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IN THE CIRCUIT COURT OF
THE NINETEENTH JUDICIAL
CIRCUIT IN AND FOR
MARTIN COUNTY, FLORIDA

CASE NO. 432010CF001249

STATE OF FLORIDA

vs.

MICHAEL LOOKEBILL,

Defendant.

_____ /

DEPOSITION OF RICK SWOPE

DATE: August 20, 2013

TIME: Unknown

PLACE: State Attorney's Office - Martin County

APPEARANCES:

For the State:

For the Defendant(s):

Michael Linn, Esquire
Office of the State Attorney
Stuart, FL

Jim Vulpi, Esquire

1 MICHAEL LINN: Today's date is August 20, 2013.
2 The time is around 1 o'clock. My name is Michael Linn.
3 This is a deposition given in the State -- People of the
4 State of Florida versus Michael Lookebill. This deposition
5 is given in accordance with all rules of criminal procedure
6 and Florida Statute. Present with me is Jim Vulpi,
7 attorney for Mr. Lookebill, as well as Rick Swope, and
8 expert witness for the defendant.

9 Ms. Swope, if you could raise your right hand?
10 Do you solemnly swear or affirm to tell the truth, the
11 whole truth, and nothing but the truth?

12 RICK SWOPE: I do.

13 MR. LINN: Okay.

14 BY MR. LINN:

15 Q. All right, could you state your name and spell
16 your last for the record?

17 A. Rick Anthony Swope, S-W-O-P-E.

18 Q. What do you do for a living?

19 A. I do accident reconstruction forensic engineering.

20 Q. How long have you been doing that for?

21 A. Since July of 1974.

22 Q. And are you currently president or owner of a
23 company that specializes in that?

24 A. Yes.

25 Q. What is the name of that company?

1 A. Swope Reconstruction Incorporation.

2 Q. And what's your position there?

3 A. I'm the president and owner.

4 Q. How long have you been president and owner of that
5 corporation?

6 A. Well since 1990. However, it was a sole
7 proprietorship until about four years ago when I changed it
8 into a LLC.

9 Q. Okay.

10 A. That's really the same.

11 Q. Okay. About how many traffic fatalities have you
12 investigated in your career?

13 A. Well I've investigated over 750 myself in one form
14 or another, but I've probably reviewed another several
15 hundred over the years. And I've been involved civilly in
16 over a couple of thousand since I've been doing it civilly.

17 Q. Okay. Let me -- let's talk about this case. And
18 what did you do in this case?

19 A. Basically I was retained to review the information
20 in the file. I can't tell you exactly when I reviewed it,
21 but so -- as of to date I've reviewed the deposition of
22 Nicole Lookebill, G. Coblitz [phonetic] who was the
23 investigator, I reviewed the police photographs, all the
24 information contained in the police accident or traffic
25 homicide report, I've been to the site of the accident on

1 two occasions, I've also looked at the two vehicles
2 involved in this case, and I have spoken with Mr.
3 Lookebill, and I pulled the vehicle specifications for the
4 vehicles.

5 Q. Okay. Did you do anything in regard to the
6 toxicology of this case?

7 A. No. When I reviewed it it was part of the report
8 obviously, and, you know, I understand that both parties or
9 drivers in this case were impaired.

10 Q. Okay. And so your opinion really revolves around
11 the traffic reconstruction and not any of the toxicology?

12 A. Yes. I'm not having -- I've -- at least I've not
13 been asked, and I certainly would probably agree with you
14 that the toxicology results are what they are.

15 Q. Okay.

16 A. So I'm not gonna dispute that.

17 Q. Okay. As far as the traffic crash itself, did you
18 come up with an estimate of how fast -- or did you take a
19 look at the measurements that were taken in this case by
20 Florida Highway Patrol?

21 A. Yes.

22 Q. Do you accept those measurements?

23 A. Yes.

24 Q. Okay.

25 A. I mean, when you say accept them, I might be off a

1 couple of feet in the measurements, but I do accept
2 probably 95, 98 percent of the measurement lengths.

3 Q. Okay. Do -- in this case did you review where the
4 point of impact was in this case?

5 A. Yes.

6 Q. Do you have any reason to question the accuracy of
7 where the point of impact was?

8 A. No.

9 Q. Did you come up with a speed estimate in this
10 case?

11 A. Yes.

12 Q. And what was the conclusion you came to with the
13 speed estimate in this case?

14 A. Approximately 60 miles per hour. And that would
15 be roughly at the point of collision. I certainly can't
16 tell you what the vehicle was doing prior to that, whether
17 it was going faster or slower, but it was approximately 60
18 at the collision point.

19 Q. Okay. Do you know -- did you come up with a
20 estimate of how fast the motorcycle was coming -- going?

21 A. No.

22 Q. Okay.

23 A. I -- I -- I don't know that obviously because
24 there's really no way I can -- can come up with a formula.
25 The only thing I know is if I -- is speaking with Mr.

1 Lookebill that he indicated he was passed by the motorcycle
2 just prior to this collision.

3 Q. Okay.

4 A. So, if -- if you and I believe that Mr. Lookebill
5 was going 60 or faster, theoretically I think we would
6 agree that the motorcycle was going faster if indeed that
7 happened.

8 Q. Okay. So you say the motorcycle was going faster
9 than -- well the motorcycle couldn't have been going faster
10 than 60 miles an hour at the point of impact could it?

11 A. No I'm not talking about the point of impact.

12 Q. Just when he passed?

13 A. Prior, yes sir.

14 Q. Got it.

15 A. Obviously you're correct, point of impact he was
16 going slower.

17 Q. Okay.

18 Okay, if I could, I could just go through the -- the
19 calculations that you've made in the case and you can talk
20 to me about that.

21 A. Here's some here.

22 Q. Okay.

23 A. (Inaudible) go with that in some respect.

24 Q. Okay.

25 A. That's about it.

1 That goes with that too. Although that's just my --

2 Q. Okay.

3 A. -- mental impression.

4 Q. I'm holding in my hand -- let's start with this,
5 if this is easier. I don't know which document would be
6 easier for you to explain.

7 A. That's fine.

8 Q. Okay. I'm holding in my hand a yellow sheet of
9 paper. Do you mind if I write "1" at the bottom --

10 A. That's fine.

11 Q. -- right here?

12 Okay.

13 The top line says, "A to B equals 8 feet". And then I
14 can't quite read what's underneath it.

15 A. It says, "Short distance".

16 Q. Okay.

17 A. So these measurements, just so you know, are --

18 Q. Okay.

19 A. -- are basically off of the police report which
20 would be page 62, 63, and 64, which are right here in front
21 of me. But these are -- so basically that information
22 you're reading I'm getting from here.

23 Q. Okay.

24 A. So I'm taking the legend and the measurements that
25 the officer has.

1 Q. Okay.

2 A. So I'm kind of abiding by those.

3 Q. Okay. What is "A to B equals 8 feet" from here?
4 Is that it right here?

5 A. Yeah, that's -- that's the first one on there,
6 right, where vehicle one strikes vehicle two. And then I
7 think that's the 8 foot area from A to B.

8 Q. Okay.

9 A. So I'm following that. And then the next one is
10 "B vehicle overturns almost immediately also indicating
11 that he was hit at an angle". That's my note, but --

12 Q. Okay.

13 A. So I'm using the measurement, which I think is 77
14 feet, which should be the second one on here.

15 Q. Okay.

16 A. So I'm using that. And then I'm using the A to D
17 measurement which is 246 feet, and that's where vehicle
18 one's skid marks begin, which vehicle one is Lookebill.

