

1                   IN THE UNITED STATES DISTRICT COURT

2                   FOR THE MIDDLE DISTRICT OF FLORIDA

3 TAMPA DIVISION

4 CASE NO. 8:04-CV-1904-T-23MA

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6 BARBARA ORBAN,

7 Plaintiff

8 Vs.

9 CITY OF TAMPA

10 Defendant

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13 DEPONENT: DAVID DUNCAN

14 DATE: SEPTEMBER 27, 2005

15 12:00 P.M. - 1:46 P.M.

16 LOCATION: TAMPA POLICE DEPARTMENT

17 411 N. FRANKLIN ST.

18 TAMPA, FL

19 REPORTER: DENISE ANN HERROLD

20 NOTARY PUBLIC

21 STATE OF FLORIDA AT LARGE

22 D & D REPORTING SERVICE, INC.

23 915 CHESTNUT STREET

24 CLEARWATER, FL 33756

25 (727) 468-2002 800-468-2003 FAX (727) 468-2003

## 1 A P P E A R A N C E S:

2 For the Plaintiff: JOSEPH D. MAGRI, ESQ.  
 3 MERKLE & MAGRI  
 4 550 N. REO STREET, STE 301  
 5 TAMPA, FL 33609

6 For the Defendant: URSULA RICHARDSON, ESQ.

7 CITY ATTORNEY'S OFFICE  
 8 315 E. KENNEDY BLVD., 5TH FL  
 9 TAMPA, FL 33302

12 \* \* \* \*

## 14 E X H I B I T

15 Plaintiff's		Marked for
16 Exhibit No.	Description	Identification
17 1	Traffic Citation	9
18 2	Exchange of Information	9
19 3	Traffic Crash Report	9
20 4	Diagram	43

1 A. Uniform patrol.

2 Q. District 2 same?

3 A. Correct.

4 Q. Typically, and this may seem foolish to you,  
 5 but for the record what do your duties typically include as a  
 6 uniform patrol officer? What are you asked to do?

7 A. Drive around in my marked patrol car, take a  
 8 proactive approach to prevent crime, answer any calls for  
 9 service, helping pedestrians, civilians, citizens on the  
 10 street and that type of thing.

11 Q. That's pretty much what you've done since  
 12 you've become a police officer?

13 A. Pretty much.

14 Q. Were the duties and the policies the same  
 15 whether it was District 1, District 2, District 3, different  
 16 locations?

17 A. Correct.

18 Q. Do you remember Dr. Orban?

19 A. No.

20 Q. Do you remember an incident involving Dr.  
 21 Orban?

22 A. No. I remember the name, but that's about it.

23 Q. Have you a memory independent of what might be  
 24 written down on some document?

25 A. No.

1 D A V I D D U N C A N  
 2 WAS CALLED AND AFTER BEING DULY SWORN WAS EXAMINED AND  
 3 TESTIFIED AS FOLLOWS:

## 5 DIRECT EXAMINATION

6 BY MR. MAGRI:

7 Q. Good afternoon. My name is Joe Magri. I  
 8 represent Dr. Barbara Orban, and I'll be asking you questions  
 9 here this afternoon. If there's any question that I ask that  
 10 you need clarification of or you don't understand, ask me to  
 11 clarify it or repeat it and I'll be happy to. Okay?

12 A. Okay.

13 Q. What do you do, sir?

14 A. Police officer.

15 Q. How long?

16 A. Six years.

17 Q. What's your assignment?

18 A. Uniform patrol, District 3.

19 Q. Where is District 3?

20 A. Right here.

21 Q. How long have you been in District 3?

22 A. About two years, about two years.

23 Q. Where were you before that?

24 A. I was in District 1 and District 2.

25 Q. And your duties when in District 1 were what?

1 Q. Do you know Officer Bowden?

2 A. Yes.

3 Q. How do you know him?

4 A. He was my -- I can't remember which phase, FTO,  
 5 Field Training Officer, when I was in the program.

6 Q. But you're not sure which phase?

7 A. I think it might have been 3.

8 Q. Have you partnered with him or otherwise been  
 9 involved with Officer Bowden either professionally or  
 10 personally since that time?

11 A. I think I have only actually seen him maybe one  
 12 other time since then, and that was just in passing, I  
 13 believe.

14 Q. Have you ever had any contact with him with  
 15 regard to these matters that we're appearing here about?

16 A. No.

17 Q. Have you been provided anything to review  
 18 concerning this case?

19 A. No.

20 Q. Have you had any contact with anyone about what  
 21 might be happening here today?

22 A. Yes.

23 Q. With whom?

24 A. Somebody at the City Attorney's office or the  
 25 City's office. City of Tampa.

1 Q. City of Tampa?  
 2 A. Correct.  
 3 Q. Was that person an attorney or do you know?  
 4 A. I don't remember who it was that I spoke to.  
 5 They were calling about scheduling a deposition.  
 6 Q. That's it? Just the scheduling?  
 7 A. And they were calling me to let me know what it  
 8 pertained to.  
 9 Q. What did they tell you?  
 10 A. They said it involved a lawsuit between Barbara  
 11 Orban and the City, and they said the basis of the lawsuit was  
 12 that -- something to do with the police officers who write  
 13 tickets. We write tickets because -- it's alleged that we  
 14 write tickets because it increases our pension money or fund  
 15 or something like that. It increases the City's money  
 16 somehow, something to that effect. It sounded weird so I  
 17 really didn't pay too much attention.  
 18 Q. Did they show you anything like, for instance,  
 19 allegations that she had made?  
 20 A. No. I was just on the phone with them.  
 21 Q. All you have is how they described what she's  
 22 claiming?  
 23 A. Correct.  
 24 Q. You've told me what that is?  
 25 A. Correct. Something to that effect. I can't

1 remember word for word.  
 2 Q. Did that help you to recollect anything about  
 3 her?  
 4 A. Not personally. I think in the FTO program I  
 5 did so many traffic crashes it was ridiculous. I would have  
 6 preferred not to do so many. They all kind of roll into one  
 7 after awhile. I couldn't tell you specifics of who is who.  
 8 Q. Why are there so many in the FTO program?  
 9 A. Well, one of my FTO's, he just -- that was his  
 10 thing is he -- for some reason he wanted me to get good at  
 11 writing traffic crashes. Every FTO has their own thing that  
 12 they like doing. I like doing drugs and getting drug dealers  
 13 off the street. There's other FTO's who don't like dealing  
 14 with the drug aspect. They like taking traffic crashes. I  
 15 couldn't tell you why.  
 16 Q. Do you do many traffic crashes now?  
 17 A. No.  
 18 Q. Do you write any -- do you know how many  
 19 traffic tickets you write or citations you write?  
 20 A. What time period are we talking about?  
 21 Q. Time frame in the last year.  
 22 A. Last year? I don't know. I know it's on file,  
 23 though. I know there's a record of it.  
 24 Q. Have you ever been found to be below  
 25 expectation?

1 A. No.  
 2 Q. With regard to traffic enforcement?  
 3 A. No.  
 4 Q. Let's focus on the incident with Dr. Orban for  
 5 a minute. Do you recall anything about the location, the  
 6 time, any of that sort of thing?  
 7 A. No.  
 8 Q. When's the last time you've looked at paperwork  
 9 relating to that?  
 10 A. Probably when I wrote it up six years ago  
 11 unless it went to court. I don't know if it went to court.  
 12 Do you know if it went to court? I don't know. I don't  
 13 recall if it ever went to court. Sometimes we have to show up  
 14 for court. I don't know if it did or not.  
 15 Q. It did go to court, but no one was there from  
 16 the police department?  
 17 A. Okay, yeah. That was the last time I had  
 18 anything to do with it then was when I wrote the traffic  
 19 crash. If I wrote it, I'm sure I did, but I don't remember  
 20 it.  
 21 Q. Let's start. I'll show you some documents.  
 22 You can show me what's your handwriting.  
 23 (At this time Plaintiff's Exhibit Nos.  
 24 1-3 were marked for identification.)  
 25 BY MR. MAGRI:

1 Q. Let me start by showing you Plaintiff's Exhibit  
 2 1. Take a moment and take a look at it. Tell me if you  
 3 recognize it.  
 4 A. I recognize it as a traffic citation, although  
 5 it is not my handwriting.  
 6 Q. Have you signed that in any place?  
 7 A. No, I have not.  
 8 Q. Let's take a look at Plaintiff's Exhibit 2.  
 9 Tell me if you recognize that and if so, how?  
 10 A. This is an exchange of information, and this is  
 11 my handwriting.  
 12 Q. When you say it's an exchange of information,  
 13 what is that?  
 14 A. Up at the top it has three different boxes you  
 15 can check. The third box is the one that's been checked. It  
 16 says driver exchange of information.  
 17 Q. Does that signify anything to you?  
 18 A. It just means that it looks as though this was  
 19 what was given to the drivers of both cars, each other's  
 20 information.  
 21 Q. Take a look at Plaintiff's Exhibit 3 and see if  
 22 you recognize that.  
 23 A. This is a traffic crash report, and it looks  
 24 like my handwriting. This is what we write that goes in-house  
 25 or sent to the DHSMV, I think. I don't know. I'm not sure

1 where it goes, and this is my handwriting.

2 Q. So this may be the first time you've looked at  
3 Plaintiff's 3 since you wrote it?

4 A. Correct.

5 Q. When you say the DHSMV, what do you mean?

6 A. Department of Motor Vehicles.

7 Q. So this goes up to the State?

8 A. I don't know. I'm guessing. I'm sure it does.

9 I think there's one big place where all the traffic crash  
10 reports go, I believe.

11 Q. In fact, it says at the top here, mail to  
12 Department of Highway Safety and Motor Vehicles, Tallahassee?

13 A. I'm good.

14 Q. Now, what portion of this contains your  
15 handwriting?

16 A. It looks like all of it, the front page -- or  
17 the first page, second page, third page and the fourth page,  
18 all of it.

