

1 (Transcript of the opening statement portion of the
2 hearing only.)

3 OPENING STATEMENT BY MS. ZOIS

4 MS. ZOIS: May it please the Court, Your Honor. Good
5 morning.

6 VOICES: Good morning.

7 MS. ZOIS: All drivers on the road have a
8 responsibility. They have a responsibility to drive safely.
9 We have rules of the road, things like don't run a red traffic
10 signal. When the driver of a vehicle runs a red traffic signal
11 and crashes into another driver they're responsible for the
12 harms and losses that are suffered by that injured person.

13 I want to tell you the story of what happened on
14 . It's in College Park; it's a bright,
15 sunny day; the roads are dry; it's the Wednesday before
16 Thanksgiving, students at College Park are bustling around,
17 packing up their things, getting ready to head home for the
18 long holiday, a little extra traffic on the road that, as we
19 all know, and is heading into an intersection
20 in College Park. She's heading eastbound on Knox Road at its
21 intersection with Route One. As she travels into the
22 intersection she has a red traffic signal. As she approaches
23 the intersection she doesn't stop, she doesn't slow down, she
24 drives directly into the intersection and strikes a Lincoln
25 Navigator that was going through on a green signal. The

1 Lincoln Navigator is forced head-on into a tree.

2 was the driver of the Lincoln
3 Navigator. During the collision had two impacts,
4 not just one, the first one was to his left side which jolted
5 his body to the left. His airbags deployed and blew his hands
6 off the steering wheel. His next impact was head on into a
7 tree causing his body to go backwards and forwards rapidly.

8 The property damage in this case is significant.

9 This is a photograph -- can we go back one? Thanks, This
10 is a photograph of front of his vehicle, and you
11 can see essentially where the tree stops his vehicle. Airbags
12 deployed inside of his vehicle. This is a photograph of
13 vehicle. This is another view of
14 vehicle.

15 at the scene of the accident was dazed
16 when the accident happened, patted himself down, made sure he
17 still had his parts, had some abrasions on his hands, had an
18 abrasion on his forehead, but did not want to go to the
19 emergency room on the Wednesday before Thanksgiving, he had
20 family back at his house. So, the ambulance personnel came to
21 the scene, and in order for them to allow to leave
22 he had to sign a waiver saying that he was refusing medical
23 treatment. later ended up in Doctor's Hospital with
24 a bleed on his brain that evening.

25 Now, what happened to in the collision, he

1 suffered from a brain injury, a neck injury, a right shoulder
2 injury, a back injury, and a knee injury. His shoulder, his
3 knee, and his back all required surgery after the collision.

4 Next I want to tell you who we're suing and why.

5 There's two defendants in this case, the first one is

6 We're suing because she was the
7 driver of a vehicle that ran a red light and caused the harms
8 and losses suffered by Four years later and one
9 week is how long it took for to admit
10 negligence in this case. has finally two weeks
11 before coming to court admitted responsibility for the accident
12 and admitted that she ran the red light. What she is not
13 admitting is that she caused any injuries or damages to

14

15 We're also here with a claim against

16 is
17 own insurance company. had insurance with
18 that covers losses like this
19 one. And we've, the parties have agreed to this language,

20 is own insurance company.

21 is a named defendant in this case because may
22 be responsible for a portion of the judgment that may be
23 entered in the case.

24 During the course of the trial you're going to have
25 to make two big decisions in this case, the first is, is

1 legit, is he a liar, is he faking all of this, or is it
2 all very, very real? The other issue you're going to have to
3 decide after you get past the first hurdle is what are the
4 harms and losses that were caused by this collision, what were
5 the damages that were caused to , as a result of
6 , running the red light and causing the accident?

7 While you're weighing the evidence in the case, it's
8 not criminal court, it's not beyond a reasonable doubt, it's
9 not clear and convincing, it's not you have to be 100 percent,
10 it's essentially are doctors more right than
11 wrong? Is what testimony, what he's telling you,
12 is that more right than wrong? So, that's the balance, that's
13 the test, more right than wrong.

