

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 Q: Can you state your full name for the record please?

2 A: Yes, my name is Trace LeDuc.

3 Q: What is your profession or occupation?

4 A: I am a professional engineer and I work as a consultant.

5 Q: What is your engineering degree in?

6 A: I have a Bachelor of Science in Civil Engineering and a Master of Science in Physics and
7 Traffic Engineering.

8 Q: Where did you go to school?

9 A: I got my Bachelors degree at Rhome University which is here in Lone Star, not in some
10 foreign country. I got my Masters degree at Northwestern University up in Chicago,
11 which is a foreign country.

12 Q: Have you ever had a job other than your consulting job?

13 A: Yes, for the first fifteen years after I escaped from Chicago I worked for Black and
14 Veetch, a major highway contractor in the state of Lone Star.

15 Q: What was your job with Black and Veetch?

16 A: A lot of highway engineering and quite a bit of human factors analysis.

17 Q: What is human factors analysis?

18 A: Well, in the context of traffic engineering, it is trying to determine what typical mistakes
19 involving drivers might happen on a roadway, and then trying to guard against those
20 mistakes.

21 Q: And who is it that you do consulting work for today?

22 A: I do consulting work for several major insurance companies, including the insurance
23 company that insured the vehicle being driven by Mitch Murphy at the time of the
24 accident.

25

TESTIMONY OF TRACE LeDUC - 1

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 Q: Are you saying that Dusty Stockard's insurance company hired you to represent Mitch
2 Murphy's position in this case?

3 A: Yes, turns out Mr. Murphy was an additional insured under their insurance policy so they
4 are defending the lawsuit brought by the Stockards. Ironic, but I've kept my focus on
5 getting the best result for Mitch and not for the plaintiff.

6 Q: Were you employed to give an expert opinion regarding the accident that killed Channing
7 Stockard?

8 A: Yes, I have been hired to look at that accident.

9 Q: What materials have you been provided?

10 A: I have been provided with a copy of all of the depositions that have been taken to date. It
11 is my understanding that mine is the last deposition, so that would include all of the other
12 depositions in the case. I've also looked at the trooper's report of the accident, and
13 various photographs taken at the scene of the accident. Of course, I reviewed my own
14 book on the subject of traffic accident investigation, which I find to be very useful.

15 Q: Based on the materials that you have reviewed and upon your education, background and
16 experience, have you formed an opinion about the cause of the accident?

17 A: Yes, in my opinion the accident was caused by the negligence of the truck driver in
18 parking his tractor trailer in the right hand traveled portion of the highway.

19 Q: In your opinion, was anyone else at fault in this accident?

20 A: Yes, in my opinion some of the blame is to be shared by the person who was driving the
21 U-Haul trailer who overturned it in the middle of the highway. People just shouldn't lose
22 control of a trailer when they're driving it.

23 Q: In your opinion, does Mitch Murphy share any of the blame in this accident?

24 A: No, in my opinion Mr. Murphy's actions have nothing to do with the accident in
25 question, and he should not share the responsibility.

TESTIMONY OF TRACE LeDUC - 2

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 Q: You agree that Mr. Murphy hit the trailer in the right hand traveled portion of the
2 roadway?

3 A: Yes, that is exactly correct.

4 Q: How many feet of skid marks did he leave before hitting the trailer?

5 A: He left about 40 feet of skid marks.

6 Q: On a clear day, in daylight conditions, shouldn't Mr. Murphy have been able to bring his
7 vehicle to a stop or take evasive action to avoid the backend of the tractor trailer in this
8 situation?

9 A: You have to understand several things. First, there was not that much sight distance to
10 spot an obstacle as you crested the top of that steep hill and prior to the accident site.
11 Second, from the crest of that hill to the accident site there was just barely sufficient
12 distance to normally evade or come to a stop if one recognized a problem.

13 Q: Can you identify Exhibit 8?

14 A: Yes, that's a photograph of the area of the accident showing how Highway 66 dips down
15 to go under the overpass where Speedway Road crosses. I've been there, and this photo
16 truly and accurately depicts the road surface there.

17 Q: Does this photo support your opinions about sight distance and stopping distance at this
18 particular spot?

19 A: Yes.

20 Q: Which side of the road was the accident on as depicted here?

21 A: On the left part of the photo. Murphy was travelling toward the camera on the left side of
22 the picture, down that steep hill.

23 Q: Given the factors you've listed, do you have an opinion as to why Mr. Murphy was
24 unable to bring his vehicle to a stop to avoid this collision?
25

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 A: Yes, in my opinion when Mr. Murphy saw the tractor trailer in the right hand traveled
2 portion of the roadway, and when he did not see warning flares or warning triangles or
3 red flashing lights on the trailer itself, there was nothing to cause him to understand that
4 the tractor trailer unit represented an obstacle. By the time he was able to perceive that
5 the truck was in fact stopped, he had used up his stopping distance.