19 Q. Now, do you have any independent recollection  
20 of having talked to Dr. Orban that night?

21 A. No.

22 Q. How about the other fellow, Mr. Collins?

23 A. No, no.

24 Q. Do you know whether or not -- well, I'll point  
25 it out to you.

1 Dr. Orban maintains that Officer Bowden  
2 debriefed her. Would you have any basis to disagree with  
3 that?

4 A. No.

5 Q. Is it sometimes the practice when you're  
6 involved with a two-person team in training where you may  
7 interview one person and the other guy may interview another?

8 A. Sure.

9 Q. Is there also a time where the training officer  
10 might interview both and then give you information to fill  
11 out?

12 A. Possibly.

13 Q. The information that's contained on that,  
14 strike that. So that might be information -- you're not even  
15 sure where you might have gotten some of that information  
16 from, whether it be Officer Bowden, whether it be talking to  
17 some of the individuals there?

18 A. Correct.

19 Q. Some of the information on there, for instance,  
20 the street location is inaccurate. Do you ever recall any of  
21 that being brought to your attention?

22 A. No.

23 Q. When you look at this, why don't you take me  
24 through that in terms of the boxes that are checked, and just  
25 tell me what that information is providing to us about the

1 nature of the accident.

2 A. Contributing causes it says, for Driver Number  
3 1 the contributing cause of the accident is listed as careless  
4 driving. And Driver Number 2 it says, no improper driving  
5 action. Vehicle defects for both vehicles, no defects.

6 Vehicle movement, Vehicle 1 is shown as being straight ahead.

7 Vehicle Number 2 is shown as being slowing, stopped or

8 stalled.

9 Vehicle special functions, it says there's no  
10 special functions for both vehicles, no pedestrians involved  
11 in this accident. Location on the roadway for both vehicles  
12 shows it was on the road. Location types says it was  
13 primarily business. Lighting conditions says it was daylight.  
14 Road system identifier says it was a local road.

15 First subsequent harmful event says the first  
16 event was a collision with motor vehicle in transport, rear  
17 end. Road surface condition says it was dry, weather says it  
18 was clear. Road surface type says it was blacktop.

19 Contributing causes to the road shows there were no defects.

20 Contributing causes from the road shows there were no defects.

21 Contributing causes from the environment shows vision was not  
22 obscured.

23 Traffic control shows there was no control at  
24 the point of the accident. Site location shows that it was  
25 not at an intersection nor railroad crossing nor a bridge.

1 And traffic way character shows it was straight or level, and  
2 the type of shoulder shows it was a curb and that's it.

3 Q. Were there any injuries in that accident?

4 A. It shows in the box for Vehicle 1, injuries  
5 shows none. Box for injuries for Vehicle 2 shows none.

6 Q. What about the air bag deployment?

7 A. For vehicle -- well, actually this doesn't show  
8 whether or not the air bag was deployed. It just shows  
9 whether or not the vehicle was -- had an air bag in it.

10 Q. How do you know that? What's it say?

11 A. Check the boxes here for air bag, and it shows  
12 there is an air bag, and for Vehicle 2 it shows there is an  
13 air bag.

14 Q. How do you determine if it's deployed?

15 A. I don't know. I was just told that -- in  
16 training that you just write whether or not there is an air  
17 bag in the car or if there isn't.

18 Q. In training are you trained in traffic law  
19 enforcement? Are you talking about training -- is that the  
20 academy or is that the FTO program?

21 A. Well, the filling out the report part would  
22 probably be more in the FTO program, but possibly some in the  
23 academy. I don't know if we did traffic crashes or not in the  
24 academy. I can't remember.

25 Q. The FTO program would be the first few weeks

1 after you're out of the academy?

2 A. Right.

3 Q. What kind of training do you recall getting on  
4 traffic citations in the academy?

5 A. How to fill them out pretty much. Pretty much  
6 fill in the blank.

7 Q. When you're in the FTO, what kind of training  
8 do you recall getting?

9 A. That's what I'm referring to is filling them  
10 out, just how to fill them out. What to put in what boxes.  
11 Where it says phone number, you put the phone number.  
12 Person's name, you put their first, last and middle name.  
13 Pretty much fundamental things and you just follow the  
14 directions on the citation.

15 Q. What was the careless driving action here?

16 A. I have no idea. I don't recall the accident.

17 Q. Does it describe it in there?

18 A. It gives us a narrative. I'll read the  
19 narrative. It says, Vehicle Number 1 was traveling -- which  
20 is I believe would be Barbara Orban. Vehicle Number 1 was  
21 traveling southbound on South MacDill Avenue at approximately  
22 five to ten miles per hour when she failed to observe Vehicle  
23 Number 2 in time and struck Vehicle Number 2 at points listed  
24 on diagram. Do you want me to take an educated guess based on  
25 what was written?

1 Q. Sure.

2 A. As to what the careless driving action would  
3 be? And not having any independent recollection of actually  
4 what occurred?

5 Q. Go ahead.

6 A. Basically it shows that she was behind Vehicle  
7 Number 2. Apparently she didn't see him, and she couldn't  
8 stop in time, and she hit the back of him, and he already had  
9 control of the lane it appears.

10 Q. So the careless driving action would be not  
11 seeing Vehicle 2?

12 A. Apparently. Just either not paying attention.  
13 Who knows what she could have been doing.

14 Q. When you check off no pedestrian involved,  
15 what's the significance of that?

16 A. Just whether or not a pedestrian was involved  
17 in the accident. Whether or not a pedestrian was hit.

18 Q. Oh, I see. All right. Given the fact that --  
19 I probably already know the answer to this question, but given  
20 the fact that you don't have any memory of her from what's  
21 written on there, but do you recall any discussion about a car  
22 abruptly turning in front of her?

23 A. No.

24 Q. When I asked that question, you just have no  
25 memory apart from what's written down on this form, right?

1 A. Correct.

2 Q. There was a time when the Tampa Police  
3 Department dispatchers tried to discourage citizens from  
4 calling police to certain types of crashes where there wasn't  
5 any injuries or significant damage. Do you recall that?

6 A. No, but I wished I worked here when it was.

7 Q. What's the policy now with regard to  
8 dispatchers?

9 A. If someone wants to report a traffic crash and  
10 if they want the police to come out, then they dispatch us.

11 Q. If police officers report to a crash, is there  
12 any expectation with regard to citations at that point?

13 A. No, not necessarily.

14 Q. What do you mean by that?

15 A. If there's injuries, then we'll write a traffic  
16 crash report, and then if we write a traffic crash report, we  
17 typically have to write a citation unless we get supervisor  
18 approval to not write a traffic ticket. If there's no  
19 injuries and there's not very much damage to the car, we give  
20 the people involved in the crash an option to -- I'm saying  
21 "we." I'm kind of generalizing, the other officers at this  
22 department that I know of and that I've come into contact  
23 with. We will give the drivers an option just to do an  
24 exchange of information and have their insurance companies  
25 settle it themselves without us getting involved as far as

1 doing a full-blown traffic crash report.

2 Q. Do you know why a full-blown traffic crash  
3 report was done here?

4 A. No, I don't know. Like I said, I don't  
5 remember exactly what was said by the parties, whether or not  
6 they insisted a report be done, so I can't really tell you why  
7 we did it or why we didn't. Obviously we did. I couldn't  
8 tell you.

9 Q. According to the crash report, there's no  
10 injuries, right?

11 A. Correct.

12 Q. The damage, did you indicate --

13 A. \$500 it looks like on both vehicles.

14 Q. Which would be minor?

15 A. I would say it's minor.

16 Q. Do you know what the speed limit there was?

17 A. It says 30 miles an hour is the posted speed.

18 Q. And Dr. Orban you have listed as going how  
19 fast?

20 A. It says that she was going approximately five  
21 to ten miles an hour.

22 Q. Would that be consistent with the kind of  
23 damage that you saw?

24 A. Probably. I'm not an expert so I can't give an  
25 exact, but I would guess just from what I've seen probably. I

1 mean, these are it looks like pretty expensive cars, so even a  
2 little dent could probably cost that much money. We're  
3 dealing with a Mercedes and a BMW -- which parts aren't cheap,  
4 I don't think.

5 Q. Let me step back. Apart from the fact that  
6 having down here you say, she failed to observe Vehicle Number  
7 2, you don't know why she failed to observe Vehicle 2,  
8 correct?

9 A. Correct.

10 Q. When you go to an accident and you have to  
11 write -- or you're going to write a citation because they  
12 won't just exchange information, all right, how do you decide  
13 who is at fault?

14 A. You listen to both people what they say  
15 happened. And if there's any witnesses that are independent  
16 witnesses, you listen to what they say. And then you look at  
17 where the accident took place, where both parties say the  
18 accident took place. Basically picture the accident in your  
19 head judging from what one person said and what the other  
20 person said. Usually they're pretty close, they're pretty  
21 similar. Then you determine from that point.

22 Q. What if there's a disagreement between the  
23 people?

24 A. If there's a disagreement, then you try your  
25 best to get an independent witness. Or in that case if

1 there's any evidence like maybe a headlight that got smashed  
2 and is lying on the road, if there's skid marks, you can use  
3 that to try -- use that as your independent witness and figure  
4 it out from there, but if you can't do that, that's one of  
5 those cases where -- I don't know. I mean, I really haven't  
6 had two people -- since I've been doing traffic crashes, I  
7 really haven't had anybody -- one person say it happened one  
8 way and one person say it was complete opposite. Because you  
9 have damage on the car so you can't really -- there's only so  
10 far you can go to lie when you have damage.

11 Q. Let's say that it's a right-of-way situation or  
12 sometimes where people turn in front of another car trying to  
13 make a left-hand turn or something like that. People can have  
14 different views about what the color of the lights were or  
15 those sorts of things, and if you don't have an independent  
16 witness, how do you resolve that?

