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COMMONWEALTH OF MASSACHUSETTS
HAMPDEN, SS. SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

* * * * *
COMMONWEALTH OF MASSACHUSETTS, *
*
v. * Docket No. 14-675
*
JOEL NIEVES-CRUZ *
* Defendant *
* * * * *

JURY TRIAL
BEFORE THE HONORABLE RICHARD J. CAREY

APPEARANCES:

For the Commonwealth:
Hampden County District Attorney's Office
50 State Street
Springfield, Massachusetts 01103
By: James M. Forsyth, Assistant District Attorney

For the Defendant Joel Nieves-Cruz
By: Joseph Franco, Esquire

Springfield, Massachusetts
Courtroom 8
February 24, 2016

Sara E. Adams
Official Court Reporter

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JURY CHARGE

VERDICT

1 (Court called to order.)
2 (Defendant is present.)
3 (9:11 a.m.)

4 (Jury present in the courtroom.)

5

6 THE COURT: Good morning, everyone. To the 16
7 deliberating jurors, have all 16 of you complied with my
8 instructions? The Court notes 16 affirmative responses.

9 Mr. Franco, I believe we're up to you.

10 MR. FRANCO: Thank you, your Honor.

11 CROSS-EXAMINATION

12 BY MR. FRANCO

13 Q. Good morning, Trooper.

14 A. Good morning.

15 Q. We concluded yesterday with direct examination,
16 and you were talking about the report you prepared, do
17 you recall that?

18 A. Yes.

19 Q. You started an inspection of an accident on
20 November 10, 2013, is that correct?

21 A. Yes.

22 Q. You came to the scene that night and you began
23 to take certain measurements?

24 A. Yes.

25 Q. You looked at the vehicles that were there?

A. Yes.

1 Q. You had the truck towed by CJ's Towing?

2 A. The tractor-trailer?

3 Q. Yes, sir.

4 A. Yes.

5 Q. You downloaded certain information from the
6 tractor-trailer?

7 A. Trooper Spencer did, not that evening.

8 Q. But it was done to help you compile your report?

9 A. Yes.

10 Q. The Jeep Grand Cherokee, you weren't able to
11 download anything from that car, were you?

12 A. No.

13 Q. Because the fire had completely destroyed that?

14 A. Well, it's not capable regardless of the fire.

15 Q. Now, sir, one thing you wanted to determine is
16 where the vehicles were at each point as it traveled
17 down the roadway close to the collision?

18 A. Yes.

19 Q. Another thing you wanted to determine is where
20 they ended up?

21 A. Yes.

22 Q. You downloaded certain information from the
23 tractor-trailer to determine the speed, is that fair to
24 say?

25 A. Among other things, yes.

1 Q. And speeds were important because you had to
2 determine where each vehicle or how that vehicle was
3 going down the road?

4 A. Yes.

5 Q. A preliminary determination you made --

6 MR. FRANCO: May I approach the chalk, your Honor?

7 THE COURT: Certainly.

8 BY MR. FRANCO

9 Q. Was that -- the tractor-trailer was in the
10 middle lane?

11 A. Yes.

12 Q. And did you download some speed data from that
13 tractor-trailer?

14 A. Yes.

15 Q. This was coming into Massachusetts from
16 Connecticut?

17 A. Yes.

18 Q. The speed limit in Connecticut was at 65?

19 A. Yes.

20 Q. As you're coming to Mass, at some point around
21 the collision it was 55?

22 A. In the middle of the collision it becomes 55,
23 yes.

24 MR. FRANCO: Your Honor, I would ask that a chalk
25 be marked for identification and use it on the video.

1 THE COURT: Okay.

2 THE CLERK: That would be D for identification.
3 (Exhibit D, Chalk, was marked for identification.)

4 BY MR. FRANCO

5 Q. Pretty hard to see back here.

6 A. It is.

7 Q. Would you like to come forward and take a look
8 at it?

9 A. I can read it right now.

10 Q. Okay. Did you take approximately 55 seconds of
11 data from that tractor-trailer?

12 A. Total data was 75 seconds.

13 Q. Okay. But there was a stretch prior to the
14 collision of 59 seconds that you downloaded?

15 A. I included the zero count. It would be 60, I
16 believe.

17 Q. Okay. Is it fair to say for 55 seconds the
18 tractor-trailer was going 70 miles an hour?

19 A. For the vast majority of it was 70. I don't
20 recall if it was 55, 54, but about that, yes.

21 Q. Okay. At a certain point in time, the foot comes
22 off the gas?

23 A. Yes.

24 Q. For three seconds the tractor-trailer
25 decelerates from 70 to 67 miles per hour?

1 A. Approximately.

2 Q. That's consistent with your finding?

3 A. Yes.

4 Q. One second prior to the impact, the braking
5 begins -- becomes engaged?

6 A. At the zero -- I believe at the zero reading, the
7 brake was on. So at some point, I believe it was at the
8 one second prior to impact, at some point in that last
9 second, braking occurred.

10 Q. Pretty much in the last half second, right?

11 A. You can't say that.

12 Q. Okay. The truck decelerated from 67 miles per
13 hour to 60 miles per hour?

14 A. Yes. The one second -- the one second prior
15 reading was 67, the zero reading was 60. The date could
16 be asynchronized meaning not exactly lined up, but yeah,
17 that's what the data says.

18 Q. Is this consistent with your examination in
19 mind?

20 A. Yes. I believe my report, if he was going --

21 Q. What page do you want us to refer to?

22 A. In my report?

23 Q. Do you have your report?

24 A. I do.

25 Q. Would you tell us what page you would like to

1 refer to? I'm not going to ask you to read it to me at
2 this point.

3 A. Page 13 at the bottom.

4 Q. On page 13 you lay out the facts coming up to
5 that point?

6 A. Yes, in that whole section.

7 Q. Now, when the tractor-trailer struck the Jeep
8 vehicle, it didn't stop right then and there, right?

9 A. Instantaneously, it can't stop --

10 Q. In fact, it's sliding, it's trying to stop?

11 A. Yes.

12 Q. Did you come to the conclusion in your report
13 that it was trying to go off into the left, away from
14 the Jeep?

15 A. Yes, that was the direction of steering.

16 Q. In fact, your examination was consistent with
17 the Jeep being hit on the left rear?

18 A. Yes.

19 Q. That's what caused the clock rotation?

20 A. Yes. The principal direction of force being to
21 the left from the center of mass.

22 Q. You determined that the Jeep had been braking
23 and was doing less than 30 miles per hour?

24 A. At the time of impact, I did not know if it was
25 braking the entire -- there's no evidence of the Jeep,

1 whether it had been going at a low speed and made a lane
2 change or if it had been braking and changing lanes at
3 the same time.

4 Q. But you did determine that a lane change was
5 made in 1.9 seconds?

6 A. That would be -- an evasive lane change would
7 take 1.9 seconds independent of speed.

8 Q. In conclusion with your report, you had the Jeep
9 traveling in the right lane?

10 A. Yes.

11 Q. And 1.9 seconds it had made an evasive lane
12 change in front of the tractor-trailer?

13 A. That's how long it would take it to make a lane
14 change.

15 Q. That's consistent with your conclusion?

16 A. Yes.

17 Q. The tractor-trailer was decelerating from 60?

18 A. Yes.

19 Q. The Jeep was doing less than 30 miles an hour,
20 according to your report?

21 A. Yes, that was the absolute minimum that --

22 Q. Now, the impact and the kinetic injury -- energy
23 from the truck gets compelled -- gets propelled into
24 the Jeep?

25 A. Yes.

1 Q. And is that what caused the Jeep, initially, to
2 start spinning?

3 A. Yes, transfer of energy. Yes.

4 Q. When the Jeep started spinning, sir, it didn't
5 hit any other vehicle in the road when it started?

6 A. Correct.

7 Q. It, in fact, came over to the guardrail, struck
8 the guardrail?

9 A. Yes.

10 Q. Hitting no vehicles there?

11 A. Correct.

12 Q. And then you said it came to rest against what
13 you believe to be the pickup truck?

14 A. It made impact with the pickup truck and --

15 Q. And according to your calculations --

16 A. -- restitution -- the small amount of restitution
17 there, it would have come to final rest in close
18 proximity.

19 Q. And made that impact in less than, according to
20 you, five miles per hour?

21 A. The Jeep would have -- I believe the Jeep was
22 going faster than five miles an hour. The change in
23 velocity for each vehicle, the pickup truck was less
24 than five. The Jeep would be slightly more than five
25 miles an hour.

1 All the energy that came in the that secondary
2 impact or tertiary impact was possessed by the Jeep
3 initially. So the Jeep brought the speed in probably
4 ten, eleven miles an hour. At impact the pickup truck
5 would be accelerated four miles an hour. The Jeep would
6 be decelerated about six miles an hour.

7 Q. You took no measurements or did any further
8 tests on the Jeep tailgate, correct?

9 A. That was not feasible.

10 Q. You didn't do it?

11 A. No.

12 Q. The Jeep was available to you at the police
13 garage, correct?

14 A. Yes.

15 Q. Or --

16 MR. FORSYTH: Objection, your Honor.

17 THE COURT: He can have it.

18 MR. FORSYTH: Just for clarification.

19 MR. FRANCO: My mistake.

20 THE COURT: Thank you.

21 BY MR. FRANCO:

22 Q. The pickup truck was available to you at the
23 impoundment yard, correct?

24 A. Yes.

25 Q. Thank you.

1 Now, your report, I believe we used that as an
2 exhibit at some point.

3 Now, Trooper, did you assist the sergeant in
4 preparing this diagram?

5 A. I prepared that diagram.

6 Q. And fair to say that around this area here is
7 where the impact took place?

8 A. Yes.

9 Q. This path, the guardrail and down, was the
10 Jeep's path?

11 A. Yes.

12 Q. The tractor-trailer continued on into the
13 left-hand lane, correct?

14 A. Yes.

15 Q. And no other vehicles impacted in this path
16 here?

17 A. Not that we know of, no.

18 Q. And it was approximately 138 feet until the Jeep
19 came to a stop?

20 A. That sounds about right, yes.

21 Q. You made some conclusions in your report,
22 correct?

23 A. Yes.

24 Q. One of them that vehicle one is slow and
25 stopping, correct?

1 A. The tractor-trailer --

2 Q. Yes, sir.

3 A. -- that it slowed and stopped, yes.

4 Q. After the impact, it still had brakes on and
5 came to a stop?

6 A. Yes.

7 Q. That vehicle number three, which would have been
8 the pickup truck, is not moving?

9 A. Correct.

10 Q. Vehicle number two, which would be the Jeep, was
11 spun around 180 miles per hour?

12 A. No, 180 degrees.

13 Q. Absolutely. 180 degrees?

14 A. Yes.

15 Q. It was decelerated?

16 A. After impact, it decelerated, yes.

17 Q. Actually, upon impact, it accelerated a bit and
18 then decelerated?

19 A. Correct.

20 Q. Immediately upon impact, the Jeep's fuel system
21 integrity was compromised?

22 A. Yes.

23 Q. It burst into flames?

24 A. At some point after impact, yes.

25 Q. There was a break in the body underneath?

1 A. I saw that at a later inspection, yes.

2 Q. The fuel went into the Jeep and outside the
3 Jeep?

4 A. I don't know how far the -- the fuel spread but I
5 do know it entered the passenger compartment.

6 Q. Your findings was consistent with a motor
7 vehicle being burned from inside and outside?

8 A. I'm not a fire marshal. What I saw, yes.

9 Q. You called the fire marshal in?

10 A. Yes.

11 Q. You consulted with him?

12 A. Yes.

13 Q. That's consistent?

14 A. Yes.

15 Q. At some point in time did you determine there
16 had been a recall on the Jeep vehicle?

17 A. Yes.

18 Q. And is it fair to say that the recall was
19 because the gas tanks had a tendency to explode in
20 rear-end collisions?