14 Now, the first thing I'm going to do is describe for
15 you -- I went in the wrong order, didn't I? That's all right.
16 The first thing I'm going to do is describe for you the
17 traumatic brain injury that had. And essentially,
18 we'll do a short anatomy lesson, but our brains are inside our
19 skulls, and they're soft, they're actually a little bit harder
20 than Jell-O, they're kind of a gelatin type material, and they
21 sit inside our skulls, and what can happen when there's
22 acceleration and deceleration that happens quickly, your brain
23 is actually shaken inside your head, so the front of your head
24 hits the front of your skull, and likewise in the back.

25 Now, on the evening of the accident went

1 to Doctor's Hospital and what they saw was something that
2 showed up on a CT scan. You can go back one. There are
3 different areas of the brain -- let me go back to the -- all
4 right. There's an area of your brain right here called the
5 frontal lobe, and the frontal lobe is a very important part of
6 our brain, essentially it's the CEO of your brain. It's what
7 allows you to multitask, to do sequencing, to have appropriate
8 behaviors, it's what's our filter, it's why we don't say
9 everything that's on our mind, it's how we keep things back
10 sometimes. If you're observing something and you think oh,
11 that's ridiculous, well, your filter helps you keep that
12 statement in your head. When you don't have that filter you
13 have outbursts. The injury to brain is in his
14 frontal lobe.

15 Okay, we can go to the next one, But here's an
16 example of the acceleration/deceleration of what happens to
17 your brain inside your head. You know, often times you hear
18 about Shaken Baby Syndrome, it's the same thing. You can have
19 a perfectly healthy looking baby with nothing on their head or
20 face but you know that there's damage in the brain, and what
21 that's caused by is the brain forcefully banging into the front
22 and back of your skull.

23 Now, you also have axons in your brain. Axons are
24 like the transmitters that are in your brain, they're what help
25 relay information, and this is one that looks normal, so this

1 is a normal axon, and these are microscopically small, they're
2 tiny. And when you have that acceleration and deceleration
3 movement the axons actually sheer, they actually get damaged,
4 and what ends up happening is you have a post-traumatic
5 condition, which is a big word for you've got damaged brain
6 cells, basically. And also had axonal sheering.
7 This doesn't always show up on CT scans and MRI scans, which
8 are basically pictures of the inside of our brains, but it did
9 in his case. We could see the axonal sheering on his MRI.

10 This is the CT scan that was done of
11 head in the emergency room on the evening of the accident.

12 wanted to leave the scene of the accident, he didn't
13 want to stay there, he wanted to go home to his family. He
14 went home and he started acting strange, and he went to his
15 shop, he owns an upholstery company, and he had to go up
16 because somebody needed to get paid before the holidays, so he
17 had his drive him up to the shop, and he started struggling
18 doing something very simple, he was trying to calculate some
19 hours in a wage and couldn't do it, he had to do it five times
20 over. was there with his mother who became very
21 concerned and said you're going to the hospital.

22 They went to the hospital, and what you can see right
23 here is this white mark, and that is a bleed on

24 The evening at the hospital the doctors there said it's
25 one of two things, it's either a bleed on his brain, or it's

1 what's called a calcified meningioma, which is kind of a big
2 medical word that basically means it's a tiny piece of
3 calcification that's in his brain, that's not really causing
4 any problems, but these don't go away, these stay in your
5 brain.

6 Later, after this evening, comes under the
7 care of She is a neurologist at
8 has a fantastic neurology clinic.
9 She focuses her practice on people with brain injuries. As a
10 neurologist she reads notes, she reads brain scans. They also
11 have on staff something called a neuroradiologist, which is a
12 doctor that specializes in looking at things like this. What
13 ended up happening was he had the CT scan that said bleed, or
14 is it this little calcification? Later he had an MRI, and his
15 neurologist went back and said well, I'm going to go look for
16 this thing so I can figure out whether or not that's what it
17 is, or if he did have a bleed on his brain, and she did just
18 that. She did it herself, and she also pulled in one of the
19 neuroradiologists at , they looked at the scans
20 together, this was no longer there. So, what that means is
21 that on the evening of the accident that was his brain injury,
22 and that was a bleed. And will tell you, I believe
23 she's coming by video --

24 (The videotape was played back but the contents are
25 not transcribed herein.)