17 A. I don't know. I don't know what you do in that  
18 case. I'd probably call my supervisor and say, hey, I don't  
19 have any evidence one way or the other. I can't in good faith  
20 write one person a ticket if I don't write the other person a  
21 ticket. I'm not going to be there in court anyway to testify  
22 because I didn't see what happened. I can't say yes, the  
23 light was green or it was yellow or it was red. It's one of  
24 those things where I'd just -- I'd probably write my report  
25 and say where the vehicles were damaged at, and say the

1 evidence at the scene and the testimony given by both drivers  
2 were inconclusive. I could not make a determination probably  
3 is what I would do.

4 Q. When you say you don't have to appear, what do  
5 you mean by that?

6 A. Well, traffic crashes since they're civil  
7 citations being issued, typically a police officer doesn't  
8 cite someone for a civil violation unless he observed it. So  
9 in court or for traffic crash citations what we do is we write  
10 the citation, give it to the person and on our copy that goes  
11 to the State, we have what's called a "did not witness form."  
12 We fill that out. We say this is a traffic crash that I as a  
13 police officer did not witness. Basically what that does is  
14 it says that I have no testimony to offer in court other than  
15 hearsay, what both people at the scene said. That's all I'm  
16 testifying to is hearsay. So we don't go to court to testify  
17 just for that reason.

18 Q. Do the reports go to court?

19 A. I believe so, I'm not sure. Like I said, I  
20 don't go to court with them so I don't know.

21 Q. Have you ever had an occasion where you've had  
22 to call your supervisor?

23 A. Yes.

24 Q. Has that happened often?

25 A. No.

1 Q. Once, twice, ten times?

2 A. I really think the only time it was was -- it  
3 might have been a pedestrian that got struck, and he or she  
4 was so badly injured that to hit him with a traffic ticket on  
5 top of going to the hospital to me would have just been cruel  
6 and unusual. So I called my supervisor and I said, listen,  
7 this guy's at fault. I'm going to write it up showing this  
8 guy is at fault. He admits he's at fault. I'm just going  
9 based on what I think is the possibility of what happened.  
10 But he's going to the hospital. I mean he can't walk. He's  
11 hurt. Why am I going to -- do I really have to give this guy  
12 a \$100 citation after he's going to the hospital. It's kind  
13 of an insult on injury, you know, and my supervisor said, no,  
14 don't worry about it. It's just one of those things where you  
15 got to have compassion for some people, you know. But as far  
16 as -- I think that's probably one of the only reasons that  
17 I've called my supervisor is for that type of reason.

18 Q. Are you familiar with whether other officers  
19 have had to call supervisors?

20 A. I'm sure they have. I don't know.

21 Q. Have you heard of a practice where certain  
22 officers will write "per supervisor" on tickets?

23 A. I don't know. I've never seen it done. It  
24 wouldn't surprise me.

25 Q. Why not? Why wouldn't it surprise you?

1 A. Because I've heard that saying, per supervisor.  
2 I've heard people write it in their reports before. Not  
3 necessarily traffic crash reports, but other types of reports,  
4 you know. I did this per my supervisor. So it wouldn't  
5 surprise me. I've heard that saying before so.

6 Q. Do you know why they write it that way?

7 A. I don't know. If I were to take a guess, I  
8 would say to get the monkey off their back. That way they're  
9 not making the decision.

10 Q. To reflect that they were told to do it that  
11 way?

12 A. Either that or they didn't want to make the  
13 decision. So they called their supervisor. Their supervisor  
14 told them and they said, well, this is per supervisor. It  
15 could mean any number of different reasons to me.

16 Q. Are you familiar with any expectation in terms  
17 of the number of citations patrol officers are expected to  
18 write?

19 A. You're going to have to define expectations for  
20 me.

21 Q. Are you told what the average citations are  
22 within your district?

23 A. I don't think I've ever been told that.

24 Q. Have you ever been given an idea of what the  
25 average patrol officer writes by way of citations?

1 A. I don't think so.

2 Q. Who is your sergeant?

3 A. Linda Mitchell.

4 Q. Who was your sergeant in District 2?

5 A. Gosh, I'd have to research that.

6 Q. How about 1?

7 A. District 1 was Judy Ragsdale, Michele  
8 Hawthorne.

9 Q. Did they ever discuss with you traffic  
10 citations or the numbers that were being written by people?

11 A. I don't believe so.

12 Q. Ever see any memorandum come around with regard  
13 to that?

14 A. With regard to what exactly?

15 Q. Numbers of citations that officers are writing?

16 A. Memorandum, I don't believe so.

17 Q. Any other kind of document with that kind of  
18 information on it?

19 A. You're going to have to be more specific though  
20 as far as citations.

21 Q. I understand that several officers that have  
22 been given performance appraisals which are below expectations  
23 in traffic citations are told that to meet expectations you  
24 have to be writing the number of citations that's average for  
25 their district, and they're told what that number is. Have

1 you heard of that?

2 A. Not a specific number, no. I've never heard of  
3 a specific number being used.

4 Q. What have you heard?

5 A. I have just heard that there are people that  
6 write more citations, and there are people that write less  
7 citations. And I don't know, I guess that's it. There's  
8 people out there that write lots and lots and lots and lots of  
9 citations because that's what they like doing. They like  
10 pulling cars over, and they like writing tickets. There's  
11 people like me who like arresting drug dealers. Drug dealers  
12 are usually on foot, not in cars. So I really don't write too  
13 many citations.

14 Q. When you say that there's people that like to  
15 write citations, are you talking about people that are on the  
16 traffic squad or are you talking about people that are patrol  
17 officers?

18 A. People on traffic squad are primarily the ones  
19 that write a lot of citations. I say like to write citations  
20 because they write a lot. So to me they like to. I'm not  
21 characterizing them in particular because I've never sat down  
22 and say, hey, do you like writing citations? Yeah, I love  
23 writing citations. I've never had a conversation like that  
24 with another officer. Me when I say the word, they like to  
25 write citations, it's just the appearance is that they like

1 doing traffic law enforcement which is stopping cars.

2 Subsequently if you stop a car for an infraction, I guess you  
3 would write them a ticket.

4 Q. Aren't there also officers that aren't in the  
5 traffic squad that are in the patrol section that will take  
6 time to write citations, go set up in a location for a day or  
7 so and write citations?

8 A. Sure.

9 Q. What's that about?

10 A. I don't know.

11 Q. Has that occurred to the consternation of some  
12 of the sergeants in terms of whether or not they have adequate  
13 numbers of patrol officers to back up other officers or to  
14 respond to the calls that come in?

15 A. I don't know. I don't know what their purpose  
16 is for doing that. Like I said, they might enjoy doing that  
17 sort of thing. They might enjoy pulling cars over.

18 Q. Have you had a situation where you recall your  
19 unit being short-handed because of officers being off doing  
20 traffic enforcement?

21 A. No.

22 Q. Have you ever gone and done traffic enforcement  
23 where you go off to a location? Are you radar certified?

24 A. No, don't want to be. Don't ever want to be.  
25 It's not my thing.

1 Q. The number of citations that you do do are  
2 listed in your evaluation each year, right?

3 A. I don't think they're listed in our evaluation.  
4 I know there's some big system out there somewhere that has  
5 all these numbers that are generated and it shows what my  
6 numbers are, arrests, tickets, but I don't think it's in my  
7 evaluation. I don't think I've ever seen the number of

8 citations that I've written. Actually that might be a lie.  
9 The evaluation itself, no, but I think at the end of the year  
10 they might give you your statistics. I don't recall, but I  
11 think they might do that, and it might show how many arrests  
12 you've made, how many reports you've written, how many tickets  
13 you've given and stuff like that, I think, but I'm not  
14 positive.

15 Q. Have you ever been disciplined?

16 A. Yes.

17 Q. For what?

18 A. I don't know if that's relevant. I'm going to  
19 let her answer the question.

20 MS. RICHARDSON: I'm going to object as to  
21 form, but you're required to answer the question.

22 BY MR. MAGRI:

23 A. You'll have to be more specific.

24 Q. Have you been disciplined? I know in the  
25 police department it's discipline that people get. Have you

1 been disciplined for any violations of police procedure?

2 A. Sure.

3 Q. What instances?

4 A. I did not give my name and badge number. I got  
5 disciplined while I was speaking with somebody over the phone.  
6 It was told to me that I was rude to the public, and I sternly  
7 disagree, and I got disciplined. I think those are the only  
8 ones that actually stood up. I can't remember. There might  
9 be others, but I'm not positive.

10 Q. Have you had any internal affairs actions filed  
11 against you?

12 A. Yes.

13 Q. Have any of them resulted in a finding of  
14 justification?

15 A. Yes, the ones that I just spoke of.

16 Q. Those two?

17 A. Yes.

18 Q. Have there been other internal affairs actions  
19 that have either been unsubstantiated or not -- what's the  
20 other word --

21 A. Sustained. That's the wording we use.

22 Q. Sustained?

23 A. Yes.

24 Q. Have those involved excessive force?

25 A. I've had two complaints -- well, actually I've

1 had personally one complaint of excessive force. No, two.  
2 Two complaints of excessive force.

3 Q. Those were?

4 A. Unsubstantiated, not sustained.

5 Q. Not sustained. Did any of those involve a  
6 shooting of anybody?

7 MS. RICHARDSON: I'm going to object as to  
8 form.

9 BY MR. MAGRI:

10 Q. Form, okay, you can answer.

11 A. Repeat the question and be more specific.

12 Q. Were you involved in any instance where someone  
13 was shot?

14 A. Yes.

15 MS. RICHARDSON: I object. Specific  
16 objection to relevance.

17 BY MR. MAGRI:

18 Q. Is that an instance where -- did the FBI  
19 determine that the explanation you gave was inconsistent with  
20 the physical evidence?

21 A. No.

22 Q. They did not?

23 A. That it was inconsistent?

24 Q. Yes.

25 A. That my explanation was inconsistent?

1 Q. Yes.

2 A. No.

3 Q. Do you recall what they concluded? Did the FBI  
4 get involved?

5 A. I believe the old chief, Holder, after he had  
6 the case -- I was told -- after he had the case reviewed by  
7 our homicide detectives and then the State Attorney's office,  
8 I heard he sent the information, all the evidence over to the  
9 FBI to have them review it.