19 Q. Okay.

20 A. And then A to G, which is the final rest point,
21 which is 332 feet. So what I did was I went and
22 extrapolated those numbers back because as you're aware
23 there's -- the right side skid mark on the pavement is
24 shorter than the left side skid mark on the pavement.

25 Q. Mm-hmm.

1 A. So I went back and extrapolated that and it's
2 right -- from where the skid mark starts, not the impact,
3 from where the skid mark starts --

4 Q. Mm-hmm.

5 A. -- with the right -- or left wheel is 80 feet.
6 I'm sorry, the right wheel is 80 feet, and the left wheel
7 is 60 feet. So that's on the pavement. Then the rest of
8 that, which is 170 feet, is off road.

9 Q. Okay.

10 A. So -- so I'm using those measurements I think
11 within 1 foot of what the officer did.

12 Q. Okay. About -- about how far did the truck travel
13 before -- from the point of impact to the point of where
14 the skid marks began?

15 A. Let's see, that would be A to C, which is 77 feet.
16 So basically the way I understand the report is, is that
17 makes contact with the bike, the bike overturns, and the
18 skids start at that distance.

19 Q. Okay.

20 A. And I'm accepting that.

21 Q. Okay. Also along the lines of this diagram, would
22 you agree with me that the truck entered -- it went over
23 the double yellow line?

24 A. Yes. I think the truck was --

25 Q. Okay.

1 A. -- I think the officer's depiction, if you're
2 looking at page 62, --

3 Q. Right.

4 A. -- is wrong. I think the truck was basically
5 almost all the way over the yellow line.

6 Q. Okay.

7 A. So, do I agree he's over the line? Yes.

8 Q. Okay.

9 A. There's no question he's over the line. I just
10 think that the angle of the truck is more -- about 5
11 degrees to the left, indicating the truck is most likely
12 almost all the way over the line.

13 Q. Okay.

14 A. So, --

15 Q. And are you aware of any traffic violations that -
16 - that would be for a truck to cross over a double yellow
17 line?

18 A. Well certainly you can't pass on a double yellow
19 line. You can't pass at an intersection, which you're
20 approaching.

21 Q. Mm-hmm.

22 A. However, my understanding, and again I'm -- what
23 comes in or not is I'm not trying to debate that with you.
24 I spoke with Mr. Lookebill, --

25 Q. Mm-hmm.

1 A. -- he indicated that the motorcycle was in front
2 of him and decelerated rapidly. He was trying to avoid it
3 which was why he was on the other side of the line.

4 Q. Okay.

5 A. So, --

6 Q. What -- what exactly did Mr. Lookebill tell you?

7 A. I wrote down what he told me, not that you can
8 read it, but I -- I can read it for you.

9 Q. I appreciate that.

10 A. I basically asked Mr. Lookebill several questions.

11 Q. Mm-hmm.

12 A. So this was his responses to me.

13 One was that the cycle -- I'll refer to it as a cycle
14 rider at this point. I guess unless you want to refer by
15 name, but I'm gonna say cycle rider.

16 Q. That's fine.

17 A. That the cycle rider initially passed him just
18 north of Pettway [phonetic] Street.

19 Q. Okay.

20 A. And I think I gave you a map here.

21 He indicated that -- and then "he", I'm talking about
22 Lookebill -- indicated that he left Horse Feathers, and
23 apparently the cyclist had left before he left.

24 Q. Right.

25 A. Apparently he burned out of there in some kind of

1 argument and he had left.

2 Q. Mm-hmm.

3 A. He takes Pettway [phonetic] Street to get onto
4 South Dixie Highway. And somewhere either just north of
5 Pettway [phonetic], or near Pettway [phonetic], he ran into
6 the cyclist observing him, and the cyclist passed him at a
7 high rate of speed.

8 Q. Okay.

9 A. And he lost vision of where the cycle went. In
10 other words, the cycle took off.

11 Q. Okay.

12 A. As he approached -- say that name wrong -- Cross
13 (inaudible) Street --

14 Q. Okay.

15 A. As he approached Cross (inaudible) Street, which
16 by the way would have been the street that the cyclist
17 would have taken if he went home.

18 Q. Okay.

19 A. So he said as he approached this street, Cross
20 (inaudible) Street, is when he saw the cycle, and the cycle
21 passed him, accelerated and passed him at a high rate of
22 speed.

23 Q. Okay.

24 A. So, I asked Mr. Lookebill how fast he was going.
25 He said somewhere in the 50's.

1 Q. And, I'm sorry, who "he"? Mr. Lookebill was going
2 somewhere in the 50's, or?

3 A. That's what he told me he was.

4 Q. Okay.

5 A. And again, I can't figure out a speed here, but I
6 can tell you what he said.

7 Q. Okay.

8 A. So it's -- it's about less than two tenths of a
9 mile distance from this Cross (inaudible) Street to the
10 accident location.

11 Q. Okay.

12 A. So in that distance the bike passed him. And he
13 said the bike went by him pretty fast. And, again, I know
14 that his sister I believe was in the truck, Lookebill, --

15 Q. Mm-hmm.

16 A. -- which would be Nicole Lookebill. She didn't
17 see the bike other than the fact she heard the noise.

18 Q. Okay.

19 A. And of course the bike -- bike had loud pipes. It
20 was loud. Lookebill said the bike got in front of him --
21 cut directly in front of him.

22 Q. Mm-hmm.

23 A. He began to slow. The bike downshifted. He could
24 hear it downshifting in front of him, which you're probably
25 aware of a bike, you can hear a bike downshifting.

1 Q. Mm-hmm.

2 A. He brakes some more. He heard him downshift even
3 more. He went to the left to avoid him, and as he went to
4 the left and crossed the center lines is when the cycle
5 operator pulled directly in front of him.

6 Q. Mm-hmm.

7 A. Continued his path in front of him.

8 Q. Okay.

9 A. And then of course he also indicated to me that --
10 and I'm talking about Lookebill, sorry -- that there were
11 no other vehicles on the road in either direction and he
12 attempted to brake, slow, and avoid at the same time. So
13 his only option he felt was to go into the opposing lane of
14 traffic. So he steered that way and then he caught the
15 bike. And of course, the photos --

16 I'm showing you a photo, which I'm sure you've seen.
17 (Inaudible) second photo. So the three photos I'm showing
18 you clearly indicate that the point of collision, as the
19 officer indicated, was in the opposing lane of travel.

20 Q. Mm-hmm.

21 A. So obviously if the bike was in its lane of travel
22 it -- it would not have gotten over there. In other words,
23 the truck didn't, like, pick the bike up and move it over.

24 Q. Mm-hmm.

25 A. So the bike had to be at an angle, and you can see

1 -- and I'm showing you a couple of my pictures as well --
2 you can see that the front of the truck, there's a wide --
3 a wide path of details. In other words, -- I'm using my
4 little toy here. I know you're gonna like this, right?

5 Q. Mm-hmm.

6 A. Sorry, this bike is really not the one I'm gonna
7 use for trial. I'm gonna try to find a better one. But,
8 in other words that I was telling Mr. Vulpi before, if the
9 truck hit the bike directly on then obviously your damage
10 is confined to -- to rear area of the bike and you have a
11 completely different type pattern on the truck. Here we
12 have a wide pattern. Also the mark from the tire of the
13 bike wouldn't be in the opposing lane and at an angle.

14 Q. Okay.

15 A. It'd be directly in front.

16 Q. Mm-hmm.

17 A. So obviously the bike had to be -- and I think the
18 bike was leaning cause, as you're aware, you don't steer a
19 bike, you lean it.

