

Howell, Rosa (NHTSA)

From: Clarence Ditlow [cmdiii@autosafety.org]
Sent: Tuesday, October 12, 2010 10:03 AM
To: Hershman, Larry (NHTSA); Yon, Scott (NHTSA)
Subject: Austin Striking Vehicle Passenger Deposition
Attachments: sierra eusebio apr 21 03-3859.pdf

Here is the deposition of the passenger in the Toyota that struck the Jeep. His brother died from burn injuries.

Clarence Ditlow
Executive Director
Center for Auto Safety
1825 Connecticut Ave NW
Washington DC 20009

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF NEW YORK

3 ----- X

4 NATASHA AUSTIN and NICOLE AUSTIN,
5 Plaintiffs,

6 Index No.
7 -against- 102150/00

8
9 DAIMLER CHRYSLER CORPORATION, WESTBURY JEEP EAGLE,
10 INC., MARIBEL ORTIZ, as intended Administratrix of
11 the Estate of Jose A. Sierra, deceased, GRACE H.
12 EVANS and LISA N. EVANS,
13 Defendants.

14 ----- X

15 55 Mineola Boulevard
16 Mineola, New York

17
18 April 21, 2003
19 10:40 a.m.

20

21

22 DEPOSITION of EUSEBIO SIERRA, a nonparty
23 witness, taken on behalf of the Parties, pursuant
24 to Order, held before a Notary Public of the State
25 of New York.

26

27 SULLIVAN COURT REPORTING
388 Tarrytown Road
28 White Plains, New York 10607

1 APPEARANCES:

2 SULLIVAN, PAPAIN, BLOCK, McGRATH & CANNAVO, P.C.
3 Attorneys for the Plaintiffs
4 120 Broadway
5 New York, New York 10271
6 BY: FRANK FLORIANI, ESQ.
7 (212) 732-9000

8 HERZFELD & RUBIN, P.C.
9 Attorneys for the Defendants
10 DAIMLER CHRYSLER CORPORATION
11 WESTBURY JEEP EAGLE
12 40 Wall Street
13 New York, New York 10005
14 BY: JEFFREY L. CHASE, ESQ.
15 File No.: 303020064

16 LEWIS, JOHS, AVALLONE, AVILES & KAUFMAN, LLP
17 Attorneys for the Defendant
18 ESTATE OF JOSE A. SIERRA
19 425 Broadhollow Road
20 Melville, New York 11747
21 BY: JENNIFER MARINO, ESQ.
22 File No.: 70-1171

23 HOEY, KING, TOKER & LEVINE, ESQS.
24 Attorneys for the Defendants
25 GRACE EVANS and LISA EVANS
55 Water Street, 28th Floor
New York, New York 10041
BY: DAVID P. FEEHAN, ESQ.
File No.: 1167783002
(212) 612-4239

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White Plains, New York 10607

1 IT IS HEREBY STIPULATED AND AGREED by and among
2 the attorneys for the respective parties hereto
3 that all rights provided by the C.P.L.R., including
4 the right to object to any question, except as to
5 the form, or to strike any testimony at this
6 examination are reserved and, in addition, the
7 failure to object to any question or to move to
8 strike testimony at this examination, shall not be
9 a bar or waiver to make such motion at, and is
10 reserved for, the trial of this action.

11 IT IS FURTHER STIPULATED AND AGREED that this
12 examination may be sworn to, by the witness being
13 examined, before a Notary Public other than the
14 Notary Public before whom this examination was
15 begun, but the failure to do so, or to return the
16 original of this examination to counsel, shall not
17 be deemed a waiver of the rights provided by Rule
18 3116 C.P.L.R., and shall be controlled thereby.

19 IT IS FURTHER STIPULATED AND AGREED that the
20 filing of the original of this examination is
21 waived.

22 IT IS FURTHER STIPULATED AND AGREED that counsel
23 for the witness shall be furnished a copy of the
24 within deposition without charge.

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1 RAPPAPORT, GLASS, GREENE & LEVINE, ESQS.
2 Attorneys for the Witness
3 445 Broadhollow Road
4 Melville, New York 11747
5 BY: MICHAEL GREENE, ESQ.

