1 R. Brooms

2 Q Which mirrors?

3 A My two side mirrors.

4 Q When you say the two side mirrors,
5 you mean the outside mirrors on the doors?

6 A The two side mirrors on the doors,
7 yes.

8 Q You checked the one on the
9 passenger side?

10 A When I made the turn, after I
11 completed the door I just glanced at the mirrors.

12 Q Both of them?

13 A Just a common thing, when you make
14 the turn you glance.

15 Q What did you glance at them for?

16 A Just looking in my mirrors.

17 Q To see what?

18 A You normally check your mirrors,
19 sir.

20 Q In this particular instance why did
21 you do that?

22 A I was checking my mirrors.

23 Q Why?

24 A I don't understand.

25 Q You check your mirrors for a

1 R. Brooms

2 reason, don't you?

3 A To make sure everything is okay.

4 Q What were you trying to see was
5 okay?

6 A I made a turn. I don't understand.

7 Q From what you just told me you
8 glanced in both the side passenger mirror and the
9 side driver's side mirror, but you don't know
10 why?

11 A I glance in my mirrors.

12 Q But why?

13 A I don't know why, sir.

14 Q Are you telling us that you were
15 able to see the westerly white crosswalk line on
16 31st Street by glancing in your rearview mirrors
17 on the sides?

18 A That's not what I am saying. I
19 glanced in my mirrors when I passed the
20 crosswalk.

21 Q I asked you how do you know that
22 the rear portion or any part of the rear portion
23 of your van wasn't still over the westerly white
24 crosswalk lines and you told me you glanced in
25 your mirrors; is that correct?

1 R. Brooms

2 A Yes.

3 Q Are you telling me that you were
4 able to see the white westerly crosswalk lane on
5 31st Street by glancing in your side mirrors?

6 A I don't know if I could see them
7 per se. If I look in my mirrors, you can see the
8 ground when you are driving.

9 Q Did you?

10 A I don't know if that's how I seen
11 it, I don't know.

12 Q As you sit here today you don't
13 know whether a portion of the rear part of your
14 van was straddling that westerly white crosswalk
15 line, do you?

16 A Yes, sir, I was not in the
17 crosswalk.

18 Q How do you know that?

19 A Because the vehicle wasn't in the
20 crosswalk.

21 Q How do you know that?

22 A I drive the vehicle.

23 Q Did you see it?

24 A (No response.)

25 MR. GAIR: Off the record.

1 R. Brooms

2 [Whereupon, after a short recess
3 was taken, the following was had:]

4 CONTINUED EXAMINATION

5 BY MR. GAIR:

6 Q We know that you glanced in your
7 side mirrors, the passenger side and driver's
8 side?

9 A Yes.

10 Q Are you telling us that by doing
11 that, by taking that action or actions, you could
12 see that no part of the rear portion of your van
13 was straddling the westerly crosswalk line on
14 west 31st Street?

15 A I didn't see no crosswalk behind
16 me. I was past the crosswalk.

17 Q How did you know that?

18 A I was past the crosswalk.

19 Q How do you know that?

20 A I was past the crosswalk. I don't
21 know how to explain it better for you, I was past
22 the crosswalk.

23 MR. GAIR: Off the record.

24 [Whereupon, a discussion was held
25 off the record.]

1 R. Brooms

2 Q When you say you were past the
3 crosswalk, I am not talking about the entire
4 crosswalk. Two lines make up the crosswalk; is
5 that correct?

6 A Yes.

7 Q Using Plaintiff's Exhibit 14, I am
8 talking about the westerly line across 31st
9 Street, can we agree that's what it is when I am
10 pointing to it right here?

11 A Yes.

12 MR. ORCUTT: Western edge of the
13 western crosswalk.

14 MR. GAIR: Exactly.

15 Q How can you say that no portion of
16 the back of your van was straddling that line?

17 A I was past it. I completed the
18 turn.

19 Q We know you completed the turn. Do
20 you know the length of your vehicle?

21 A No.

22 Q How could you tell us that no
23 portion of it was straddling the white line then?

24 A Because I completed the turn and I
25 was driving down the street.

1 R. Brooms

2 Q You just told us you didn't know
3 how far down the street you got?

4 A I completed the turn and I was
5 driving. I don't know how far away I was from
6 the crosswalk.

7 Q If you don't know how far away you
8 were from the crosswalk how do you know that no
9 portion of the back of your van was straddling
10 the westerly crosswalk line?