21 A. Yes.

22 Q. You didn't know that at the time, did you, sir?

23 A. At the time of the crash, no.

24 Q. Okay. Do you see this vehicle that's up on the
25 screen?

1 A. Yes.

2 Q. Sergeant, do you recognize that as any type of
3 vehicle?

4 A. Looks consistent with a Jeep Grand Cherokee.

5 Q. This portion that's in yellow here or orange,
6 can you see that?

7 A. Yes.

8 Q. Do you know what that is?

9 A. I believe that's the location I expect the gas
10 tank to be.

11 Q. And you see this area under here that's silvery
12 color?

13 A. Yes.

14 Q. Do you know what that is?

15 A. I'm not sure. That may be the rear differential
16 and the rear axel.

17 Q. The Jeep you inspected had damage to that area?

18 A. Yes.

19 Q. The damage was consistent with the rear bumper
20 coming down, the gas tank rupturing --

21 What's the gas tank made out of?

22 A. Some sort of plastic.

23 Q. -- and being pushed into the rear axel, is that
24 correct?

25 A. Yes.

1 Q. And did you determine that was the source for
2 the fire?

3 A. My understanding is, yeah, that's where the
4 accelerant for the fire came from, the gas tank. That's
5 where the gas was injected into the passenger
6 compartment from.

7 Q. On page 17 of your report you made a number of
8 conclusions?

9 A. Okay.

10 Q. Do you recall that?

11 A. If I may?

12 Q. Certainly. Certainly.

13 A. Yes, in my conclusions.

14 Q. Number B -- 15B, no adverse lining contributed
15 to this accident?

16 A. Correct.

17 Q. Vehicle two was northbound on I91 in the right
18 lane?

19 A. Yes.

20 Q. Vehicle number one was northbound on I91 in the
21 center lane?

22 A. Yes.

23 Q. Vehicle number two, looking at G now, sir,
24 vehicle number two slowed and changed lanes from the
25 right to the middle lane, correct?

1 A. Yes.

2 Q. Vehicle one slowed; two intruded into its path?

3 A. Yes.

4 Q. Operator one did not have sufficient time to
5 brake?

6 A. Yes.

7 Q. Now, a tractor-trailer has a great deal of mass
8 coming down the highway. The braking didn't occur for
9 at least three seconds, correct?

10 A. Approximately three seconds, yes.

11 Q. Point of impact, vehicle one was traveling
12 approximately 60 miles per hour?

13 A. Yes.

14 Q. Vehicle two ignited almost immediately upon
15 impact?

16 A. Following impact, yes.

17 Q. Vehicle number two was the subject of a National
18 Highway Transportation Safety Administration
19 investigation and recall?

20 A. Yes.

21 Q. That recall was for fire-related accidents?

22 A. Yes.

23 Q. While struck from the rear?

24 A. Yes.

25 Q. There were no defects in the roadway that

1 contributed to this accident?

2 A. Correct.

3 Q. It is believed that vehicle number one and
4 vehicle number two were familiar with the roadway?

5 A. Yes.

6 Q. Now, in regards to operator of vehicle number
7 one and number two, is it customary, when there's a
8 collision, a serious one, to do a look back, an
9 investigation into them, 24-hour look back?

10 A. As far as -- and look back?

11 Q. See when they slept last, when they ate last,
12 what medications they were on, things of that nature?

13 A. That's truck team with the logbooks.

14 Q. That's nowhere in your report, correct?

15 A. Correct.

16 Q. We don't know when the tractor-trailer driver
17 slept or ate last?

18 A. Again, that would be truck team. Trooper Ferrara
19 would have looked at that.

20 Q. Operator two should have been familiar with the
21 roadway?

22 A. Yes.

23 Q. He had gotten his license three and a half
24 months prior?

25 A. Yes.

1 Q. A finding you made. No measurements were done on
2 the body of the Jeep vehicle to determine how much
3 metal fatigue was caused by the fire?

4 A. I'm not a metallurgist.

5 Q. No measurements as to warping or any of that?

6 A. No.

7 MR. FRANCO: Thank you very much, Sergeant.

8 THE WITNESS: Thank you, sir.

9 THE COURT: Mr. Forsyth, anything further?

10 MR. FORSYTH: No, your Honor.

11 THE COURT: All right. Thank you, Sergeant. You
12 may step down, sir.

13 THE WITNESS: Thank you, your Honor.

14 THE COURT: Mr. Forsyth, you may call your next
15 witness.

16 MR. FORSYTH: Commonwealth will call Dr. Welton.

17 ROBERT WELTON, (SWORN)

18 DIRECT EXAMINATION

19 BY MR. FORSYTH

20 Q. Good morning.

21 A. Good morning.

22 Q. Please state your name for the record, spelling
23 your last name.

24 A. My name is Robert Welton, W-E-L-T-O-N.

25 Q. And what is your occupation, sir?

1 A. I'm a medical examiner with the Commonwealth of
2 Massachusetts.

3 Q. And how long have you been employed with the
4 Officer of the Chief Medical Examiner?

5 A. Approximately a year and a half.

6 Q. Where do you have your medical degree from?

7 A. I have my medical degree from the University of
8 Illinois at Chicago.

9 Q. One second, sir. Did you have occasion to
10 become involved in the case of Skyler
11 Anderson-Coughlin.

12 A. I did.

13 Q. And how did you become involved, sir?

14 A. I was asked to review the case prior to this
15 trial.

16 Q. And the autopsy was performed on November 12,
17 2013?

18 A. Correct.

19 Q. And is that normal to have a, if death occurred
20 on the 10th, for an autopsy to occur on the 12th?

21 A. It is. It's not unusual for that to occur, yes.

22 Q. And Mr. Skyler Anderson-Coughlin would have been
23 transported, in a case like this, and through the
24 records, from the scene directly to the Office of the
25 Chief Medical Examiner, correct?

1 A. That's correct.

2 Q. And he would be kept there under the -- under
3 the supervision of the chief medical examiner's office?

4 A. Correct.

5 Q. And did you perform the autopsy or did another
6 doctor?

7 A. Another physician performed the autopsy.

8 Q. Who was that?

9 A. Dr. Renee Robinson.

10 Q. And where is Dr. Renee Robinson?

11 A. She is currently working as the medical examiner
12 in the state of Ohio.

13 Q. Did you have an opportunity to review her
14 autopsy report?

15 A. I did.

16 Q. And did you review anything else?

17 A. I reviewed the photos that Dr. Robinson had taken
18 during the autopsy as well as the toxicology report.

19 Q. And so you went over everything, you looked at
20 her report, looked over all the notes and all the
21 photos and toxicology report yourself?

22 A. That's correct.

23 Q. Did you formulate your own conclusion or did you
24 base your conclusion off hers?

25 A. I formulated my own conclusion.

1 Q. In regards to the toxicology report, any there
2 any findings regarding Skyler Anderson-Coughlin?

3 A. The only positive result on there was for
4 carboxyhemoglobin.

5 Q. What is carboxyhemoglobin?

6 A. Carboxyhemoglobin is -- it's the measurement of
7 the amount of carbon monoxide that is bound to your
8 hemoglobin which is the blood -- the oxygen-carrying
9 molecule in your blood.

10 Q. How does that get in the bloodstream?

11 A. It can be inhaled. It's the most common way.

12 Q. And what are the ways that -- how does someone
13 come in contact with this substance?

14 A. Carbon monoxide is usually generated when you
15 burn fossil fuel types -- types of things like oils,
16 gases, anything that has sort of a carbon base to it.

17 Q. And how much was the -- how much saturation was
18 there from inhalation?

19 A. I believe it was 7 percent.

20 Q. Is that a lot?

21 A. No.

22 Q. What sort of -- what sort of levels do you have
23 in individuals that are smokers?

24 A. Heavy smoker, if you read the literature, a heavy
25 smoker would have anywhere from about 8 to 10 to 12

1 percent carboxyhemoglobin.

2 Q. In this case, did you form a conclusion as to
3 how the carboxyhemoglobin got into Skyler
4 Anderson-Coughlin's system?

5 A. Yes.

6 Q. How was that?

7 A. Inhalation of smoke and products of combustion
8 from the fire.

9 Q. Back up for a moment. Skyler Anderson-Coughlin,
10 how was he identified?

11 A. He was identified through dental records.

12 Q. And what sort of -- did you notice any injuries
13 regarding Mr. Skyler Anderson-Coughlin on his body?

14 A. Thermal injuries.

15 Q. What are thermal injuries?

16 A. Thermal injuries are varying levels of burns that
17 can be obtained by exposure to heat and fire. Those
18 were noticed on the body.

19 Q. How much of Skyler Anderson-Coughlin's body
20 suffered thermal injuries?

21 A. A hundred percent.

22 Q. And he had some -- did he have any other
23 injuries to the wrist area?

24 A. Dr. Robinson had described and the photos showed
25 what is called a pugilistic positioning. Basically it

1 looks like -- it's called the boxer's position. You see
2 that commonly with burn victims.

3 Q. And what causes that?

4 A. It's caused as the muscles burn and sort of
5 dehydrate, they contract and your muscle that flex your
6 body are stronger than the ones that extend, so you get
7 that sort of flexion position.

8 Q. And can that cause any sort of breaks in the
9 wrist?

10 A. It can.

11 Q. And based on the amount of carboxyhemoglobin
12 that was in his system, was it a long interval or short
13 interval that Mr. Skyler Anderson-Coughlin inhaled
14 this -- inhaled this smoke?

15 A. In my opinion, it would have been a short.

16 Q. And did you formulate your own conclusion as to
17 what would cause the death to Skyler Anderson-Coughlin?

18 A. I did.

19 Q. What was that, sir?

20 A. Thermal and inhalational injuries.

21 Q. In layman's terms, he died from the fire and
22 breathing in the smoke, correct?

23 A. Correct.

24 Q. There was no other injuries noted by Dr.
25 Robinson or your viewing of the photos themselves to

1 Mr. Skyler Anderson-Coughlin?

2 A. No, there were not.

3 MR. FORSYTH: Your Honor, I have no further
4 questions.

5 THE COURT: Mr. Franco.

6 CROSS-EXAMINATION

7 BY MR. FRANCO

8 Q. Doctor, just to be abundantly clear, all
9 injuries this young boy suffered are as a result of a
10 fire?

11 A. Correct.

12 Q. No other injuries?

13 A. None that were noted.

14 Q. Thank you very much.

15 THE COURT: All set?

16 MR. FORSYTH: All set.

17 THE COURT: Thank you, Doctor. You may step down,
18 sir.

19 THE WITNESS: Thank you.

20 THE COURT: Mr. Forsyth.

21 MR. FORSYTH: The Commonwealth would be resting at
22 this time.

23 THE COURT: Commonwealth rests.

24 Ladies and gentlemen of the jury, there's
25 matters I need to take up outside of your hearing. We'll

1 take a break at this point. Again, please do not
2 discuss this case during this recess. Please follow the
3 court officers.

4 (Jury not present in the courtroom.)

5 MR. FRANCO: Your Honor, I have a motion for
6 required finding. I can't put my hands on the renewed
7 right now but I'll scratch that out. Perfunctory motion,
8 but it's not, I don't believe in nature.

9 THE COURT: I'll hear you.

10 MR. FRANCO: I believe it's a substance motion,
11 your Honor. I won't go into Latimore. I won't go into
12 reasonable doubt. I'm going to go into facts.

13 The only evidence in this case is that he
14 was in a motor vehicle on the side of the road. There
15 had been some evidence that a couch flipped up, cars had
16 slowed. He went and got that couch along with Mr.
17 Perez. They pulled it to the side of the road.
18 Approximately a short time later a car comes and spins
19 out, and there may be lights coming down the road
20 shining on the road. Everybody is over in the left-hand
21 lane.

