

IN THE CIRCUIT COURT OF THE  
SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

Case No. 96-03691 (18)

ERIK LEVIN, a minor by and  
through his next friend,  
JOANNE LEVIN, an individual,

ORIGINAL

Plaintiffs,

vs.

WELLEBY MANAGEMENT ASSOCIATION,  
INCORPORATED, a Florida corporation,  
CAROL CASEY, an individual, MARGARET  
VAUGHAN CASEY, an individual,

Defendants.



Fort Lauderdale, Florida  
September 8, 1997  
2:45 o'clock p.m.

+ + + + +

DEPOSITION OF RICK A. SWOPE

+ + + + +

OCT - 8 1997

**APPEARANCES :**

LAW OFFICES OF DAN CYTRYN, P.A.  
By JOHN CURRAN, ESQ.  
On behalf of the Plaintiffs.

LAW OFFICES OF LUIS G. FIGUEROA  
By ERIC L. DAUBER, ESQ.  
On behalf of Defendants Welleby and City  
of Sunrise.

FLANAGAN & MANIOTIS, P.A.  
By NICHOLAS MANIOTIS, ESQ.  
On behalf of Defendants Casey.

THOMAS T. GRIMMETT, P.A.  
By THOMAS T. GRIMMETT, ESQ.  
On behalf of Defendant State Farm.

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1                   Deposition of RICK A SWOPE, a witness of  
2                   lawful age, taken by Defendant State Farm, for the  
3                   purpose of discovery and for use as evidence in the  
4                   above-entitled cause, pending in the Circuit Court of  
5                   the Seventeenth Judicial Circuit, in and for Broward  
6                   County, Florida, pursuant to notice heretofore filed,  
7                   before WILLIAM C. BENT, Court Reporter and Notary  
8                   Public in and for the State of Florida at Large, at 633  
9                   South Federal Highway, Suite 400, Fort Lauderdale,  
10                  Broward County, Florida, on the 8th day of September  
11                  1997, commencing at 2:45 o'clock p.m.

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1       Whereupon:

2

RICK A. SWOPE

3

a witness named in the notice heretofore filed, being  
4 of lawful age, and being first duly sworn, testified on  
5 his oath as follows:

6

DIRECT EXAMINATION

7

Q.     (By Mr. Grimmett) Your name and address, sir?

8

A.     Rick Swope. S-W-O-P-E. 8211 Southwest 28th  
9 Street, Davie, Florida.

10

Q.     What do you do for a living?

11

A.     I do primarily accident reconstruction.

12

That's about most of my business.

13

Q.     Do you do anything else other than that?

14

A.     Yes.

15

Q.     What else do you do?

16

17

A.     I teach on a contractual basis. I do seminars  
for different education - called education centers,  
18 American Legal Education, Davis Training & Development,  
19 and I also do some teaching on a contractual basis at  
20 the Broward Police Academy. I also do some consulting  
21 in DUI-related cases involving breathalyzer and some  
22 writing of articles relating to breathalyzer.

23

Q.     How much of your income is derived from

24

teaching and those related fields and accident

25

reconstruction?

1           A.    I would say accident reconstruction is  
2 probably about 95 percent of the money that I make.  I  
3 generally don't get fees for teaching unless it's  
4 contractual.  A lot of the seminars I do are free with  
5 the exception of expenses.

6           Q.    Hoping to generate some business through these  
7 seminars?

8           A.    Well, I used to hope that, but not anymore.

9           Q.    Why is that?

10          A.    Because I have so much business now that I  
11 don't need it.

12          Q.    Don't need any more.

13          A.    Right.  Kind of like you.

14          Q.    Sort of.

15                   How do you charge?  Per hour?

16          A.    I charge per hour, yes, sir.  Well, with the  
17 exception of when I do cases involving alcohol, I  
18 generally --

19          Q.    Forget that.  Sticking with automobile  
20 reconstruction.

21          A.    I charge per hour.

22          Q.    How much do you charge?

23          A.    I charge \$125 per hour for all accident  
24 reconstruction work.  I charge \$150 for court or  
25 deposition.  Then whatever costs are in the case I pass

1 on to the client, whatever the cost is.

2 Q. Do you charge a retainer?

3 A. In -- Well, in about 20 percent of the cases I  
4 charge a retainer. If I've worked for somebody before,  
5 I don't charge them retainer.

