

1 STATE OF FLORIDA)
2 COUNTY OF BROWARD) :SS

3 IN THE CIRCUIT COURT OF THE
4 17TH JUDICIAL CIRCUIT,
5 IN AND FOR BROWARD COUNTY, FLORIDA

6 STATE OF FLORIDA,
7 Plaintiff,

ORIGINAL

8 vs.

CASE NO. 98-8588CF10A

9 ADAM ZUCKERMAN,
10 Defendant.

JUDGE MARC H. GOLD

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Proceedings had and taken before The Honorable
Marc H. Gold, one of the Judges of said Court, 6th Floor,
Broward County, Florida, on the 2nd day of February, 2001,
commencing at or about the hour of 2:00 o'clock p.m.
and being a JURY TRIAL.

APPEARANCES:

MICHAEL J. SATZ, STATE ATTORNEY,
BY: GREGG ROSSMAN, ESQUIRE,
ASSISTANT STATE ATTORNEY,
Appearing on behalf of the State.

BY: ALAN WEINSTEIN, ESQUIRE,
BRANDON ROTBART, ESQUIRE
Appearing on behalf of the Defendant.

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DATE	PROCEEDINGS	PAGE
02/01/01	JURY TRIAL	3

WITNESS	DIRECT	CROSS	REDIRECT	VOIR DIRE	RE CROSS
RICK SWOPE	4	54	126,138	137	144

1 (Thereupon, the following proceedings were had:)

2 THE BAILIFF: Jurors entering the courtroom.

3 THE COURT: Back in the matter of State verses Adam
4 Zuckerman. The Defendant, his Counsel, the Assistant
5 State Attorney and all the jurors are present.

6 Good afternoon, Ladies and Gentlemen. Any issues
7 with people talking about the case or you talking to
8 anybody, anything like that? No. Good. All right.

9 Call on the Defense to call on their next witness.

10 MR. WEINSTEIN: Thank you, Your Honor. At this
11 time the Defense would move into evidence Defense
12 Exhibit E previously identified.

13 THE COURT: Show it to the State.

14 MR. ROSSMAN: I'll stipulate to it.

15 MR. WEINSTEIN: We'll publish it later, Your Honor.
16 It's an excerpt of medical records.

17 THE COURT: Okay. Thank you. That's Defendant's
18 Number 13. Call your next witness.

19 MR. WEINSTEIN: The Defense calls Rick Swope.

20 (Thereupon, the witness was sworn by the clerk.)

21 THE CLERK: Please be seated. State your full name
22 and spell your last name.

23 THE WITNESS: My name is Rick Swope, S-W-O-P-E.

24 MR. WEINSTEIN: May it please the Court.

25 THE COURT: Yes.

1

DIRECT EXAMINATION

2

BY MR. WEINSTEIN:

3

Q Mr. Swope, what is your present occupation, sir?

4

A I do primarily accident reconstruction. That's what I do 90 percent of the time.

5

6

Q And how many years have you been engaged in accident reconstruction and for whom?

7

8

A Well, I've been doing accident reconstruction work since 1974. I was a police officer for 15 years. I left law enforcement in 1990 and opened my own business and I've been doing it on my own since that time. When I was with the police department I was with the traffic homicide unit. I was with the Broward County Sheriff's Office for six years and four of those six years I was administrator coordinator of the DUI unit, and during that time we responded to probably -- probably about 120 fatalities per year.

9

10

11

12

13

14

15

16

17

Q As the administrative coordinator does that mean you were in charge?

18

19

20

21

22

23

24

25

Q And how many traffic homicides did you say you had investigated in that course of time?

1 A I responded myself to over 100 per year. The count
2 averaged around 240 or 250 per year. The Sheriff's Office we
3 responded to well over 100 and then I signed off on all the
4 reports that were done in my unit and the unit that I worked
5 with. We had other people that would sign off but I had to
6 make sure the reports met the requirements of the state, and
7 the cases that were prosecuted those would kind of go in one
8 area and we would handle those specially and then there were
9 other that were not prosecutable and we would get rid of
10 those and take care of those as soon as possible.