22 At some point in time, the testimony from
23 Mr. Diaz is approximately a minute, and from Ms.
24 Arrowsmith and her daughter, they were gone, that
25 Mr. Anderson-Coughlin came down at least 136 feet prior

1 to where they were. He moved from the right lane to the
2 left lane. He was struck in the rear.

3 I'm going to suggest to you, your Honor, my
4 client was not involved in that accident, did not cause
5 that accident. Let's never mind superseding, intervening
6 causes, that's completely separate.

7 Mr. Anderson-Coughlin was coming down in a
8 vehicle that can't be described as anything but a
9 firetrap. It was struck from behind. The vehicle
10 engulfed in flames immediately and ended to the side of
11 the road, and, unfortunately, this young man's death.

12 But my client didn't cause that. There's
13 nothing the jury can find. They're not in the roadway at
14 the time. If there had been some negligence, they cured
15 it; they picked that couch up and got it out of the
16 road. The only thing in the road was that sofa up the
17 road.

18 Mr. Anderson-Coughlin could not have seen
19 anything in the road or traffic slowing down in front of
20 him because as his car is hit, it spun clockwise. It
21 comes down from the point of impact, doesn't hit
22 anything in the right lane because there's nothing
23 there. It hits the railing and spins again and comes the
24 other way up against the side of the road where my
25 clients were -- my client was, excuse me.

1 So the accident is 136 feet back. Any
2 negligence the Commonwealth can attribute to
3 Mr. Nieves-Cruz has ended. And it's just negligence.
4 It's not that high degree of reckless conduct.

5 Nobody knew how dangerous these cars were.
6 The state fire marshal didn't have knowledge that it was
7 so dangerous. Trooper -- Sergeant Pinkham who
8 investigates accidents for a living did not know that
9 these cars had gas tanks which is right underneath the
10 bumper and rupture routine. Nobody knew this.

11 So the reckless conduct, the high degree of
12 recklessness and wanton conduct is not there. There
13 might be some negligence in the couch flipping over, and
14 we don't know why it flipped over. The state police did
15 not keep the tarps to see if they failed, the ropes to
16 see if they failed. But even assuming for the purposes
17 of Latimore that it came out and it wasn't properly
18 loaded, this accident is much too attenuated.

19 I'm going to ask your Honor to find that my
20 client is not responsible for the death.

21 MR. FORSYTH: Your Honor, we would ask you to deny
22 the motion for required finding in this case.

23 Your Honor, Mr. Joel Nieves-Cruz overloaded
24 a pickup truck with too much furniture which caused the
25 tailgate to be down. You heard the description based on

1 his statement of how -- how he, in fact, tied this
2 furniture up, or the lack of a -- lack of how he tied it
3 up. He tied it not the body of the truck but to the
4 tailgate. Your Honor, obviously it was tied up and to
5 its capacity in which a couch he chose to flip out on
6 91.

7 The fact that the route -- Mr. Joel
8 Nieves-Cruz was the individual that was driving. He's
9 the one who loaded the furniture. He's the one who
10 chose the route to 384. He's the one that went on 91 at
11 a busy time and went up on the highway in the speeds
12 that it goes up to. You heard at some points 70 miles
13 an hour.

14 An individual -- he saw the couch flip off.
15 He then, also based on the lighting, the time of day,
16 the heavy traffic, this individual then decided there's
17 other debris in the roadway, ran out in the roadway to
18 retrieve these items.

19 Your Honor, you also heard testimony from at
20 least one civilian saying that Skyler Anderson-Coughlin
21 shifted lanes from lanes one to two because of debris in
22 the roadway. That debris, the jurors can infer that this
23 came from the defendant -- the defendant's truck.

24 This individual created a hazardous
25 situation. The amount of degree and whether or not it's

1 negligent, reckless, the jury can find either, it would
2 go to them to decide what degree of -- what degree of
3 culpability the defendant would have regarding the
4 manslaughter.

5 The defendant then subsequently fled. He
6 fled immediately. You heard from Derek Cormier that he
7 was there. You have the 911 -- you've got the dispatch
8 at 5:45. He was there in two to four minutes. In two
9 to four minutes he arrived. The car was -- the F150 was
10 already gone. This individual fled the scene.

11 There was contact. He created a hazardous
12 situation. Separate and distinct, there was a contact
13 and collision between the Jeep and the F150 and he
14 subsequently fled that area. He left that scene. He had
15 a duty and responsibility as the driver to remain, to
16 provide his information to law enforcement or someone at
17 the scene for his license, his registration. He
18 subsequently fled.

19 He also went to a location. He didn't go
20 directly to a hospital. He went to Acushnet Street and,
21 your Honor, some time passed before he went to the
22 hospital.

23 The totality of the circumstances based on
24 the actions of Mr. Joel Nieves-Cruz started back in
25 Willimantic, Connecticut; how he supposedly drove up on

1 the roadway to 384, to 91 with the overloaded truck,
2 tailgate down, and how he fastened the furniture on; and
3 it caused, not a small amount, but an entire couch to go
4 across the lanes. He caused a hazardous situation.

5 The recklessness can be shown through the
6 damage to Christian Diaz's car; the fact that Michael
7 Pallas had to take evasive action based on the action of
8 Joel Nieves-Cruz; and Skyler Anderson-Coughlin had to
9 change lanes based on the debris that was in the
10 roadway.

11 The defendant -- the jury could find the
12 defendant set forth a chain of events that caused the
13 death of Skyler Anderson-Coughlin. We do not need to
14 show that the defendant intended the conduct but that he
15 had -- did not have to attend -- not intend to cause the
16 death.

17 So in -- in this case, the defendant
18 intended the conduct to go on the highway with this
19 truck in this condition, and based on the Latimore
20 standard, we feel we met our burden.

21 THE COURT: Thank you both. After hearing, the
22 motion is denied.

23 MR. FORSYTH: Thank you.

24 THE COURT: Mr. Franco.

25 MR. FRANCO: I have an expert. I have to find him.

1 I believe he's in the building.

2 THE COURT: Do you expect that will be your
3 testimony, your evidence, the expert?

4 MR. FRANCO: Unless there's something unusual, yes.
5 There will be videos played during the course.

6 THE COURT: And what do you mean?

7 MR. FRANCO: Videos of tests of Jeeps to show how
8 the gas tank fails.

9 THE COURT: What's the length?

10 MR. FRANCO: The testimony won't be long. The
11 videos -- Attorney Parrelli, about ten minutes?

12 MR. PARRELLI: Maybe ten minutes.

13 THE COURT: You expect the entire testimony to be
14 approximately how long?

15 MR. FRANCO: An hour.

16 THE COURT: Okay. All right. All right. Let me do
17 this: Let me get off the bench and get you the proposed
18 -- the first draft of the jury instructions.

19 MR. FRANCO: We've been working.

20 THE COURT: Do you have something you want to give
21 me?

22 MR. FRANCO: Actually, it needs changes. So if your
23 Honor could look at yours and then have a charge
24 conference after.

25 THE COURT: All right. We'll take 15 minutes.

1 (Court recessed at 9:53 a.m.)

2 (Court reconvened at 10:30 a.m.)

3 (Jury present in the courtroom.)

4 THE COURT: Mr. Franco, call your first witness.

5 MR. FRANCO: Paul Sheridan, please.

6 PAUL SHERIDAN, (SWORN)

7 DIRECT EXAMINATION

8 BY MR. FRANCO

9 Q. Good morning, Mr. Sheridan.

10 A. Good morning.

11 Q. Please introduce yourself to the jury.

12 A. My name is Paul Victor Sheridan. I live in

13 Dearborn, Michigan.

14 Q. And, Mr. Sheridan, what do you do for a living?

15 A. Currently I'm s transportation safety consultant.

16 Q. Can you tell us your educational background?

17 A. In 1978 I graduated from the State University of

18 New York at Albany with a degrees in mathematics and

19 physics. When I finished my bachelor's degree at

20 Albany, I moved on to Cornell for a master's degree in

21 business administration, that's called an MBA. I have a

22 double degree from Cornell in general management and

23 business logistics.

24 Q. When you graduated from college, you became

25 employed in the automobile industry?

1 A. Immediately, yes.

2 Q. Tell us what company you first worked for.

3 A. The first company I was employed by was Ford
4 Motor Company.

5 Q. What were your duties at Ford Motor Company?

6 A. There were two major areas that I was responsible
7 for or assigned to, I should say. One was vehicle
8 product planning and the other one was power train
9 planning.

10 Q. When you first started with Ford, which one were
11 you assigned to?

12 A. The first vehicle I was assigned in 1980 was a
13 vehicle that at that time did not exist. It became known
14 as the Ford Taurus.

15 Q. What were your duties on the Ford Taurus?

16 A. As a product planner, our job is to put together
17 the document that everyone agrees to. It's called the
18 product plan.

19 The product plan is the guiding light, the
20 guiding document of the entire organization. It's what
21 everyone agrees to in terms of what engine will be in
22 the car, how big the car will be, who we intend to sell
23 it to. That's called the product planner.

24 As a product planner, it's part of our assignment
25 to make sure that document is up to date and distributed

1 among the relevant organizations inside Ford.

2 Q. And then, when you moved on to Ford, what was
3 your next assignment?

4 A. I moved to Chrysler Corporation in the early part
5 of 1984.

6 Q. And what were your duties at Chrysler
7 Corporation?

8 A. I had three main areas at Chrysler. The first
9 involved components engineering and planning. Then I
10 moved into the Dodge truck and Jeep engineering group.
11 Then I moved to the minivan group. Those are the three
12 main areas I was in at Chrysler.

13 Q. Minivan, Jeeps, trucks, things of that nature?

14 A. Yes.

15 Q. Are you familiar with the Jeep, Jeep Grand
16 Cherokee?

17 A. I did not work on the Jeep Cherokee. I worked in
18 the same organization where it was engineered.

19 Q. Are you familiar with it?

20 A. I'm very familiar with it.

21 Q. During the course of your employment with both
22 Ford and Chrysler, did you take any more training?

23 A. Yes. There were several seminars with the
24 Society of Automobile Engineers. So many I really can't
25 remember them all, but quality courses, quality control

1 courses. So the education in the profession world is
2 ongoing and I was part of that process.

3 Q. When you were with Chrysler Corporation, did you
4 receive any awards?

5 A. The chairman of the company at the time was a
6 Mr. Lee Iacocca. During his tenure in the automotive
7 industry, he's only given out the chairman's award three
8 times. It's a pretty big award and I was one of the
9 recipients of the Lee Iacocca chairman's award.

10 Q. During your employment at Chrysler Corporation,
11 did you become aware of the structure of the Jeep?

12 A. Yes.

13 Q. Did you become aware of the gas tank
14 positioning?

15 A. Yes.

16 Q. Please tell us a little about that.

17 A. In July of 1987, we, Chrysler Corporation, bought
18 American Motors. American Motors had as one of its
19 product the Jeep product. The Jeep engineers and the
20 Dodge truck engineers were merged into a larger
21 organization called Jeep and Dodge truck engineering.
22 We refer to that as JTE, Jeep/Truck Engineering. I was
23 on the Dodge side and the meetings that were held at JTE
24 covered all products.

25 So we were responsible and we learned about what

1 the -- I'll say the other guys were doing on the Jeep
2 side. They learned what we were doing. There was lots
3 of mixing and matching and collaboration and cooperation
4 between the Dodge and the Jeep people.

5 So it's in that context on the Dodge side that I
6 became very familiar with the Jeep product plan and the
7 Jeep engineering plan within JTE.

8 Q. Was that always harmonious, those two divisions?

9 A. Harmonious in terms of the cooperation at the
10 working level, yes. It was very, very -- we got along
11 just fine.