1 MS. ZOIS: Hemorrhagic contusion is another way to
2 say bleed on the brain.

3 You're going to hear a lot of different terms for
4 traumatic brain injury. There's a lot of different synonyms
5 that people use to describe it, but it all means the same
6 thing, he has a brain injury.

7 Now, I want to go over the Defendants' expert. The
8 Defendants' hired professional is a doctor by the name of
9 (phonetic sp.), and you're going to hear testimony
10 from by video, she's going to tell you that she and
11 this radiologist poured over these films, every single slice,
12 they look at these films, they did this extensively. The
13 Defendants' hired witness has never seen the CT scan of his
14 brain that you all just saw a minute ago, and what he'll tell
15 you is this.

16 (The videotape was played back but the contents are
17 not transcribed herein.)

18 MS. ZOIS: Never looked at them before rendering
19 opinions in this case. Where there are potentially hundreds of
20 thousands, even millions of dollars on the line. Their
21 neurologist who they're calling in on a brain injury case
22 didn't look at the CT scans before rendering opinions.

23 He's also very -- he's on the defense side. He's a
24 neurologist that comes in and testifies for defendants.

25 (The videotape was played back but the contents are

1 not transcribed herein.)

2 MS. ZOIS: He's also very heavily compensated for.

3 (The videotape was played back but the contents are
4 not transcribed herein.)

5 MS. ZOIS: So, 80 percent of what this gentleman
6 makes every year is coming in and testifying in cases for
7 defendants.

8 He also doesn't have a tremendous amount of traumatic
9 brain injury experience.

10 (The videotape was played back but the contents are
11 not transcribed herein.)

12 MS. ZOIS: We're four years and three weeks after the
13 car crash. _____ is still very much in active treatment
14 for this brain injury. His doctor that he's currently seeing
15 right now is _____ (phonetic sp.), and she's a
16 neuropsychiatrist at _____. She is the
17 Medical Director of the Brain Injury Clinic. She does research
18 in this area, she's given grants in this area, her focus is on
19 traumatic brain injuries. She is who is currently treating
20 _____, and what she'll tell you is because of this frontal
21 lobe injury that's in his brain, again, she'll describe it as
22 the CEO of your brain, but it's what we use to multi-task,
23 organize, sequence things; it affects our mood, it affects our
24 behavior, it affects on how impulsive we are to do something;
25 and it's also as I discussed that filter. And you're going to

1 hear some examples of what _____ has done after this crash
2 and up until today. For example, _____ pulled over a
3 Prince George's County police officer because he was mad that
4 he was rolling through stop signs. That's one of the problems,
5 if he cannot control his impulsiveness and his behavior. He
6 became so livid and angry that a Prince George's County police
7 officer was running through stop signs he put himself in harms
8 way, put himself in peril to pull over this police officer and
9 give him his mind.

10 Now, during the course of _____ treatment he
11 has seen a lot of specialists. One of the doctors that he saw
12 is a _____ (phonetic sp.), and _____ is a
13 psychologist, he's not a medical doctor, but he's a
14 psychologist. And while he was under the treatment with _____
15 _____ gave him a battery of tests, it was like an
16 all-day exam, some of it was verbal, some of it was fill in the
17 pencil marks, but it was an all-day exam. _____ was
18 having a very bad day that day, he will tell you about it and
19 why. He wasn't in the best condition to be sitting through an
20 all-day test. _____, I expect, will come in and tell you
21 _____ failed that test that day. He failed the test, he
22 can't tell you what the test results would have been because
23 they had to throw them out the window, but what we do know is
24 that _____ didn't put forth his best efforts on that day
25 to take that test. Three months later _____ had an exam

1 with a neuropsychologist at _____ and he
2 passed the test.