20 Q. Mm-hmm.

21 A. So I think the bike was leaning and apparently --
22 again, if you believe Mr. Lookebill, that's up to you --
23 but if you believe Mr. Lookebill, he was trying to get
24 away, which obviously he was in the other lane. I agree
25 with the officer on that fact. I think he's more in the

1 lane than the officer has him.

2 Q. Mm-hmm.

3 A. I think he's over farther. But for that type of
4 mark, it's not a straight on mark. In other words, it's a
5 -- it's an angular mark. So the bike has to be somewhat at
6 an angle.

7 Q. Mm-hmm.

8 A. And as he hits the -- the vehicle, you can see the
9 width on the front. In other words, the bike kind of
10 swings around, now you impact the bike, probably the rider
11 as well, and that's when the bike goes under the truck.

12 Q. Okay.

13 A. So I think that's unfortunately what happened.
14 Now whether the cycle rider was trying to get him to stop
15 or slow down because of their previous incident, I don't
16 know. But I do know that he did pass -- if he was gonna go
17 home and the event was over, I'm sure he would have turned
18 on his street, but apparently he was waiting for him
19 somewhere around that street.

20 Q. Okay. That is accepting Michael Lookebill's
21 story.

22 A. Exactly. Well, accepting his story with the
23 exception of the impact. I mean the impact point, I agree
24 with you one hundred percent. I'm not trying to say what
25 he said is true or not. But it makes sense based on the

1 physical evidence that I see.

2 Q. Mm-hmm.

3 A. And I think you agree, the impact was in the other
4 lane, the tire mark is in the other lane, it shows an
5 angle, and obviously he was speeding; and I'm talking about
6 Mr. Lookebill. There's no question about that.

7 Q. Mm-hmm.

8 A. He was going above the posted speed limit. But
9 for the bike to get into that -- that lane, he had to be
10 over the center lane.

11 Q. Let me ask you this. Are you able to rule out the
12 fact that Mr. Lookebill was speeding did not contribute to
13 this crash?

14 A. I don't think he was the cause of the accident.

15 Q. Okay.

16 A. Now I -- obviously he's impaired, --

17 Q. Right.

18 A. -- so that's another. I mean obviously I guess,
19 you know, it's really hard to say because if I agree with
20 the impairment, which I do, I guess that's a contributing
21 cause.

22 Q. Mm-hmm.

23 A. Or can be a contributing cause. The issue though
24 is, did he -- did he set in motion or cause the accident?
25 Well, I'm not really prepared to say that he did cause the

1 accident. I think that he attempted to avoid it.
2 Obviously, at least in my mind, if he wanted to run him
3 over he probably could have done it by Pettway [phonetic]
4 Street or somewhere differently. He was on his way home,
5 which is where he lived. The motorcyclist obviously should
6 have went to his home. He didn't. He passed the street.
7 Whether he had intention of going home or not, I don't
8 know. But the cause of the accident itself, is in my
9 opinion, is the motorcycle coming in front of the truck.

10 Q. Okay. And that -- and that is based on Mr.
11 Lookebill's word?

12 A. Well it's based on Mr. Lookebill, but it's also
13 based on the fact that the cycle is in front of the truck,
14 and it is in the opposing lane.

15 Q. Correct. Could this --

16 A. And there's no other reason - I mean, I shouldn't
17 say there's no other reason, but obviously the truck was in
18 the other lane, so he wasn't trying to, you know, run the
19 cyclist over apparently at that point. He was trying to
20 get away from a vehicle that's in front of him. And we
21 certainly know where the bike was at that time.

22 Q. Could the motorcyclist been making a left hand
23 turn into that intersection?

24 A. I don't know. I mean, I don't know. I don't know
25 why he would have been on the other side of the road if he

1 was making a left turn. I mean he's still on the other
2 side of the road, and you're right, I don't know his speed.
3 I can't say a speed. But obviously he shouldn't have been
4 on the -- the other side of the road if he was making a
5 left. And unfortunately the officer -- and again, I'm not
6 trying to, you know, attack the officer, but the bulbs
7 probably should have been looked at at the time to see if
8 the signal was on, or if the brake was on. I mean, now
9 it's too late obviously. But that should have been
10 something that he could have looked at and maybe came up
11 with that conclusion.

12 Q. Did Michael Lookebill's speed contribute to this
13 accident?

14 A. It was a factor. It was a factor in the accident.
15 I mean, could -- I don't think he could have stopped at 45
16 or 40, if -- if what he said is correct that the bike was
17 in front of him and downshifting. Was he above the posted
18 speed limit? Yes, he was above the posted speed limit. I
19 don't know -- that was a factor in the case. Whether it
20 contributed to the accident or not, I don't know. I think
21 that's -- that's tough saying in this situation because
22 he's trying to avoid a vehicle on the opposing side of the
23 road. If --

24 Q. According to him.

25 A. If his testimony is right. Again, I know where

1 the impact point is. I mean, that's -- that's the thing
2 I'm trying to point out to you is that the bike had no --
3 in my -- in my mind, the bike had no business being in that
4 lane over there. I mean obviously Lookebill didn't either,
5 but Lookebill is the one that's testifying, or possibly
6 will testify that he was trying to avoid the bike. Should
7 he be over there in that lane? No. If he's trying to
8 avoid a hazard, yes. But obviously, if you -- you know,
9 obviously the motorcycle, at least in my mind, had no --
10 should not have been in that lane at any point, even if he
11 was turning.

12 Q. Let me -- let me ask you this, changing gears a
13 little bit. And this question may sound familiar. As a
14 Broward County Sheriff's Deputy you investigated crashes,
15 correct?

16 A. Right.

17 Q. And you had to assign fault to crashes?

18 A. Yes.

19 Q. In a rear end collision crash, have you assigned
20 fault to the person that rear ended the car in front of
21 them?

22 A. I'm certain -- certainly I have, yes.

23 Q. Okay. Have you ever assigned fault to the car
24 that was in front that got rear ended?

25 A. Well I have, but I didn't make it an accident

1 | then. As I was telling Mr. Vulpi today, I've had a couple
2 | of cases like this -- and again, I'm not -- again, I guess
3 | the officer had to make that call. If in fact the cyclist
4 | intentionally pulled in front of Lookebill and downshifted,
5 | or attempted to slow him down, that's not an accident.
6 | That's intentional.

7 | Q. Mm-hmm.

8 | A. So, I have had cases like that where I was able to
9 | prove that the person in front intentionally tried to hit
10 | the brakes, let's say. I'm not saying he did that, but.
11 | So that's not -- that's not an accident. I'm sure you'd
12 | probably agree with that, maybe, cause that's not an
13 | accident.

14 | Q. Right.

15 | A. So, have I had cases like this where I wasn't
16 | sure? I don't know. I'm sure I have.

17 | Q. Okay.

18 | A. And I usually -- the fortunate thing about being a
19 | cop is I can go to you and I can say, figure it out.
20 | That's the fortunate thing. I let you come up with the
21 | charge.

22 | Q. Let me ask you this. Is there any -- other than
23 | the evidence of Michael Looke- -- other than the testimony
24 | of Michael Lookebill, is there any evidence that Mr. Barry
25 | was downshifting from the motorcycle?

1 A. No, and we won't be able to tell that now. And
2 again, that goes back with the lights.

3 Q. Mm-hmm.

4 A. We could have probably -- the officer probably
5 could have told at the scene what gear the bike was in.

6 Q. Mm-hmm.

7 A. You know? Obviously if he's like in second gear,
8 let's say, well maybe that would go to your theory that
9 maybe he was making a turn. If he's in third or fourth,
10 then obviously he may be downshifting from a higher gear.
11 But we don't know that. But there's no physical evidence,
12 no, that we would know that he's downshifting. What we do
13 know is that he's in the opposing lane.