12 Q. At some point in time there was a look at the
13 Jeep and how it was made, is that correct?

14 A. Yes.

15 Q. Are you familiar with this vehicle?

16 A. Yes.

17 Q. Is this the Jeep Grand Cherokee?

18 A. Yes, it is.

19 Q. Is this the same vehicle that Skyler
20 Anderson-Coughlin was killed in?

21 A. Yes.

22 Q. What's the yellow part?

23 A. That's the fuel tank. It's made out of
24 polyethylene. It's a high-strength plastic. That's the
25 vehicle I help test in California. We painted the tank

1 yellow to make sure people could see it under the
2 vehicle.

3 Q. What is this back here?

4 A. That's the rear differential. It's a four-wheel
5 drive vehicle so you have a front differential that
6 powers the front wheels and that's the rear differential
7 for the rear wheels.

8 Q. And is this the crush zone between the bumper
9 and the rear differential?

10 A. Yes. The entire rear area up to whatever the
11 crush dimension happens to be depending how fast you're
12 going, that's called a crush zone.

13 Q. When you worked with Dodge trucks, where were
14 the gas tanks?

15 A. We had moved the fuel tank from that location in
16 prior years to the middle of the vehicle, driver's side.
17 It was tucked up inside the frame rails and you could
18 not see it. It was -- it was protected and wasn't in
19 what we would call a crush zone. We did the best we
20 could to protect the tank on board the Dodge. We moved
21 it to the middle.

22 Q. Show you Exhibit 16. Can you tell me what that
23 details?

24 A. That's a photographic I took at the Karco
25 Engineering test facility after the vehicle was hit at

1 40 miles an hour. We hit it with a Ford Taurus. What
2 you see coming out of the back of the vehicle in this
3 photograph is what we call Stoddard. It's very, very
4 similar to gasoline but it's nonexplosive. We emptied
5 the tank in that particular test in 90 seconds.

6 Q. When did this test take place?

7 A. That was May of 2011.

8 Q. Had there been a number of tests of Jeep
9 vehicles that you performed?

10 A. I was party to all of the tests conducted by the
11 Center for Auto Safety in terms of this investigation.
12 Some of the tests I attended and all of them I was party
13 to.

14 Q. Tell us about your work with the Center for Auto
15 Safety?

16 A. The Center for Auto Safety is a safety advocacy
17 group within Washington, D.C. They primarily work with
18 ground transportation systems, automotive and light
19 truck. They work very close -- they work very closely
20 with an agency called the National Highway Traffic
21 Safety Administration. We call that NHTSA. NHTSA is the
22 taxpayer-funded organization that looks out for us in
23 terms of auto safety.

24 CAS, or the Center for Auto Safety, is the group
25 that advocates for us with the government. I've been

1 associated with the Center for Auto Safety since about
2 1994. I'm a consultant to the CAC -- excuse me, CAS.
3 Sorry.

4 Q. During your tests, what did you determine about
5 this gas tank placement and design?

6 A. Our testing confirmed what we had discussed back
7 in the 1980s when we were discussing the new design for
8 the Jeep; that in real-world collisions, foreseeable
9 collisions, you will rupture the tank and it will leak.

10 Q. Are you aware of a NHTSA consent agree with
11 Chrysler Corporation?

12 A. Yes.

13 Q. What did it order them to do?

14 A. The consent order demanded that Chrysler recall
15 these Jeeps and fix them with an appropriate remedy.

16 Q. Was that voluntarily on the part of Chrysler?

17 A. No.

18 Q. How much did they get fined?

19 A. The fine, as part of the -- toward the end of the
20 investigation was \$105 million.

21 Q. And tell us what the data that you relied upon
22 in comparing your findings for the national Center for
23 Auto Safety entail?

24 A. Well, the data I relied upon is what we call
25 FARS, or the fatal accident reporting system. What we

1 look at is how many times the vehicle is involved in a
2 collision. The fatal accident meaning fatality, a death
3 has occurred. When we look at the data on the Jeep
4 Grand Cherokee, in our opinion between myself and the
5 Center for Auto Safety, has far outstripped any other
6 vehicle on the road in terms of rear-end collisions and
7 fatalities as a result of a thermal injury or a fire.
8 And that's why we petitioned the government to do the
9 investigation.

10 Q. Are you aware as a result of your work with the
11 Center for Auto Safety how many fatalities there have
12 been?

13 A. There's disagreement about how many fatalities
14 there have been. We think it's near 200. The government
15 officially recognizes roughly 70 people have burned to
16 death in accidents of this type or in accidents that are
17 simulated by this testing.

18 Q. Now, please go into specific details of how that
19 tank fails upon rear-end collisions?

20 A. The thing about the Jeep Grand Cherokee is
21 location and it's material selection is that it is not
22 protected from direct impact. There's no -- you can
23 actually walk up to the back of the Jeep and you can
24 kick it with your foot. So a vehicle collision involved
25 has direct impact with a plastic tank, there's no

1 chance, the tank has no chance.

2 Q. Did you -- let me rephrase this question.

3 How was this vehicle struck?

4 A. That vehicle was struck at 40 miles an hour with
5 a Ford Taurus, and we concentrated on the left rear
6 side, the driver's side rear of the vehicle to
7 determine -- to determine whether or not it would fail
8 in that mode; and when we hit it, the gas -- the
9 Stoddard, the gas I'll call it, became -- it began
10 coming out immediately.

11 Q. How was that struck, describe it.

12 A. In other words, the vehicle that we used to
13 propel into the target vehicle, we call that a bullet,
14 we come down a catapult. We drag it on a chain and it
15 hits the vehicle. We call it a T equals zero, at time
16 zero. It's at 40 miles an hour. We have lots of
17 instrumentation. We had three cameras around taking a
18 thousand frames a second. The cameras are screaming as
19 soon as the test goes off. We have about 6,000 frames of
20 this test.

21 Q. How many other tests did you employ?

22 A. On the Jeep Grand Cherokee, I believe we had
23 three or four additional tests. We also had some
24 competitive tests. We tested competitive SUVs.

25 Q. What other SUVs did you test?

1 A. Say that again, Counsel.

2 Q. What other SUVs did you test?

3 A. We also tested the Ford Explorer.

4 Q. How did that perform?

5 A. In each test, which was much more severe than
6 this one, the Ford Explorer had zero leakage and zero
7 chance of fire. When I say more severe, this test was at
8 40 miles an hour. The first Ford Explorer test was at
9 70. And the second Ford Explorer test was at 75. In
10 neither of those tests did the Ford Explorer leak any
11 gas.

12 Q. Did you try to go faster?

13 A. We did. We have a facility at the University of
14 Virginia and the fastest the facility could provide us
15 with in terms of a bullet speed was 75. We wanted to hit
16 it at a hundred to make our point, but the best we could
17 do was 75. We hit it as hard as we could, meaning the
18 Ford Explorer, and it did not leak.

19 Q. How does that compare with the Jeep?

20 A. In terms of survivability, the Ford Explorer
21 would be survivable in a typical rear-end collision. You
22 will not have thermal injury all the way up to our test
23 of 75 miles an hour.

24 Q. I'd like you to describe a little bit about your
25 review of the accident reconstruction report regarding

1 Skyler Anderson-Coughlin's motor vehicle, his Jeep.

2 A. From what I could tell from the documents I read
3 in this accident, if Skyler was in an alternative SUV,
4 anything but the Jeep Grand Cherokee, there would not
5 have been a fire.

6 Q. How did this fire start?

7 A. It's difficult to determine the ignition source
8 because there's so many, especially in a nighttime
9 accident. What I mean by that is as a vehicle is
10 slowing, the person has his foot on the brake.
11 Headlights are on. So when the collision takes place,
12 and these are just minor examples, as the collision
13 takes place, there's sparks going everywhere. Taillights
14 are sparking. Headlights are breaking. They're
15 sparking. The filament inside the headlight is very,
16 very hot and the front of an -- in this instance it was
17 a truck. You have a hot engine. There's lots of ways
18 that sparks can occur.

19 But the only source of the gasoline in this
20 accident was the Jeep Grand Cherokee fuel tank. The most
21 important aspect of the collision is where did the fuel
22 come from and that came from the Jeep fuel tank.

23 Q. Mr. Sheridan, was this information made known to
24 the general public in November of 2013?

25 A. There were attempts to make it available to the

1 public but it was not made public by Chrysler.

2 Q. Did Chrysler resist?

3 A. Yes.

4 Q. Did you look at the underneath, not personally
5 but from the photos you reviewed, of Skyler
6 Anderson-Coughlin's Jeep?

7 A. I did look at photographs, yes.

8 Q. Was there a beach in the underneath of the body?

9 A. From the photographs I could -- that I looked at,
10 it appeared as though the rear wheel well had split
11 open. That's not uncommon in those vehicles. They do
12 split open in a collision that's off to the driver's
13 side in the rear. That appears, from the photographs I
14 looked at, to look like the path that the gas came into
15 the vehicle and coated everything inside the vehicle,
16 including Skyler.

17 Q. How is that floor held together in a Jeep
18 vehicle?

19 A. In the '90 -- in the 1998 Jeep Grand Cherokee --
20 I almost said ZJ because in engineering we call them ZJ.
21 We don't call them Jeep Grand Cherokee, we call them ZJ.
22 But some portions of that rear structure are held
23 together with spot welds and the rest is held together
24 with high-grade adhesives which don't do well in fires.

25 Q. Have you provided us with some videos of the

1 testing here today?

2 A. Yes.

3 Q. Okay. Describe what's in this picture?

4 A. That is the aftermath of our 40-mile-per-hour
5 impact test to the rear of a Grand Cherokee in
6 California. That test took place in May of 2011. I'm on
7 the phone to the -- to the driver's side of that
8 vehicle. You can just barely see me there above the man
9 who has the orange helmet who is working on the vehicle.

10 Q. Right in this area, sir?

11 A. That's me, yes.

12 Q. You were physically present when these tests
13 were done?

14 A. Yes. My role in the tests for the Center for Auto
15 Safety was to authenticate the vehicle, make sure it was
16 representative, make sure it wasn't rotten or rusting,
17 make sure there was no revisions to the vehicle. And I
18 was present and I basically managed that test.

19 But that particular photograph you just saw, the
20 engineers, the technicians are trying to save -- I
21 mentioned earlier that substance called Stoddard. It's
22 what we use in the fuel tank to keep the fire from not
23 happening. We don't want to use gas. But it's very
24 expensive. So the engineers are trying to save the
25 Stoddard because we were all somewhat startled with the

1 fact that it was pouring out of the tank. So they're
2 scrambling to try and save the Stoddard. It's about \$30
3 a gallon.

4 MR. FRANCO: Your Honor, at this time I would move
5 as the next exhibit the photographs we were just shown.

6 MR. FORSYTH: No objection.

7 THE COURT: May be marked.

8 THE CLERK: Exhibit 22.

9 (Exhibit 22, Photographs, was marked as an exhibit.)

10 BY MR. FRANCO

11 Q. We'd like to show you a series of videos.
12 Before we put them on, can you briefly tell us what
13 they depict?

14 A. We hit a Jeep Grand Cherokee, I believe it was at
15 50 miles an hour, at the University of Virginia. We hit
16 it with a Ford Taurus station wagon, and in that test
17 the fuel tank failed. And one of the more dramatic
18 portions of the video that we will show you is as the
19 tank is being crushed in what counsel referred to as the
20 crush zone, the tank pressurizes, and the fill cap,
21 which is on the driver's side of the Jeep, the fill cap,
22 it actually, as it pressurizes, the fill cap bursts off
23 of the fill tube that goes down to the tank and you can
24 see the Stoddard, one aspect of Stoddard because it has
25 small reflective particles in it, and you can see the

1 silvery particles blowing out of the tank.

2 So that's the one test we did. Then we also have
3 on the DVD, we have the test of the Ford Explorer which
4 we -- this particular test was at 70 miles an hour.
5 There's no leakage from the tank. That was reported to
6 the United States government. As a matter of fact, after
7 the Ford Explorer test, the United States government was
8 present. We invited Chrysler but they didn't come.