10 Q. Have you seen what report they came up with?

11 A. I have not.

12 Q. Have you been told what's in that report?

13 A. I've been told that their finding was the same  
14 as TPD's homicide, and that I was justified in my use of  
15 force.

16 Q. No discipline came out of that?

17 A. No.

18 Q. Do you know why the chief sent it over to the  
19 FBI?

20 MS. RICHARDSON: Objection, speculation.

21 BY MR. MAGRI:

22 A. You've been talking to one of my friends,  
23 haven't you? I would love to go in-depth in that subject,  
24 although it might hinder my prospective future at this  
25 department. I don't want to talk ill of anybody who either is



1 here or was here. And I have a lot of ill comments to make of  
2 certain people that either are here or were here.

3 Q. If they'd just be your speculation, then I  
4 won't ask you to make those comments.

5 A. Thank you. Appreciate it.

6 Q. So I take it that you can't recall why a long  
7 form was written, but it's your feeling that had the people  
8 indicated that they were willing to just exchange information  
9 in an accident such as the Orban one, they could have just  
10 done the short form?

11 A. They could have, correct.

12 Q. How do you determine what the time of the crash  
13 is, for instance, that's on that report?

14 A. Just going by you ask the people that were  
15 involved what time did this happen. Usually it's an  
16 approximation, not an exact.

17 Q. Do you know what it takes to have a careless  
18 driving -- what are you trained as what's needed in order for  
19 careless driving?

20 A. Careless driving is usually a catch-all when  
21 another statute will not apply or you cannot find another  
22 statute that does apply. So then you usually refer to a  
23 careless driving, and whatever the reason is for the accident,  
24 you list that as the careless driving action. That's  
25 typically what I've done.

1 Q. Following too closely, does that require two  
2 vehicles to be in motion?

3 A. I'd have to look at the statute. I don't know  
4 it offhand.

5 Q. Do you recall having decided in this instance  
6 that following too closely was not appropriate?

7 A. I don't know. I don't have any recollection of  
8 what we talked about or what occurred out there.

9 Q. With careless driving, do you need to have one  
10 or two improper driving actions?

11 A. I believe just one. I would imagine just one.

12 Q. Are you sure?

13 A. I imagine just one, but I think on the citation  
14 you're supposed to list what the actual careless driving  
15 action was.

16 Q. Was that done on this citation?

17 A. It doesn't appear that way. I looked at it.  
18 It doesn't appear that way. It looks like it was just  
19 checked, careless driving, that's it. It doesn't appear that  
20 the actual improper driving action that was careless was  
21 written.

22 Q. This is what would have been handed to Dr.  
23 Orban, correct?

24 A. Is that her copy?

25 Q. Yeah.

1 A. Okay, then, yes.

2 Q. When the witness asked that question, he  
3 pointed to 1. And I felt it was innocuous for me to say yes,  
4 Exhibit 1.

5 With regard to Exhibits 2 and 3, does she  
6 receive either of those at the scene?

7 A. Yes, she'd receive Exhibit 2.

8 Q. Exhibit 3 is not provided to her?

9 A. Correct.

10 Q. Is there a reason for that?

11 A. Because this is -- Exhibit 3 is what we would  
12 write subsequent to the traffic crash which we might not write  
13 until the end of the shift. We might write as soon as we  
14 leave the area. Exhibit 3 is what we would turn in to our  
15 supervisor who then turns it into wherever they turn it into.  
16 Subsequently it gets turned into our records section and the  
17 State.

18 Q. Based on your understanding, this citation was  
19 dismissible under Robinson because it didn't have the improper  
20 driving action?

21 A. I would imagine, sure.

22 Q. Now, did you consistently check off the box of  
23 dealing with air bags in the citations that you wrote based on  
24 whether or not they had them or not?

25 A. On this?

1 Q. Yes, on the long form.

2 A. I don't know about consistently. I know there  
3 was a certain point at which I learned that that's what that  
4 was for, and I believe ever since then I did, but before that  
5 I don't recall if I did or not. But now, yes, I do.

6 Q. Are there many cars that don't have air bags  
7 now?

8 A. Not these days, but there are some older cars  
9 that are still out on the road that don't.

10 Q. But it's your understanding even today that  
11 that's supposed to be used just to document whether a car has  
12 an air bag as opposed to whether it's been deployed?

13 A. As far as what I can recall being trained, yes,  
14 if they do have one, although I could be wrong. I mean, I  
15 don't know. That's what I gathered from my training.

16 Q. How did you determine that the crash was  
17 unrelated to the intersection?

18 A. I don't know. I can't tell you that. I wasn't  
19 there. Sorry, not I wasn't there. That's wrong. I don't  
20 recall.

21 Q. Why did you report the road surface as dry?

22 A. I would imagine because they were dry.

23 Q. Do you recall having any telephone  
24 conversations with Dr. Orban after you wrote these tickets?

25 A. I don't believe so.

1 Q. Were you ever asked to review that crash report  
2 by anybody from the City at any time?

3 A. No, not that I recall.

4 Q. There came a point where Dr. Orban had  
5 identified a number of inaccuracies in that crash report to  
6 the City, and asked that they look into that and see if that  
7 could be correct because it was on file with the state of  
8 Florida.

9 A. Okay.

10 Q. Did anyone ever approach you to look into that?

11 A. Not that I recall.

12 Q. Do you know why the citation checks  
13 "injury to another"?

14 A. No, I don't.

15 Q. But based on your understanding, there were no  
16 injuries to others, were there?

17 A. Correct.

18 Q. Do you review the citation or does the person  
19 preparing the citation review your report?

20 A. I don't recall whether or not he did or not.

21 Q. How do one of those investigations go? You  
22 come to a scene, you're called by people, you come there. Or  
23 you're dispatched by the dispatcher I guess is a better way of  
24 putting it, right?

25 A. Usually, yes.

1 Q. Then you go to the scene, and is it typical to  
2 separate the two drivers?

3 A. Yeah, I guess.

4 Q. Then you get each of their stories?

5 A. Correct.

6 Q. As to what happened. Then at some point when  
7 you decide that you're going to write a citation, then what is  
8 the customary practice that you'd do?

9 A. As far as what?

10 Q. Writing the citation? Do you go back to the  
11 car?

12 A. I'd probably go back to my car.

13 Q. Do you take their driver's license and  
14 registration and those sorts of documents?

15 A. Yes. We need that to write the traffic crash  
16 report or to at least do the exchange of information so  
17 they'll both have each other's information.

18 Q. Do you typically ask the individuals to wait  
19 there while you go write that up?

20 A. I don't know if it's typical. I think it's  
21 usually just understood.

22 Q. In other words, you don't want them coming  
23 hanging over you while you're in the car, do you?

24 A. No.

25 Q. It's not safe, is it, to have that sort of

1 thing?

2 A. Correct.

3 Q. You also wouldn't want them to leave the scene?

4 A. Correct.

5 Q. That would be a violation of law, wouldn't it?

6 A. Correct. Which at that point I doubt they  
7 would. Although I don't know if it does constitute a

8 violation of the law at that point if they've given me their  
9 license, registration and proof of insurance because that's  
10 all the law says they have to do. So if they've given me  
11 that, I'm in my car and they decide to get in their car and  
12 drive off and I have all their information, is that a  
13 violation of law?

14 Q. I don't know. Is it obstructing the law  
15 enforcement officer in the performance of his duties?

16 A. If they're going to get a ticket and I advised  
17 them they were getting a ticket, then that's possible, if they  
18 knew that they were being detained. Although if they don't  
19 know they're being detained, would it be obstruction.

20 Q. There's certain statutes that I can cite to you  
21 later that may cover that circumstance, but with regard to  
22 your particular situation, so you may tell people to remain  
23 there or you may not; you really don't recall?

24 A. I usually just say hang tight for me. I'll be  
25 back with the information. I've just got some paperwork to

1 write. That way they don't just think I'm leaving them high  
2 and dry and hanging out for no reason.

3 Q. At the point that you're taking that paperwork,  
4 their paperwork, registration, driver's license and going back  
5 to tell them to do your paperwork, you've decided to write the  
6 citation, right?

7 A. Yes, after I've heard their stories, yes.

8 Q. Now, have you told them that they will get a  
9 citation by that point?

10 A. No. Usually I don't, not unless they ask.

11 Q. When do you typically tell them they're going  
12 to get the citation?

13 A. When I'm handing them the citation to sign and  
14 explaining exactly why I'm citing them.

15 Q. When you hand them the citation, do they ever  
16 say, well, I don't want to sign it?

17 A. Are you talking specifically in traffic crashes  
18 that I've done?

19 Q. Uh-huh (nods affirmatively).

20 A. There could have been. I don't know. I don't  
21 know exactly. It could have happened.

22 Q. What happens if people don't sign it?

23 A. Well, then they'd probably go to jail I guess  
24 for failure to sign a citation.

25 Q. That's a violation of the law to refuse to sign

1 it?

2 A. Correct.

3 Q. Do you know whether or not Officer Bowden  
4 talked to any supervisor that night?

5 A. I don't know.

6 Q. Do you know what conversations Officer Bowden  
7 had with Dr. Orban?

8 A. No, not specifically.

9 Q. Generally do you know?

10 A. No.

11 Q. You indicated that the vehicle movement is  
12 straight ahead?

13 A. That's what it says on the report, correct.

14 For Vehicle Number 2, right?

15 Q. Vehicle Number 1.

16 A. No, Vehicle Number 1.

17 Q. Now, what does that mean when it says vehicle  
18 moving straight ahead?

19 A. It just means that the vehicle was moving in a  
20 forward direction.

21 Q. What if it was slowing, how do you address  
22 that?

23 A. It would be -- actually I believe we did that  
24 for vehicle movement for Vehicle Number 2 it says 02 shows  
25 slowing, stopped or stalled.