14 Q. Is there any physical evidence that indicates the
15 motorcycle was braking?

16 A. No. Well, not that the officer found, no. I
17 don't know how far the officer went back, but again,
18 remember a bike wouldn't normally -- if you're try -- if
19 you're slowing down quickly, if that's your intention --
20 I'm not saying it is -- but if that's your intention, you
21 normally don't brake, you downshift.

22 Q. Okay.

23 A. So that's normally what you do if you're trying to
24 downshift quickly on a bike.

25 Q. Would the motorcycle make any kind of noises that

1 would indicate that it would be downshifting?

2 A. Yes and Mr. Lookebill indicated he heard
3 downshifting.

4 Q. Did Ms. Lookebill hear that?

5 A. I don't remember exactly how she said that.

6 Let me look real quick here.

7 No, all she said was she heard something loud go by
8 very -- very quickly. It could have been a cycle, it could
9 have been a car. "And then within seconds of that my
10 brother was trying to slow his truck down." But she didn't
11 say anything about hearing downshifting.

12 Q. Okay.

13 A. Just the sound.

14 Q. Let me go to this, if you don't mind.

15 A. Here's one. You marked that, so we read that.

16 Q. Okay.

17 This I'll go ahead and mark 2. If you could walk me
18 through this, it's entitled "Lane Change Distance Swerve"?

19 A. Right. Basically what I'm looking at here is if -
20 - if Lookebill was going at 60 miles per hour -- he said he
21 was going slower. I calculated around 60. What I wanted
22 to know is, how long would it take him basically to move
23 from his lane of travel over to the approximate position
24 the police officer has him, even though it's not quite as
25 far over as I have him, but approximately at. So if we

1 | assume the police officer's correct, and the point of
2 | impact is correct, I wanted to see how long that would
3 | take. So basically it would take 69 feet for him to make
4 | that maneuver.

5 | Q. Okay.

6 | A. So, -- at that speed. So I wanted to find out, in
7 | other words -- and you have a perception reaction. Now the
8 | other thing which I thought was -- worked pretty well,
9 | again, for the physical evidence, is I wanted to know if he
10 | does make that maneuver how long is it gonna take him
11 | before he basically begins to brake? So in other words, I
12 | guess you can kind of call that the old crap factor, where
13 | in other words you see something in front of you now, you
14 | know, he makes his move to the left, and he goes for the
15 | brakes. Well as he makes his move, that's 69 feet, and
16 | that's 88 feet before we start seeing skid marks, roughly.

17 | Q. Mm-hmm.

18 | A. Well the police officer had 77. That's pretty
19 | close. I mean, so, that kind of leads me to believe that
20 | that's why I accepted the officer's measurements. That's
21 | pretty close.

22 | Q. Mm-hmm.

23 | A. I mean 10 feet at 60 miles per hour is, you know,
24 | negligible, at least in my mind. So if the officer's
25 | correct, and the point of collision is correct, which I

1 think it is, before we start seeing the inception or the
2 skid marks is the officer has roughly 77 feet. So let's
3 say the officer's off a foot or two with the impact, you
4 know, which is theoretical, we're pretty close. So -- so
5 10 feet is -- is pretty close. So that indicates to me the
6 trucks moving over, now he swerves, he ends up making
7 contact with the bike, he hits the brakes, and about 77
8 feet is when the skid marks start. So that's pretty close.

9 Q. Okay. So -- and it would have taken him how long
10 to travel that 77 feet before the skid marks?

11 A. About a second. Well, less than a second,
12 actually about three quarters of a second.

13 Q. And that would be consistent with the reaction
14 time?

15 A. Well, he -- right. I used one second.

16 Q. Okay.

17 A. Now normally I use 1.5, you know, or a little bit
18 longer. The reason I used one second is because it's a --
19 and I don't know if you and I had that in a case before,
20 but it's like a pre-perception. Like, he knew the bike
21 passed him, --

22 Q. Right.

23 A. -- and the bike started downshift- -- again, going
24 by what he said, Lookebill said. So -- so Lookebill was
25 basically kind of preparing that something may happen. He

1 started moving over, the bike moved back over, downshifted
2 more, so his response is quicker. I didn't go into
3 impairment because maybe the toxicologist you used can talk
4 about that, but I didn't go into that. So, -- because both
5 operators are impaired.

6 Q. Mm-hmm.

7 A. So basically what happens is he sees the hazard,
8 he starts braking, so roughly about the time same time as
9 he's moving over is when he begins braking, he hits the
10 bike, the brakes engage, and then the skid marks start.

11 Q. Okay. Does the -- does the impairment of the
12 driver, Mr. Lookebill, also affect his reaction time?

13 A. It can, yes. I mean it certainly can. It can
14 affect both of them, their -- their decision making
15 processes as well. So, yes, it can affect it.

16 Q. Okay. How you came to the 60 miles an hour, is
17 that what we're gonna -- are we gonna get to that?

18 A. Yes.

19 Q. Okay.

20 A. Right.

21 Q. Let me put this back here.

22 I'll pre-mark this 3.

23 Okay.

24 A. Same -- same exact information as the last one,
25 except it's 65.

1 Q. Okay.

2 A. Cause I think the officers believed he was going
3 approximately 68 or so.

4 Q. Okay.

5 A. So I just ran it at 65, kind of between both of
6 us, I just ran it in the middle. So, again, that's -- now
7 -- now you have a distance of about 95 feet. So rather
8 than the 77 feet, we have obviously extra distance, which
9 is about 95 feet. So I'm thinking, well, again, if
10 everything else is correct, that seems a little bit high.
11 So the speed factor doesn't seem to match as closely as --
12 as it did at 60, as it does at 65. Now of course you can
13 argue and say, well his perception would be a lot longer,
14 you know, because he's impaired. However, you have to also
15 back up from the point of collision, which I think the
16 officer is right on the point of collision. So I don't
17 think the collision happened miraculously in the northbound
18 lane and somehow there's no evidence until they get into
19 the southbound lane. I don't think that's the case at all.
20 So I agree with the officer where the point of collision
21 is, and adding on an additional "x" number of feet doesn't
22 seem to come out correctly because the skid marks do start
23 around that 77 feet. So that's physical.

24 Q. Okay. Let me see if I understand this. So this
25 95 feet would be from the point that he perceived the

1 | accident to start?

2 | A. Right.

3 | Q. Okay. So, and then from that point he would start
4 | -- he would have moved 95 feet before the skid marks would
5 | have started?

6 | A. That's right.

7 | Q. Okay.

8 | A. Yeah.

9 | Q. So wouldn't it be possible for him to perceive
10 | what was happening in front of him before the point of
11 | impact?

12 | A. Sure.

13 | Q. Okay.

14 | A. Yeah, but of course he'd have to -- he'd have to
15 | obviously know that the bike -- again, I don't know -- I
16 | don't think we're gonna be able to ever figure out how slow
17 | the bike decelerated. So, based on your question, he'd
18 | have to know that it would be something that would cause
19 | him an emergency situation at that time. Maybe he just
20 | thought the bike was slowing again like it had previously
21 | by Pettway [phonetic] Street.

22 | Q. Mm-hmm.

23 | A. So, I mean I don't know what he was thinking. I
24 | can't tell you that obviously. But -- so that's -- that's
25 | what would change the situation. If the bike braked at the

1 time, and, you know, the brake lights came on, and he
2 stopped as quickly as possible, yes, then I would say that
3 would be an action you'd have to take immediately. But if
4 he was downshifting and starting to slow down it gives you
5 a little bit more time to slow down to decide what to do.