6 ALSO PRESENT:
7 Rosa Roges, Spanish interpreter
8 Legal Language Services

oOo

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White Plains, New York 10607

1 E. Sierra
2 ROSA ROGES, the interpreter was duly
3 sworn by a Notary Public of the State of New York
4 to faithfully and accurately translate the
5 questions propounded to the witness from English
6 into Spanish and the answers thereto from Spanish
7 into English;

8 EUSEBIO SIERRA, having been first
9 duly sworn by a Notary Public of the State of New
10 York, was examined and testified through the
11 interpreter as follows:

12 EXAMINATION BY

13 MR. FLORIANI:

14 Q Please state your name for the
15 record.

16 A Eusebio Sierra.

17 Q Where do you currently reside?

18 A P.O. Box 1088, Aquab Buenas, Puerto
19 Rico.

20 MS. MARINO: Pursuant to a prior
21 conversation with Michael Greene prior
22 to beginning today's deposition, we
23 agreed that this deposition will be
24 conducted as a nonparty witness. Only
25 should the need arise to conduct a

1 E. Sierra
 2 further deposition of Mr. Sierra as a
 3 plaintiff, Mr. Greene agrees to produce
 4 him in the future subject to his
 5 availability.
 6 MR. GREENE: Mr. Sierra, do you
 7 understand what she said?
 8 THE WITNESS: No.
 9 MR. GREENE: Would you please
 10 translate for him what she said.
 11 (Interpreter translated.)
 12 MR. GREENE: Do you still
 13 understand you're a plaintiff in this
 14 lawsuit?
 15 THE WITNESS: I hope so.
 16 MR. GREENE: And that you may
 17 have to appear to answer further
 18 questions?
 19 THE WITNESS: I might be.
 20 MR. GREENE: Do you agree to
 21 appear here at the request of the
 22 defendants pursuant to their notice?
 23 THE WITNESS: Yes, I will do it.
 24 MR. GREENE: Therefore, we agree
 25 to stipulate to your statement and we'll

1 E. Sierra
 2 address, town, village, city?
 3 A Aquab Buenos, Puerto Rico, Route
 4 156, Canorio.
 5 Q Is that a street address?
 6 A Yes.
 7 Q Is that the address that you use to
 8 receive mail?
 9 A That's where I live. When I
 10 receive my mail I receive it at P.O. Box 1088.
 11 Q What town is that?
 12 A Aquab Buenos.
 13 Q What is your date of birth?
 14 A January 21, 1977.
 15 Q Do you have relatives here on Long
 16 Island?
 17 A Yes.
 18 Q Are you staying with those
 19 relatives while you're here?
 20 A Yes, my uncle.
 21 Q What is his name and address?
 22 A Francisco Sierra, 525 Factory
 23 Avenue, Mattituck, Long Island, New York 11926.
 24 Q Are you presently employed in
 25 Puerto Rico?

1 E. Sierra
 2 produce Mr. Sierra at your request in
 3 the future. You can proceed.
 4 MR. FLORIANI: Okay.
 5 Q Good morning, Mr. Sierra. My
 6 name is Frank Floriani. I'm from the firm whose
 7 office you're at this morning. This firm
 8 represents the passengers that were in the
 9 vehicle in front of you when the accident
 10 happened.
 11 A The Jeep?
 12 Q The Jeep. I'm going to ask you some
 13 questions. If there is anything that you don't
 14 understand, let me know and I will try to
 15 rephrase it for you.
 16 Mr. Sierra, just so we're clear on
 17 this on the record, I understand that you know
 18 some English, but for today's purposes you must
 19 wait for the interpreter to translate the
 20 question before you give your answer.
 21 A Okay.
 22 Q Mr. Sierra, can you state for the
 23 record what your address is?
 24 A Puerto Rico.
 25 Q But could you give us the street

1 E. Sierra
 2 A Yes.
 3 Q What kind of work do you do there?
 4 A Car lubrication.
 5 Q What is the name of your employer?
 6 A Hi-Tek.
 7 Q Where is your employer located?
 8 A Caguas.
 9 Q Back when this accident happened,
 10 September 1, 1999, where were you living?
 11 A Roanoke Avenue, Riverhead.
 12 Q Roanoke?
 13 A Yes.
 14 Q Was that 1355 Roanoke Avenue?
 15 A I'm not sure.
 16 Q Who were you residing there with at
 17 that time?
 18 A With my brother and his wife.
 19 Q That was Jose?
 20 A Jose.
 21 Q On the day of the accident, had you
 22 been working that day?
 23 A No.
 24 Q Were you employed at that time?
 25 A I can't remember.