11 Q Mr. Swope, you have other experience as a police
12 officer and for what departments?

13 A Initially, I was with the United States Army. I
14 was stationed in Fort Riley, Kansas with the military police
15 then with the Monroe City Police Department for seven years,
16 which is right outside Detroit, Michigan, and then the last
17 was with the Broward County Sheriff's Office.

18 Q Would you please share with this jury the training
19 you've had in the field of accident reconstruction?

20 A Well, I've had approximately 2500 hours of training
21 that dealt specifically with accident reconstruction and that
22 started in 1974. The initial training I had was with the
23 Kansas Highway Patrol, and that training was -- although it
24 was in Kansas it was put on by the Northwest Traffic
25 Institute, which I believe is in some place in Illinois,

1 Evanston, I think. I did approximately probably eight or
2 nine weeks of classes at that time. Upon leaving the
3 military I then worked with the Monroe City Police Department
4 and I attended classes at home in Monroe Community College
5 and the Northwestern Traffic Unit. That institute -- that
6 was in that area at that time. I was hired by the Broward
7 Sheriff's Office in 1984. They were initially looking to
8 start up a trafficking unit and I applied to a different
9 number of agencies.

10 I wanted to move to Florida and a bigger
11 department. The department I was in was 50 officers and the
12 Sheriff's Office was much bigger. I was hired by the
13 Sheriff's Office to go into the traffic unit. There was
14 myself and another individual that were put into it at the
15 time and basically started the traffic unit. When I started
16 there was two of us initially and when I left there was
17 probably 34 or 35, I'm not sure something like that in the
18 unit. I took various courses.

19 When I got to Florida I became a supervisor, an
20 administrator coordinator that was the title of the unit, and
21 I took probably about 450 to 500 hours of accident
22 reconstruction training. I then took a test to become an
23 instructor for the state. I became an instructor in 1986 --
24 1986 or 1987 somewhere in there, and I began teaching
25 accident reconstruction for the state. I taught for several

1 different colleges and universities and I took courses over
2 again. A lot of the courses I had taken I took over because
3 at that time there at the University of North Florida began a
4 school called IPTM, and I think Mr. Stephens mentioned the
5 school.

6 Q Speaking of Mr. Stephens, were you present during
7 his testimony?

8 A Yes, I was and that school was started by people
9 that had left Northwestern and they went out to start their
10 own school and because people that worked for me that was
11 going to that school I wanted to find out exactly what they
12 were learning and if they were learning the right things. So
13 I basically went through those courses to make sure that the
14 students were getting the right training, and the school was
15 new at the time and I went through probably twelve or
16 thirteen classes something like that and then I began
17 doing -- after I became an instructor I began doing crash
18 testing work and working with the college and doing various
19 courses around the country and I began doing crash testing
20 analysis.

21 Q Before we go there, did Mr. Stephens ever train you
22 in any way, shape or form?

23 A Mr. Stephens did teach a course. It had two or
24 three different instructors and he was present, and I believe
25 at least one of the courses he might have been or two, I

1 don't recall, but again, they were courses I had already had
2 and I met Mr. Stephens at one of the courses. I don't recall
3 which one it was. Probably was in 1987 or 1988, somewhere in
4 that ballpark.

5 Q I'm sorry.

6 A So that's when I first met him and we became
7 acquainted during that time and we had worked a few things
8 together over years.

9 Q Speaking of being an instructor are you, sir, an
10 instructor for any institution or the State of Florida?

11 A Yes.

12 Q Please explain.

13 A Well, I've had certifications and because of my
14 degrees I can teach basically anywhere, but I have
15 certification to teach from the National Highway Safety
16 Administration, which is the Department of Transportation. I
17 have statistics to teach the criminal justice standards and
18 training commission. I've taught for the University of North
19 Florida in Jacksonville. The Southern Police Institute in
20 Louisville, Kentucky, and I've taught seminars at Emory
21 University and Georgia Harvard Law School. I've taught
22 pretty much seminars or educational courses all over the
23 country. Chicago, those laces.