6 Q. Okay.

7 A. Right or wrong.

8 Q. Well in this hypothetical he would have had, what,
9 roughly, what is that, 18 feet before the point of impact?

10 A. Yeah, probably. Right.

11 Q. Okay. So he'd have perceived it, only had about
12 18 feet to react, and then the point of impact?

13 A. Right, he would have steered, or whatever his
14 cause was at that point.

15 Q. Okay.

16 A. Right.

17 Q. Is that -- and why is that not reasonable?

18 A. Well because the skid marks aren't start -- we
19 know where the skid marks start from --

20 Q. Right.

21 A. -- the point of impact, which is 77 feet.

22 Q. Right.

23 A. So I think -- I think he's already over from the
24 double yellow lines, as I indicated to you before. So I
25 think it doesn't take that long for him to get into that

1 position. He's already in that position. He's already
2 moving over --

3 Q. Mm-hmm.

4 A. -- as a one move process. He's steering,
5 decelerating, and braking at the same time. So that's what
6 I think occurred at that particular point. So this just
7 seems like it's a little bit longer time. Could it happen?
8 Yeah, it could. But again, I'm trying to -- I'm trying to
9 match -- since we don't know the speed of the bike, and we
10 don't know for sure the speed of the truck before impact,
11 I'm trying to match as closely as I can to what the officer
12 has.

13 Q. Mm-hmm.

14 A. So the officer theoretically should have looked at
15 that and said, okay, I've got 77 feet from the point of
16 collision where the skids start, what makes sense as to a
17 speed, and his reaction, and his movement? So, I think if
18 he looked at that he would probably say, even if he looked
19 at it now, he would say, well 68's probably a little fast
20 because he can't get into that angular position and then
21 start braking in that 77 feet.

22 Q. Okay.

23 A. So, --

24 Q. "Minimum Speed with Known Drag Factor", what is
25 this?

1 A. This is the office information.

2 Q. Okay.

3 A. So this is how we came up with the 68.

4 Q. Okay.

5 A. So I just kind of put that in there. And I just
6 used -- I know he did it in two sections, but we never did
7 get these figures. I never saw his calculations. So, --

8 Q. You didn't?

9 A. Nope. I just know what his number was.

10 Q. (Inaudible).

11 A. No, I never saw his calculations.

12 Q. I can -- I can go down to my car and get them.

13 A. Well you can send them later.

14 Q. They're in the field notes.

15 A. It doesn't really matter. I must not have got
16 those pages. But I just used an average friction for the
17 distance he traveled.

18 MR. VULPI: You didn't --

19 RICK SWOPE: I never saw those.

20 MR. VULPI: Okay.

21 RICK SWOPE: No.

22 MR. VULPI: Sorry.

23 RICK SWOPE: It doesn't matter. I mean I'll look
24 at them later, but.

25 MR. VULPI: Okay.

1 MR. LINN: (Inaudible).

2 BY MR. LINN:

3 Q. Okay, why don't we go through this and then --

4 A. Okay. I just took his distances and used the
5 standard, you know, factor -- I (inaudible). So in other
6 words I knew what the distance was.

7 Q. Okay.

8 A. I just figured out a factor, an average factor for
9 the asphalt, as well as the grass.

10 Q. Okay.

11 A. And so I came out roughly the same speed he did.
12 He was 68 -- what was his final speed? 68.2. I'm 68.4

13 Q. Okay.

14 A. So we're off two hundredths.

15 Q. Okay.

16 A. You're not gonna argue the two hundredths, right?
17 Okay.

18 Q. (Inaudible).

19 A. All right.

20 Q. (Inaudible).

21 Let me show you this, it's on page 111 of Discovery.
22 Have you seen this before?

23 A. Yeah.

24 Q. Okay. And it looks like he did a drag sled on
25 that?

1 A. Yes.

2 Q. Okay. Would you, if you were doing a traffic
3 reconstruction, do the drag slip?

4 A. Probably.

5 Q. Okay. Do you have any reason to dispute the
6 accuracy of what he comes up for as the "F" values?

7 A. No. The only thing was when he says "shoulder" I
8 wasn't quite sure because the .56, I mean most of the skid
9 -- most of the stop was on the dirt and grass, I guess,
10 area.

11 Q. Right.

12 A. And when he says shoulder, to me that's the paved
13 portion of the roadway or the gravel there, which is
14 usually pretty hard and packed.

15 Q. Okay.

16 A. If you look at the pictures and you walk that
17 area, it's -- it's sort of hilly and there's a lot of sand,
18 whatever you wanna say, and that's more in the .4 range.
19 So I'm not sure exactly where he did it. I think that's a
20 little high, that factor. The other one I have no problem
21 with, the roadway factor. It is what it is. I thought
22 this was a little bit high because I don't know exactly
23 where he did it at.

24 Q. Okay. That sand in that -- in that shoulder,
25 that's soft, sugary sand though, isn't it?

1 A. Yeah.

2 Q. Okay.

3 A. Right.

4 Q. So, and because it's soft, sugary sand it would
5 have a lower coefficient -- friction coefficient?

6 A. It could have because we don't know how much --
7 there's not really a lot digging from the truck in there.
8 So I don't know how much braking there actually was
9 occurred from the time the bike was dislodged until the
10 final point of rest. Obviously if you were bouncing around
11 or, you know, doing something you might not be on the
12 brakes as well because if you notice initially in the skid
13 marks on the roadway there's a gap there too.

14 Q. Mm-hmm.

15 A. So I don't know what that's from either; probably
16 from the bike being under the -- the vehicle. But I just
17 thought a .56 for that whole distance was a little bit
18 higher than it should be.

19 Q. Okay.

20 A. It doesn't -- you know, it affects speed a couple
21 miles an hour. It's not a major thing. I'm just saying I
22 think that's a little high.

23 Q. Okay.

24 MR. LINN: Thanks Jim.

25 BY MR. LINN:

1 Q. And I'll go ahead and mark this as 4.

2 Okay, "Combined Minimum Speeds with (inaudible)
3 Speeds", let me go ahead and mark it as 5. What does this
4 tell me?

5 A. These -- actually these three sort of go together
6 if you wanna --

7 Q. Yeah.

8 A. -- mark all three of them to make it easier.

9 Q. Yeah I'll go ahead and I'll just mark them 5, 6,
10 and 7.

11 Okay.

12 A. What I did with 5 is actually the ultimate
13 conclusion which is what the officer did. That's why I
14 followed the same formula information the officer did. The
15 only difference is I used the factors that I got when I did
16 it.

17 Q. Okay.

18 A. And I got a .7 on the road. He used a 7 2, I
19 think, for that night.

20 Q. Okay.

21 A. So we're within 1.2 miles an hour on the initial
22 calculation. On the second one because there's a little
23 bit more difference I think we're within a difference of 4
24 miles an hour. Calculation from where the vehicle went off
25 the roadway to its final point of rest. So I combined

1 | those two for number 5 and I came up with 60.2.

2 | Q. Okay.

3 | A. That's what I came up with. So I think that
4 | that's, at least what I calculated, that's pretty close.
5 | And then I kind of, I don't know if I wanna use the term
6 | "backdoored it", but I sort of did because that previous
7 | exhibit you marked where it shows the 88 feet versus the 77
8 | that the officer came up with, I think is pretty close.

9 | Q. Okay.

10 | A. So I think it's pretty close as to -- now I'm
11 | talking about that's at the point of impact. I can't tell
12 | you what he was doing before that.

13 | Q. Right.

14 | A. So, but at the point of impact I think he was
15 | going somewhere around 60.

16 | Q. Okay, which is still 15 miles an hour over the
17 | speed limit?