11 A I completed my turn, sir.

12 Q You couldn't see when you glanced
13 at your passenger mirror or your driver's mirror,
14 you could not see the white line by doing that,
15 could you?

16 A I don't remember what I saw, to
17 tell you the truth.

18 Q You don't remember whether any
19 portion of the rear of your van was straddling
20 the westerly white crosswalk line on 31st Street,
21 correct?

22 A I completed the turn.

23 MR. ORCUTT: He has testified he
24 was definitely past that line.

25 MR. GAIR: He didn't do that. He

1 R. Brooms

2 is telling us he is guessing.

3 MR. ORCUTT: He is telling you he
4 was definitely past it.

5 MR. GAIR: You want to testify?

6 MR. ORCUTT: You are testifying
7 that he definitely wasn't. He testified he
8 was definitely on the other side.

9 Once his car stopped and he got out
10 he knew where he was and he was past the
11 line.

12 Once he was driving he can see the
13 other landmarks around him. We are stuck
14 here. We are not getting to that.

15 MR. GAIR: We will move it along.
16 Off the record.

17 [Whereupon, a discussion was held
18 off the record.]

19 Q When you heard the thump what did
20 you do?

21 A I stopped.

22 Q Where did you stop, using any of
23 the photographs, looking at any of the
24 photographs --

25 A Number 14.

1 R. Brooms

2 Q Using Plaintiff's Exhibit 14, after
3 you heard the thump you came to a stop; is that
4 correct?

5 A Yes.

6 Q Where was your van located on 31st
7 Street when you came to a stop?

8 A I don't know the exact spot.

9 Q Does Plaintiff's Exhibit 15 help
10 you?

11 A No, 14 was the best.

12 Q I am showing you a photograph. Is
13 that photograph useful in showing where you
14 stopped?

15 A No, sir.

16 Q I am showing you another
17 photograph. On the left you can see a portion of
18 the Starbucks sign. Does that help you at all?

19 A Not really.

20 Q Plaintiff's Exhibits 13, 14 and 15,
21 can you use any of these to show us where you
22 stopped your van after you heard the thump?

23 A Just 14.

24 Q Using Plaintiff's Exhibit 14, where
25 did you bring your van to a complete stop after

1 R. Brooms

2 you heard the thump?

3 A Approximately somewhere around here
4 (indicating).

5 Q There is a Pepsi truck, somewhere
6 behind that?

7 A Yes.

8 Q The windshield of the van and the
9 front headlights and the grille, show us where
10 the grille came to a stop after you heard the
11 thump, the very front portion of the van?

12 A I am not sure of the distance. I
13 don't know how far the front was, I am not sure.
14 I don't know how the back sticks out from there,
15 I am not sure. I was around here somewhere
16 (indicating).

17 Q I need to know what portion of the
18 van was there?

19 A I don't know.

20 Q You can't tell us where the front
21 grille of your van came to a stop following you
22 hearing the thump?

23 A No, sir.

24 Q Can you tell us with any amount of
25 exactness where the rear lights are on your van,

1 R. Brooms

2 the backup lights, where they were when your van
3 came to a stop after the thump?

4 A No, sir.

5 Q If you were to mark that
6 photograph, we don't know really where the van
7 was located when you came to a stop, do we?

8 A From the picture, no.

9 MR. GAIR: We have a lot more
10 photographs.

11 MR. ORCUTT: Off the record.

12 [Whereupon, a discussion was held
13 off the record.]

14 Q How about this photograph that I am
15 showing to you, do you see the Starbucks sign?

16 A Yes.

17 Q Does that help you at all?

18 A Not really.

19 MR. GAIR: No sense in marking it
20 then.

21 Q Using any of these photographs
22 could you tell us specifically where the van was
23 stopped?

24 A Around here (indicating).

25 Q The van is a long object. I need

1 R. Brooms

2 to know where the back was and where the front
3 was. If I was to show you any photograph
4 depicting that street would you be able to tell
5 us where the front was stopped after the thump
6 and the rear was stopped?

7 A No, sir.

8 Q You looked at some photographs
9 before you came here. On any of those
10 photographs that you looked at were you able to
11 identify exactly where the front of the van was
12 stopped and the rear of the van was stopped after
13 you heard the thump?