6 Q. Depending upon whether you've had a business  
7 relationship with them or not?

8 A. That's correct.

9 Q. What is your retainer?

10 A. I'm referring to just civil right now?

11 Q. Correct.

12 A. Civil retainer is a thousand dollars per case.

13 Q. About how many cases do you handle a year in  
14 automobile accident reconstruction?

15 A. Probably about 120 to 150.

16 Q. How much income per year, gross, do you  
17 generate? I understand that one year may differ from  
18 the next, but approximately.

19 MR. CURRAN: Outside the scope of 1.280. I  
20 think you can only ask percentage; right?

21 MR. GRIMMETT: I think I can ask him how much  
22 he makes. Syken vs. Elkins.

23 MR. CURRAN: I don't have it in front of me,  
24 but I don't think you could ask him how much he  
25 made.

1 MR. GRIMMETT: If I can't, I can't. But --

2 MR. CURRAN: I'll object to the form.

3 Q. (By Mr. Grimmett) Okay.

4 A. My gross income last year for the firm was  
5 approximately 600,000.

6 Q. That was generated through your efforts?

7 A. Yes.

8 Q. In accident reconstruction?

9 A. Yes, sir.

10 Q. Have you done work for this firm before?

11 A. For Dan Cytryn?

12 Q. Right.

13 A. Yes, sir.

14 Q. How many cases, would you say?

15 A. One. I've done one case for Mr. Cytryn.

16 Q. Other than the Levin case.

17 A. Right. And I've probably looked at maybe one  
18 or two cases, and either he decided not to list me or I  
19 couldn't be of assistance, whatever. I am aware of one  
20 other one besides this one.

21 Q. Generally, is it your practice that you will  
22 discuss a case with an attorney and decide whether or  
23 not you feel that you can be of assistance? And, if  
24 you can, you are retained, and if you can't, good-bye?

25 A. Normally what I'll do first is ask for the



1 accident report, ask the attorney what happened in the  
2 case, what type of lawsuit he's filing. I'll look at  
3 that, and I may request a deposition or two.

4 Then at that point I'll tell the attorney what  
5 service I think I can offer, whether it be speed or  
6 time-distance, whatever.

7 Q. Is that your curriculum vitae?

8 A. Yes.

9 Q. Can we attach that?

10 A. Absolutely.

11 MR. GRIMMETT: Defendant's 1.

12 (Whereupon, Defendant's Exhibit 1 was marked  
13 for identification.)

14 Q. (By Mr. Grimmatt) Now, did Mr. Cytryn's  
15 office retain you in this case?

16 A. Yes, sir, they did.

17 Q. When were you first contacted? Perhaps not  
18 even retained.

19 A. I can't tell you when I was first contacted.  
20 The first time that I spoke with Mr. Cytryn or met with  
21 him was October 22nd of '96. I would assume that there  
22 was some type of pre-phone conference before that.

23 Q. Why would you assume that? Do you have some  
24 notes?

25 A. No, just because of the fact that obviously if

1 I go to meet him at his office, I certainly would have  
2 had an appointment before that.

3 Q. Do you feel there were any facts learned by  
4 you before your first meeting with Mr. Cytryn?

5 MR. CURRAN: Objection to the form. Vague.  
6 Ambiguous.

7 A. I don't know. I couldn't answer that.

8 Q. How soon before your meeting were you  
9 contacted?

10 A. I would assume at least two to three weeks.

11 Q. It certainly wouldn't be years.

12 A. Oh, no. No. I would say it would be at least  
13 two to three weeks. That's usually what my  
14 appointments run back. Could have been longer than  
15 that depending on Mr. Cytryn's schedule.

16 Q. When did you have a meeting? October 22nd?

17 A. Yes, sir.

18 Q. At his office?

19 A. Yes, sir.

20 Q. What was discussed at that point?

21 A. He indicated to me that he was representing a  
22 child, some type of young adult, who apparently had  
23 some kind of - I don't know what word he used exactly -  
24 but he had some type of mental retardation - I'm  
25 probably saying this wrong - but not a normal-type

1 situation. He indicated there really wasn't much I  
2 could get from his client as to what happened in the  
3 accident.

4 He also indicated that there were - that there  
5 was - that the vehicle that struck his client was  
6 apparently driven by an older woman who had apparently  
7 had some type of open heart surgery or some type of  
8 cardiac problem earlier, that she apparently could not  
9 give a deposition or wasn't able to because of her  
10 mental capacity. Again I'm hoping I'm using the words  
11 correctly.