18 | A. Yes.

19 | Q. Okay. Your drag factor here, what is that drag
20 | factor for? Is that for the sand?

21 | A. That's for the packed -- for the sand and the
22 | packed surface. I did it in three -- three spots from the
23 | edge of the roadway to where the point of final rest was.

24 | Q. Okay. Did you do a sled on this or?

25 | A. Yes, I have a sled.

1 Q. Okay.

2 A. Yeah. So I did the same thing basically he did,
3 almost exactly.

4 Q. Okay.

5 What else have we not gone over here?

6 A. Well this is the map.

7 Q. Okay.

8 A. I'm probably gonna use that.

9 Q. Okay.

10 A. I'm probably gonna blow that up and use this.

11 Q. Okay and this is -- point 1 is Horse Feathers,
12 right?

13 A. Yes.

14 Q. Okay. And point 5 I am assuming would be his
15 house?

16 A. His house and Nicole's.

17 Q. Nicole's house.

18 A. Right.

19 Q. Okay.

20 Okay, 3 would be Patrick Barry's House?

21 A. Correct.

22 Q. Okay.

23 A. And 4 is the accident.

24 Q. Okay. Do you know about how far of a distance it
25 is from point 4 to the intersection of Pettway [phonetic]

1 Street and Dixie?

2 A. Yes. Well I can look.

3 Q. Sure.

4 A. Looks like it's just a little over a mile.

5 Q. Okay.

6 A. So it's a little bit over a mile from Pettway
7 [phonetic] Street to -- to the point of collision.

8 Q. Okay.

9 A. Do you want a copy of this, or?

10 Q. Yeah actually I will make a copy of it. I'm just
11 gonna put this as -- what are we at now?

12 MR. VULPI: 5, 6, and 7.

13 MR. LINN: Okay, so this is 8.

14 BY MR. LINN:

15 Q. Okay.

16 Okay.

17 A. Now I refer to those photos, Mike, but I have - I
18 have a disc with all the photos I took on.

19 Q. Okay.

20 A. Do you want that?

21 Q. I'd like a copy of it, yeah.

22 A. You can have it if you want.

23 Q. Oh, okay.

24 RICK SWOPE: I'll just make an extra one. Is
25 that okay?

1 MR. VULPI: Sure.

2 RICK SWOPE: I don't think I sent you one, but he
3 can have the copy.

4 These are the hard copy pictures, so --

5 MR. LINN: Okay.

6 RICK SWOPE: But they're all on there.

7 MR. LINN: Okay.

8 RICK SWOPE: Okay. So you don't need this?

9 MR. LINN: No. No. It would clutter up my desk
10 more. I appreciate it though.

11 RICK SWOPE: Okay.

12 BY MR. LINN:

13 Q. Okay.

14 A. These are photos --

15 Q. Okay.

16 A. Do you want me to go on?

17 These are the photos -- police photos I showed you. I
18 do have some notations on this photo.

19 Q. Okay.

20 A. Which is 10 to 12 inches from the double yellow
21 line.

22 Q. Okay.

23 A. That's my notation there.

24 Q. I'm just gonna -- I'm not gonna mark them, I'm
25 just gonna set them aside and grab a copy of them if you

1 don't mind.

2 A. Sure.

3 Q. Okay.

4 A. I'm just trying to give you the ones with markings
5 on it cause you have the police photos.

6 Q. Yeah, mm-hmm.

7 A. These I made some markings on. And I'm referring
8 basically what I told you earlier is that if you see the
9 offset there's gap in the mark. And here you can see some
10 movement of the tire. And that's most likely cause the
11 bike is under the truck, so you're getting some movement of
12 the truck up and down.

13 Q. Mm-hmm.

14 A. Tires are, you know, rolling over it, those kind
15 of things.

16 Q. And you saw the underneath -- you saw underneath
17 the truck when you went out and inspected the truck,
18 correct?

19 A. Yes.

20 Q. And was the damage underneath the truck consistent
21 with damage of running over a motorcycle?

22 A. Yeah.

23 Q. Okay.

24 A. Yeah, I don't think there's a dispute about that,
25 but. I made a note here that the bike dislodged, which

1 obviously we know where the bike is, but that's my note
2 there.

3 Q. Okay.

4 A. I made a note here, "Skids", from the truck. I
5 guess just a mental note for me, but if you wanted to see
6 that.

7 Q. Okay.

8 A. These are the vehicle stats and the VIN code from
9 the truck.

10 Q. Do you have the vehicle stats of the motorcycle?

11 A. No, I don't have them with me.

12 Q. Okay.

13 A. I don't know why. I thought they were in the
14 folder, but I don't have them.

15 Q. Would they have played a factor in any of the
16 calculations you made?

17 A. No.

18 Q. Okay. I'm gonna make a copy of this as well --

19 A. Okay.

20 Q. -- if you don't mind.

21 A. I have no idea what this is.

22 Q. Okay.

23 A. I was thinking about something I guess.

24 I think this is all the parts.

25 I think these are Google aeriials.

1 Q. Okay.

2 Okay.

3 A. This is all police stuff, which you have.

4 Q. Yeah.

5 A. This is an aerial with a line on here they drew
6 from the approximate point of collision to the final rest.

7 Q. Okay.

8 A. I probably would highlight that for trial.

9 Q. Okay.

10 A. Cause you can't see it on there.

11 Q. Okay.

12 A. These are notes -- handwritten notes I took off
13 the traffic homicide report.

14 Q. Okay.

15 A. So there's nothing added. It's just notes I took
16 from the homicide report.

17 These are two pages of notes from the inspection of
18 the truck and the motorcycle.

19 These you'll like cause they're typed. That's notes
20 from the two depositions I gave you, as well as some
21 notations just for myself --

22 Q. Okay.

23 A. -- for trial or other purposes.

24 Q. Okay.

25 A. This is just something I kind of did on the plane

1 when I was trying to get myself oriented. That kind of x
2 here is the point of collision. This is just the center
3 line I was using. There's actually two cars. In other
4 words, the truck was turned like, you know, about 3 degrees
5 on one, and 5 degrees on the other. That's just mental
6 notes I was making.

7 Here's the point in collision.

8 Q. Help me out -- understand. Is there any
9 significance between 3 degrees and 5 degrees?

10 A. No not really. The -- the only fact is is that I
11 think the truck, as I indicated, is a little bit more over
12 the line than the officer.

13 Q. Mm-hmm.

14 A. And I think right at the point of collision he was
15 angled about 3 degrees.

16 Q. Okay. Would that have affected the speed
17 calculation at all?

18 A. No. No.

19 Q. Okay.

20 A. The 2 degrees? No, wouldn't affect it at all.

21 Q. Okay.

22 A. And here's the notes that I read to you that I
23 made when I spoke with Lookebill.

24 Q. Okay.

25 A. And then I'm pretty much using -- I shouldn't say

1 pretty much. I am using these main three pages from the
2 homicide diagram.

3 Q. Okay.

4 A. And I'm probably gonna use these, but you can't
5 have them.

6 Q. Okay.

7 (Inaudible).

8 A. Yeah well you can have that. That's fine then.

9 Q. Okay.

10 A. That's all I have.

11 Q. Okay. I'll make copies of that and get that back
12 to you at the end of this.

13 All right, I've gotta ask you some questions about
14 your CV and background.

15 A. Go ahead.

16 Q. Let me go to that.

17 Let me ask you this. If you take a look at that, --

18 A. Mm-hmm.

19 Q. -- that's your Master's Degree from the University
20 of Miami?

21 A. Yes, Master of Science, right.

22 Q. Okay. And that's also a copy of your transcript,
23 correct?

24 A. Well the date is wrong on the transcript.

25 Q. Okay. What would the date -- what should the date

1 | be?