1 Q. What about 1?

2 A. Vehicle Number 1 it's shown to be 01, straight  
3 ahead.

4 Q. So that would indicate that it's not slowing?

5 A. It just means it was moving straight ahead. I  
6 guess just going from this it would just mean straight ahead.

7 Q. Because there's also a box you could check to  
8 say it was slowing, et cetera, right?

9 A. There's only one box so it's basically just  
10 pick one.

11 Q. Straight ahead or slowing?

12 A. Or one of the other 13 choices, right.

13 Q. So the one you got is straight ahead?

14 A. Right.

15 Q. Reading that, that would allow one to conclude  
16 that it was moving straight ahead and not slowing, right?

17 A. Correct.

18 Q. Is there a particular reason why if this  
19 occurred on South Howard that it would list MacDill? I think  
20 there's at some point a correction of this. I'm sure I have  
21 that on Exhibit 3. Do I have the correction part of it?

22 A. Here's 3.

23 Q. For the amendment part?

24 A. No, I don't believe so.

25 (At this time Plaintiff's Exhibit No. 4

1 was marked for identification.)

2 (At this time a brief recess was taken.)

3 BY MR. MAGRI:

4 Q. Take a look at that. Tell me if you recognize  
5 that.

6 A. It shows a Florida Traffic Crash Report  
7 Narrative diagram, and it looks like my handwriting.

8 Q. What's the date of that?

9 A. 3/27/2000.

10 Q. Is that the date that it was prepared?

11 A. Oh, no, that's just date of crash. That's the  
12 only date I see on it.

13 Q. What's it say?

14 A. It says, amended information, Section 1.

15 Vehicle 1 was actually traveling southbound on South Howard 20  
16 feet south of West Bristol Avenue. Section 2, Vehicle 2 was  
17 actually traveling southbound on South Howard 20 feet south of  
18 West Bristol Avenue. The traffic crash occurred on South  
19 Howard Avenue 20 feet south of West Bristol Avenue.

20 Q. Do you know where the cars were when you came  
21 there?

22 A. What do you mean?

23 Q. Where the cars in the parking lot, on the road,  
24 do you recall?

25 A. I have no idea.

1 Q. Do you recall whether or not the individual  
2 that was sitting in Vehicle Number 2

3 observed anything other than the fact that he felt the impact?

4 A. I don't know.

5 Q. Is there anything that would reflect --  
6 typically if he had some information, would that be reflected  
7 on the report somewhere?

8 A. No.

9 Q. But in any event, your report of what the  
10 careless driving action is contains no description other than  
11 the fact that she failed to observe Vehicle 2, right?

12 A. Correct.

13 Q. Now, that suggests to me that you're getting  
14 that information from Dr. Orban?

15 A. Which information?

16 Q. That she failed to observe it?

17 A. Correct. I mean that's what it would sound  
18 like.

19 Q. Typically if she were to tell you that there  
20 was another vehicle there that had made an abrupt move out  
21 from in front of her, was that something that should be put  
22 down in one of those reports?

23 A. She's saying that there is a what now? There's  
24 a vehicle -- was it the vehicle that she struck or was it a  
25 different vehicle?

1 Q. No, a different vehicle.  
 2 A. There's a vehicle -- I don't know came from  
 3 where? What are we talking about?  
 4 Q. There's a vehicle that she's following down the  
 5 street?  
 6 A. Not this vehicle involved?  
 7 Q. Not that vehicle. It was a large vehicle and  
 8 it made an abrupt, unsignaled, very quick turn right in front  
 9 of the other vehicle?  
 10 A. In front as far as like now it's jumped ahead  
 11 of another vehicle and she's no longer behind it?  
 12 Q. In front was a bad word. Just before the  
 13 stopped vehicle?  
 14 A. Okay.  
 15 Q. It makes an abrupt turn at the intersection  
 16 without signaling or slowing down or --  
 17 A. Okay.  
 18 Q. As if had it not done that, it might have hit  
 19 the vehicle in front of it?  
 20 A. Okay.  
 21 Q. Is that something that should be in the report?  
 22 A. No.  
 23 Q. Why not?  
 24 A. Because it wouldn't matter. It would be  
 25 irrelevant to her striking or not striking the vehicle still.

1 Because regardless of what another driver does on the road as  
 2 far as you saying that driver in front of her, she, as another  
 3 driver, still has to leave enough room in order to avoid  
 4 things like that. So it would be irrelevant whether or not  
 5 there was a driver in front of her or not that did that, what  
 6 you said. Because she would still need to leave enough room  
 7 to where if somebody did do what you said, she would still be  
 8 able to stop in time.  
 9 Q. How much room would that be?  
 10 A. How much what?  
 11 Q. How much room would that be?  
 12 A. I don't know. Typically is I -- what one -- I  
 13 was taught one 1,000, two 1,000. That's the rule I was taught  
 14 when I went through driver's ed, meaning you leave two seconds  
 15 between the car in front of you. That's what I was taught.  
 16 So if you're going down the freeway and there's a car in front  
 17 of you -- no one does it these days, believe me. If there's a  
 18 car in front of me and I'm on the highway doing 60, the car in  
 19 front of me is doing 60, you would pick a spot, a stationary  
 20 spot on the side -- this is what I was taught. You would pick  
 21 a stationary spot where the car in front of you passes, and a  
 22 soon as that car hits that spot, I would count one 1,000, two  
 23 1,000 and by the time I get to that spot, that stationary spot  
 24 of that car where I started counting, it would be 2,000 -- or  
 25 two seconds, I'm sorry. If it's before that, if I go one

1 1,000 and I get to it, then I was -- I'm driving too close to  
 2 the car in front of me. I'm not leaving enough room. I was  
 3 taught the two-second rule. That's nothing legal. That's not  
 4 a legal term. This is driver's ed. This is 15 years old  
 5 driver's ed, high school.  
 6 Q. And if you were going ten miles an hour, how  
 7 much --  
 8 A. Two seconds. It's just -- that's what I was  
 9 taught in driver's ed when I was 15 years old was you leave  
 10 two seconds between you and the car in front of you. It  
 11 doesn't matter how slow they're going.  
 12 Q. But your notion from your standpoint is that if  
 13 someone hits someone else from behind, they didn't leave  
 14 enough room, that's the way you view it?  
 15 A. Oh, yeah. If you're driving down the road and  
 16 a dog runs out in front of your car, you slam on your brakes.  
 17 If I'm behind you and I slam into you, is my excuse for  
 18 getting out of me being at fault the fact that a dog ran in  
 19 front of the road and you slammed on your brakes. Your excuse  
 20 is going to be the dog ran in front of the road (sic), what am  
 21 I going to do. No, of course not. I have to leave enough  
 22 room between me and you in case something like that happens.  
 23 Q. Well, so from your standpoint, any time there  
 24 is a rear-end contact, the person from behind would be  
 25 deserving of a ticket?

1 A. Typically.  
 2 Q. When wouldn't they?  
 3 A. Maybe if the person in front, the lead vehicle,  
 4 maybe if they're in reverse. Maybe they're doing something  
 5 where they're reversing, but they're still the car in front.  
 6 I mean, there's so many types of reasons why.  
 7 Q. I'm just curious which ones you have besides  
 8 reverse?  
 9 A. I don't know. I couldn't tell you. I'm just  
 10 giving you an "if".  
 11 Q. Is reversing something you should anticipate?  
 12 A. I'm just giving you an "if." I don't know.  
 13 That's one of the things that comes to my head.  
 14 Q. You're not even sure --  
 15 A. Well, if you're at a red light, okay. Here's a  
 16 hypothetical. If you're at a red light, you're the first car  
 17 at the red light, and I'm approaching, and all of a sudden the  
 18 car at the front -- at the red light throws his car into  
 19 reverse and starts backing up. Technically the car that's  
 20 reversing is still the car in front, but I hit him. Well,  
 21 technically now the car in front is at fault because that's an  
 22 illegal backing, correct? So there's one instance where the  
 23 car in front, even though that it was struck by the car in the  
 24 back, the car in the back is not at fault because the car in  
 25 front illegally backed.

1 Q. So if they did some illegal action?

2 A. Sure. If they did an illegal action, sure,  
3 then the car in back wouldn't be at fault.

4 Q. What about an illegal action to where -- isn't  
5 it illegal to make a turn without signaling?

6 A. I believe so, sure.

7 Q. What if somebody does an illegal action like  
8 that and turns without signaling, does that affect who is  
9 liable?

10 A. I don't believe so.

11 Q. Why not?

12 A. Because, like I said, years of driving on the  
13 road you have to anticipate things like that, cars not  
14 signaling. Cars don't signal all the time every day.

15 Q. What about the backing up, if that's an illegal  
16 action, but don't you have to anticipate that?

17 A. It's so hard to -- it's hard to explain. It's  
18 very hard, and I don't think I have an explanation that's good  
19 enough. I couldn't tell you.

20 Q. Have you ever heard the notion of an  
21 unavoidable accident?

22 A. I've heard the words "unavoidable accident"  
23 before.

24 Q. Do you know what that means?

25 A. No.

1 Q. Have you ever been trained about what an  
2 unavoidable accident might be?

3 A. No.

4 Q. Let's take this situation. Someone is driving  
5 down a road in one lane, goes off the road a few feet, hits  
6 and kills someone who is working in their yard. In that  
7 instance the person that went off the road would be liable  
8 for, what, failing to maintain their own lane or careless  
9 driving or something else?

10 A. Sure.

11 Q. Any number of things?

12 A. Yeah.

13 Q. What if in that same circumstance there had  
14 been a car coming from the opposite direction that had gone  
15 over into their lane, and the driver of this vehicle veered  
16 off to the side of the road to avoid them, and hit and killed  
17 someone working in their yard. Would the person that was  
18 driving the vehicle that veered over and hit and killed  
19 somebody in their yard, would they have committed a violation?