9 Q. These videos we're going to see are of tests --
10 the Jeep vehicle being the target vehicle, and others,
11 the Ford Explorer?

12 A. Also, I believe we have on the DVD the test we
13 showed you in those photographs, the test that I was
14 present on in California. I believe that's on the CD as
15 well.

16 Q. Okay.

17 MR. FRANCO: Attorney Parrelli, please.

18 At this time, your Honor, we would like to
19 play the video for the jury.

20 (Playing DVD)

21 MR. FRANCO: Can we stop that.

22 BY MR. FRANCO

23 Q. What vehicle is that?

24 A. That's a Ford Explorer.

25 MR. FRANCO: Mr. Parrelli, please.

1 BY MR. FRANCO

2 Q. Any leakage on that vehicle?

3 A. Not on the Ford Explorer. There was zero leakage
4 from the fuel tank.

5 Because I can't see well as I used, would someone
6 mind if I --

7 MR. FRANCO: Your Honor, is that all right?

8 THE COURT: Yes.

9 THE WITNESS: I want to make sure I'm not saying
10 it's the Ford. The Jeep was red and the Ford Explorer
11 was red. Okay.

12 MR. FRANCO: Let's run the last one back so we have
13 certainties. Stand right here. Can we start that one
14 over, please, Attorney Parrelli. Stand right here.

15 BY MR. FRANCO

16 Q. Again, what vehicle was that?

17 A. As far as my eyes can tell, that's the Ford
18 Explorer. My eyes aren't what they used to be.

19 Q. Was there any leakage there?

20 A. No. This was at the University of Virginia.

21 MR. FRANCO: Next one, please. Stop. Can you stop
22 it.

23 BY MR. FRANCO

24 Q. What's this, Mr. Sheridan?

25 A. Sorry. Say that again.

1 Q. What's this debris that's up here?

2 A. Most of that is glass.

3 Q. Okay. Not gasoline?

4 A. No, it's not gasoline.

5 Q. Or Stoddard?

6 A. Correct.

7 MR. FRANCO: Please.

8 THE WITNESS: Can I ask a question, a quick
9 question. I just want to make sure it's on the list as
10 I stated.

11 MR. FORSYTH: Objection, your Honor.

12 THE WITNESS: I'm sorry, your Honor.

13 MR. FRANCO: May we just have a moment?

14 THE WITNESS: Okay. See it is. That is the correct.

15 MR. FRANCO: Okay.

16 THE WITNESS: Sorry. In this particular test, we're
17 emphasizing the driver's side rear corner where these
18 vehicles are vary vulnerable. That is the Ford Explorer.
19 In the 70-mile-an-hour hit, we did not have any leakage
20 whatsoever from the Ford.

21 Q. Before we start, what vehicle is that?

22 A. That one is the Jeep Grand Cherokee.

23 Q. That's similar in nature to the car that Skyler
24 Anderson-Coughlin was driving?

25 A. To the best of my knowledge, that's an exact

1 duplicate in terms of configuration and components.

2 Q. Thank you.

3 MR. FRANCO: Stop. Stop.

4 THE WITNESS: This is where I refer to this is
5 where the gas filler cap has burst off the back of the
6 vehicle, off the fuel tank. The tank has compressed and
7 it's basically popping.

8 MR. FRANCO: Can you back that up just a couple
9 frames. Right there, please. Play that again. Stop.
10 Stop.

11 BY MR. FRANCO

12 Q. What are we seeing in this picture?

13 A. That's -- that's Stoddard going everywhere. This
14 all Stoddard here.

15 Q. Would you point to the Stoddard and show us the
16 glass also.

17 A. It's difficult to do. Some of the -- the rear
18 right -- we call it L-I-T-E -- the rear light is popped
19 out and it's all shattered. It's very difficult to see
20 but there is a mix of Stoddard and glass in this photo.

21 Q. That's Stoddard in the glass?

22 A. Well, yes. See, in these tests as well as -- in
23 these tests we do have Stoddard going back over the
24 bullet vehicle as well.

25 Q. What is this blue stuff over on top of the

1 Taurus?

2 A. I think it's components from the Taurus but I
3 don't know.

4 Q. There's a mixture of Stoddard, which would be
5 the gas?

6 A. Yes.

7 Q. And glass?

8 A. Yes.

9 Q. Okay. By the way, how fast was that?

10 A. This was at 50 miles per hour.

11 Q. Okay. Next test.

12 MR. FRANCO: Move forward. Stop.

13 THE WITNESS: This is the test with --

14 MR. FORSYTH: Objection, your Honor. There's no
15 question.

16 THE COURT: Go ahead.

17 BY MR. FRANCO

18 Q. Would you identify the vehicles in this test,
19 please?

20 A. This is the test of May 2011 involving the Ford
21 Explorer and the Jeep Grand Cherokee which was
22 configured very similar to Skyler Anderson's Jeep. This
23 took place in California and this test took place at 40
24 miles an hour.

25 Q. Okay.

1 MR. FRANCO: Attorney Parrelli. Stop. Stop,
2 please.

3 BY MR. FRANCO

4 Q. Can you tell us what we're seeing at this point
5 in the presentation?

6 A. What has happened at this point in the crash
7 test, you notice the vehicle has not moved very far. It
8 hasn't moved off to equal zero. It hasn't moved very
9 far. But at this point and it's, in my analysis, a
10 detailed frame-by-frame analysis of this test, long
11 before .112 seconds, long before a tenth of a second in
12 this crash test, the fuel tank in the Jeep has already
13 been compromised. In my calculations, it actually took
14 place at 0.053. So in five-hundredths of a second into a
15 40-mile-an-hour crash, the tank is already leaking.

16 MR. FRANCO: Play a little more of that, please.
17 Please stop.

18 BY MR. FRANCO

19 Q. What are we seeing in the rear area?

20 A. What happens in a collision is that energy is
21 transferred from the offending vehicle into the victim
22 vehicle, and at some point in the crash we have what's
23 called separation. You're going to notice as the test
24 continues, as the video continues, the vehicles, it's
25 called a separation point, it begins separating.

1 It's at that point that we have what we call the
2 change in speed. The Jeep went from zero in this test to
3 roughly 21 miles an hour. We call that delta-v. You
4 should be able to survive at 21 delta-v with no
5 problems.

6 In this particular test, the tank is already
7 beginning to empty. You can't see it in this camera
8 view but in the top-down view we'll be able to see it.

9 Q. Okay.

10 MR. FRANCO: Play this out, please. Let's go back
11 and play it through. I'm sure the jury wants to see it
12 all. Stop, please.

13 BY MR. FRANCO

14 Q. Can you tell us -- can you describe to us what
15 we're seeing in relation to the Ford Taurus and the
16 Jeep Grand Cherokee.

17 A. I mentioned earlier the data point of 0.053.
18 We're at 0.085. We're well into reaching the tank. The
19 Taurus has made direct collision contact with that
20 yellow tank. This vehicle has the yellow tank. And so
21 we're still in the early collision sequence and we
22 haven't separated yet but the tank is already
23 compromised.

24 MR. FRANCO: Attorney Parrelli, please.

25 BY MR. FRANCO

1 Q. What are we seeing back here, Mr. Sheridan?

2 A. At this point, although we will see as the test
3 continues, the Stoddard which was dyed purple is coming
4 out of the vehicle. Both vehicles are on top of the
5 stain that was put on the concrete. So we're at -- we're
6 approaching the separation point. The vehicles are
7 separated.

8 MR. FRANCO: Okay. Stop it.

9 BY MR. FRANCO

10 Q. In this area here, what are we seeing?

11 A. Now you're seeing -- this purple Stoddard, that
12 wasn't there. If you went back, you can see. We'll get a
13 better view in a moment. But this is the Stoddard
14 whisking out of the back of the Jeep. It was dyed purple
15 so we could see it.

16 Q. How long are we into this crash?

17 A. Less than a second.

18 MR. FRANCO: Attorney Parrelli, please. Stop,
19 please.

20 BY MR. FRANCO

21 Q. What are we seeing here?

22 A. In the aftermath of the test, we can now go back
23 in time, there are two breaches of the Jeep Grand
24 Cherokee fuel tank. These two lines right here are the
25 purple Stoddard being ejected out of the tank. That's

1 stain went all the way with the Jeep until the tank was
2 empty.

3 MR. FRANCO: Attorney Parrelli. Stop, please.

4 BY MR. FRANCO

5 Q. Would you identify the vehicles in this.

6 A. This is -- this is the third camera view. As I
7 mentioned earlier, we had three cameras. This is the
8 front three-quarters view.

9 In my opinion, there wasn't much incrementality
10 here except for a very important item, and that is at
11 0.057 roughly, you can see that the energy from the
12 bullet vehicle is already affecting the ability of the
13 doors to open and close. We're going into -- we're going
14 into a jammed situation. There is no emergency egress.
15 By the time we hit 0.073, all four doors on this vehicle
16 were jammed and you cannot get out, not through the door
17 opening anyway.

18 Q. Is there another test that's going to be coming
19 up?

20 A. No, no testing. The only other video we have on
21 this DVD is a real-world fire accident in Los Angeles
22 that I'm currently working on.

23 MR. FRANCO: Would you show us the video, Mr.
24 Parrelli.

25 MR. FORSYTH: Your Honor, I'm going to object.

1 THE COURT: Sustained. Take it off the screen,
2 Mr. Parrelli. Counsel sidebar.
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1 (Sidebar conference held.)

2 MR. FORSYTH: Your Honor, he's stating a fire he's
3 now currently working on. He has no findings -- there's
4 been no basis for showing that this is -- what kind of
5 vehicles these are, any sort of background. Not only --
6 we have a car burning on the screen at this point with
7 no proper foundation and this is --

8 MR. FRANCO: We'll lay it.

9 MR. FORSYTH: So for that, I would be objecting at
10 this point for it being displayed to the jury.

11 THE COURT: Okay. Was it -- was it previously part
12 of the other trial or did you receive any sort of notice
13 that it was coming?

14 MR. FORSYTH: I received -- it was on a DVD, not
15 part of the previous trial.

16 THE COURT: Okay.

17 MR. FORSYTH: But there's been no foundation laid
18 at this point.

19 THE COURT: All right. So when were you first made
20 aware of it? Did you have an opportunity to view it?

21 MR. FORSYTH: I've had the DVD, I think sometime
22 later last week.

23 THE COURT: Okay. Mr. Franco.

24 MR. FRANCO: I'll strike -- I'll agree to strike
25 it.

1 THE COURT: Okay.

2 MR. FRANCO: Thank you.

3 (Sidebar conference concluded.)

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1 MR. FRANCO: Your Honor, at this time we would move
2 to enter the DVD into evidence subject to the edit.

3 MR. FORSYTH: Subject to editing, that's what we
4 discussed sidebar, the Commonwealth would not have an
5 objection.

6 THE COURT: Marked. It's available for the jury
7 after redaction.

8 THE CLERK: Exhibit 23.

9 THE COURT: Thank you.

10 (Exhibit 23, DVD, was marked as an exhibit.)

11 BY MR. FRANCO

12 Q. Mr. Sheridan, how long have you been examining
13 and reviewing the Jeep systems, the fuel systems on the
14 Jeep?

15 A. Well, as to the field failures, I began analyzing
16 in 2007. That's when I first officially began doing the
17 field failure analysis. My analysis of the Jeep itself
18 began in 1987.

19 Q. And do you have an opinion to a reasonable
20 degree of engineering certainty as to the cause of the
21 fire of Mr. Skyler Anderson-Coughlin's Jeep?

22 A. Yes. In my opinion the cause of the fire was the
23 defective design of the Jeep Grand Cherokee. The rear
24 of the Jeep Grand Cherokee that Mr. Anderson was in is
25 not crash worthy and it is not road worthy.