2 | A. '95.

3 | Q. Okay.

4 | A. I'm pretty sure.

5 | Yeah, see the degree says '95.

6 | Q. Okay.

7 | A. Transcript shows '97.

8 | Q. Okay. But does this reflect the classes that you
9 | took?

10 | A. Well, I can hardly read it, but I'm sure it does,
11 | yeah. I mean I had twelve classes.

12 | Q. Okay.

13 | A. Six -- six industrial and six MOT.

14 | Q. And you're an industrial engineer?

15 | A. Yes.

16 | Q. Okay.

17 | A. It's a dual degree.

18 | Q. Okay, tell me about it.

19 | A. It's a dual degree. It's an industrial and it's a
20 | technological engineering degree.

21 | Q. Okay.

22 | A. So there's two -- it's a dual degree. Most people
23 | don't get that. But to take these classes you -- you get a
24 | dual degree.

25 | Q. Okay.

1 A. So you - your classes are put on by the
2 engineering department and by the computer sciences
3 department.

4 Q. Okay.

5 A. So that's what you have, and business as well. So
6 it's like a dual degree.

7 Q. Okay. And for your Master's Degree did you ever
8 take physics class?

9 A. No.

10 Q. Okay.

11 A. No, I took all the physics classes from Society of
12 Automotive Engineers, Dr. Rudolph Limpord's [phonetic]
13 courses are all the ones on my CV.

14 Q. Okay.

15 A. Those are all physics classes.

16 Q. Okay.

17 A. So.

18 Q. So, in your Criminal Justice Degree you never took
19 a physics class, correct?

20 A. No, absolutely not.

21 Q. And then your Master's Degree you didn't take a
22 physics class?

23 A. No.

24 Q. Okay, all your physics training came from Limpord
25 [phonetic] after -- while you were a police officer, or --

1 A. Both.

2 Q. Okay.

3 A. I've been taking physics classes since '74 in one
4 form or another.

5 Q. Okay.

6 A. I mean because I just -- in my programs they
7 weren't available.

8 Q. Okay.

9 A. So when I wanted to do the industrial part and do
10 the dual degree I couldn't take physics courses because it
11 wasn't part of my curriculum.

12 Q. Okay.

13 A. So I just took them specifically with classes that
14 I dealt with for reconstruction.

15 Q. Okay.

16 A. So I didn't wanna, you know, like I'm not
17 interested in the temperature of metals to burn, and I'm
18 not interested in fluid dynamics, so --

19 Q. Mm-hmm.

20 A. -- you know, that's why I didn't take a mechanical
21 engineering course.

22 Q. Okay.

23 A. Cause most of it I don't use.

24 Q. Okay. And so I guess that brings up my next one,
25 you're not a mechanical engineer?

1 A. No I'm not.

2 Q. Okay.

3 A. Ever, ever, ever said that.

4 Q. Okay.

5 A. (Inaudible).

6 I was gonna be a lawyer but I couldn't take the cut in
7 pay.

8 Q. That's I wish I came to that same conclusion.

9 You mentioned that you taught at Harvard?

10 A. I taught a seminar at Harvard, yes.

11 Q. Okay, what kind of seminar was that?

12 A. It was accident reconstruction and DUI. And it's
13 put on by some college of lawyers that are put on there
14 every summer. And I've been asked to speak every summer
15 but I never have been back cause it's during my vacation
16 time.

17 Q. Okay.

18 A. And I spoke for 3 days out of the 5.

19 Q. Okay. Now the college of lawyers, that's an
20 organization of defense attorneys?

21 A. No I think it's just an organization of lawyers.

22 Q. Okay.

23 A. I don't -- I don't -- there's certainly probably
24 more defense, but I know that there was a significant
25 amount of prosecutors there that year.

1 Q. Okay. How long ago was that?

2 A. I don't even know; whatever my thing says. It
3 probably was 10 years ago.

4 Q. I've got a 2009 CV from you so let me see.

5 A. You have a newer one. I gave you a new one last
6 time.

7 Q. You said Jordan had it, and Jordan never gave it
8 to me.

9 A. I'll send you another one (inaudible).

10 Q. Okay.

11 So the class at -- the Accident Reconstruction and DUI
12 looks like 1995.

13 A. That would be when it was.

14 Q. Okay.

15 A. Yep.

16 Q. Okay, so that actually wasn't like a course that
17 students took? It was a seminar that attorneys attended?

18 A. It was open for students that were there in the
19 summer.

20 Q. Okay.

21 A. I don't know how many students were there, but I
22 know that students were there --

23 Q. Okay.

24 A. -- because they had a special -- you know, I
25 shouldn't say section, but I worked with a couple of

1 students that were I think in the law school maybe, or
2 something like that --

3 Q. Okay.

4 A. -- that were there in the summer. So they were
5 interested in attending. And we -- and I know that whoever
6 the organization was opened it up for students to attend
7 for free.

8 Q. Okay, but they didn't get a grade for sitting
9 there from you?

10 A. Not from me.

11 Q. Okay.

12 A. No I didn't give out a grade, no.

13 Q. Okay.

14 A. I don't say Harvard a lot because George Bush went
15 there, so that tells you.

16 Q. When was the last course -- when did you teach --
17 when was the last seminar you spoke at?

18 A. Don't know.

19 Q. About how many years ago was it?

20 A. I think the last one I spoke at was in Orlando.
21 And that might have been maybe three years ago. I'd have
22 to see, but I know it was in Orlando.

23 Q. Okay. When was the last -- and you've taught at --
24 -- you've taught classes before?

25 A. Yes.

1 Q. Okay. When was the last time you taught a class?
2 And by class I mean like an academic class where you would
3 give grades out.

4 A. '97 probably.

5 Q. And what would that have been for?

6 A. Most likely probably some type of accident course;
7 either reconstruction, or advanced, or something like that.

8 Q. Okay. When was the last certification you
9 received?

10 A. Well I receive certain certifications. The last
11 one probably was -- I took a CDR data analyst course in New
12 Orleans and that was probably maybe two years ago. And
13 that was a, you know, graded, tested course.

14 Q. Okay.

15 A. You're talking about one where I actually got a --
16 like I had to take a test, or just where I received a
17 certification?

18 Q. Where you received a certification, such as this,
19 but I know this isn't up to date. Like a certification
20 such as that.

21 A. Oh. Well the one that I received from -- that
22 would be from like Bosch Electronics, that would be the CDR
23 analyst course. That was a certified tested course.

24 Q. Okay.

25 A. I received a certificate, I go every year except I

1 | didn't go this year, to the -- I think it's the CDR User's
2 | Group and put on by ARC, which is Accident Reconstruction,
3 | something, Corporation or something and that's in Vegas for
4 | a crash testing course every summer in June. So I receive
5 | one of those every year.

6 | Q. Okay.

7 | A. This year was the first I didn't go --

8 | Q. Okay.

9 | A. -- in probably several years. I attended a couple
10 | of courses by Rudolph Limpord [phonetic] over the last few
11 | years. I think one of those was a crash testing course in
12 | Indiana.

13 | Q. When was that?

14 | A. Probably a year and a half or so ago. But that
15 | would be on the -- when I send you the update it should be
16 | on there.

17 | Q. Okay.

18 | A. On my CV. Those are the three that come to mind.
19 | I can't think of any other ones.

20 | Q. Do you know when, or would it reflect on your CV
21 | when your last certification you received from IPTM was?

22 | A. Oh yeah, but that's been years from there.