24 Q Mr. Swope, would you please share with this jury
25 your educational background?

1 A Well, I have -- as I indicated I already told the
2 jury my instructional background. I have a Bachelor's degree
3 in criminal justice from St. Thomas University. I have a
4 Master's of Science Degree in Technology and Engineering from
5 the University of Miami. I have various courses of Society
6 Automotive Engineer. Those courses deal primarily with
7 statistical analysis of accidents whether it be through
8 calculus or physics, rotation, momentum. Those are the
9 courses that are taught basically to reconstructionists and
10 they're taught to enforcement accident reconstructionists.
11 They're courses like at IPTM and Northwestern. Those are 99
12 percent for police officers. Courses by Society of
13 Automotive Engineers are about 90 percent for engineers and
14 people in my field. Whether they be braking experts or other
15 experts.

16 Q So there is a clear distinction between the courses
17 for the police officers and courses for engineers and things
18 like that in your mind as a professional?

19 A There's a big difference sure. When I teach the
20 courses you have to know whether you're teaching you know,
21 police officers because they have certain areas they
22 investigate or you're teaching engineers where they get into
23 more detail analysis of exactly what may or may not happen in
24 a collision.

25 Q Was either your Bachelor's Degree or your Master's

1 degree obtained through a correspondence or did you actually
2 attend the universities?

3 A No, I attended the universities directly.

4 Q Have you, sir, published any articles, and if you
5 have please tell the jury what they were and where they were
6 published?

7 A Yes. I published four articles with what's called
8 the DUI and Law Science Review. Those dealt with breath
9 testing devices or accidents involving people who are
10 impaired. I've published two articles for the Missy (sic)
11 Corporation dealing with vehicle homicide or accident
12 reconstruction, and the most recent one was published was --
13 I published a chapter in a book for George Stein (phonetic)
14 in Atlanta, Georgia on vehicular homicide and how to
15 investigate and how to evaluate one from a perspective of
16 either an investigator or an attorney.

17 Q Have you covered all of the institutions you taught
18 at and the police officers you've taught or is there anything
19 else you need to share with us?

20 A No, pretty much -- the only difference would be is
21 on all the police courses that I teach there has to be -- the
22 state requires an outline to be completed and furnished on
23 each course. So each particular course that I taught I had
24 to do an outline of the 80 hour course, and it had to be
25 broken up and the outline had to be approved by the Criminal

1 Justice Training System. So those outlines were prepared for
2 each course and I had to do the whole outline and how the
3 course would be taught and had to meet perimeters of the
4 state so that the officers could get their certifications.
5 So that was the only difference.

6 Q Mr. Swope, who is Dr. Rudolph Limpert (phonetic)?

7 A Dr. Limpert is basically what's known in the
8 community as the reconstructionist. Almost all the formulas
9 whether it be physics formulas or dynamics formulas -- I
10 shouldn't say that. Really you don't develop a formula you
11 arrive at a formula based on what you're looking for, and Dr.
12 Limpert teaches for the Society of Automotive Engineers. He
13 has written five books, physics books. As a matter of fact,
14 I carry one with me most of the time. He's written five
15 particular books on physics. He also is a consultant to the
16 Federal Government. He has developed most of the standards
17 for Federal Motor Vehicle Safety standards as far as brakes,
18 brake linings. The standards that are put in automobiles
19 that we drive every day. He is a consultant to Ford Motor
20 Company, Chrysler, General Motors. He's basically the person
21 so to speak.

22 Q Let me ask you a question, sir, are his books in
23 your professional and expert opinion recognized treatises in
24 the field of accident reconstruction?

25 A Yes, they are.

1 Q And you mention one. Do you have one with you now?

2 A Yes. I have this one with me, yes.

3 Q What is the name of that book?

4 A This is Motor Vehicle Accident Reconstruction and
5 Cause Analysis, and it's the Fifth Edition. This book just
6 came out this year in the year 2000. This is the Fifth
7 Edition.

8 Q I'll ask you to keep that handy because we're going
9 to refer to it later. Have you ever worked with Dr. Limpert?

10 A Yes, I have.

11 Q Have you ever taught any service community service
12 aides for Ft. Lauderdale Police Department including Jill
13 Hirsch (phonetic) and Dan --

14 A Yes.

15 MR. ROSSMAN: Objection; relevance as to who
16 specifically their names are.

17 THE COURT: Sustained.

18 MR. WEINSTEIN: May I be heard?

19 THE COURT: Yes.

20 (Thereupon, a brief sidebar was had outside the
21 presence of the jury:)

22 MR. WEINSTEIN: They were specifically mentioned by
23 Stephens in his testimony as people he met with on this
24 case.