1 MR. FRANCO: Thank you very much, sir.

2 THE COURT: Okay. Mr. Forsyth.

3 CROSS-EXAMINATION

4 BY MR. FORSYTH

5 Q. Good morning.

6 A. Good morning.

7 Q. The photographs as well as the demonstration of
8 the Jeep Grand Cherokee, that's -- that is not a 1998
9 Jeep Grand Cherokee, is it?

10 A. The one with the yellow tank was a 1995. It was
11 ZJ. It's the same engineering configuration as
12 Mr. Anderson's. The red one that was hit, I believe that
13 was a 1996. But they're all the same configurations. At
14 the engineering level, they are all what we call ZJs.

15 Q. I just want to clarify it further. They're not
16 the same years but they have the same configuration,
17 correct?

18 A. Yes, sir.

19 Q. And you worked with the individuals on the Jeep
20 side, you were working on the Dodge side, but you
21 worked in a harmonious workplace, correct?

22 A. We were part of the same organization, yes.

23 Q. When did you stop working for Chrysler?

24 A. December of 1994.

25 Q. And it takes a rear impact to cause the fire,

1 correct?

2 A. Yes.

3 Q. If there was no rear impact to this 1998 Jeep
4 Grand Cherokee traveling down the road, the Jeep will
5 continue on. It takes a rear impact to cause the fire?

6 A. In this particular accident, yes.

7 Q. And in every one of those videos, you have a
8 stationary target vehicle, is that correct?

9 A. Yes.

10 Q. You don't -- you don't have any target vehicles
11 which are moving?

12 A. Correct.

13 Q. So both vehicles hit the stationary vehicle and
14 the change on the Jeep Grand Cherokee, you said was a
15 50-mile-an-hour exchange of force, correct?

16 A. The difference in speed would be 50 miles an hour
17 and in the other test it was 40 miles an hour.

18 Q. And fair to say you had the opportunity to
19 review the reconstruction report in this case?

20 A. Yes.

21 Q. It's been opined that the minimum speed of the
22 Jeep Grand Cherokee that Skyler Anderson-Coughlin was
23 in, the minimum speed was 30 miles an hour?

24 A. That's what I recall.

25 Q. And the speed known at the time of impact of the

1 tractor-trailer is 60 miles an hour, correct?

2 A. Yes.

3 Q. So the maximum change in -- change in the
4 delta-v in the shared force would be 30 miles an hour,
5 correct?

6 A. Well, the delta-v was not 30 but the difference
7 in speed was 30.

8 Q. They would share that delta-v when they hit?

9 A. Whatever the delta-v was which would be less than
10 the difference in speed, yes.

11 Q. And again, the Jeep Grand Cherokee, this was a
12 1998 Jeep Grand Cherokee?

13 A. That Mr. Anderson was driving, yes.

14 Q. And it was manufactured in what year?

15 A. I don't know the exact manufacture date but as a
16 '98 model year, it's very possible it was made in 1997
17 through the end of the model year which typically
18 happens in July of 1998.

19 Q. Fair to say that it would be sold sometime in
20 '97, '98 or even '99 if it sat on the lot for a little
21 while?

22 A. As new, yes.

23 Q. And for -- that rear-end collision is what
24 caused that fire on the -- on the -- on the Jeep Grand
25 Cherokee contacting the tractor-trailer?

1 A. The rear-end collision provoked the defect in the
2 Jeep which led to the fire.

3 Q. And this happened in 2013?

4 A. November 10, 2013.

5 Q. Very good, sir.

6 MR. FORSYTH: Thank you.

7 THE COURT: Anything further?

8 MR. FRANCO: Briefly.

9 REDIRECT EXAMINATION

10 BY MR. FRANCO

11 Q. Had it been a Ford Taurus that Skyler
12 Anderson-Coughlin was in, would that same defect have
13 happened?

14 A. In a Ford Taurus?

15 Q. Correct.

16 A. In a four-door sedan, no.

17 Q. Excuse me. Ford Explorer, I got my cars wrong.
18 If it had been a Ford Explorer?

19 A. There's no fuel system defect in the Ford
20 Explorer and so the fire would not have occurred if he
21 had been in a Ford Explorer.

22 Q. Tell us about delta-v. We've talked about this
23 in mentioning. Would you explain what delta-v is?

24 A. In testing or in collisions, there's a difference
25 in speed between the two vehicles involved. The delta-v

1 Grand Cherokee, an infinity SUV, they all crush
2 differently, is that correct?

3 A. They all crush differently?

4 Q. Yes.

5 A. Yes, sir.

6 Q. So if Skyler was in another vehicle, you
7 necessary would haven't the defect but there could have
8 been -- there's other issues for the crush, isn't
9 there?

10 A. There could be, yes.

11 MR. FORSYTH: Nothing further.

12 MR. FRANCO: Thank you.

13 THE COURT: Thank you, Mr. Sheridan. You may step
14 down, sir.

15 MR. FRANCO: We rest, your Honor, at this time.

16 THE COURT: Defendant rests.

17 Ladies and gentlemen of the jury, that
18 completes the evidence in this case. I'm going to take
19 another break. We need to go over the jury
20 instructions. When I bring you back, you'll hear the
21 closing arguments of counsel. I'll instruct you as to
22 the law, and you'll begin your deliberations.

23 Do not discuss this case during this recess.

24 Please follow the court officer.

25 (Jury not present in the courtroom.)

1 THE COURT: Do you have a renewed motion?

2 MR. FRANCO: I do, your Honor. I would renew our
3 motion for required finding. I'll expand on the argument
4 and I'll say at this point as to Latimore, the
5 Commonwealth's case has deteriorated enough to separate
6 the two incidents.

7 THE COURT: Okay.

8 MR. FORSYTH: Your Honor, I ask you to deny the
9 motion. The Commonwealth met its burden at this stage
10 to have the decision made by the jury as to whether or
11 not Joel Nieves-Cruz, his involvement in this case.

12 THE COURT: I'm going to reserve judgment on the
13 motion for required finding at the close of the
14 evidence.

15 I've got a sentencing disposition I need to
16 do. So, why don't you look over the jury instructions.
17 After the sentencing, when you're ready, advise the
18 clerk and we'll have a charge conference.

19 MR. FRANCO: Your Honor, we had something we're
20 working on that I would send up to you. It's just on
21 superseding causes. We'll look at the jury
22 instructions.

23 THE COURT: Okay. Before you give me that, why
24 don't you take a look under paragraph two relative to
25 causation. There's a paragraph on supervening --

1 MR. FRANCO: I will.

2 THE COURT: -- and intervening cause.

3 MR. FORSYTH: Your Honor, for the record, we have
4 no rebuttal.

5 THE COURT: All right. Thank you.

6 (The Court heard other matters.)

7 THE COURT: Mr. Forsyth.

8 MR. FORSYTH: I do have the proposed jury
9 instruction. I think it basically mirrors your Honor's;
10 however, I'm asking for the portion included in that
11 with *Commonwealth versus Robbins, Commonwealth versus*
12 *Robbins* stating that fault is not an issue. It's the
13 last paragraph.

14 THE COURT: Are you going to hand me something?

15 MR. FORSYTH: I am, your Honor. It got shuffled in
16 paperwork with counsel. This is the last paragraph.

17 THE COURT: Mr. Franco.

18 MR. FRANCO: Unfortunately I think Robbins is the
19 law.

20 THE COURT: All right. Anything further, Mr.
21 Forsyth?

22 MR. FORSYTH: No, your Honor.

23 THE COURT: Mr. Franco.

24 MR. FRANCO: Your Honor, I reviewed your
25 instructions. It's consistent what we're going to offer.

1 So thank you.

2 I'm going to have two comments, your Honor.
3 I would object to the consciousness of guilt
4 instruction; however, I see there's a portion in there
5 that says, you know, there's other reasons why they
6 could have left and they have to show they made
7 themselves known. So I will assume my latitude in
8 argument.

9 THE COURT: Sure.

10 MR. FRANCO: With regards to the lesser included,
11 your Honor, I don't think there's any evidence of
12 personal injury. There's some evidence that the young
13 lady went to the hospital. He took them to the hospital.
14 There's evidence of death obviously.

15 THE COURT: Yesterday you indicated you thought you
16 were going to ask for a lesser included.

17 MR. FRANCO: Lesser included on personal property
18 damage because the cars came -- slid together.

19 THE COURT: Well, I don't know whether property
20 damage is a lesser included offense of leaving the scene
21 resulting in death.

22 MR. FRANCO: That's a good point, your Honor.

23 One housekeeping matter, I have the DVD.
24 This is to be included as an exhibit. Attorney Forsyth
25 and I have edited it.

1 There will be the consent order of the N.

2 MR. FORSYTH: If your Honor's agreeable to open the
3 evidence and allow this, the Commonwealth will not
4 object.

5 THE COURT: All right. We'll get marked.

6 MR. FORSYTH: Exhibit 24, I believe.

7 THE CLERK: Yes, 24.

8 (Exhibit 24, National Highway Traffic Safety
9 Administration document, was marked as an exhibit.)

10 THE COURT: Anything else, Mr. Forsyth?

11 MR. FORSYTH: No, your Honor.

12 THE COURT: Anything else, Mr. Franco?

13 MR. FRANCO: No, sir.

14 THE COURT: All right. I'm going to get off the
15 bench just to alter the jury instructions. We'll come
16 back. We'll have arguments and charge and we'll go from
17 there.

18 MR. FORSYTH: Your Honor, I do have that on -- I
19 can e-mail that to make sure it's easier to cut and
20 paste, the Robbins part.

21 THE COURT: No, it's so small I can just type it.

22 MR. FRANCO: Your Honor sends the jury instructions
23 in with the jurors?

24 THE COURT: I do.

25 MR. FRANCO Thank you.

1 (Court recessed at 11:49 a.m.)

2 (Court reconvened at 11:58 a.m.)

3 (Jury present in the courtroom.)

4 THE COURT: Ladies and gentlemen, you're about to
5 hear the closing arguments by the attorneys. This is an
6 important part of the trial because it's the final
7 opportunity given -- given to the attorneys to address
8 you. It's an opportunity for the lawyers to summarize
9 the evidence, to call your attention to certain parts of
10 the evidence that they regard as important, and based on
11 the evidence to try to persuade you to reach a certain
12 result.

13 However, what you're about to hear is not
14 evidence. Lawyers are not witnesses. All the evidence in
15 this case has been presented through the testimony of
16 the witnesses and the exhibits which you'll have an
17 opportunity to examine and consider during your
18 deliberations.

19 Our rules are designed to ensure that the
20 parties receive a fair trial and they, therefore,
21 prohibit the attorneys from making certain types of
22 arguments in an effort to persuade you to reach a
23 certain result or to favor or to discredit either party.
24 For example, the attorneys are not permitted to refer to
25 facts that are not in evidence in this case. If, based

1 on your memory and understanding of the evidence a
2 lawyer does this, you should disregard that comment.

3 The lawyers are not permitted to express
4 their personal belief in the credibility or the lack of
5 credibility of any witness who testified in this case.
6 That determination is yours to make. If a lawyer makes
7 such a comment, you should disregard that comment.

8 This case must be decided solely on the
9 basis of the admissible evidence and the law as I give
10 it to you.

11 Attorneys are not permitted to persuade you
12 for or against either party by appealing to human
13 passions or prejudices. If you become conscious of any
14 passion or prejudice as you consider the evidence or
15 engage in your deliberations, you must put these
16 feelings aside and not permit them to influence your
17 thinking. If a lawyer makes such a comment, you should
18 disregard that comment.

19 Mr. Franco, when you're ready.

20 MR. FRANCO: Thank you.

21 CLOSING STATEMENT ON BEHALF OF THE DEFENDANT

22 MR. FRANCO: Thank you folks. Thank you very much.
23 You came here last Friday, spent the day being
24 impaneled. You spent three days listening to the
25 testimony. Thank you.