1 E. Sierra
 2 Q At that time did you have a
 3 driver's license?
 4 A Yes.
 5 Q Was that a New York State driver's
 6 license?
 7 A No, Puerto Rico.
 8 Q Were there any restrictions on that
 9 license for the use of eyeglasses or any other
 10 type of corrective lenses?
 11 A No.
 12 Q Do you remember what time the
 13 accident happened?
 14 A Between five and six o'clock in the
 15 afternoon.
 16 Q You were in the vehicle with your
 17 brother at that time, correct?
 18 A Yes.
 19 Q Do you remember what kind of car
 20 that was?
 21 A Toyota.
 22 Q Was your brother the owner of that
 23 car?
 24 A Yes.
 25 Q Was he driving it when the accident

1 E. Sierra
 2 happened?
 3 A Correct.
 4 Q Do you remember where the accident
 5 happened?
 6 A I can't remember exactly.
 7 Q Do you remember if it happened on
 8 Montauk Highway?
 9 A No, it wasn't on Montauk Highway.
 10 Q Montauk?
 11 A No.
 12 Q Do you remember what town it
 13 happened in?
 14 A No.
 15 Q Had you driven in that vehicle at
 16 any time before this accident happened?
 17 A Yes.
 18 Q Had you ever operated that vehicle?
 19 A Yes, in the afternoon.
 20 Q That afternoon you drove it?
 21 A Yes.
 22 Q Do you know what kind of steering
 23 that vehicle had?
 24 A The normal one.
 25 Q Power steering?

1 E. Sierra
 2 A Power steering, no. Those type of
 3 cars, they don't have power steering.
 4 Q Do you know what type of
 5 transmission it had?
 6 A Manual, five speeds.
 7 Q Do you know what type of brakes the
 8 vehicle had?
 9 A I don't know. The one it came with
 10 from the factory.
 11 Q Do you know what year Toyota that
 12 was?
 13 A I think it's 1985.
 14 Q Do you know how many miles were on
 15 that vehicle?
 16 A No.
 17 Q Do you know what the weight of that
 18 vehicle was?
 19 A No.
 20 Q Do you know what condition the
 21 tires were in on that vehicle as of the date of
 22 that accident?
 23 A They were perfect.
 24 Q Do you remember where it was when
 25 you drove the vehicle that day, that afternoon?

1 E. Sierra
 2 A From my home in Riverhead to my
 3 brother's job. I went to pick him up.
 4 Q Did you experience any mechanical
 5 difficulties with the car when you went to go
 6 pick up your brother?
 7 A No.
 8 Q Do you remember what time it was
 9 when you went to pick up your brother?
 10 A Close to five o'clock.
 11 Q That was from your home on Roanoke
 12 Avenue you went to pick up your brother?
 13 A Yes.
 14 Q Where did you pick up your brother?
 15 A Amagansett, New York.
 16 Q What was your brother doing in
 17 Amagansett?
 18 A He works as a gardener over there.
 19 Q Did you pick him up at somebody's
 20 house where he was doing work?
 21 A No, I pick him up in the base where
 22 he works.
 23 Q You picked him up at his place of
 24 employment?
 25 A Yes.

1 E. Sierra
 2 Q Do you remember the name of the
 3 company your brother worked for?
 4 A Whitmore Worsely Landscaping.
 5 Q Do you remember where they were
 6 located in Amagansett?
 7 A I'm not sure. I'm not sure.
 8 Q Do you know what time it was that
 9 you arrived at your brother's place of
 10 employment?
 11 A I don't know exactly.
 12 Q This was later in the afternoon?
 13 A Yes, in the afternoon.
 14 Q Did you normally pick your brother
 15 up at work?
 16 A No.
 17 Q Was there a reason that you did it
 18 on this date?
 19 A Yes, I was planning to give my
 20 resignation in my job and that day I didn't go to
 21 work.
 22 Q Where were you working at that
 23 time?
 24 A With my brother.
 25 Q So, you were going to the job site

1 E. Sierra
 2 The road where the accident
 3 happened, if I told you it also goes by the name
 4 Route 27, would that help you in remembering the
 5 road where the accident occurred?
 6 A My brother used to tell me the
 7 place where the accident happened goes to the
 8 127.
 9 Q No, the route where the accident
 10 happened, do you also know that as Route 27?
 11 A I'm not sure.
 12 Q Do you know the names of any of the
 13 roads that you took to get to the road where the
 14 accident happened?
 15 A No, I can't remember the names.
 16 Every time I took the route with him he always
 17 went straight.
 18 Q Was this a main road that you were
 19 on when the accident happened?
 20 A I think so.
 21 Q Do you remember what the weather
 22 was like that afternoon?
 23 A It was nice.
 24 Q Was it still sunny out when the
 25 accident occurred?