14 A It was the same photographs.

15 Q After your van came to a stop after
16 you heard the thump did you get out of the
17 vehicle?

18 A Yes.

19 Q You got out of the van using the
20 driver's door?

21 A Yes.

22 Q When you got out of the van using
23 the driver's door what did you observe?

24 A There was another van or truck
25 parked over here (indicating).

1 R. Brooms

2 MR. ORCUTT: Indicating the
3 southern parking lane of 31st Street.

4 Q Next to the grates?

5 A It was parked by the sign.

6 Q What kind of a truck was it?

7 A I am not sure.

8 Q Where was your van with relation to
9 the truck?

10 A When I got out there might have
11 been more than one truck, but somewhere right
12 there (indicating). I might have been in front
13 of the truck when I got out of the van.

14 Q Could you see the entire van when
15 you got out of the van?

16 A Yes.

17 Q Where was the front grille on this
18 picture, Plaintiff's Exhibit 14?

19 A I didn't look where the grille was.
20 When I got out of the van there was a truck or
21 something there, and the woman was there, I
22 didn't look to see where the grille was.

23 Q Did you look to see where the rear
24 of the van was?

25 A I didn't go behind and look, no.

1 R. Brooms

2 Q You don't know exactly where the
3 vehicle was?

4 A You asked me about the grille and I
5 don't understand the question.

6 Q Do you know whether any portion of
7 the rear of your vehicle was straddling the
8 westerly white crosswalk line on 31st Street?

9 A When I got out of the vehicle after
10 the accident my van was not next to the
11 crosswalk, it was totally clear of the crosswalk.

12 Q The rear?

13 A Yes.

14 Q How far from the westerly white
15 crosswalk line on 31st Street was the very most
16 rear portion of the van?

17 A I don't know.

18 Q Was it two feet?

19 A I am not sure.

20 Q Three feet?

21 A I don't know.

22 Q You don't know?

23 A No, I don't know the distance.

24 Q Did you see the woman who had been
25 involved in the accident?

1 R. Brooms

2 A After the accident, yes.

3 Q Did you see where she was located?

4 A To point it out right now, I can't
5 say.

6 MR. GAIR: Off the record.

7 [Whereupon, a discussion was held
8 off the record.]

9 Q Mr. Brooms, I will show you what
10 was marked as Plaintiff's Exhibit 9-C, which is
11 this MV-104 that you prepared. This is the one
12 that was prepared when Mr. Schraft requested that
13 you do another one.

14 Did you indicate approximately
15 where the pedestrian was on the diagram?

16 A By the rear driver's side.

17 Q Where the P is?

18 A The P with the arrow.

19 Q What does the arrow indicate?

20 A The pedestrian.

21 Q Does the arrow indicate where she
22 was after you got out of the van?

23 A No, I did a diagram of when the
24 accident happened. I just did it through the day
25 or whatever it was.

1 R. Brooms

2 Q This was in May?

3 A Yes. I did the diagram of just
4 what I could make out of it. That's the diagram
5 of what I knew.

6 Q What did you base it on?

7 A The events that I believe happened
8 in the accident.

9 Q The P here?

10 A That's pedestrian.

11 Q Does that indicate where the
12 pedestrian was when you got out of the van?

13 A No, sir.

14 Q What does it indicate?

15 A I did a diagram of where I believed
16 -- where the impact was.

17 Q You believe the P shows where the
18 impact was with the pedestrian when you made the
19 left; is that correct?

20 A Yes.

21 Q You don't know what direction she
22 was coming from because you didn't see her?

23 A Right.

24 Q You put a one where you think your
25 van was?

1 R. Brooms

2 A Vehicle one, yes.

3 Q Did you depict the crosswalk in any
4 way on this exhibit, Plaintiff's Exhibit 9-C?

5 A Yes (indicating).

6 Q You are pointing to the line?

7 A Yes, two lines.

8 MR. ORCUTT: Which is complicated
9 by bad photocopying.

10 MR. GAIR: Right.

11 Q This doesn't show where the
12 pedestrian was located when you exited the
13 vehicle, it shows where you think she may have
14 been at the time of the impact; is that correct?

15 A Yes.

16 Q You are not sure where she was, are
17 you?

18 A I didn't see her, no.

19 Q You don't know?

20 A What was the question?

21 Q You don't really know where she was
22 at the time of the impact because you never saw
23 her?

24 A Correct.

25 Q You never honked your horn before

1 R. Brooms

2 the impact?