1 It's clear this case is very important. It's
2 clear the charges are very important. There's been a
3 tragic, tragic death in this case. Certainly has. But as
4 you know, I'm going to argue that Chrysler owns this
5 fire, Chrysler caused this death.

6 Now, there were a series of mishaps on the
7 road, but I'm going to suggest to you, ladies and
8 gentlemen, the Jeep was struck back here on fire. That
9 night was not the result of an accident. That was a
10 result of Chrysler Corporation with Skyler
11 Anderson-Coughlin in a rolling gas can. There's
12 disregard for anyone else or anything else on that car.

13 In the jury instructions, you're going to
14 read a paragraph that says if there's a superseding, an
15 intervening cause that's independent from what would
16 have happened here, you can consider it. And they have
17 to show, the Commonwealth has to show that
18 Mr. Nieves-Cruz is the one that caused that death. Not
19 merely a couch falling off a truck minutes before up
20 here.

21 Do you remember Trooper Gillis in talking to
22 Joel she says accidents happen. Well accidents happen up
23 here. This is not an accident. The death is not an
24 accident. This is Chrysler's Jeep with a gas tank in the
25 back of the truck. There's a series of mishaps up here.

1 We know that.

2 What do we first know. Joel Nieves-Cruz
3 comes down in his pickup truck. At some point in time
4 the load shifts. The Commonwealth's going to emphasize
5 that the tailgate was open and the couch flipped off.

6 We don't know that -- we know that didn't
7 happen and we can explain why, because the couch was put
8 on the top. Mr. Nieves-Cruz went down to the police
9 department. You can listen to that video of course. He
10 denies what happened. He's nervous. He's upset.
11 Something terrible happened. But he comes around and he
12 explains. He explains that it came off the top, that
13 there were ropes and there were tarps. So, no failure of
14 the tailgate, the tailgate opening as a result of this
15 accident.

16 Did the tarps break? Did the ropes break?
17 They don't know; they never got that. But let's
18 concentrate on what did happen. The couch flipped off
19 somewhere in the breakdown lane. Ms. Arrowsmith is the
20 first one to come down. She slowed down. She stopped.
21 She allowed them to go out.

22 Why did they go out in the road, to
23 straighten out that situation and get it out of the
24 road. They did that. They were coming back.

25 Christian Diaz comes down the road. Ladies

1 and gentlemen, this cushion was in the road from the
2 couch. He ran it over. We saw the minor damage to his
3 motor vehicle, and he pulled over here.

4 The other gentleman that was coming down
5 going to Northampton on his way to Vermont spun out.
6 What do we know about him, probably being inattentive
7 because he sees something on the side. More importantly,
8 he's doing 65 miles an hour in a 55-mile-an-hour zone.
9 This is a congested area of 91. He spins out, spins up
10 here. He doesn't get hurt. Gets out of his car and says:
11 I got driving skills. I got driving skills. Everything
12 is good.

13 Mr. Nieves-Cruz comes over, hugs him. This
14 is done. Maybe it's slowing down because there's cars on
15 the side of the road, but this is done, ladies and
16 gentlemen.

17 Now, there was a passenger that we -- we
18 examined in Mr. Diaz's car that had everything
19 convoluted. He didn't know when it happened, how it
20 happened. You have to discount his testimony. You
21 really do because he has the Jeep up here somewhere.
22 He's got it all wrong from everyone else. That's what
23 was going on ahead.

24 About a minute later, Christian Diaz tells
25 you is when the Jeep was struck and it spun out. Skyler

1 Anderson-Coughlin is coming down in this middle lane.
2 There was a tractor-trailer driver here. There were
3 people in the third lane. It's Sunday night, not heavy
4 traffic but not light traffic. We've all seen it on 91.
5 Unfortunately, Skyler Anderson-Coughlin pulls into this
6 lane in 1.9 seconds. That's the Commonwealth's
7 evidence.

8 The tractor-trailer driver coming down from
9 70 miles an hour down to 67. At some point in time an
10 event happened. After three seconds he hits his brake.
11 You've seen the pictures and let us please go over them.
12 I don't have my cameraman. We've seen some of the
13 pictures. The truck strikes the Jeep in the corner.

14 Now, why does Mr. Skyler Anderson-Coughlin
15 go in the middle lane, we don't know, but it certainly
16 wasn't because of traffic. Here's how we know. There's
17 no cars along the side of the road that he runs into. He
18 gets struck. His vehicle is propelled clockwise. It
19 spins down the road, hits the railing and then comes to
20 rest. Whether it's five miles an hour, eight miles an
21 hour, we know it went into the Jeep.

22 What else do we know? After it was struck
23 by this motor vehicle, immediately broke into flames.
24 What's the cause? I think everybody in this room
25 realizes it. You've got a plastic gas tank behind a

1 plastic bumper that crushes into the axel of the motor
2 vehicle. As a result, it all comes together. As a
3 result, the body crushes. As a result, gasoline goes in
4 that vehicle and out of that vehicle.

5 Mr. Sheridan showed you how those vehicles
6 rupture. Ford Taurus don't rupture. Other motor
7 vehicles don't rupture. But Chrysler's fire vehicle does
8 and it's on the road. Again, when you look at the jury
9 instructions, you can look to that cause and have to
10 specifically examine it.

11 Now, the Commonwealth is going to say, well,
12 if they hadn't been up there, then Mr. Skyler
13 Anderson-Coughlin would not have changed lanes. But even
14 if he had changed lanes, it's a delta-v of 20 miles per
15 hour. Coming down, slowing down, the truck driver can't
16 stop, hits him. It travels 136 feet. So it's not a
17 60-mile-an-hour crash. It's a delta-v 20. That's the
18 transfer of energy from one and boost the other motor
19 vehicle around down the road.

20 That's the plastic gas tank behind the
21 plastic bumper in the back of that motor vehicle. Ladies
22 and gentlemen, as tragic as it is for all of us to
23 understand and consider, this young man didn't have a
24 chance. He was put in a rolling casket. It's not a
25 result of a couch falling out of the road. It's not a

1 result of possibly headlights shining this way. It may
2 cause you to slow. It may cause you to use caution. It
3 doesn't cause your car to blow up. There's certain
4 standards here that we have to hold to.

5 Mr. Joel Nieves-Cruz gave a statement. You
6 certainly can consider his words of what happened? When
7 the car starts spinning and exploding coming at them,
8 Rafael Perez, you heard that name, he's the owner of the
9 vehicle in the passenger seat, yells: Joel. Joel not
10 only jumps over the railing, he leaves his sandals he
11 jumps so fast. He comes back, the Jeep is on fire.
12 Nobody can get near it. The vehicle gets pushed up a
13 little bit, whether he drove it up a few feet or it got
14 pushed up a few feet. There's a young girl, 13 years
15 old who's 17 weeks pregnant. They decided to take them
16 to the hospital.

17 Did they go right to the hospital, no. They
18 went to Acushnet Avenue and unloaded the furniture and
19 got up there. But what's spinning around in everybody's
20 mind is what they had just seen. What a horrible event
21 they've seen, and he leaves.

22 Does he leave to avoid responsibility? Well
23 I suggest to you, ladies and gentlemen, number one, he's
24 not responsible for this accident back here. Number two,
25 that's not his primary goal. Primary goal is he's got a

1 car in back of him that you can't get within 10, 20 feet
2 of, roaring over a thousand degrees, a young lady
3 yelling: I got to go to the hospital. That was the
4 reason that he left the scene.

5 As you go through this, I'm going to ask you
6 to examine things like this. This is our truck driver
7 going down the road. Look how much he can see. He can
8 see well down the road. What's in front of him? Two
9 hundred feet there's some vehicles slowing. Two hundred
10 feet there's vehicles but they're moving, they're
11 continually moving. And we know they're not right over
12 here simply, ladies and gentlemen, because there's
13 nothing over here, no backed-up traffic when that car
14 spins out of control and goes into the curbing.

15 There's some videos. You're going to see
16 the photos of the gas tank, the gas tank leaking fluids.
17 You're going to understand that. You've seen videos of
18 Ford Tauruses being crashed. You've seen videos of Jeep
19 Grand Cherokees being crashed. And that's a marked
20 difference.

21 We drive down the road. We don't think a
22 hit to the vehicle in front of us will cause that to
23 explode. He's responsible for only the foreseeable
24 consequences of his action and what's causally
25 connected.

1 Ladies and gentlemen, although accidents may
2 happen, this is catastrophic. I don't want you to get
3 away from that. But Mr. Joel Nieves-Cruz didn't cause
4 that. Chrysler owns the fire. They've had these in a
5 number of vehicles. Chrysler caused this death.

6 And it may be easy for me to sit here and
7 trash a big corporation but we can see what was on the
8 road, what was put down that road. It's clear. It's not
9 a fantasy. It's not made up. National Highway
10 Transportation Safety Administration forcing Chrysler
11 after this not only to fix these vehicles to some extent
12 and pay \$105 million. \$105 million isn't for property
13 damage. \$105 million it's because it's a rolling
14 catastrophe causing death.

15 This is the most unfortunate, terrible
16 accident, but please examine the facts. You might want
17 to decide this case on your heart and what went on here,
18 how tragic this was, but we need to decide it on the
19 facts. You took that oath. You all came up to us. We
20 examined you at sidebar. We asked you certain questions.
21 You gave us an oath and I believe you fulfilled it.

22 I've watched this trial. We always watch
23 jurors. As you notice, we're all looking to see what
24 witness peaks their attention. I'll tell you what
25 witness peaked your attention, every single one. You

1 listened to everything. You didn't come in here with
2 closed mind. You listened to everything. You don't go
3 out there with a closed mind.

4 You're going to be reduced to 12 sitting
5 jurors. It's true four of you will not be able to sit
6 because you all paid great attention. You all want to
7 deliberate and do the right thing. We appreciate it.

8 But the 12 that go back there, examine this
9 carefully. Examine this consistent with the law. Judge
10 Carey is going to give you a very detailed rendition of
11 the law. He's going to send it to you in writing. We
12 call those jury instructions. Please follow them. Please
13 follow the law in our Commonwealth. The standard is
14 beyond a reasonable doubt to a moral degree of
15 certainty, to a degree that's highest of human affairs.
16 That's what Mr. Nieves-Cruz deserves.

17 Ladies and gentlemen, your evidence will be
18 with you, the DVDs. You have a lot to go over.
19 Consider it carefully. Consider it very, very carefully.

20 Now there's something in here called
21 consciousness of guilt because somebody left an area.
22 You might infer they're guilty of something. I've
23 explained to you why he left. We've explained to you
24 there was a car on fire. We've explained to you that
25 although not directly they went to the hospital and he

1 called.

2 You heard the trooper. They got a call on
3 behalf of Joel Nieves-Cruz. They didn't take that call.
4 You can understand it. The sergeant from the Mass State
5 Police was fielding calls called DOT, Agawam fire, every
6 trooper he could get in. He had to get one of the very
7 top sergeants, Sergeant Gibbons down there. He had to
8 get the accident reconstruction team.

9 So when someone is talking about we were in
10 an accident on 91, I'm calling for Joel Nieves-Cruz,
11 we're at the hospital, that got overlooked because of
12 everything else. He did call. He did look back. Does
13 that say he reported at the scene, no, but what it tells
14 us is he's not evading responsibility. He's calling back
15 to tell them after he takes the young lady to the
16 hospital.

17 So consider all of that. Don't lose sight.
18 Consider the crash, the cause of the crash if Skyler
19 Anderson-Coughlin had been in a Ford Explorer or a few
20 other vehicles that were named here today. Skyler
21 Anderson-Coughlin will be missed. Thank you very much.

22 THE COURT: Mr. Forsyth, when you're ready.

23 CLOSING ARGUMENT ON BEHALF OF THE COMMONWEALTH

24 MR. FORSYTH: Good afternoon, ladies and gentlemen.
25 Much like that paperwork you take at the scene, you take

1 everything as you get as you find it and you have to
2 deal with whatever it is.