1 E. Sierra
 2 to tell them that you didn't want to work there
 3 anymore?
 4 A No, I just went to pick up my
 5 brother.
 6 Q Had you already quit your job?
 7 A I just had a plan to do it. That
 8 day I didn't go to work because I was trying to
 9 get the tickets to go to Puerto Rico.
 10 Q Do you know how long you remained
 11 there before you left?
 12 A Ten or 15 minutes.
 13 Q Who drove when you left?
 14 A My brother.
 15 Q What was your destination when you
 16 left?
 17 A We were going home.
 18 Q That was to Roanoke Avenue in
 19 Riverhead?
 20 A Yes.
 21 Q Do you remember the route that you
 22 took to the place where the accident occurred?
 23 A The same one from every day.
 24 Q I appreciate that, but do you
 25 remember the names of the streets.

1 E. Sierra
 2 A Yes, it was still daylight.
 3 Q Do you know in what compass
 4 direction you were traveling when the accident
 5 occurred?
 6 A I don't understand the question.
 7 Q Do you know whether you were going
 8 west, east or some other direction?
 9 A I'm not sure.
 10 Q Had you passed a town before this
 11 accident occurred?
 12 A I can't remember.
 13 Q On the road that you were on in the
 14 area where the accident occurred, was that a
 15 one-way or two-way street?
 16 A Two way.
 17 Q In the direction in which you were
 18 traveling, was it one lane or more than one lane?
 19 A Just one lane.
 20 Q In the area where the accident
 21 occurred, do you recall if there was anything
 22 separating the traffic going in the opposing
 23 lanes of travel?
 24 A Yes, it was two lanes and it had a
 25 line dividing.

1 E. Sierra
 2 Q When you say two lanes, you mean
 3 one lane in each direction?
 4 A Yes.
 5 Q There was a line separating the
 6 traffic going in the opposing lanes of travel?
 7 A Correct.
 8 Q In the area where the accident
 9 occurred, do you recall what the traffic
 10 conditions were like going in the direction in
 11 which you were going?
 12 A It was normal, normal traffic. It
 13 was not an empty road.
 14 Q You were seated in the front
 15 passenger seat?
 16 A Yes.
 17 Q Besides you and your brother, there
 18 was nobody else in the vehicle, correct?
 19 A That car only has two seats.
 20 Q The road that you were on when the
 21 accident occurred, do you know how long in terms
 22 of time you had been on that road before the
 23 accident occurred?
 24 A I can't remember.
 25 Q In terms of distance, do you know

1 E. Sierra
 2 though about the Jeep Cherokee, whether you saw
 3 that vehicle at or before the accident occurred
 4 at any time?
 5 A I didn't pay attention.
 6 Q Would your answer to that question
 7 be no?
 8 A Yes, my answer would be no.
 9 Q You indicated there was this fruit
 10 stand to your left. While you were driving in
 11 that area, were you looking in front of you, to
 12 the side of you or some other direction?
 13 A You mean at the time of the
 14 accident?
 15 Q Before the accident happened.
 16 A I was reading a paper.
 17 Q What paper was that?
 18 A I was looking for tickets going to
 19 Puerto Rico, offerings for the trip.
 20 Q For how long before the accident
 21 occurred were you looking at this paper?
 22 A Five minutes.
 23 Q Were you reading that paper right
 24 up to the point of the impact?
 25 A No, the paper fall down in the car