12 And also that there was a vehicle --  
13 Apparently the lady that struck Mr. Cytryn's client was  
14 following her daughter who was ahead of her traveling  
15 in the southbound direction and the daughter apparently  
16 saw some of the accident. Not all, but some of it.  
17 And that was the initial information I received.

18 Q. Do you have notes of that meeting?

19 A. Probably not, no.

20 Q. You do not.

21 A. No.

22 Q. Okay.

23 A. I have various other notes, but that's just  
24 what I remember.

25 Q. What were you requested to do at that October

1 22nd meeting?

2 A. To look over the file, to go out to the area,  
3 look at the area and see exactly what I thought was the  
4 reason for the accident, if Miss - I believe it was the  
5 driver - if Miss Casey, Margaret Casey -- if she would  
6 have had time to observe or see the plaintiff in this  
7 case where her vehicle was located at, and see if I  
8 could be of any assistance in terms of time-distance or  
9 causation.

10 Q. When you looked in the file, what did you find  
11 that helped you at all or aided you one way or the  
12 other?

13 A. Over a period of time, I can't say --

14 Q. No, I mean the first time you were there.

15 A. First time, I know I looked at the accident  
16 report.

17 MR. MANIOTIS: "There" meaning the attorney's  
18 office?

19 MR. GRIMMETT: Right.

20 A. I was given a copy of a statement from a  
21 Gloria Riley.

22 These copies, by the way, I took with me. So  
23 I didn't really read them at his office. Our  
24 meeting --

25 Q. Statement by --

1 A. Gloria Riley. R-I-L-E-Y.

2 Q. Taken by whom when?

3 A. Taken on February 24, 1994, by John Touhsant.

4 Q. Do you know who that is?

5 A. Actually, it was a weird situation. I know  
6 who John is very well.

7 Q. Who is he?

8 A. He's a private investigator. But John works  
9 for me on some cases. But he didn't work for me on  
10 this case. He worked, I guess, directly for Mr.  
11 Cytryn. It just so happens he called and I didn't even  
12 know that he knew this case until I read the statement.

13 Q. Do you have a copy of that statement?

14 A. I sure do.

15 Q. May I see it?

16 A. Sure (proffering). The yellow page is my  
17 note.

18 MR. GRIMMETT: Let's mark this as Defendant's  
19 Exhibit 2.

20 (Whereupon, Defendant's Exhibit 2 was marked  
21 for identification.)

22 Q. (By Mr. Grimmatt) Mr. Swope, would you read  
23 your handwritten notes on the yellow sheet on Exhibit  
24 No. 2.

25 A. "In my apartment and sounded like tires

1 screeching. I was on phone. Bushes and trees in area  
2 is a big problem which I have had."

3 Q. Did she indicate in that statement that she  
4 did not see the actual accident herself?

5 A. I believe she did, yes, sir.

6 Q. So what facts did you rely upon in any  
7 opinions you may have from that statement?

8 A. None.

9 Q. None at all?

10 A. No.

11 Q. Not even the screeching of tires?

12 A. No.

13 Q. So that didn't help you one way or the other.

14 A. Not necessarily, no, sir.

15 Q. What's next?

16 A. Statement from - it looks like Harriet  
17 Stephens, S-T-E-P-H-E-N-S, taken March 27th of '94.  
18 That's a handwritten statement. Also taken by John  
19 Touhsant.

20 Q. When did he take that statement?

21 MR. MANIOTIS: 3/27/94?

22 THE WITNESS: Right. 3/27/94.

23 Q. Was that statement taken at your direction?

24 A. No, sir.

25 Q. By whom?

1 or saw the scene of the --

2 A. The scene.

3 Q. The scene?

4 A. Yes, sir.

5 Q. She told you where the shoe was and where the  
6 car was in relationship to the shoe?

7 A. Yes, sir.

8 MR. GRIMMETT: Let's mark that.

9 MR. CURRAN: Objection to the form. You said  
10 "She told you."

11 MR. GRIMMETT: I mean --

12 MR. CURRAN: What he read from the statement?

13 MR. GRIMMETT: Yes.

14 (Whereupon, Defendant's Exhibit 3 was marked  
15 for identification.)

16 Q. (By Mr. Grimmatt) All right. Next one?

17 A. Statement from a William Howard. That was  
18 taken April 8, 1994. Again that was taken by John  
19 Touhsant.

20 Q. And your handwritten comments?

21 A. "Cop, Sunrise Police Department.

22 "Accident Northwest 94th Avenue and Northwest  
23 36th Place. White male on swale area being treated by  
24 paramedics. Driver indicated she did not see Erik at  
25 all before she hit him.