3 Now, the other thing that I want to discuss with you
4 is _____ back injury. And essentially, I don't know how
5 much everybody knows about backs, but we all have these, and we
6 have our vertebra in our backs like this, and in between our
7 vertebra are these soft kind of squishy things, and these are
8 our discs, and our discs are what help us have mobility in our
9 back so we don't have bone on bone. The other thing going on
10 back here is there's some spacing that's in between these areas
11 where our nerve roots come out, and these nerve roots on this
12 model here they stop, but they don't stop, they actually extend
13 down even into your legs. So, if you have a herniated disc, or
14 a problem with one of your discs it pushes on the nerve that
15 it's next to, causes pain, causes problems. So, before
16 _____ at that time is a _____,
17 he has aging process in his back, he (indiscernible) from that.
18 Fourteen years ago in 1997 and 1998 he had some back problems
19 that lasted for limited amounts of time, he had an MRI that was
20 done that showed that he had problems at two disc levels. _____
21 _____, he is doing manual labor, or
22 was before November of _____ every day. He lifts overhead, he
23 puts up drapes, he carries sofas, he carries chairs, he flips
24 them over. Can't do any of that any more. But during the time
25 period before this collision he's doing all these things.

1 In he was in the shop and -- that's a
2 good disc, by the way, I'll get back to that in a second. In
3 April of he was in the shop and he was helping another
4 person with a sofa and he slipped on something in the shop.
5 So, he wrenched his back. He had muscle spasms in his back,
6 and he went to go see a chiropractor. It worked, he didn't go
7 to his family doctor, he didn't get narcotic medication, he
8 didn't have MRIs, he didn't get injections, he didn't have a
9 Cortisone shot, he didn't have an epidural, he didn't have any
10 or his nerves burnt, but that's his existing back condition
11 before November of .

12 Now, this is what a healthy disc looks like. So, if
13 we pulled one of these off and snapped it in half and showed it
14 to you that way this is actually L-3 disc, and
15 that's what it looks like when it's normal, the disc isn't
16 touching any of these yellow things coming out, it's not
17 popping out anywhere. But an unhealthy disc looks more like
18 this. Your disc tears, squishes out, and touches one of those
19 nerves, one of those yellow things on the side of that, and it
20 causes pain. Following the collision, had
21 significant back pain. He's had significant back pain for four
22 years and three weeks. He did not want to have surgery, not
23 interested in surgery, didn't want to do it, didn't want to get
24 cut, didn't want hardware, so he tried everything before the
25 surgery. He had his nerves burnt, he had epidural injections,

1 he had Cortisone shots, he tried physical therapy, narcotic
2 pain medication, did everything he could to avoid surgery,
3 didn't want it. He consulted with numerous doctors saying give
4 me an option other than surgery, give me something, give me
5 something minor, give me something, you know, minimally
6 invasive procedure.

7 No. What was faced with was he had to
8 have two of these happening then. These two bones are fused
9 together. And who's a spinal surgeon is going to
10 come in and tell you about the surgery that he performed.

11 is a spinal surgeon, 80 percent of what he does is on the
12 spine. He is well renowned, he's actually developed hardware
13 and replacement discs in the field of spinal surgery that
14 they're being used all over the country. So, what
15 did was he went in, opened up. I'll let him explain
16 all of that to you when he testifies by way of videotape, but
17 essentially this is what is left with, he's left
18 with screws and plates in his back that have brought all of
19 those vertebra together. He had that surgery in May of ..
20 He's doing well, the surgery worked.

21 Now, briefly on the knee and the shoulder, I'm not
22 going to spend too much time on this, but essentially you have
23 your shoulder, and you have a rotator cuff, it's right here.
24 And what can happen is you can tear that rotator cuff when
25 you're involved in a collision. tore his rotator

1 cuff in this collision, and he also injured his left knee.
2 This is a right knee, this is my right knee, but he also
3 injured a part of his knee called the medial meniscus, which is
4 this soft part of cartilage right here. So, he had those two
5 injuries that were operated on after the collision.

6 He also sought treatment from a (phonetic
7 sp.). is the doctor that repaired both of these, he's a
8 sports therapist doctor, and he's very familiar with shoulder
9 and knee injuries, and what did was he went in and did
10 the repair.