3 A No, sir.

4 Q After you got out of your van did
5 you go over to the pedestrian at all?

6 A When I got out of the van I noticed
7 what happened and I ran back and grabbed my phone
8 and called 911.

9 Q Did you ever go over to the
10 pedestrian?

11 A The people were around her. They
12 were calling as well.

13 Q Do you remember what the woman
14 looked like?

15 A Not really.

16 Q Do you remember if she was
17 Caucasian, African American, Oriental?

18 A Asian, I think.

19 MR. ORCUTT: The people around her?

20 MR. GAIR: Yes.

21 THE WITNESS: I thought you meant
22 the woman.

23 Q There were a few people around her?

24 A Yes.

25 Q Did you ever get close to the

1 R. Brooms

2 pedestrian?

3 A No.

4 Q Could you observe anything about
5 her body, about what the positioning of her body
6 was?

7 A No, I was calling 911 and they were
8 asking me questions.

9 Q Is it fair to say you could not
10 tell us as you sit here today where she was
11 located in the street after you got out of the
12 car?

13 A She was behind the vehicle, but I
14 don't know exactly to point it out, no.

15 Q She was behind the van?

16 A Yes, she was behind me. To point
17 it out, no, I don't know.

18 Q Did you overhear the police
19 speaking to the pedestrian?

20 A No.

21 Q Did you speak to any witnesses at
22 the scene of the accident?

23 A No.

24 Q Have you ever reviewed any witness
25 statements?

1 R. Brooms

2 A No, just the police report.

3 Q Any handwritten witness statements?

4 A No.

5 Q Did you ever speak to any witnesses
6 who saw the accident happen?

7 A No, sir.

8 Q Did the ambulance come when you
9 were still at the scene of the accident?

10 A Yes.

11 Q Did you observe the pedestrian
12 being put into the ambulance?

13 A No. The cop that came over to me
14 was asking me for documents.

15 Q Other than the reports we have gone
16 over today, you didn't fill out any other reports
17 regarding this accident in the regular course of
18 your business as an employee of the New York City
19 Department of Transportation?

20 A No, sir.

21 Q Did you happen to review any
22 testimony given by the plaintiff?

23 A No, sir.

24 Q Did your attorney read to you any
25 testimony given by the plaintiff?

1 R. Brooms

2 MR. ORCUTT: I object, but you can
3 answer it. That's attorney-client
4 privilege.

5 MR. GAIR: Even if you read it?

6 MR. ORCUTT: Yes. It is what I
7 said to him. I didn't, so I will let him
8 answer it.

9 MR. GAIR: Good point.

10 Q Nobody from the Department of
11 Transportation came to the scene?

12 A No, sir.

13 MR. GAIR: Off the record.

14 [Whereupon, a discussion was held
15 off the record.]

16 MR. GAIR: I have no further
17 questions. Thank you very much.

18 EXAMINATION BY

19 MR. ORCUTT:

20 Q Mr. Brooms, I recognize that the
21 photograph, Plaintiff's Exhibit 14, it is not
22 taken on the date of the accident.

23 On the day of the accident were
24 there vehicles parked on the southern side of
25 31st Street and the northern side of 31st Street?

1 R. Brooms

2 A I am not sure about the northern
3 side. The southern side, yes.

4 Q Do you remember how far back the
5 vehicles were parked?

6 A I don't know exactly. There were
7 at least two vans. I don't want to say
8 construction vans, I don't know. They were not
9 as big as the truck, but box vans.

10 Q Those were parked in the southern
11 parking lane on 31st Street?

12 A Yes.

13 Q Using this dark car that is parked
14 on the southern parking lane of 31st Street,
15 would you say those two vans that were there were
16 parked behind that car?

17 A One of them was behind it. I think
18 the other one might have been in that spot going
19 further (indicating).

20 Q I recognize from the answer to
21 counsel's questions that you don't know the exact
22 place where your front bumper was or your back
23 bumper was?

24 A No, I don't.

25 Q However, when the accident happened

1 R. Brooms

2 and you stopped your van and you got out you
3 could see generally the amount of space that was
4 between the back of your van and the western
5 crosswalk; is that correct?

6 A As far as footage, I don't know.

7 Q Not the exact amount, you could see
8 that there was space between the back of your van
9 and the western crosswalk?

10 A Yes, like a van length.

11 Q When you and I were discussing it
12 you told me it was approximately the length of
13 your van, the amount of space between your van
14 and the crosswalk?

15 A Yes.

16 Q Would you say that your van was in
17 the middle of the moving lane of 31st Street or
18 closer to the right or closer to the left of the
19 moving lane on 31st Street when you stopped your
20 van?