1           "Daughter in front of mother, saw Erik in  
2 median. As she passed, he ran away and saw mother" -  
3 I'm sorry - "he ran across and saw mother hit him.

4           "Located small scuff on right front bumper.  
5 Appears no evasive action taken.

6           "Median design obstructs views of cars."

7           MR. MANIOTIS: Just move to strike any  
8 reference to privileged communications that the  
9 officer might have disclosed in that statement  
10 contrary to the Florida accident report privilege,  
11 and I would also move to make that inadmissible,  
12 whether he relied on it or not, because I think it  
13 violates the privilege.

14           (Whereupon, Defendant's Exhibit 4 was marked  
15 for identification.)

16           Q. (By Mr. Grimmett) What do we have next?

17           A. I have a deposition of Joanne McGowan,  
18 M-c-G-O-W-A-N, taken May 23, 1996.

19           Q. By the way, did you form any opinions before  
20 reviewing the deposition of Miss McGowan?

21           A. No, sir.

22           Q. I don't need a copy of the deposition. I  
23 think we all have that. But I would like your notes  
24 marked No. 5. If you will read those to us verbatim?

25           A. Sure. "Date: 5/23/96. Margaret Casey is my



1 mother.

2 "When I first saw Erik, it was in my rearview  
3 mirror. I was southbound, moving into the left lane  
4 since I was going to turn left on Oakland Park  
5 Boulevard.

6 "My mother was behind me in the right lane. I  
7 was two to three car lengths ahead.

8 "I was going about 25 miles per hour. Erik  
9 landed in the swale or grassy area. Appeared to me he  
10 came from middle island. Oakland Park was a few blocks  
11 away.

12 "My mother's memory is very bad. We were on  
13 94th about three to four blocks prior to accident. Boy  
14 darted, was running. Never saw him in median."

15 That's exactly it.

16 (Whereupon, Defendant's Exhibit 5 was marked  
17 for identification.)

18 Q. (By Mr. Grimmett) When you're reciting what's  
19 on your yellow pages, are those the salient facts upon  
20 which you have relied in part in forming your opinions?

21 A. Mostly they're just really things to jog my  
22 memory if you ask particular questions. Usually those  
23 things at least lead me to what I'm looking for.

24 Q. What else do you have there?

25 A. I have just various motions from you when I

1 didn't show up.

2 Q. I don't need those. I'm talking about what  
3 you might have used in formulating any opinions.

4 A. Okay. I took photographs of the accident  
5 scene area.

6 Q. May we see those?

7 A. (Proffering)

8 Q. When did you take those?

9 A. Those would have been taken April 26th of  
10 1997.

11 Q. By whom?

12 A. I took them.

13 Q. Are you satisfied that the area of the  
14 accident that you photographed is substantially the  
15 same as it was on the day of the accident?

16 A. Yes.

17 Q. Did you compare it somehow by showing police  
18 officers or asking people if it looks the same?

19 A. Are you talking about the roadway itself?

20 Q. Yeah, and the foliage and --

21 MR. CURRAN: Objection to the form. Vague and  
22 ambiguous. When you say "substantially similar,"  
23 you need to clarify.

24 Q. I know the blades of grass aren't the same  
25 length, but I mean substantially similar as --

1           A.    A letter from Mr. Cytryn dated April 23, 1997,  
2 where he attached some accident reports from the  
3 general area.

4           Q.    You mean of similar accidents, supposedly?

5           A.    Yes.

6           Q.    Not the accident in question.

7           A.    Correct.

8           Q.    Did anything in these other accident reports  
9 formulate a basis for any opinions that you have?

10          A.    No.

11          Q.    Did you use these in any manner whatsoever in  
12 reconstructing this accident?

13          A.    No. I just looked at them. That was it.

14          Q.    But they were of no value to you?

15          A.    No.

16          Q.    Next, sir?

17          A.    I have a copy of the police traffic crash  
18 report.

19          Q.    That's relating to this accident we're here on  
20 today.

21          A.    Yes, sir.

22          Q.    That consists of four pages?

23          A.    Yes, sir.

24          Q.    Can you give me the report number?

25          A.    93-2436.

1 Q. When did you receive that accident report?

2 A. I received that on October 22nd of '96.

3 Q. That was on the initial visit then with Mr.  
4 Cytryn.

5 A. Yes, sir.

6 Q. What else?

7 By the way, before we get to what else, what  
8 on the accident report did you use to formulate any  
9 opinions?

10 A. Well, I used the information contained about  
11 the vehicle, the year and make vehicle that Miss Casey  
12 was operating.

