

SAMPLE EBT REPORT



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To: The [REDACTED] Law Firm

Date: February 8, 2019

Re: B vs. O

Location: 345 Avenue, 2nd Floor
Some Place, NY 55555

Counsel: NAME , Esq.

Court Reporter: NAME (US Legal)

Date of Accident: November 17, 2016

DEPOSITION REPORT Attorney Work Product

The EBT's of the Plaintiff, B and Defendant O were held.

Plaintiff B:

The first party to testify was the plaintiff, B, an approximately 25 year old male, who will make a fair witness on his own behalf and a fair to good impression on a jury (with proper prep).

Plaintiff testified that on November 17, 2016, in mid afternoon, while a pedestrian crossing [REDACTED] Road, at its intersection with [REDACTED] Avenue, [REDACTED], he was struck by defendant's vehicle, causing injury. At that time, the weather was clear and dry.

[REDACTED] Road (hereinafter R) at this location is a 2 way roadway, having 2 lanes of travel in each direction, with double yellow lines separating the oncoming lanes. [REDACTED] Avenue is also a 2 way roadway, with 2 lanes of travel in each direction. He acknowledges that [REDACTED] Avenue at this location does have left turn signals for vehicles wishing to turn onto R.



Prior to crossing R, plaintiff arrived with the traffic light facing him red in color. He awaited the green walk signal. As the green signal came on, plaintiff deemed this the “cue that it was safe to walk”, and began crossing. (Note that [REDACTED] Avenue was to his left as he stepped off the curb and began crossing.)

With the green walk sign, plaintiff took 7 steps, within the crosswalk, looking to his left as he did so. Having reached the middle of the first lane of traffic on R, plaintiff observed 2 cars, one gold sedan, and (defendant’s) red sedan behind the gold car (to plaintiff’s left), both vehicles having made left turns from [REDACTED] Avenue onto R. Mr. B then “slowed my pace...hesitated”, continuing to see each vehicle up to the moment of incident, 4 seconds thereafter.

Upon observing the approaching vehicles, plaintiff either “jumper back” about 2 feet or, according to the police report (marked as an exhibit, and annexed hereto), jumped forward, as he yelled at the operator of the gold car, “watch where you’re going”.

There was no contact with the gold car, as it continued past plaintiff, with impact occurring from the red car 3 seconds thereafter. Plaintiff did not see defendant’s red car during that 3 seconds, although he saw the red car as he was jumping back.

Plaintiff’s left side and left leg was struck by defendant’s car, remembering only that “he hit me...I saw the sky...knocked to the ground”, although he does not recall how he got to the ground, losing consciousness and awakening on the ground.

Upon awakening, Mr. B was assisted to the sidewalk by a male, Hispanic witness, 20-30 years old, in addition to another male, both “let me know what happened...you were hit by a car...”.

The police came to the scene, with plaintiff telling them that he was “crossing the street...the gold car almost hit me, and I saw the sky...”.

Plaintiff was then transported by ambulance to the emergency room of [REDACTED] Hospital, where he was treated and released after x-rays and a CT scan were taken. He was given medication and crutches, which were used for 1 year per his MD. He was advised at the hospital that there was “tearing in my left leg”. His left leg was placed in “a splint kind of thing”.

One week thereafter, the witness presented to [REDACTED] PT, upon referral of his attorney, with complaints relative to his head, neck, back, left shoulder, left arm left leg, left ankle and left foot. He attended physical therapy 5 times a week at this facility for more than 1 year. Physical therapy consisted of chiropractic, acupuncture and massage. Nerve testing was also done. Plaintiff ended his treatment at this facility upon finding a treatment center closer to his home.



Mr. B then presented to [REDACTED] Rehab, attending 4/month, ending in 2018, receiving PT, including electric stimulation, heat and exercises.

In July 2017, plaintiff had left knee surgery from a physician from [REDACTED] Rehab, following which he used crutches for 2 months, in addition to a knee brace 4/week to date.

Multiple sets of MRIs were performed at [REDACTED] Radiology [REDACTED], of plaintiff's left knee, back and neck.

Plaintiff also saw [REDACTED] more than 20 times. Treatment included multiple epidural injections to his neck and back, in addition to a procedure "where they cut off nerves in my back and neck". His last visit was 2 weeks prior to this EBT, and his next being a week in the future.

Additionally, Mr. B will be seeing a Dr. C on March 24, 2019, upon referral of [REDACTED], because "the last procedure didn't work".

In 2017, the witness consulted with Dr. B, receiving 4 manipulations under anesthesia, for his neck, back and left leg, receiving temporary relief in this regard.

About 1-2 years after the occurrence, plaintiff consulted a psychologist, Dr. H, with complaints of agitation, flashbacks and "PTSD symptoms". He attended 1/month between a 3-6 month period, ending this treatment because "it was too far from where I live".

Presently, Mr. B is also seeing Dr. D, a total of 3 times, with the first visit being in 2018. Treatment will consist of prescriptions.

Plaintiff's primary care physician, name unrecalled, was advised of the accident, with no treatment, prescription or referral rendered.

Following the accident, the witness was confined to his bed for 1 month, and to home for 6 months, with an additional 2 months at home after surgery. Currently, Mr. B has constant "sharp" neck pain; constant "pressuring" back pain; and constant "achy, annoying" left knee pain.