3 Defense counsel asked you to say, yeah, the
4 crash is up here. Yeah, that's because of what
5 happened. But down here, this is all Chrysler. Chrysler
6 owns the fire.

7 Well, Joel Nieves-Cruz owns the accident. He
8 owns that crash. We're talking a 1998 Jeep Grand
9 Cherokee. It's clear, as I said in my opening, it has a
10 defect. It has the tank -- 17 -- in a terrible place. It
11 does. The design, the defect that's owned by Chrysler.
12 But today we're not here to talk about Chrysler.
13 Chrysler gets their day. You're here to decide on Joel
14 Nieves-Cruz.

15 You're talking a 1998 Jeep Grand Cherokee.
16 This crash happened on November 10, 2013. Depending on
17 when it sold, we can round it up, how about the year
18 2000. It sat on the lot for a long time, finally got
19 sold, got sold to Todd Anderson. At some point, he has
20 this, he owns this Jeep. But when the Jeep gets out
21 there and it's been out there, manufactured in 1997, you
22 can infer there's at least, you go up to 2000, 13 years
23 the Jeep is on the road.

24 If there's no debris in the road that causes
25 all these crashes, what happens to that Jeep? The Jeep

1 goes home. It continues on down the road. So the focus
2 is here on what Joel Nieves-Cruz did that started all
3 this. Did he set forth the chain of events that started
4 the death of Skyler Anderson-Coughlin?

5 Would it make a difference to you if Skyler
6 Anderson-Coughlin was on a motorcycle with no defects
7 when he does a lane change because of obstructions in
8 the roadway and has to go in front of the
9 tractor-trailer who still can't stop? Change the
10 vehicle and put him in a Ford Explorer. But you take
11 your victim as you find him and he's in this car, a car
12 that will continue down the road but for Joel
13 Nieves-Cruz.

14 You hear about the National Highway Safety.
15 You hear about all that. We're here on Joel Nieves-Cruz.
16 All these pieces are little puzzles and you heard from a
17 variety of different people on the highway. You piece
18 them together. They actually put the order as to where
19 who crashed when.

20 Number 2, please.

21 Christian Diaz, his car hits that and on the
22 other side missing part of the bumper. He says he hits
23 something in the roadway he never sees, but he does see
24 a pickup truck that's sitting on the side of the road.
25 When asked several times, he said he felt like -- felt

1 like it was the back of the chair, not a cushion, the
2 back, something hard. Not this that he struck; something
3 hard to cause the damage to rip off part of his bumper.
4 So hard it pops the light out on the other side. So what
5 does he say, he says he sees the flashing truck and he
6 pulls over. He pulls up the road.

7 Debra Arrowsmith in coming down the road.
8 She sees lights going in the opposite direction. We all
9 know who that is. That's Michael Pallas. So Michael
10 Pallas is already on the side of the road after he had
11 to steer around the car stopped in front of him and ends
12 up in the breakdown lane facing the defendant's truck.
13 So we know Debra Arrowsmith comes third from the
14 witnesses you have. She sees those lights facing the
15 wrong way.

16 The couch is still in the roadway. There's
17 still stuff in the roadway. You've heard from one of the
18 individuals in Christian's car that there's debris in
19 this lane, lane one. Debra Arrowsmith sees the lights
20 coming out this way. She starts slowing down. That's
21 alarming to her because she's driving down the highway
22 and lights are in the wrong direction on Interstate 91.
23 She sees the love seat in the middle of her lane. Also
24 note, we know the couch is still in the roadway from
25 Debra Arrowsmith, after Michael Pallas crashed or spun

1 out and Michael Pallas says the defendant runs across
2 the highway to get the couch after they approach and
3 embrace him.

4 That's important when you look at his
5 statement. The defendant's statement says: We already
6 got the couch off the roadway when Michael Pallas spins
7 out. You have a conflict there. Who's right? Is it
8 Pallas and Arrowsmith or is it Joel Nieves-Cruz?

9 Why does the defendant -- what was his --
10 was he wrong? Was he trying to hide something? Was he
11 trying to say: We got everything off the roadway
12 already. This isn't our fault. We didn't drop the
13 debris in the roadway. It's not the cause of the crash.
14 That's in his statement. Measure that versus everyone
15 else. When you start measuring that, measure everything
16 else that's in that statement.

17 Where are the tarps? The tarps are at the
18 house. Where are the ropes? I don't know. How many
19 times was the defendant asked where are the ropes; I
20 don't know. Were there ropes? Describe the ropes. Were
21 there ropes at all? And how did they tie it? Number 10.
22 Well, we fastened toward the back and we tied it to the
23 straps on the tailgate.

24 Trooper Gibbons specifically asked the
25 defendant, asked him -- it's on the tape. You can

1 listen to it. It's also in the written statement. --
2 where they tied it. Trooper Gibbons said: Did you tie
3 it to the bed of the truck? No. Did you put the tarps on
4 first and then tie it down? No, we tied it with the rope
5 first around the stuff and tied it to the back. We took
6 the tarps and tucked them in and tied the tarps to the
7 straps.

8 This didn't start on 91. This started back
9 in Willimantic, Connecticut. The defendant remembers
10 getting off of which exit he gets -- which exit he got
11 off for the fuse, how they did the fuse, but doesn't
12 remember where those ropes are. Are those ropes
13 important? Yes. Did you find them? I don't know where
14 they are. I don't know. Troopers can't go looking for
15 them. Where do you look? They don't speak to him until
16 the 11th, the following day because they're not even
17 there on November 10, 2013. They left.

18 Defense counsel -- and you've heard about a
19 phone call. It was Atnell Morales calls on someone's
20 behalf and it was based on a language barrier,
21 everything else. He's the driver. He has a duty to call
22 to say: I was involved in the crash. In fact, he has a
23 duty to stay there without going away. Well, I was
24 worried about the 13-year-old. She's screaming in the
25 back. The mom is concerned. So concerned this crash

1 happens at 5:45 and they go home to Acushnet Street.
2 They don't go right to the hospital. They go to Mercy
3 Hospital sometime around 8, 8:00. 5:45 to 8:00, two
4 hours and fifteen minutes.

5 In the two hours and fifteen minutes they
6 took to get to the hospital, Trooper Cormier arrived at
7 the dispatch at 5:45 arrived within two to four minutes.
8 You heard the dispatch call time. You heard the response
9 and who showed up. Troopers, fire department. They
10 brought an ambulance. They asked for AMR. They asked
11 for Enfield, all these ambulances.

12 If it's that much of a rush to get her to
13 the hospital, why did it take two hours and fifteen
14 minutes for them -- for the defendant to go there?
15 Because they wanted to get rid of that furniture. He
16 wanted to get rid of it. He wanted to take it out of
17 there. It's all crushed and banged up. Are you removing
18 it because you're afraid someone is going to steal it or
19 because you're trying to get rid of it? What else is
20 missing? You've heard about kitchen chairs. One witness
21 described there was some wood in the highway.

22 This started back in Willimantic,
23 Connecticut, when the defendant went down to load up the
24 furniture, he overloaded this pickup truck with a couch,
25 three seats flipped on top of it, a couch, love seat

1 with two seats and slid it in. And slid in the table, a
2 glass table. The glass that broke. Put in some chairs.
3 Tied it up with some tarps, maybe some rope to the back
4 of that tailgate. He drove 384, got out about five
5 miles in, checked the load. Said I'm trained to check
6 my load. And then says originally: I'll check the load
7 again. You heard his statement. After talking to him, he
8 said, well, he stopped because the couch took off.

9 That was the danger on the road that
10 evening. He chose to go on 91, an interstate highway
11 that goes from Connecticut all the way to Vermont,
12 during rush hour. He didn't go down Route 5. He didn't
13 go down any other routes. He chose the route with an
14 overloaded truck and it caused -- 4 -- Anatoliy
15 Untilov's truck to strike the back of Skyler's Jeep. 3.
16 Caused it to spin out 180 degrees and strike the back of
17 his car.

18 You heard several times he get out of their
19 pretty quickly. He left Skyler there. He didn't wait
20 for authorities to say: I was involved in this. I was
21 involved in this collision. This is my information. He
22 got out of there.

23 And note on his statement, he says in the
24 audio statement: I should have stayed in the back of
25 the truck. He would have been crushed. Trooper Gillis

1 starts how they should have -- you know, he would have
2 been hurt. That goes to show the timing of when he's
3 there. If he's in front where Mr. Pallas is, why would
4 he be crushed as he says, because he's still in the
5 back. He jumped over the railing.

6 The reason why he flees is not suddenly to
7 get these girls to the hospital but to get out of there.
8 He caused this. He fled without making anyone know he
9 was involved. And around eight o'clock he realizes,
10 oops, Rafael's is gone. Mine is gone. I must have
11 dropped it at the scene. I must have dropped it when I
12 jumped over the railing. And he did. That's what he left
13 behind.

14 Two hours and fifteen minutes later, he
15 says, get someone to call on his behalf kind of relaying
16 the message. You think the detectives would have spent
17 all that time going to the other places until they find
18 out that Rafael Perez called and says: Hey, I lost my
19 cell phone.

20 They start looking up Rafael Perezes and go
21 by Acushnet Street and find the truck. Then they start
22 coming in because now there's been contact. They're
23 taking Rafael Perez's truck. Rafael Perez and Joel
24 Nieves-Cruz come in the station. Hey, I lost my cell
25 phone. Now they're outside my -- outside Rafael's house.

1 He never called. He didn't wait for the
2 police officer at Mercy. What did he do, he tried to
3 call at work and then went to work. He didn't go back to
4 the police station. He didn't go anywhere else. He went
5 to work. He went on with his business hoping not to be
6 found. He left the cell phone behind. He left the
7 cushion behind.

8 On November 10, 2013, officers had to reach
9 out and try to figure out, piece all this together to
10 figure out what Joel Nieves-Cruz left behind. They had
11 to reach out and try to confirm who this was. They had
12 to reach out to Todd Anderson and Seana Coughlin.
13 Troopers had to make the notification because he dropped
14 stuff on the roadway, because he overloaded his car,
15 because he didn't properly tie it down and he started
16 this chain of events.

17 Skyler Anderson-Coughlin was coming up lane
18 one, had to make an evasive action because, you heard,
19 there's debris in the roadway. He changes to lane two in
20 front of the tractor-trailer and the tractor-trailer
21 truck driver did not have time to stop.

22 He doesn't make that change if it wasn't
23 because of what Joel Nieves-Cruz did, that 1998 Jeep
24 Grand Cherokee keeps going down to the road. The fire
25 doesn't happen. The Jeep doesn't explode. Number 14. And

1 this doesn't happen after. We don't -- detectives don't
2 have to go out searching for Joel Nieves-Cruz on the
3 next day at 8:27 p.m., over 24 hours later, to take a
4 statement from him, advise him of everything and take
5 his statement.

6 You get to weigh his statement. You get to
7 pick and choose any part of this evidence, what you give
8 weight to, what you don't give weight to. Do you want to
9 give weight to the first part of the story or as it's
10 changing after the troopers say: Well, we talked to
11 Rafael too.

12 Skyler Anderson-Coughlin went up to a scene
13 that he couldn't leave from because of Joel Nieves-Cruz.
14 The same Joel Nieves-Cruz that fled to avoid getting
15 caught, trying to get rid of this furniture, trying to
16 get rid of everything and avoid prosecution in this
17 case.

18 This is the day for Joel Nieves-Cruz. This
19 is his actions which are at trial. There is a defect in
20 the Jeep, a defect that would not have been ruptured but
21 for Joel Nieves-Cruz. He never should have left
22 Willimantic, Connecticut in the condition he did. He
23 never should have left that scene. The troopers arriving
24 and emergency personnel arriving so quickly. There's no
25 excuse. There's no reason other than to say: I had to

1 get out of here. Look what I just did. Thank you.

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