13 Q. What did you find out from that?

14 A. I found out that it was a 1986 Oldsmobile.  
15 That's really all I used off of that.

16 Q. That's it?

17 A. Right.

18 Q. Okay.

19 A. I used it to give me the area that the crash  
20 took place.

21 Q. The general area.

22 A. Yes.

23 Q. Or actual point of impact?

24 A. The general area.

25 I just noted some things on the report that I

1           Q.    How about when it says Traffic Control -  
2           Special speed zone?  What does that mean?

3           A.    What it means is that there's no posted speed  
4           limit in the area that -- In the State of Florida you  
5           are aware it's 30 in residential zones unless otherwise  
6           posted.  That just means special speed zone -- There's  
7           no sign there.  At least that's what he indicated.

8                    I just looked at the narrative to give a  
9           little idea about what happened.  Again I didn't  
10          necessarily use any of it.  I just wanted to know what  
11          he said.  I also looked at the bottom of that form to  
12          see if any photos were taken, which they weren't.

13                   Then I look and usually pay specific attention  
14          to the diagram page to see what type of drawing the  
15          officer has and what he did with it.

16                   I would say the diagram page would probably be  
17          the thing I used most in this case.

18          Q.    Okay.  Next item.

19          A.    That's it for exhibits and looking at stuff.  
20          The rest of the stuff is things I generated.

21          Q.    What did you generate first?

22          A.    I generated a site diagram.

23          Q.    To scale?

24          A.    Yes.

25          Q.    Can we mark that and get copies?  I don't know

1 that we can get copies here, but can you send us  
2 copies?

3 A. I can send you exact copies like this in color  
4 if you want. Those cost about three bucks a piece, I  
5 think.

6 Q. I'll take one.

7 MR. DAUBER: Me, too.

8 A. That one I just handed you is a blank.  
9 Nothing is on that that I generated other than the  
10 measurements.

11 This copy that I generated has on it the  
12 approximate point of impact, point of rest of the  
13 victim and the car.

14 Q. I would like one of those, too, if you don't  
15 mind?

16 A. If you want blank ones and like this --

17 MR. DAUBER: I want both.

18 THE WITNESS: Okay.

19 MR. MANIOTIS: Both.

20 MR. GRIMMETT: Same.

21 A. I use a auto-CAD program and put it in the  
22 auto-CAD and then generate this diagram. It's printed  
23 out of the office.

24 (Whereupon, Defendant's Exhibit 7 was marked  
25 for identification.)

1 John Touhsant, speaking with the police officer on the  
2 phone, and the officer explained to me where the  
3 physical evidence was on the car, where the --

4 Q. I want to stick with just the swale area - I  
5 mean, the median. How did you know he was coming from  
6 the median?

7 A. I just got that from the police officer and  
8 from the investigator.

9 Q. Do you have any idea where they got that from?

10 A. No.

11 Q. Okay.

12 A. Well, the officer indicated to me, I believe,  
13 he got it from the family.

14 Q. From Mrs. Levin?

15 A. He said "the family." I don't remember who he  
16 said he referred to, but that's where Erik crossed all  
17 the time, and he was going somewhere.

18 Q. Would you agree that no one in the family was  
19 an eyewitness to this accident?

20 A. There were no eyewitnesses that I know of at  
21 all, with the exception of Miss McGowan.

22 Q. But she didn't see the boy coming from the  
23 swale area, as I recall.

24 A. No, but I think she saw in her rearview mirror  
25 him coming from left to right the way she identified

1                   (Whereupon, Defendant's Exhibit 10 was marked  
2                   for identification.)

3           Q.        (By Mr. Grimmett) What do we have on the  
4           first sentence here? First page of Exhibit 10.

5                   MR. MANIOTIS: Just read it.

6           A.        I was going to say, I thought Tom asked a  
7           question before.

8           Q.        (By Mr. Grimmett) Okay. Go ahead.

9           A.        I was going to answer about the speed of the  
10          pedestrian --

11          Q.        Okay. You're right.

12          A.        It will be your third page.

13                   I'll read this so you know where I'm coming  
14          from.

15          Q.        Okay.

16          A.        "From the median area to the POC," which is  
17          point of collision, "approximately 20 feet." I'm  
18          talking about from the roadway edge on the inside to  
19          where the approximate point of impact is is 20 feet.