25 MR. ROSSMAN: They've got nothing to do with the

1 case, Shawn Perez did. Neither one of them did an
2 investigation on the case.

3 MR. WEINSTEIN: He specifically said they took him
4 to the scene.

5 MR. ROSSMAN: They provided him a ride.

6 THE COURT: I've ruled.

7 MR. WEINSTEIN: I'm sorry.

8 THE COURT: I've ruled.

9 (Thereupon, the sidebar was completed. The following
10 proceedings were had in the presence of the jury:)

11 BY MR. WEINSTEIN:

12 Q Have you, sir, ever written any accident
13 investigation outlines that are used by police officers here
14 in Broward County, and if you have how many and when did you
15 do it?

16 A Well, as I indicated I taught classes for
17 approximately eight years and I wrote about 22 or 23
18 different outlines during that period of time for the Broward
19 Police Academy, Palm Beach and Dade, and I'm currently
20 working with an individual from Miami-Dade Community College.
21 Miami-Dade is now starting a police training academy for
22 accident investigators. They haven't had one before and I've
23 been working with this individual Mr. Toussant (phonetic) for
24 probably four to five weeks now in preparing an outline for
25 them so they can start their own class and start teaching

1 accident investigators in Miami and Broward. So I'm working
2 on that and the only other ones is for the Southern Police
3 Institute in Louisville, Kentucky, and I wrote four different
4 outlines for their course. That's called Injury and Death
5 Investigation and actually that's a five day course and I
6 would teach one day out of that course, and my day dealt with
7 actually finding drivers in the vehicles themselves, and to
8 teach students how to identify those individuals in the
9 automobiles and how to identify through physical evidence
10 where someone may or may have not been seated in that
11 particular kind of course.

12 Q Mr. Swope, you mentioned you were involved in
13 investigating and working on actual collisions on the scene.
14 What type of collisions have you been involved in where you
15 actually worked the scene and approximately how many?

16 A I've been on thousands of accidents. I've probably
17 investigated myself somewhere in the neighborhood of about
18 350 fatalities myself. I've been on the scene of probably
19 maybe 800 or 900 fatalities. Although I didn't investigate
20 them all, and as far as accident reports in need of preparing
21 them or investigating them probably several thousand. I just
22 really don't know there's so many because that's what I did
23 the whole time. I didn't investigate crimes I just did or I
24 should say the normal type of crimes that officers
25 investigate, I was specifically traffic.

1 Q Mr. Swope, have you had occasion in the past to
2 work for the Broward State Attorney's Office?

3 A I have in the past, yes.

4 Q And how many times and when?

5 A Well, obviously, when I was a police officer I had
6 contact with the State Attorney's Office on a weekly basis.
7 When I went into private practice I have had I believe 19. I
8 looked it up the other day for you. I believe I had 19 cases
9 with them. The last case was in 1997. That's the last time
10 when I was hired by the state that I'm aware of.

11 Q So they have hired you independently after you've
12 left the police department to testify as an expert in cases
13 that they prosecute?

14 A Well, that would be 19 times. I've looked at cases
15 whether or not they went to trial but that many times I have
16 looked at cases for them, yes.

17 Q You indicated about your teaching experience, do
18 you demonstrate collisions when you teach?

19 A Yes, in the accident reconstruction course we
20 actually crash cars, and I think even in the testimony before
21 I mentioned something about that, but we actually do what is
22 called crash testing and we obtain cars normally from tow
23 yards and we do crash testing for the students to show
24 basically what happens, and they're low speed crashes. We
25 obviously can't drive cars at 50 miles an hour and crash

1 them. We do low speed collisions usually 20 miles per hour.
2 The fastest is 23, that's about the fastest you can go, and
3 actually pound into a car that's actually stopped. But I've
4 done maybe 16 or 17 of those. And normally I have done them
5 with an individual named Dannie Dotson (phonetic), who is a
6 seat belt expert and would basically explain to the students
7 what to look for in the seat belts, and I would explain to
8 them the dynamics of the accident.