Presently, the witness cannot work construction jobs; no longer rides a bicycle or skateboards; cannot play football or extreme sports, such as paintball; no longer participates in weightlifting, something his MD told him "don't even try". He has trouble playing or lifting his young children; sweeping, bending, walking more than 10 minutes, and using stairs.



Plaintiff claims out of pocket expenses of between \$1,000-\$5,000. He has applied for NYS disability recently, decision pending, in relation to this occurrence.

Please note a prior high school football injury to his left ankle, for which he had treatment at [REDACTED] Hospital. There was no x-ray taken, and no physical therapy rendered.

Mr. B claims no other prior or subsequent accidents, incidents or conditions with regard to the same parts of the body injured herein.

Plaintiff was not employed at the time of the accident, or currently.

That was the sum and substance of the testimony of the Plaintiff, B, in connection with this matter.

Defendant O:

The next and final party to testify was the defendant/operator, O, an approximately 37 year old male, will make a poor to fair witness on his own behalf, but a fair impression on a jury.

Defendant testified that at the above date, time and location, while the operator of a 2010 Toyota Corolla, owned by his father and carrying no passengers, when he was involved in an accident with the plaintiff pedestrian. At that time the weather was clear and dry, and his NY driver's license did not require the use of corrective lenses. Nevertheless, he does not recall if wore glasses as of the date of the accident, nor if he was actually wearing same.

Mr. O does not recall if he partook in any alcohol or drugs within 24 hours prior to the accident. Nor does he recall if he was at any restaurant which served alcohol within that same 24 hours.

At the time of the accident, the witness was employed at the location of [REDACTED] Boulevard, Brooklyn, New York. The day of the accident, he had left work at 2:00PM for an appointment with his doctor, located at 175 [REDACTED] Avenue, where he remained for a few minutes. It took him 1 hour to get to his MD office, and was returning back to work at the time of the accident. He does not recall if he told any supervisor of his intended trip to Long island for this MD visit, but indicates it was not during his lunch hour. He does not recall if he was due back to his job at any particular time.

Prior to the occurrence, the witness had been traveling on [REDACTED] Avenue for more than 1 block, describing it as a 2 way roadway, having 2 lanes of travel in each direction. He does not



recall if there was any room for parking on this thoroughfare, nor if there were any center lines. His maximum speed on this roadway was 30 MPH. Mr. O does not recall traffic conditions.

R was also a 2 way roadway, with 2 lanes of travel in each direction, although he does not recall if there was any room for parking, with a yellow line separating the opposite lanes of travel.

There is a traffic light at the intersection with R, for which defendant brought his vehicle to a stop for its red color, in the left turn lane, with no vehicles ahead of him. It was his intention to turn left onto R.

Please note, that at no time did defendant see any gold colored vehicle in the vicinity of the accident, much less in front of him at any time. Additionally, while so stopped, the witness saw pedestrians to the right of his car while still on [REDACTED] Avenue. Mr. O also does not recall if he saw any pedestrians to the left of his car or on R. He does not recall if any pedestrians crossed in either direction over R while he was stopped at the tight.

Defendant was so stopped for more than 30 seconds for said red light, during which time, he does not know the color for through traffic on R.

When the green arrow became illuminated, the witness began gradually moving into his left turn after a few seconds. Thereafter, between 20-30 seconds elapsed to contact with plaintiff pedestrian.

Although the witness did turn into a lane on R, he does not recall which one, with his vehicle 10-30 feet out of the intersection, with his turn complete, and on R when the incident occurred. He was moving at less than 30 MPH after completing his turn, although he does not recall if he was accelerating, slowing down or maintaining his speed at the time of the occurrence.

Notwithstanding his having been looking ahead at all relevant times on R, defendant never saw plaintiff prior to impact, and does not know in which lane he was traveling when contact occurred, nor does he recall if there were any vehicles traveling ahead of him.

Mr. O does not recall ever seeing any pedestrians crossing R within the crosswalk at any time.

The witness then heard and felt contact to his vehicle, specifically the driver's side windshield, at which time he was moving between 10-25 MPH, following which he continued 5-10 feet to a stop, as he braked with an unknown intensity, without skidding. He does not recall if there was any abs engagement during this stop. He brought his vehicle to a stop in what would be the parking lane.



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Defendant exited his car immediately after the accident and asking plaintiff, “What happened? How you did that?”, to which plaintiff responded, “Man, I don’t know how to thank you for not speeding...you would have killed me...”. Plaintiff also told defendant the gold car was “speeding, I had to jump”.

Mr. O saw no other persons helping plaintiff at the scene, with plaintiff sitting at the curb upon arrival of the police. Police spoke to 1-2 other persons at the scene, names unknown. The witness heard plaintiff speak to the police and tell them “he was crossing...another car was speeding towards him...he jumped into my car to avoid being hit...”.

Defendant knows of no names of any witnesses to the occurrence, and no photos of the scene or his vehicle.

Damage to his vehicle involved his front windshield being shattered and his wipers broken.

Damage to his car was repaired at a facility in “Flushing Meadow” for more than \$1,000, although he does not know if it was more than \$2,000, payment for same being made by his own insurance carrier, State Farm.

Mr. O does not recall if he filed any MV-104 in connection with the subject occurrence.

That was the sum and substance of the testimony of the Defendant/Operator, O. In connection with this matter.

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