20 A. No.

21 Q. Why?

22 A. Because the vehicle that veered into their path  
23 of travel, it was a direct -- their action was a direct result  
24 of that crash. It was a direct cause of that crash. But a  
25 car turning in front of another car at the last minute without

1 a signal I don't believe is a direct -- is a direct -- is an  
2 action that's -- a direct reason why they would be in a crash.

3 Q. Could it be?

4 A. I don't believe so.

5 Q. Under no circumstance?

6 A. I don't know of under no circumstance, but I  
7 don't believe so in the circumstance that you've told me.

8 Q. What if the reason that they turned so abruptly  
9 was because they hadn't been paying attention; they were  
10 talking on the cell phone, et cetera, they hadn't slowed down  
11 enough, and they realized that if they didn't turn, they were  
12 going to hit this stopped traffic that was in front of them.

13 So they made this abrupt turn without signaling or anything to  
14 avoid that accident, and then the car that was behind them  
15 because of road conditions and whatever and because of --

16 A. Now, you're throwing in road conditions. Now,  
17 you're throwing in different things.

18 Q. The thing is, for instance, let's say the car  
19 behind them now is -- takes a moment, is distracted by what's  
20 occurring in front with the larger vehicle, and now for the  
21 first time sees what this larger vehicle saw and is not able  
22 to stop at that point, and bumps the vehicle in front. Isn't  
23 that an unavoidable accident?

24 A. I don't believe so.

25 Q. Why not?

1 A. Because you as a driver I believe in that  
2 situation have to allow enough distance in time to stop.

3 Q. Would the condition of the road change that?

4 A. No. Because if it was wet, then you would have  
5 to allow a greater distance, and I would still think it would  
6 be your burden to allow greater distance in time to stop in  
7 case something would happen like that.

8 Q. How is it that we know that someone is not  
9 giving enough space between themselves and the vehicle in  
10 front of them? Let's say that in that circumstance while  
11 you're going down the road, if that vehicle in front of them  
12 had put their brakes on and begun to stop, even abruptly at  
13 that point because a dog came out, the person behind felt that  
14 there was enough distance where they could have broke (sic)  
15 and avoided hitting that vehicle, from their standpoint they  
16 would have enough distance, right?

17 A. Okay.

18 Q. Let's say that was true, they actually would  
19 have. But the driver of that vehicle that's made the abrupt  
20 turn to the left didn't believe that if he put his brakes on  
21 abruptly, he could have stopped in time to hit that vehicle  
22 that was in front -- without hitting that vehicle in front?

23 A. Uh-huh (nods affirmatively).

24 Q. Therefore, that's why he made that turn. At  
25 that point in time, even though the driver behind him had

1 given enough distance so that they could have stopped if he  
2 had put his brakes on abruptly to avoid hitting a dog, they  
3 now don't have that ability with this car that stopped dead in  
4 front of them.

5 A. Makes no sense.

6 Q. Why not?

7 A. I'm not going to give you a reason why. It

8 makes no sense.

9 Q. Can you articulate a reason why it doesn't make  
10 any sense?

11 A. I'm sure I could, but it would take time. I  
12 just can't off the top of my head give you a reason, but  
13 listening to that it makes no sense to me. What you depicted  
14 does not make any intelligent sense as to why the car who you  
15 are describing as Barbara Orban's would still not be at fault.

16 Q. Normally when I hear someone say that it just  
17 doesn't make any intelligent sense, normally I would  
18 anticipate that someone could explain why it doesn't. So I'd  
19 appreciate it if you would.

20 A. I'm just going to revert to the old saying, you  
21 have to give yourself enough time and distance. The car in  
22 front, even by making that left-hand turn, they have,  
23 technically -- even though they did not brake to a stop to  
24 avoid the accident, they turned to avoid the accident. Not  
25 getting into another accident by doing so. Therefore, they

1 have given themselves time and distance to avoid that traffic  
2 crash, so the theory makes no sense.

3 Because you're saying that this person that  
4 made the abrupt left turn, had they not made that turn, they  
5 would have struck the car in front of them by just solely  
6 braking. Yet, my interpretation of that is that -- and you're  
7 saying that they did not give themselves enough time and  
8 distance. Therefore, they had to swerve and make that left.  
9 My interpretation of that scenario is that that car that made  
10 the abrupt left did give themselves enough time and distance  
11 just for the mere fact that they did make that left turn and  
12 avoided a traffic crash. They just didn't avoid it by  
13 braking. They avoided it by veering.

14 Q. But they avoided it by violating the law, by  
15 not signaling a turn, right?

16 A. I'd have to look at the statute book about  
17 signaling because I know something new just came out about  
18 signaling, but -- on the books. I think now you have to  
19 signal for everything, but I think back then I think signaling  
20 was only an option whether or not -- if it would put the other  
21 drivers in danger or whatever.

22 So technically, yes, but the fact remains I'm a  
23 police officer. I cannot give him a ticket for that if I did  
24 not see it, and if he did not know his driving action caused a  
25 traffic accident, then there was no accident in the first

1 place. You have to know in order -- if you're claiming in any  
2 way that the driver who veered to the left, if there was a  
3 driver who veered to the left. I don't recall this, and I  
4 don't recall her making those statements. So if there was, in  
5 fact, a driver that veered to the left, due to the car in  
6 front of him coming to some sort of stop suddenly, and he  
7 didn't use his turn signal -- what was my point. I can't  
8 remember now.

9 Then...

10 Q. If you didn't see him?

11 A. I didn't see him do it and not to mention the  
12 fact that -- I was saying something about if he veered and he  
13 wouldn't know there was a traffic crash, if you're insinuating  
14 -- if you're insinuating that that car that made the left is  
15 now a possible hit-and-run suspect because he is the direct  
16 cause of a traffic crash now, from what your theory or from  
17 what your hypothetical is or what she's telling you is, is now  
18 you're depicting it in a way that that car that made that  
19 abrupt left turn is now a suspect in the hit and run because  
20 he is a direct cause of that traffic crash.

21 If you're a direct cause of that traffic crash,  
22 that's called a phantom vehicle. He was not struck, but he is  
23 the cause of the traffic crash. Therefore, he would be a  
24 phantom vehicle in a hit and run, if that's what you're  
25 insinuating. But for him to be a phantom vehicle in a hit and

1 run he has to know or have knowledge that a traffic crash  
2 occurred subsequent to his action.

3 Q. So you wouldn't be able to cite him unless you  
4 knew that he knew?

5 A. No. For a hit and run, if that's what you're  
6 insinuating. As far as the turn itself, I wouldn't be able to  
7 do that anyway.

8 Q. Because you didn't see it?

9 A. And if he was making a left turn to avoid a  
10 traffic crash, then to me I'm not going to ticket someone if  
11 they're making a left turn, a hard left to avoid a traffic  
12 crash.

13 Q. Even though the reason they're doing that is  
14 because they weren't observing the road ahead of them?

15 A. Correct.

16 Q. And had come too quickly up on stopped traffic  
17 and then placed the people behind them in --

18 A. Do you realize where your theory breaks down?  
19 Your theory breaks down --

20 Q. I'm trying to figure that out.

21 A. -- If there were 100 cars in that line, if  
22 there were 100 cars behind Barbara Orban and one car in front  
23 of her, and that one car in front of her swerved to the left  
24 to avoid, and then she swerved to the left to avoid or she  
25 broke hard to avoid. And then the car behind her swerved left

1 to avoid because none of them left enough room, the hundredth  
2 car that wasn't paying attention to the person that swerved  
3 left to avoid and hits the car, are all 99 cars in front prior  
4 to the hundredth car, are all of them at fault in that traffic  
5 accident and then the hundredth person that actually did hit  
6 the car, they're not at fault?

7 Q. Let's just leave where we are. Because it  
8 would seem to me that once that car swerves to the left, the  
9 drivers that are behind that car are going to see that?

10 A. Exactly and that's my point. And as a driver  
11 --

12 THE COURT REPORTER: Sir, you have to  
13 wait --

14 BY MR. MAGRI:

15 Q. The first driver who sees that --

16 THE WITNESS: Don't sir me.

17 THE COURT REPORTER: One at a time.

18 BY MR. MAGRI:

19 Q. The first driver in line is going to see that  
20 from a much closer distance than the hundredth car in line,  
21 right?

22 A. It depends. 100 cars swerving, you could be  
23 all the way up here at that point, by that point.

24 Q. He'd have to miss 100 cars swerving in order to  
25 be in the same position she was, wouldn't we?

1 A. Then we could get into -- now we're at what  
2 if's.

3 Q. No, we're not.

4 A. Yes, we are.

5 Q. From your standpoint it might be possible that  
6 someone that was the hundredth car in a line could avoid  
7 seeing 99 people make an abrupt turn to the left?

8 A. Absolutely. Because there is so many types of  
9 variables that could go into a "what if."

10 Q. Let's stay with what she's saying. She's the  
11 first car in line?

12 A. Okay.

13 Q. Not the hundredth car in line?

14 A. Correct.

15 Q. There is this abrupt turn right in front of  
16 her?

17 A. That's what she's saying, this is what I  
18 remember.

19 Q. I understand that's what she's saying. But the  
20 same thing would be true with that woman that's going down the  
21 street and veers off and hits and kills the person working in  
22 their yard because she would be saying that a car came down,  
23 and I had to swerve to avoid it, right?

24 A. I do not believe that's the same.

25 Q. The difference is what?

1 A. Because one car is swerving into the path and  
2 one car is swerving out of the path. One car is swerving into  
3 the path of travel forcing that car to swerve even further  
4 out. Another car is swerving out of the path of travel out of  
5 the way.

6 Q. Wouldn't that depend upon the effect all of  
7 that had on your perception and reaction and those sorts of  
8 things?

9 MS. RICHARDSON: Object to the form of the  
10 question, specifically to speculation and  
11 hypotheticals.

12 BY MR. MAGRI:

13 Q. Would you know?

14 A. I can't answer that. These hypotheticals  
15 you're giving me, I just can't answer these. You're asking me  
16 to speculate and hypothesize, and I just can't do that.