11 Now, I expect that part of the defense of this case
12 is going to be he had a bad back before this accident, this all
13 would have happened anyway. He had a bad knee and a bad
14 shoulder before this accident, , he's got some
15 degenerative changes, it all would have happened anyway. Well,
16 we asked about that, and he's the one that actually went
17 in and did the surgeries. Before we get to the surgeries it's
18 important for me to point out that three weeks before this
19 collision, went in to his family doctor,
20 he went in for excessive sweating, not for any other
21 reason, and , they had a long history together,
22 said how's everything else going, what's going on, how are you
23 doing? And he said well, I've been really busy lately, and
24 I've got some minor aches and pains in my knees and shoulders,
25 but nothing big. And said well, you might want

1 to get that checked out, you might want to go get some MRIs,
2 never had the MRIs, never did anything, never followed up with
3 it. It was a minor complaint to _____ made by
4 _____ And we know what _____ would say with respect
5 to that visit. _____ was deposed by the defense in
6 this case, and they know that what _____ would say is
7 essentially he came in, wasn't as a result of an injury or
8 anything else, wasn't severe, wasn't keeping him from doing
9 anything, but I suggested that he have some testing at the
10 time.

11 In the weeks leading up to this collision
12 was working 60 hours a week, he's climbing up ladders, he's
13 flipping sofas, he's also doing some restoration at a house,
14 he's putting up cabinets, he's painting, he's using this
15 shoulder, he's using this knee, and it's fine. It's not
16 holding him back not one bit. Following this collision he
17 couldn't do any of it.

18 You're also going to hear from a
19 (phonetic sp.). _____ is a trauma surgeon at Shock
20 Trauma. And _____ didn't examine _____ but he's
21 going to come in and he's going to render some opinions. And
22 what _____ is going to say is this.

23 (The videotape was played back but the contents are
24 not transcribed herein.)

25 MS. ZOIS: You're going to be hearing from a lot of

1 people that are close to . You're going to hear from
2 You're going to hear from his wife. You're going
3 to hear from a co-worker. You're going to hear from his
4 priest. And they're all going to tell you that before this
5 crash he was working 60-hour weeks, he was a hard worker,
6 nothing held him back physically, and that since his crash he
7 can't work. He can't do the job that he did before this
8 collision.

9 Now, one of the things that everybody brought with
10 them today is their common sense, and you need to use that,
11 obviously, in this case, it's going to be very important
12 because there's going to be a lot of things that are going to
13 be pulled out of medical records that may be held up as this is
14 it, but you have to look at the big picture, you have to look
15 at everything, you can't look at anything in a vacuum. And
16 we've all been to doctors appointments, some of them spend some
17 time with us, some of them are in and out, but doctors will
18 sometimes make mistakes in medical records, some of them don't
19 matter. For example, if they call you a she instead of a he,
20 it's not really an important mistake to be made in a medical
21 record, but other times, or in other ones, I think one of the
22 doctors say he ran into a train instead of a tree, not really
23 important. But sometimes there can be issues in medical
24 records that just aren't accurate. One of
25 physical therapists said that he went horseback riding over a

1 you look at all the harms and the losses that this has caused
2 we're going to ask you to value this case, and we're
3 going to ask you for a lot of money. His medical expenses to
4 date are in the hundreds of thousands of dollars. His past
5 lost wages, \$70,000 a year, \$280,000. And it's going to be up
6 to you at the end of the case to put a value, to figure out
7 what you're allowing the verdict to be in this case. And I'm
8 going to suggest to you now that after hearing all the evidence
9 at the conclusion of the case you're going to see that this is
10 the kind of case that will allow for a verdict in the millions.
11 Thank you.

12 (Discussion off the record.)

13 OPENING STATEMENT BY

14 : May it please the Court, Counsel, Madam
15 Forelady, ladies and gentlemen of the jury, good afternoon.

16 VOICES: Good afternoon.

17 First, I'm not going to be long, and I
18 don't have a real long slide show. My name is _____ and
19 I represent the lady who's being sued in this case,

20 She's right over there to my left.

21 I want to start by, I actually only have two slides.
22 Here's the first one. I want to start by saying thank you.
23 And I say thank you for two reasons. First, I thank you
24 because I know you all got other things you could be doing this
25 week, so thank you for your time, and I'm sure I speak for