1 E. Sierra
 2 how far you traveled on that road before the
 3 accident occurred?
 4 A No.
 5 Q Do you recall any landmarks or
 6 anything that would assist us in identifying the
 7 area where the accident occurred?
 8 A The only thing I remember is I had
 9 on my left side a store, a fruit store.
 10 Q Do you know where the accident
 11 occurred with regard to that store that was to
 12 your left?
 13 A In front of the store. Maybe it's
 14 a little further, but very close to that area.
 15 Q The accident involved another
 16 vehicle, correct?
 17 A Yes, the Jeep Cherokee.
 18 Q Did you see that Jeep Cherokee
 19 before the accident occurred?
 20 A Maybe I saw him when he was in
 21 front of me. I don't know. I didn't see him. I
 22 saw cars in front of us, but you don't think
 23 about it. You don't think you're going to be
 24 involved in an accident.
 25 Q I'm just asking you specifically

1 E. Sierra
 2 before impact happened, a few seconds before the
 3 accident.
 4 Q What did you do when the paper fell
 5 down?
 6 A I tried to pick it up and that's
 7 when the accident happened.
 8 Q Were you in the process of getting
 9 the paper when the impact occurred?
 10 A Yes, when I was picking up the
 11 paper, when I tried to go back to my same
 12 position is when I felt the impact.
 13 Q The way you just described it and
 14 the way you moved your head, we can't get that on
 15 the record.
 16 The way it appeared in terms of
 17 your description is you were looking down towards
 18 the paper when the impact occurred?
 19 A Exact.
 20 Q You indicated the paper fell a few
 21 seconds before the accident. Do you have an
 22 approximation of how many seconds before the
 23 accident?
 24 A Let's say five or six seconds.
 25 Q When the paper fell, do you have a

1 E. Sierra
 2 recollection of what the speed of your vehicle
 3 was?
 4 A Approximately 30 miles.
 5 Q When the paper fell, do you know
 6 where you were in relation to where that fruit
 7 stand was to your left?
 8 A We were going straight with the
 9 traffic.
 10 Q Did you know that there was a fruit
 11 stand there while you were driving but before the
 12 accident occurred or did you realize there was a
 13 fruit stand there after the accident occurred?
 14 A When the accident happened I got
 15 out of the car and then I saw there was a fruit
 16 stand over there.
 17 Q Just so we're clear on this. Did
 18 you see the fruit stand at any time before the
 19 accident occurred while you were driving that day
 20 on the way home?
 21 A No, I didn't see it.
 22 Q Before you indicated you were
 23 bending over to pick up the paper. Was that what
 24 you were doing when the impact occurred?
 25 A I already had the paper in my hand

1 E. Sierra
 2 A I can't remember.
 3 Q Do you recall hearing the
 4 screeching of any brakes before the impact
 5 occurred?
 6 A No.
 7 Q Do you recall your brother saying
 8 anything before the impact occurred?
 9 A No.
 10 Q Do you recall what distance the
 11 vehicle that you were in traveled during that
 12 approximately five second period from when you
 13 dropped the paper until the impact occurred?
 14 A That happened very fast. When I
 15 try to bend over to pick up the paper, the Jeep
 16 in front of us stop and then I felt the impact.
 17 Q Did you see the Jeep in front of
 18 you stop?
 19 A No.
 20 Q How did you know the Jeep stopped?
 21 A Because our car hit against that
 22 car.
 23 Q I want to know what you recall, not
 24 what you think might have happened at the time.
 25 My question is: Did you see that

1 E. Sierra
 2 when the impact happened.
 3 Q Did you see the impact occur
 4 between the vehicle that you were in and a
 5 vehicle in front of you?
 6 A No, I just saw fire.
 7 Q Did you feel an impact?
 8 A Yes, mostly on my neck.
 9 Q Excuse me?
 10 A Mostly on my neck.
 11 Q Do you know what the rate of speed
 12 of the Toyota was at the moment of the impact?
 13 A Honestly I don't know what
 14 happened. We were driving normally. So, I felt
 15 the impact. It felt like it was from 30 to zero.
 16 Q But do you have a recollection, and
 17 I realize this is an estimate, of what the speed
 18 of the vehicle was at the time of the impact with
 19 the Jeep?
 20 MR. CHASE: Objection.
 21 A I just simply felt the impact.
 22 Q Do you recall the vehicle slowing
 23 down at all from that approximately five second
 24 period before when you dropped the paper up until
 25 the point of impact?