17 Q. I just don't want to hear later on that you  
18 believe you have some expertise --

19 A. Believe me, I have no expertise. I am not an  
20 expert at traffic crashes.

21 Q. With regard to intersections in crashes, aren't  
22 there studies that show that if intersections don't have  
23 proper turn lanes that it increases the likelihood of  
24 accidents?

25 MS. RICHARDSON: Objection.

1 BY MR. MAGRI:

2 A. I don't know.

3 Q. You don't know?

4 A. I don't know.

5 Q. What about turn signals and those sorts of  
6 things, are you familiar with any reports that show that that  
7 increases the likelihood of accidents?

8 A. No.

9 Q. Are you familiar with any reports that would

10 show that engineering changes have the biggest effect on  
11 decreasing crashes as opposed to other actions, including law  
12 enforcement actions, that can be typically taken?

13 MS. RICHARDSON: Object to the form.

14 BY MR. MAGRI:

15 A. I do not know.

16 Q. You mentioned before that people called you up  
17 and told you that the theory of her lawsuit involved whether  
18 or not there's monies that go where? What did they tell you?

19 A. The pension fund.

20 Q. What do you understand about your pension fund,  
21 how it's funded?

22 A. I have no clue. That's why I didn't pay it  
23 attention, because I have no clue about our pension fund.

24 Q. Do you have any familiarity with what your role  
25 is in funding the pension fund?

1 A. No.  
 2 Q. Do you know that they take money out of your  
 3 check?  
 4 A. Yes.  
 5 Q. To fund it?  
 6 A. Yes.  
 7 Q. Do you know whether the city contributes to it?  
 8 A. I don't know.  
 9 Q. Do you know whether the state contributes to  
 10 it?  
 11 A. I don't know.  
 12 Q. Are you familiar with the fact that there is a  
 13 law that says that a percentage of premium increases goes  
 14 directly to the police pension fund?  
 15 A. I'm not familiar with that.  
 16 Q. Insurance premiums?  
 17 A. I'm not familiar with that.  
 18 Q. Have you ever heard any officers complain that  
 19 there's been an increase in emphasis on traffic citations  
 20 which has a correlation to insurance?  
 21 A. No.  
 22 Q. Hasn't there been an increase in traffic  
 23 citations?  
 24 A. I don't know.  
 25 Q. Has a second traffic squad been created?

1 A. I don't know.  
 2 Q. Have you heard that officers are now expected  
 3 to write about 40 percent more, patrol officers are expected  
 4 to write approximately 40 percent more citations than had been  
 5 just a few years ago?  
 6 A. I don't know.  
 7 Q. Why did you mark the portion there that says  
 8 not at intersection?  
 9 MS. RICHARDSON: Object to the form.  
 10 Asked and answered.  
 11 BY MR. MAGRI:  
 12 Q. On the form? Do you recall?  
 13 A. No.  
 14 Q. What does "influenced by intersection" mean?  
 15 A. It means was the traffic crash influenced by  
 16 the intersection.  
 17 Q. What's that mean, influenced by intersection?  
 18 What does that mean to you?  
 19 A. It means was the traffic crash a result of  
 20 where the parties were coming from and were the parties coming  
 21 from an intersection.  
 22 Q. Give me an example of when it would be  
 23 influenced by an intersection.  
 24 A. I can't.  
 25 Q. So even though -- and that's the state of your

1 knowledge back then, in other words, --  
 2 A. I'm sorry.  
 3 Q. As to when something was influenced by an  
 4 intersection, did you ever check that box off or did you  
 5 always leave it blank?  
 6 A. I don't recall.  
 7 Q. But at this point in time you can't give me an  
 8 example or an instance in which you believe you could show  
 9 that something was influenced by an intersection?  
 10 A. No.  
 11 Q. Can you give me an example of where something  
 12 could be described as -- what is the other one, at an  
 13 intersection?  
 14 A. It would be at an intersection.  
 15 Q. That would be when it was physically located  
 16 within the intersection?  
 17 A. Correct.  
 18 Q. Have you ever heard that insurance companies  
 19 pay the Tampa Police Department to investigate crashes?  
 20 A. No, I have not.  
 21 Q. Do you know what use is made by these crash  
 22 reports and why they're sent up to the Department of Motor  
 23 Vehicles?  
 24 A. No, I don't.  
 25 Q. Do you know why the traffic crash reports, if

1 they're hearsay, are even sent to the traffic hearing?  
 2 A. No, I don't.  
 3 Q. But nonetheless they are sent, even though  
 4 they're hearsay, is that correct?  
 5 A. I don't know.  
 6 Q. Is there a policy that you're familiar with  
 7 that relates to whether officers have to appear and how they  
 8 have to go about filling out paperwork in order not to appear?  
 9 A. A policy?  
 10 Q. Yes.  
 11 A. I don't know of one.  
 12 Q. Is there a procedure that officers employ?  
 13 A. Yes.  
 14 Q. What's that?  
 15 A. Fill out a "did not witness" sheet and attach  
 16 it to the citation.  
 17 Q. The crash report as well?  
 18 A. No.  
 19 Q. What's sent to -- what else is done with that?  
 20 What's done with the form once you fill it out?  
 21 A. It's turned in with the traffic citation.  
 22 Q. The "did not witness" form is turned in with  
 23 the citation?  
 24 A. Correct.  
 25 Q. What else?



1 A. That's as far as I know.  
 2 Q. Is the crash report turned in with the  
 3 citation?  
 4 A. The crash report is turned in with the rest of  
 5 the paperwork that you turn in every day.  
 6 Q. And that's the citation, right?  
 7 A. Sure.  
 8 Q. And that paperwork would include the citation,  
 9 the crash report, and the "did not witness" form, all of it,  
 10 right?  
 11 A. If I arrested anybody, all that would be turned  
 12 in, too. It's not in any specific order.  
 13 Q. The thing is your procedure or your practice in  
 14 a case where you've written a citation, and it involved a  
 15 crash and you didn't witness it, you'd fill out the citation,  
 16 the crash report and then you'd turn those things in together  
 17 with an "I did not witness" form?  
 18 A. No. The "did not witness" form gets stapled to  
 19 the citation, and then everything gets turned in whenever you  
 20 turn it in at the end of your shift or during your shift.  
 21 Q. When you say everything you mean what?  
 22 A. Any paper that you've written that day.  
 23 Q. In other words, the citation, the crash report  
 24 and the "did not witness" form?  
 25 A. Sure.

1 Q. All of that's turned in at the end of the  
 2 shift?  
 3 A. Or throughout the shift, whenever.  
 4 Q. What happens to that paperwork after that you  
 5 don't know?  
 6 A. I don't know.  
 7 Q. All you know is you don't have to appear at the  
 8 hearing if there is one, right?  
 9 A. Correct.  
 10 Q. Now, were you notified that Dr. Orban made an  
 11 internal affairs complaint involving this matter in December  
 12 of 2000?  
 13 A. I don't know.  
 14 Q. Do you recall whether there was ever any  
 15 investigation of that complaint?  
 16 A. I don't know.  
 17 Q. Have you ever been investigated for being  
 18 untruthful in any paperwork that you've prepared?  
 19 A. No.  
 20 Q. Have you ever been investigated regarding any  
 21 internal affairs complaint regarding any traffic citations or  
 22 crash reports that you've ever done?  
 23 A. No.  
 24 Q. I guess it would be fair to say you don't  
 25 recall ever being disciplined with regard to any complaint

1 that Dr. Orban made that had been filed, correct?  
 2 A. Correct.  
 3 Q. What happens to people who get citations in  
 4 terms of their insurance, do you know?  
 5 A. No.  
 6 Q. Have you ever gotten a citation?  
 7 A. Yes.  
 8 Q. When? Before you were a police officer?  
 9 A. Correct.  
 10 Q. How many did you get?  
 11 A. I don't recall.  
 12 Q. Did you have any concern about any increase in  
 13 your automobile insurance?  
 14 A. I don't recall.  
 15 Q. If the road was wet, can you think of any  
 16 reason why you would say it was dry?  
 17 A. No.  
 18 Q. Would it be significant to know whether or not  
 19 the road was wet or dry or could it be?  
 20 A. Sure.  
 21 Q. Why?  
 22 A. Because it could be a contributing cause to the  
 23 traffic crash.  
 24 Q. Meaning what?  
 25 A. Meaning it could be a reason why somebody was

1 or was not involved in the crash.  
 2 Q. Why somebody wasn't involved in the trash?  
 3 A. Sure.  
 4 Q. What do you mean by that?  
 5 A. I don't know. I'm just saying why or why not.  
 6 Q. You mean it could be a contributing cause, but  
 7 you said why somebody wasn't involved with the traffic crash?  
 8 A. Well, if there's a why, then there's got to be  
 9 a why not.  
 10 Q. But wouldn't it work either way, why somebody  
 11 was or wasn't involved?  
 12 A. That's what I said.  
 13 Q. I thought you just said wasn't.  
 14 A. I said why or why not.  
 15 Q. Are road conditions such as whether or not --  
 16 when road conditions are wet, is it more likely to have an  
 17 accident?  
 18 A. I don't know.  
 19 Q. Have you ever had an accident where you felt  
 20 that the condition of the road wet or dry influenced the  
 21 accident?  
 22 A. I don't know.  
 23 Q. You can't recall?  
 24 A. I can't recall.  
 25 MR. MAGRI: I think I'm done.

1 MS. RICHARDSON: I don't have any  
2 questions.

3 (At this time the deposition  
4 in the above-captioned matter  
5 was concluded at 1:46 p.m.)  
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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA )  
3 COUNTY OF PINELLAS )

4 I, DENISE HERROLD, Court Reporter,  
5 certify that I was authorized to and did stenographically  
6 report the foregoing deposition; and that the transcript is a  
7 true record of the testimony given by the witness.