6 Q: What do you mean by that?

7 A: Well, when a normal driver who is driving down the highway in the right hand traveled
8 portion of the roadway sees a vehicle in front of him in the same lane, his experience is
9 that the vehicle is moving and is moving at highway speed, because that's how it
10 generally happens. In this instance, when he saw the tractor trailer in the right hand
11 traveled portion of the roadway, his brain would have registered nothing abnormal about
12 the situation until he got much closer.

13 Q: In your opinion, if the tractor trailer had been pulled off on the shoulder of the road,
14 would that have made a difference in connection with this accident?

15 A: Yes, it would have made a difference because a vehicle parked on the shoulder is
16 obviously stopped, and it's obviously out of place, and it obviously gets your attention. It
17 says "there's something going on here." In this instance, just glancing at the backend of a
18 tractor trailer doesn't tell you anything if it's in the traveled portion of the highway.
19 Your brain thinks it's a normal thing and it reacts like that until something comes along
20 to change that perception.

21 Q: You've stated an opinion that the driver of the tractor trailer unit was at fault in this
22 accident; why is that your opinion?

23 A: For the reasons we've just discussed. If he had parked his tractor trailer on the shoulder,
24 it would obviously have been an unusual situation and would have represented something
25 that required attention. By parking it in the right hand traveled portion of the highway, he

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 created an appearance of normalcy. The ordinary driver would have not seen it as an
2 abnormal situation requiring action.

3 Q: Did you read the deposition of Billy Bob Barnett?

4 A: I said earlier that I'd read all the depositions. That included Barnett's.

5 Q: Did Mr. Barnett report having seen the overturned U-Haul?

6 A: Yes, Mr. Barnett said he immediately recognized that something was amiss on the road,
7 which is what you'd expect when you see an overturned trailer. That gets your attention.

8 Q: Can you identify Exhibit 11?

9 A: That's a photo from another case, but it illustrates a point there and helps the jury
10 understand my testimony. It shows an overturned U-Haul at or near a road surface. This
11 gets your attention because it's out of the ordinary. It's not what you expect to see.

12 Q: And you said that the driver of the U-Haul trailer shares some of the responsibility. Why
13 is that?

14 A: Well again, a person who is driving a U-Haul trailer shouldn't have it turn over behind
15 them. But getting back to the driver of the tractor trailer unit, you can certainly
16 understand when you see an overturned U-Haul trailer that something is amiss. If Mr.
17 Murphy had seen an overturned U-Haul trailer in the roadway, it would have registered
18 on him as something that required attention and probably immediate attention. By
19 parking his tractor trailer unit in the right hand traveled portion of the roadway, the truck
20 driver blocked Mr. Murphy's view of the only thing that would have told him that
21 something was out of the ordinary, which is the overturned trailer.

22 Q: Are you saying that Mr. Murphy bears absolutely no responsibility in connection with
23 this accident?

24 A: Well, under ideal circumstances, a driver should probably recognize that a vehicle in the
25 right hand traveled portion of the roadway is in fact stopped at some point before he hits

DEPOSITION OF TRACE LeDUC
February 7, 2011

1 it. The question is whether, given the totality of the circumstances and the poor sight
2 distance at this spot, his attention was sufficiently directed toward an abnormal situation
3 in sufficient time for him to avoid it.

4 Q: If the driver of the tractor trailer had put emergency flares behind his unit, would that
5 have helped in the situation in your opinion?

6 A: Of course, it would have been very helpful because it again represents a very abnormal
7 situation and would have received immediate attention. Flares are not only out of the
8 ordinary, but they are also a reference point to tell other drivers that the truck is stopped.

9 Q: Why is that?

10 A: Flares sitting on the highway draw attention. They are obviously on the surface itself. If
11 the truck behind the flares maintains the same spatial relationship—if it continues to look
12 the same size as compared to the flares—the other drivers can immediately conclude that
13 it is stopped.

14 Q: If the driver of the tractor trailer had put emergency triangles out in the road behind his
15 trailer, would that have changed the outcome here in your opinion?

16 A: Again, because emergency triangles are clearly abnormal in the right hand traveled
17 portion of the roadway, they would have immediately commanded attention to the fact
18 that the tractor trailer was stopped. Mr. Murphy's brain would not have registered it as a
19 normal situation, and instead would have registered the situation as being abnormal.

20 Q: I'm handing you what has been marked as Exhibit 9. Can you identify what that is?

21 A: Yes, those are excerpts from my book on accident reconstruction and human behavior.

22 Q: Which you find to be helpful?

23 A: The whole book is helpful. Bits and pieces are less helpful, but still handy.