9 Q Mr. Swope, is the analysis both civil and criminal
10 work you do?

11 A Yes, mostly I do civil. Actually 92 percent of my
12 business deals with civil work and the remainder is generally
13 criminal.

14 Q And do you take all the cases that you're contacted
15 on?

16 A No, I probably take about anywhere -- it depends,
17 anywhere from 40 to 55 percent of the cases I keep depending
18 on the situation and many times I can't be of assistance.

19 Q How do you make that decision? I mean, can you
20 help everyone that contacts you?

21 A No, a decision is made real easily. Generally, I
22 look at the accident and I look at the analysis and obviously
23 if I feel that my opinion is not beneficial I pretty much
24 know that the attorney that I'm giving my opinion is not
25 going to be beneficial to him and obviously he won't use me

1 in the case but I have to make the attorney aware of that,
2 and I get paid regardless. I still bill for my service and
3 if my testimony is valuable to the attorney or he thinks it's
4 of value then I discuss the case with him further as to what
5 I can testify to, what I can't testify to, and then he makes
6 a determination whether he has to hire another expert or
7 possibly somebody in another field or just do whatever the
8 attorneys do. That's up to them.

9 Q Rick, so it's clear your protocol is you do an
10 investigation and then discuss your result, you don't
11 necessarily get hired to go past your result; correct?

12 MR. ROSSMAN: Objection; leading. Question ends
13 with correct.

14 THE COURT: I'll allow it.

15 BY MR. WEINSTEIN:

16 Q Is that accurate, sir?

17 A That would be accurate, yes.

18 Q Now indeed, Mr. Swope, have you turned down cases
19 for me?

20 A Yes, I turned down the first case ever for you when
21 you called me one time on a case, yes. I remember it
22 specifically.

23 Q All right. Mr. Swope, the acronym A-C-T-A-R, do
24 you know what that means and what it stands for?

25 A Yes, I do.

1 Q Are you a member of ACTAR?

2 A No.

3 Q Why are you not a member of ACTAR?

4 A Well, I guess I would equate that to be -- I have a
5 Master's of Science Degree. I guess I wouldn't go back to
6 high school and get a GED. I'm passed that. ACTAR is
7 basically an association for police officers where they pay a
8 fee and they become a member of a committee. The committee
9 decides who gets excepted. They take a test and it's
10 approved by the accreditation committee. It's primarily for
11 police officers. There's nothing wrong with that. It's just
12 that it's -- I'm -- basically, there are three levels of
13 reconstructionists and I'm a different level. So ACTAR is at
14 level one as a reconstructionist. So there's no reason why I
15 would go back and become level one when I'm already level
16 three.

17 Q Okay. You use one through three, one being the
18 highest and three being the lowest. Could I ask you --

19 A No, opposite. Level one is the lowest level, three
20 is the highest.

21 Q Okay. That's how you've numbered it as level three
22 the highest?

23 A Right.

24 Q Indeed is there discussion of ACTAR in the levels
25 of qualifications in the treatises you reference, Motor

1 Vehicle Accident Reconstruction and Cause Analysis?

2 MR. ROSSMAN: I'm objecting to publishing anything
3 from the treatises.

4 THE COURT: Sustained.

5 MR. WEINSTEIN: May I be heard on it.

6 THE COURT: Yes.

7 (Thereupon, a brief sidebar was had:)

8 MR. WEINSTEIN: We are, I submit, entitled to
9 elicit that this very issue, levels of qualifications,
10 is in a recognized treatises.

11 THE COURT: I didn't hear you.

12 MR. WEINSTEIN: This very issue of the issues of
13 qualifications of accident reconstruction is discussed
14 in this recognized treatises. I think we're entitled to
15 elicit that.

16 MR. ROSSMAN: Is that something he relied upon in
17 forming his opinion, no. I want to point out since I've
18 been hearing about discovery rules that this has never
19 been provided to me. The treatises was never provided
20 to me.