8 I further certify that I am not a relative,  
9 employee, attorney, or counsel of any of the parties, nor am I  
10 a relative or employee of any of the parties' attorney or  
11 counsel connected with the action, nor am I financially  
12 interested in the action.

13 I, the undersigned authority, certify that  
14 DAVID DUNCAN personally appeared before me and was duly sworn.

15 WITNESS my hand and official seal this  
16 1ST DAY OF NOVEMBER, 2005.

17

18 DENISE A. HERROLD  
19 NOTARY PUBLIC - STATE OF FLORIDA  
20 COURT REPORTER  
21  
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<p><b>\$</b></p> <p><b>\$100</b> [1] 21:12  <b>\$500</b> [1] 17:13</p> <hr/> <p><b>0</b></p> <p><b>01</b> [1] 39:2  <b>02</b> [1] 38:24</p> <hr/> <p><b>1</b></p> <p><b>1</b> [20] 2:17 3:24,25 4:15 9:2 12:3,6  13:4 14:19 20 23:6 7 32:3 4 38:15  16 39:1,2 40:14,15  <b>1,000</b> [5] 43:13,13,22,23 44:1  <b>1-3</b> [1] 8:24  <b>1:46</b> [2] 1:15 66:5  <b>100</b> [4] 53:21,22 54:22,24  <b>12:00</b> [1] 1:15  <b>13</b> [1] 39:12  <b>15</b> [2] 44:4,9  <b>1ST</b> [1] 67:16</p> <hr/> <p><b>2</b></p> <p><b>2</b> [24] 2:18 3:24 4:2,15 9:8 12:4,7  13:5,12 14:23,23 15:7,11 18:7,7  23:4 32:5,7 38:14,24 40:16,16 41:2,11  <b>2,000</b> [1] 43:24  <b>20</b> [3] 40:15,17,19  <b>2000</b> [1] 63:12  <b>2005</b> [2] 1:14 67:16  <b>27</b> [1] 1:14</p> <hr/> <p><b>3</b></p> <p><b>3</b> [14] 2:19 3:18,19,21 4:15 5:7 9:21  10:3 32:5,8,11,14 39:21,22  <b>3/27/2000</b> [1] 40:9  <b>30</b> [1] 17:17  <b>301</b> [1] 2:4  <b>315</b> [1] 2:8  <b>33302</b> [1] 2:9  <b>33609</b> [1] 2:5  <b>33756</b> [1] 1:24</p> 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REPORT # 00-23137 6810-166



FLORIDA UNIFORM TRAFFIC CITATION

738397-E X

CITY (IF APPLICABLE) HILLSBOROUGH 03 AGENCY FLORIDA HIGHWAY PATROL  
CITY TAMPA SUMMONS (DEFENDANT'S COPY)  
IN THE COURT DESIGNATED BELOW THE UNDERSIGNED CERTIFIES THAT HE/SHE HAS JUST AND REASONABLE GROUNDS TO BELIEVE AND DOES BELIEVE THAT ON  
DAY OF WEEK MON MONTH 23 DAY 27 YEAR 2000 TIME 6:30 PM  
NAME (PRINT) FIRST BARBARA LAST LANE  
STREET 2310 W. MEKAY AV.  
CITY TAMPA STATE FL ZIP CODE 33609  
TELEPHONE NUMBER 353-9676 DATE OF BIRTH 07/12/54 RACE W SEX F  
DRIVER LICENSE NUMBER DW15-072-54-1752-0 YR. LICENSE EXP. 2000 IF COMMERCIAL MITL. VEH. "X" HERE ☐  
YR. VEHICLE 97 MAKE Ford MODEL Mustang YEAR TAG EXPIRES 2000 IF PLACARDED HAZARDOUS MATERIAL "X" HERE ☐  
VEHICLE LICENSE NO. CC665L TRAILER TAG NO. / STATE FL IF CONTINUATION CITATION(S) "X" HERE ☐  
UPON A PUBLIC STREET OR HIGHWAY, OR OTHER LOCATION, NAMES S. HOWARD AV. + W. BRISTOL

DID UNLAWFULLY COMMIT THE FOLLOWING OFFENSE, CHECK ONLY ONE OFFENSE EACH TICKET.  
☐ UNLAWFUL SPEED \_\_\_\_\_ MPH. SPEED APPLICABLE \_\_\_\_\_  
☐ INTERSTATE ☐ 4-LANE HWY. WITH 20 FT. MEDIAN OUTSIDE BUS. OR REG. DIST.  
☒ CARELESS DRIVING ☐ SAFETY BELT VIOLATION ☐ EXPIRED DRIVER LICENSE  
☐ VIOLATION OF TRAFFIC CONTROL DEVICE ☐ IMPROPER OR UNSAFE EQUIPMENT ☐ FOUR (4) MONTHS OR LESS  
☐ VIOLATION OF RIGHT-OF-WAY ☐ EXPIRED TAG ☐ MORE THAN FOUR (4) MONTHS  
☐ IMPROPER CHANGE OF LANE OR COURSE ☐ SIX (6) MONTHS OR LESS ☐ NO VALID DRIVER LICENSE  
☐ IMPROPER PASSING ☐ MORE THAN SIX (6) MONTHS ☐ DRIVING WHILE LICENSE SUSPENDED OR REVOKED  
☐ CHILD RESTRAINT ☐ NO PROOF OF INSURANCE  
☐ DRIVING UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES, CHEMICAL OR CONTROLLED SUBSTANCES, DRUGS/ACTUAL PHYSICAL CONTROL WHILE IMPAIRED, OR DRIVING/ACTUAL PHYSICAL CONTROL WITH UNLAWFUL BLOOD/URINE ALCOHOL LEVEL, BAC \_\_\_\_\_

OTHER VIOLATIONS OR COMMENTS PERTAINING TO OFFENSE:  
IN VIOLATION OF: ☐ STATE STATUTE ☒ SECTION 316.1925  
CRASH ☒ YES ☐ NO PROPERTY DAMAGE ☒ YES ☐ NO ☒ YES ☐ NO INJURY TO ANOTHER ☒ YES ☐ NO SERIOUS BODILY INJURY TO ANOTHER ☒ YES ☐ NO FATAL ☒ YES ☐ NO  
☐ CRIMINAL VIOLATION COURT APPEARANCE REQUIRED, AS INDICATED BELOW.  
☐ INFRACTION COURT APPEARANCE REQUIRED, AS INDICATED BELOW.  
☒ INFRACTION WHICH DOES NOT REQUIRE A PRESENCE IN COURT  
COURT INFORMATION DATE 08/27/00 TIME 10:00 AM COURT 30 DAYS  
LOCATION \_\_\_\_\_

ARREST DELIVERED TO \_\_\_\_\_ DATE \_\_\_\_\_  
I AGREE AND PROMISE TO COMPLY AND ANSWER TO THE CHARGES AND INSTRUCTIONS SPECIFIED IN THIS CITATION, WILLFUL REFUSAL TO ACCEPT AND SIGN THE CITATION MAY RESULT IN ARREST. I UNDERSTAND MY SIGNATURE IS NOT AN ADMISSION OF GUILT OR WAIVER OF RIGHTS. IF YOU NEED REASONABLE FINANCIAL ACCOMMODATIONS TO COMPLY WITH THIS CITATION, CONTACT THE CLERK OF THE COURT.  
SIGNATURE OF DEFENDANT BARBARA LANE  
SIGNATURE OF OFFICER PFC. D. DUNCAN 977-44916 (1-10)  
HSMV 75900 (Rev. 4/98) 446-32878  
Printed on recycled paper

PLAINTIFF'S EXHIBIT 9  
Reppan  
9-27-08

Instructions for individuals charged with a traffic violation in Hillsborough County, Florida

If charged with a **CRIMINAL TRAFFIC OFFENSE**, you have ten working days from the day of the citation to set a court date.

**FAILURE TO COMPLY WITHIN 10 DAYS WILL RESULT IN THE SUSPENSION OF YOUR DRIVERS LICENSE, \$10.00 DELINQUENCY FEE, AND A POSSIBLE WARRANT BEING ISSUED FOR YOUR ARREST.**

If charged with a **CIVIL INFRACTION**, you must comply with one of the following procedures within 30 straight days from the day of the citation to avoid a \$12.00 delinquency fee.

1. Set a court date.
2. Pay the civil penalty.
3. Pay the civil penalty plus costs and elect to attend Defensive Driving School (requires additional course fee)

**SET A COURT DATE**

If charged with a civil infraction, you may set a court date by phone. \* See the insert for the phone number to call.

You may request a court date by mail by filling in all the information on the reverse side of the envelope and enclose the yellow copy of the citation.

You may request a court date in person by appearing at the Traffic Violations Bureau, or at any of the branch locations. (\*see insert for locations)

**PAY THE CIVIL PENALTY**

You may pay the amount of civil penalty in person, or by mail. You must send in the amount listed on the back of the yellow copy of the citation. **DO NOT MAIL CASH.** Personal checks are acceptable if they are made payable to the **CLERK OF CIRCUIT COURT**, and the name and address of the defendant is imprinted by the bank on the face of the check. Please enclose your yellow copy of the citation with your payment.

*If you were charged with a tag, registration, driver license or insurance charge; you must send a copy of the valid registration, driver license or proof of insurance with your payment.*

**PAY THE CIVIL PENALTY PLUS COSTS AND ELECT TO ATTEND DEFENSIVE DRIVING SCHOOL**

You must complete the School Election Affidavit and enclose the correct payment. You may call the Clerk's Traffic Office or come in to receive the total amount due the Clerk. You then have 90 days to complete the course and submit a **CERTIFICATE OF COMPLETION** to the Clerk of Circuit Court in the county where the citation was received.

**FAILURE TO COMPLY WITH THE INSTRUCTIONS WITHIN THE TIME LIMIT WILL RESULT IN THE SUSPENSION OF YOUR DRIVERS LICENSE.**

\*See Information Insert and School Election Affidavit in envelope