1 E. Sierra
 2 Jeep come to a stop before the accident occurred?
 3 A No.
 4 Q Do you know what part of the Toyota
 5 came in contact with what part of the Jeep?
 6 A The front.
 7 Q The front of the Toyota?
 8 A Yes.
 9 Q Do you know what part of the Jeep
 10 the front of the Toyota came in contact with?
 11 A I think it was the back of the Jeep
 12 and it broke the tank because the Toyota car is
 13 very low car and the Jeep is higher than the
 14 Toyota.
 15 Q Do you recall seeing that at the
 16 time that the accident happened?
 17 A No.
 18 Q After the impact occurred, what did
 19 you do?
 20 A I got out of the car very fast and
 21 then I cover my face with my arm.
 22 Q Why was it that you had to cover
 23 your face with your arm?
 24 A Because I saw fire.
 25 Q Where did you see the fire?

1 E. Sierra
 2 A Between the two cars.
 3 Q When you saw the fire, was there a
 4 space between the two cars?
 5 A I don't think so.
 6 Q When you saw the fire, were the two
 7 cars touching each other?
 8 A I think so, but honestly the only
 9 thing I saw was the fire. I just got out of the
 10 car as soon as I could.
 11 Q Do you know how long it was after
 12 the impact that you saw the fire?
 13 A I saw the fire when I was inside
 14 the car.
 15 Q After the impact while you're still
 16 inside the car, how long was it before you saw
 17 the fire?
 18 A Two seconds.
 19 Q Was the fire in front of you or
 20 someplace else?
 21 A In front between the two cars.
 22 Q Was any portion of the Toyota on
 23 fire when you saw it for the first time?
 24 A I think it started with the Jeep
 25 Cherokee tank.

1 E. Sierra
 2 Q How do you know that?
 3 A I just suppose that.
 4 Q I want to know what you recall, not
 5 what you think happened.
 6 A All right. I saw the fire between
 7 the two cars.
 8 Q Did you see any fire underneath the
 9 Jeep Cherokee?
 10 A Exactly, no, I don't know.
 11 Q Do you know what distance separated
 12 the two cars when you saw the fire between the
 13 two cars?
 14 A No.
 15 Q Did you say anything to your
 16 brother after the impact occurred?
 17 A I just got out of the car. I was
 18 crazy so I try to see him, but when I see him he
 19 was already on fire, his whole body. I told him
 20 to take it easy, calm down.
 21 Q When you saw your brother on fire,
 22 was he in the car?
 23 A No, he was walking out of the car.
 24 Q And he was getting out of the
 25 driver's side?

1 E. Sierra
 2 A Yes.
 3 Q Was there fire around him when he
 4 got out?
 5 A No, just a little bit on his head,
 6 on top of his head.
 7 Q What I'm getting at is: Did you
 8 see any fire on the ground when your brother got
 9 out of the car?
 10 A No, the fire was on top of the car.
 11 Q When you say on top of the car, on
 12 top of the Toyota?
 13 A Yes.
 14 Q Were there any flames coming from
 15 the Jeep Cherokee when you got out of the car?
 16 A When I got out of the car of course
 17 I saw the fire coming out of the Jeep Cherokee
 18 and then extended to our car, to the front of our
 19 car.
 20 Q Can you describe the flames that
 21 you saw in terms of color and height?
 22 MR. CHASE: Just note my objection.
 23 Are you talking in general or are you
 24 focusing on the Toyota or the Jeep or
 25 the whole scene?

1 E. Sierra
 2 MR. FLORIANI: I'm talking about
 3 the whole scene.
 4 MR. CHASE: Okay.
 5 A I don't know. The only thing I
 6 remember is they were getting higher and higher.
 7 Q When you got out of the car, where
 8 did you go to?
 9 A I went to the back of our car and
 10 at that time I saw my brother getting out of the
 11 car.
 12 Q But where did you go to once you
 13 got out of the car?
 14 A When I saw my brother getting out
 15 of the car I crossed the street with him to take
 16 care of him.
 17 Q Did you then go towards the area
 18 where that fruit stand was?
 19 A Close.
 20 Q Did you see flames on your brother
 21 anywhere other than the top of his head?
 22 A No, at that time he was already
 23 burnt.
 24 Q Where did you see the flames on
 25 your brother?