21 THE COURT: We've discussed to refer to a
22 treatises? I don't understand why.

23 MR. WEINSTEIN: I'm going to ask him --

24 THE COURT: If it goes to his testimony.

25 MR. WEINSTEIN: Exactly right. There's a specific

1 discussion of these levels that just being with ACTAR
2 you're at the lowest level and their expert made a big
3 deal that he was a membership in ACTAR.

4 THE COURT: I've ruled. Thank you.

5 MR. WEINSTEIN: I'm precluded from bringing this
6 in. I don't want to violate the Court's ruling.

7 THE COURT: I understand. I don't think it's
8 appropriate to bring it in as you described.

9 MR. WEINSTEIN: Okay.

10 MR. ROSSMAN: Judge, wait a minute. So we don't
11 have any problems. It's never been provided to me. I
12 could have had Mr. Stephens read through it a hundred
13 times. I could have been prepared and I'm going to ask
14 that he not be able to use it at all. You say "as
15 provided" that's the only reason why I made that last
16 comment.

17 MR. WEINSTEIN: Let me suggest, Your Honor, that a
18 recognized treatises don't have to be provided and I
19 asked back when I cross-examined Stephens if he thought
20 it was a recognized treatises, and he said, no. So what
21 now I've established that it is. I don't have to give
22 this to them.

23 THE COURT: Thank you.

24 (Thereupon, the sidebar was completed. The following
25 proceedings were had in the presence of the jury:)

1 BY MR. WEINSTEIN:

2 Q In any event what you've indicated to this jury,
3 Mr. Swope, is that simply being a membership in ACTAR is the
4 bottom of the levels of qualifications; correct?

5 A Yes. It would be the initial start, yes.

6 Q And is this set of levels -- is this your opinion
7 or is this a recognized distinction within the accident
8 reconstruction community.

9 MR. ROSSMAN: Same objection.

10 THE COURT: Overruled.

11 BY MR. WEINSTEIN:

12 Q In other words, is it recognized that there are
13 levels of qualifications within the accident reconstruction
14 community?

15 A Yes, there is.

16 Q And while membership in ACTAR is at the lowest
17 prong, what prong are you at with your qualifications?

18 A The level three. There are three levels one, two
19 and three.

20 Q Would that be the highest prong?

21 A Yes. That's the highest prong of the cite of
22 automotive engineers.

23 Q Would you be kind enough and take a moment and just
24 tell us what accident reconstruction is. What is it?

25 A Well, basically accident reconstruction could be a

1 variety of things depending on the type of case you're
2 looking at, and primarily what you're attempting to do is
3 basically recreate or go back in time so to speak and start
4 with the final conclusion of the accident and then work
5 backwards as to basically how it occurred and what occurred.
6 There are many times mechanical issues that you look at such
7 as a failure of a tire which has been in the news a lot, some
8 of the Firestone cases. It could be a driver failure, an
9 operator failure somebody as simple as falling asleep or
10 somebody being impaired. There are other issues. Roadway
11 issues such as roadway design. It could be other mechanical
12 problems to the car. It could be several vehicles involved.
13 Could be a motorcycle, could be a truck, could be a train.

14 When you recreate the accident there are basically
15 certain issues that you are looking for in a particular case.
16 It could be speed. It could be dynamics, could be finding
17 out what the car struck or how the car went out of control if
18 it did, and of course as in this case it's an issue of where
19 occupants were sitting in the car or in a particular location
20 at the time of occurrence or event. And that's basically
21 what we're looking for and after all of that is derived and
22 whether it be a mathematical formula or whether it be through
23 witnesses, through police information or observations or
24 collection of evidence it basically comes down to what's
25 known as common sense. You go through all your procedures,

1 you look at everything, evaluate everything, ascertain that
2 everything you've done is either correct or maybe you need to
3 make some additional calculations or functions and then you
4 arrive at an opinion.

5 Q Did there come a time, Mr. Swope, that I contacted
6 you and asked you to do an analysis in this matter?

7 A Yes, there was.

8 Q Tell the jury precisely what I asked you to do as
9 best you can recall.

10 MR. ROSSMAN: Objection; relevance as to what
11 Mr. Weinstein asked him to do specifically, quoting
12 Mr. Weinstein, self-serving.