20          Q.        How did you arrive at a point of impact?

21          A.        I arrived at an approximate point of impact.  
22          That was based upon the police officer as to what he  
23          found in the physical evidence, and also based on the  
24          fact of Miss McGowan stating what lane her mother was  
25          in behind her, which she stated the right lane. The



1 officer had found a scuff or scratch or something on  
2 the bumper or right front area of the car indicating a  
3 impact with the pedestrian.

4 Q. What part of the car do you feel came in  
5 contact with the pedestrian?

6 A. Around the right front headlight area.

7 Q. You have the approximate point of impact and  
8 the point of rest in a straight line?

9 A. It looks like a straight line, right.

10 Q. To me, wouldn't simple physics tell you that,  
11 if the right front headlight hit the pedestrian, it  
12 would have thrown him to the south?

13 A. Well, normally, yes. I would agree with that  
14 because, first of all, we don't know -- I don't know  
15 the exact point of impact. I don't know the exact  
16 point that Erik was laying at either. But the officer  
17 seemed to think that because the mark was just a touch  
18 around the right front headlight area that it just sort  
19 of caught him at the end and that he had enough  
20 momentum to kind of keep him going straight. In other  
21 words, it indicated that he possibly -- It certainly  
22 indicates more that he's running or traveling faster  
23 than a slow walk.

24 Q. Or indicates that it was a insignificant  
25 impact.

1 MR. CURRAN: Objection to form.

2 A. Well, I don't know about -- I'm not going to  
3 say insignificant or significant because what his  
4 injuries are, they are. But certainly it wasn't like  
5 hitting the center of the car and him being thrown up  
6 over the vehicle and back.

7 So the impact to the individual was, I would  
8 say, probably more of a glancing blow than it was a  
9 direct-on hit where he would get hit, go up on the hood  
10 of the car and over. There was no indication of that.

11 Q. Back to the speeds now.

12 A. Next line is "Walk: 2.5 to 3.0 miles per  
13 hour." Next to that is "3.66 feet per second or 4.39  
14 feet per second."

15 Those numbers are taken from the pedestrian  
16 manual of Steve Ashton from England, and they're also  
17 in the manuals of Rudolph Limpert (phonetic).

18 Q. What does it stand for, 3.66 and 4.39?

19 A. That's the conversion of the miles per hour to  
20 feet per second.

21 Under that is a running speed, and that would  
22 be 5.0.

23 Q. This is walking, and --

24 A. First was walk. This one was --

25 Q. What kind of run?

1 still using the middle because I did use it for the  
2 walk. To be consistent, I used the middle figure.

3 Q. Okay.

4 A. The last two lines deal with at walk, it takes  
5 the pedestrian 5.06 seconds to reach the POC or point  
6 of collision. At running time, it takes him 2.27 to  
7 reach the point of collision.

8 Q. Did you form any opinions as to whether he was  
9 walking, running or a combination of both?

10 MR. CURRAN: Objection to the form.

11 A. I used both figures. I would say that,  
12 because of where he ended up, if the officer is correct  
13 and where the mark is on the side of the car, front  
14 right of the car, then I would say it probably leans to  
15 the fact he was going faster than walking, but he's not  
16 at a dead run. That's why I used the center figures.  
17 I just can't tell you for sure.

18 Q. Do you think he was traveling at 8.79 feet per  
19 second when he struck?

20 A. Slower than that, but certainly faster than  
21 3.95 feet per second.

22 Q. That's if the officer is correct, where the  
23 fellow landed as --

24 A. The fellow landed --

25 Q. In the sidewalk?

1 determine that from the statement --

2 A. Statement and the officer, yes.

3 MR. CURRAN: Objection to the form. Asked and  
4 answered.

5 Q. I think this is Gloria Riley?

6 A. Yes.

7 Q. She said it was about a hundred feet away from  
8 the point of rest or point of impact.

9 A. Right. She stated approximately -- I spoke  
10 with Mr. Touhsant, and he took Miss Riley out to the  
11 scene, because I think she lived right there, and she  
12 pointed out where the car was, and Mr. Touhsant pointed  
13 out where it was and --

14 Q. Talking about the point of rest, where it was  
15 at?

16 A. Right.

17 Q. She didn't see the point of impact.

18 A. No. No.

19 Q. When she stated it was approximately a hundred  
20 feet from the -- Did she say point of rest?

21 A. Well, I guess from where the person was  
22 laying. That's what my understanding was. She thought  
23 the car was at least a hundred feet south of where the  
24 boy was laying.

25 Q. Is that at least an accurate measurement for