23 | Q. Okay.

24 | A. And I -- I -- well IPTM doesn't really give out
25 | certifications, just so you know.

1 Q. Okay.

2 A. They certify attendants.

3 Q. Okay.

4 A. Like the certification for DUI instructor, that
5 was through (inaudible).

6 Q. Okay.

7 A. It happened to be taught at IPTM. So --

8 Q. Okay.

9 A. -- a lot of guys are real loose with that stuff.

10 Q. Okay.

11 A. You know, so I mean there's certified, and then
12 there's certified, you know.

13 Q. Right.

14 A. In other words, it's like the fact that I go to
15 law school, I still have to get my license from the Bar
16 before I can practice.

17 Q. Mm-hmm.

18 A. So the fact that I say I'm a lawyer, I'm really
19 not until I go through the course. So being certified
20 means you've usually attended the course, but the
21 instructors and everything, usually there's another
22 certification process to go through.

23 Q. Okay.

24 A. So that's the difference.

25 Q. Have you been certified as an instructor at ITPM?

1 A. I taught at ITPM as an instructor, but I wasn't
2 certified through them. I was certified from the National
3 Highway Traffic Safety Administration, and I was certified
4 through the Criminal Justice Standards and Training
5 Commission in Florida. Those were the certifications I
6 held. So I'm allowed to teach at IPTM. Any officer can
7 teach as long as you put in for whatever course requirement
8 it -- requirements are. But I was an instructor for the
9 two organizations I just gave you, so I could teach
10 anywhere.

11 Q. Okay. When -- when was the last time you have
12 taught for either of those organizations?

13 A. Oh it's been years. I don't teach anymore.

14 Q. What is -- would it be the 90's?

15 A. You know, that's something I don't even know.

16 Q. Okay.

17 A. I know the last course I taught, certified course,
18 as I indicated to you earlier, was in '97.

19 Q. Okay.

20 A. I've done lectures since then, but actually where
21 a test is given and I'm teaching a certified course was
22 '97. They just don't pay enough and it's too much time.

23 Q. Okay.

24 A. I mean it's just beyond me anymore.

25 Q. Okay.

1 And then I'll finish up with this. You resigned from
2 the Broward County Sheriff's Office, correct?

3 A. Yes.

4 Q. Okay. Before you resigned at the Broward County
5 Sheriff's Office was there an internal affairs
6 investigation that was recommending you be terminated?

7 A. That was after I left.

8 Q. Okay.

9 A. That was after I left.

10 Q. Okay. And they were asking you to be terminated
11 because they believed you were essentially working for a
12 defense attorney and a state attorney while on the clock?

13 A. Yeah, both.

14 Q. Okay.

15 A. Well no, it wasn't that. What they -- what they
16 indicated was -- was that -- their belief was, of course,
17 which by the way you realize none of that is true?

18 Q. Okay.

19 A. That -- the file shows everything was cleared and
20 not sustained.

21 Q. Okay.

22 A. So the allegation was, was that I was working for
23 the State Attorney's Office on duty.

24 Q. Right.

25 A. Even though they were asking me to do their work

1 for them.

2 Q. Right.

3 A. That was the allegation. And of course none of
4 those allegations came up until after I left.

5 Q. Okay.

6 A. So after that then I requested it be investigated
7 and then all of them show as not sustained.

8 Q. Okay. And is that because -- because I don't have
9 the report that indicated that none of that was sustained.
10 What I do have is the settlement agreement that shows where
11 your record would reflect that you had resigned.

12 A. Right. I've seen this before.

13 Q. Okay.

14 A. But it's not mine.

15 Q. Okay.

16 A. I mean it's not mine. I don't know where it came
17 from and it's not my signatures.

18 Q. Okay.

19 A. And the reason --

20 Q. That's why I'm asking now.

21 A. Right. And the reason I said that was because I
22 don't know where this came from because first of all I've
23 never seen a settlement agreement that has no letterhead,
24 no attorney's firm on, no nothing.

25 Q. Okay.

1 A. It's just like I typed it in the typewriter and
2 said ask the Sheriff to sign this.

3 Q. Okay.

4 A. I mean it's the most ridiculous thing I've ever
5 seen.

6 Q. Okay.

7 A. But I mean if you contact Patricia Windowmaker,
8 who is personnel director at the Sheriff's Office --

9 Q. Okay.

10 A. -- she can send you a complete copy of my file. I
11 have a copy and I'd be more than willing to give it to you,
12 but you might think my copy is not correct. But if you
13 contact Patricia Windowmaker she will send you the entire
14 file which shows everything as not sustained and closed
15 out.

16 Q. How do you spell Windowmaker?

17 A. Just like it sounds, Windowmaker.

18 Q. Okay.

19 A. So, --

20 Q. That's why I'm asking about this now --

21 A. That's fine.

22 Q. -- because I don't know if that's accurate or not,
23 so I needed to know what you were saying about this.

24 A. Yeah, well, like I said, I've seen it, but I've
25 never seen any kind of dispute where there's no -- I mean

1 | it's not -- there's no letterhead, there's no nothing on
2 | it.

3 | Q. Okay.

4 | A. So, but I mean if you contact her then that's
5 | fine.

6 | Q. She'll -- okay.

7 | A. Or I can send it. Whatever you need.

8 | Q. Okay.

9 | And then what I have here, does this look like the
10 | Internal Affairs -- some of the Internal Affairs paperwork?

11 | A. I don't know. I've never seen it.

12 | Q. Okay.

13 | A. Well I shouldn't say -- I don't remember seeing
14 | it.

15 | Q. Okay.

16 | A. Yeah I've seen these two documents before.

17 | I've seen these two documents.

18 | Q. Okay and that was essentially the allegation that
19 | was leveled against you from the Broward County Sheriff's
20 | Office?

21 | A. Yes. And the people that leveled it by the way
22 | were terminated.

23 | Q. Okay.

24 | A. So, -- so they were terminated. But, I mean, like
25 | I said, you can -- you can ask personnel to give you the

1 final dispositions, or the disposition of mine --

2 Q. Okay.

3 A. -- would show you that.

4 Q. Okay.

5 A. So, I guess anybody can make an allegation against
6 you for whatever they wish.

7 Q. That's true.

8 A. Right?

9 Q. I've learned that.

10 A. I'm sure.

11 But just -- like I said, just request a copy, and if
12 you have difficulty getting it, ask Jim and I'll sign a
13 paper and you can go get the file.

14 Q. Okay.

15 A. So, to save you trouble.

16 Q. Okay.

17 A. But I'm (inaudible) to do it.

18 MR. LINN: The time is now 2:05. I don't have
19 any further questions.

20 Do you have any questions?

21 MR. VULPI: No.

22 MR. LINN: Okay. I'm assuming you're gonna wanna
23 read the deposition?

24 RICK SWOPE: Yes.

25 MR. LINN: Okay.

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That will conclude the deposition in State of
Florida versus Michael Lookebill of Rick -- Rick Swope.

* * * *

1 I, Jessica O'Brien, hereby certify that the preceding
 2 pages numbered 2 through 60 inclusive, constitute to the
 3 best of my ability, a true record of the electronically
 4 recorded Deposition of Rick Swope, in State of Florida
 5 versus Michael Lookebill, Case No. 432010CF001249.

6

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9

Jessica O'Brien

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12

13 STATE OF FLORIDA

14 COUNTY OF MARTIN

15

16 Sworn to and subscribed before me this 22nd day of June
 17 2013, by Jessica O'Brien, who is personally known to me or
 18 who has produced Florida Driver's License as
 19 identification.

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Notary Public, State of
 Florida at Large
 My Commission Expires:

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