21 A Probably the middle.

22 Q Was your van completely
23 straightened out after the turn or was it still
24 at an angle from you making the left turn from
25 Sixth Avenue?

1 R. Brooms

2 A Yes. When I came out of here I was
3 straightened out. By this time I was pretty
4 straight on there, yes (indicating).

5 Q When you got out of your car and
6 you saw the woman that had been hit or made
7 contact with your van, was her body parallel to
8 your van or was it behind your van in the
9 roadway?

10 A Behind my van.

11 Q Referring to the two vans that you
12 mentioned earlier that were on the southern
13 parking lane, was your van parallel to the one
14 behind or the one in front or something else?

15 A When I got out I will say like the
16 middle (indicating).

17 Q Between the two vans?

18 A Yes.

19 Q When you filled out the accident
20 reports and you spoke to David Alan are those the
21 two vans that you are referring to when you made
22 a statement -- as counsel spoke to you about your
23 speculating as to what happened in the accident,
24 are those the vans that you were talking about?

25 A Yes.

1 R. Brooms

2 Q Do you remember how far back the
3 vans were parked on that southern parking lane,
4 the rear van, how far back it went?

5 A I am not sure.

6 Q Would it be fair to say that it was
7 at or about where the grates are in the sidewalk?

8 A Yes, that's a safe thing to say.

9 MR. ORCUTT: Thank you very much.

10 CONTINUED EXAMINATION

11 BY MR. GAIR:

12 Q You just testified when counsel
13 asked you where your rear of your van was with
14 relation to the westerly crosswalk line on 31st
15 Street and I believe you stated it was about a
16 van length west; is that correct?

17 A Yes.

18 Q Then you stated that Miss Park, the
19 plaintiff in this case, was behind your van; is
20 that correct?

21 A Yes.

22 Q She was east of your van, closer to
23 Sixth Avenue?

24 A Yes.

25 Q How many feet east of the rear of

1 R. Brooms

2 your van was she?

3 A About a foot or so.

4 Q In your second MV-104, Plaintiff's
5 Exhibit 9-C, which you filled out on May 17, 2013
6 you placed a P indicating Miss Park, the
7 plaintiff?

8 MR. ORCUTT: I object because he
9 previously testified that this depicts the
10 point of impact, not after the impact where
11 she was.

12 MR. GAIR: Okay. You're right.

13 MR. ORCUTT: Please read back the
14 last answer.

15 [Whereupon, the requested portion
16 of the record was hereby read by the
17 reporter.]

18 MR. ORCUTT: A foot or so?

19 THE WITNESS: I said I don't know,
20 not a foot or so.

21 MR. GAIR: Okay.

22 Q You have seen the police report,
23 Plaintiff's Exhibit 11, and you referred to it
24 when you filled out your May 17, 2013 MV-104.

25 Do you see the diagram that the

1 R. Brooms

2 police drew on the police report, Exhibit 11?

3 A Yes.

4 Q You understand the box with the one
5 in it refers to your vehicle?

6 A Yes.

7 Q You understand the P refers to Miss
8 Park, the plaintiff?

9 A Yes.

10 Q Do you agree that that was the
11 location of your van when it struck Miss Park?

12 A No.

13 Q That's all despite the fact that
14 you never saw her prior to the accident; is that
15 correct?

16 A (No response.)

17 Q That's despite the fact that you
18 never saw Miss Park before the accident, correct?

19 A Correct.

20 MR. GAIR: Thank you very much. I
21 have nothing further.

22 [Continued on following page to
23 allow for signature line and jurat.]

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[Whereupon, the examination of the
witness was concluded at 3:45 p.m.]

RICHARD BROOMS

Subscribed and sworn to
before me this ____ day
of _____, 2014.

Notary Public

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WITNESS EXAMINATION BY PAGE

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E X H I B I T S

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[Exhibits retained by attorney.]

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CERTIFICATION

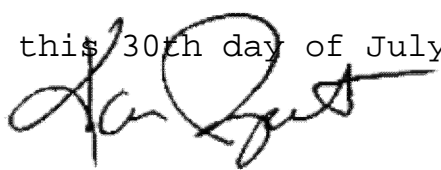
STATE OF NEW YORK)
 : SS.:
COUNTY OF NASSAU)

I, KAREN ZAMMIT, a Notary Public for and within the State of New York, do hereby certify:

That the witness(es) whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness(es).

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of July, 2014.



KAREN ZAMMIT

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Signature of Witness

Sworn to before me this _____
day of _____, 2014.

NOTARY PUBLIC

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