13 THE COURT: Overruled.

14 BY MR. WEINSTEIN:

15 Q Tell the jury what I asked you to do, sir.

16 A I was contacted by you specifically on September
17 2nd of 1997. You had asked me if I was available to look at
18 a case for you and I think I was out of town returning to
19 town and the conversation was two minutes between yourself
20 and me. You indicated you had an accident you wanted me to
21 look at. I informed you I would meet you the next day and I
22 met you on September 3rd of 1997.

23 Q Did I tell you prior to your engagement what your
24 conclusions should be?

25 A No, never.

1 Q Did I tell you prior to your engagement who I
2 wanted to be what?

3 MR. ROSSMAN: Objection; leading.

4 MR. WEINSTEIN: Your Honor, we're entitled to --

5 THE COURT: Overruled

6 THE WITNESS: No, you did not tell me that at all.

7 BY MR. WEINSTEIN:

8 Q All right. After you were retained by me and you
9 charge for your service, do you not?

10 A I absolutely do, yes.

11 Q You charge everybody the same?

12 A Everybody is the same with the exception of the
13 Federal Government. I do a lot of work for the U.S.
14 Attorney's Office, and they have a 25 percent discount for
15 the U.S. Attorney's Office. Everybody else charges a little
16 bit more.

17 Q Did there come a time after you were retained that
18 I provided you some documents?

19 A Yes.

20 Q And what documents did I provide you?

21 A Well, over a period of time I was provided with
22 photographs from the police department, which would be Fort
23 Lauderdale. I was provided with an autopsy report from Ms.
24 Flannigan. I was provided with medical records of
25 Mr. Zuckerman from Broward General. Those were pretty

1 extensive. There were quite a few. I was provided with
2 depositions, and again, I hope I don't butcher these names
3 but Gregory Fautess (phonetic), Joel Ramsden, David Ramsden,
4 Cynthia Wilburne, Lisa Flannigan, Shawn Perez, Gary Stephens.
5 I was also provided with several legal motions that came
6 about in the case, I reviewed those. I reviewed the complete
7 traffic homicide report which was prepared by Shawn Perez,
8 and that had a variety of things attached to it. It was
9 actually in excess of a hundred pages, although I could be
10 wrong. I was also provided with and actually that's really
11 what you provided me with. Most of the other stuff I
12 gathered myself or put together during the course.

13 MR. ROSSMAN: May the record reflect that he's
14 literally reading from his notes. I have no objection
15 but the record should reflect that he's referring to his
16 notes and I have no objection without Mr. Weinstein
17 asking him if he first needs to refer to them.

18 THE COURT: Thank you. Please proceed.

19 BY MR. WEINSTEIN:

20 Q Regarding the documents you were furnished. Let's
21 concentrate for a moment on medical records. Did you review
22 the medical records of both individuals involved in the
23 incident?

24 A Yes, I did.

25 Q And as an accident reconstructionist would you

1 consider that important that you look at the medical records
2 of everybody involved in coming to your conclusions?

3 A Well, in this case, yes. I mean, not all cases but
4 in this case there was no if, ands or buts you had to.

5 Q As it relates to the documents you were provided by
6 me, do you know, sir, whether essentially those were the
7 documents that I received from the State?

8 MR. ROSSMAN: Objection; calls for speculation as
9 to where Mr. Weinstein got his documents.

10 THE COURT: Sustained.

11 BY MR. WEINSTEIN:

12 Q Mr. Swope, did there come a time that you went to
13 the scene of this accident and if so please tell us when and
14 for what purpose?

15 A I have to look at my notes. I went to the scene
16 for the first time just basically to look at the area on
17 September 12th of 1997. That was the first time I actually
18 went to the scene, and at that time I just kind of looked the
19 scene over. I'm familiar with it because I actually go by
20 the scene whenever I come to the courthouse or come downtown.
21 It's on my way so I went to the scene and then I appeared at
22 the scene and again sometime within the week or two after
23 that and that was to do what's known as a cite survey and to
24 work on a diagram and things like that.

25 Q Did you have occasion, sir, to go to the scene