1 E. Sierra
 2 A In his head.
 3 Q Did you see flames on any other
 4 part of his body?
 5 A No.
 6 Q But when you saw the flames on his
 7 head, did it appear to you that the rest of his
 8 body had already been burned?
 9 A It was horrible. His all body was
 10 already burned.
 11 Q Did your brother get all of those
 12 burns on the rest of his body while he was still
 13 in the car or did that happen when he was outside
 14 the car?
 15 A When he was inside the car.
 16 Q Did you see the flames inside the
 17 car while you were still inside the car?
 18 A You mean the flames inside the car
 19 or outside?
 20 Q No. Did you see your brother on
 21 fire inside the car?
 22 A No. When I felt the impact, like I
 23 said before, I got out of the car and that's when
 24 I noticed the fire between the two cars.
 25 Q But did you see where your brother

1 E. Sierra
 2 Q Did you have a long sleeve shirt on
 3 or a short sleeve shirt?
 4 A Short sleeve.
 5 Q When you got out of the car, did
 6 you go around the front of the car to get to your
 7 brother or around the back of the car?
 8 A When I got out of the car then I
 9 saw the fire in front of us, I went around the
 10 back.
 11 Q You went over by where the fruit
 12 stand is; is that correct?
 13 MR. CHASE: Note my objection.
 14 A Yes.
 15 Q Did your brother continue walking
 16 or did he do something else?
 17 A He got out of the car with a lot of
 18 difficulty, I saw him and I went with him.
 19 Q Where did your brother end up after
 20 the accident?
 21 A In the road just in front of where
 22 the accident happened.
 23 Q Was he lying down on the road?
 24 A He was in a sitting position.
 25 Q On the roadway?

1 E. Sierra
 2 was burned? Was he burned inside the car or was
 3 he burned outside the car?
 4 A When he got out of the car he was
 5 already burned.
 6 Q But while you were in the car with
 7 him and before you got out after the impact, did
 8 you see your brother on fire inside the car?
 9 A I didn't see it.
 10 Q Were you burned at all after the
 11 accident?
 12 A No, just on my arm.
 13 Q Your left arm was burned? You
 14 don't have to show me. You're just saying burns
 15 to your left arm?
 16 A Yes, in the accident.
 17 Q Were you burned while you were
 18 inside the car or when you got out of the car?
 19 A I'm not sure. When I got out of
 20 the car I realized that I had a burn on my arm.
 21 Q As you sit here now, do you know
 22 whether you were burned inside the car or outside
 23 the car?
 24 A I was very nervous. I didn't feel
 25 anything so I don't know.

1 E. Sierra
 2 A Not in the road. On the ground.
 3 Q The ground on which side of the
 4 road, on the side by the fruit stand or on the
 5 other side?
 6 A The one that was close to the fruit
 7 store.
 8 Q You went to be with your brother?
 9 A Yes, and then I ask for help.
 10 Q Do you remember who you asked for
 11 help from?
 12 A I ask for the fire department, but
 13 I can't remember exactly who. A lot of
 14 ambulances came and they took us to the hospital.
 15 Q Did you ever talk to anybody who
 16 was in the Jeep at the scene of the occurrence?
 17 A No, I just saw him that he was
 18 walking around, he was looking at my brother and
 19 I saw another girl.
 20 Q When you say he, who is the he that
 21 you're referring to?
 22 A No, it was me. I taking care of my
 23 brother when I saw this girl who was also
 24 watching my brother.
 25 Q Do you remember the name of the

1 E. Sierra
 2 girl?
 3 A Do you mean the one that was
 4 damaged in the accident?
 5 Q The girl that you're referring to.
 6 A I think her name is Natasha Austin.
 7 Q Did you have any discussion with
 8 her?
 9 A No.
 10 Q Did she come over to the area by
 11 where your brother was?
 12 A I can't remember. I don't think
 13 so.
 14 Q Where did you see her?
 15 A I don't know. She was very close
 16 to the area where the accident is, but she was
 17 laying down on the street.
 18 Q Was she on the side of the street
 19 by the fruit stand?
 20 A I can't remember.
 21 Q Do you remember having any
 22 discussion with anybody who had been in the Jeep?
 23 A No.
 24 Q Did you go with your brother to the
 25 hospital?

1 E. Sierra
 2 A No, they took him to another
 3 hospital in a helicopter and then they took me to
 4 the hospital, to Stony Brook Hospital in the
 5 ambulance.
 6 Q How long were you at the scene
 7 after the accident occurred before you were
 8 removed in the ambulance?
 9 A I can't remember.
 10 Q Do you remember speaking with any
 11 of the police officers or any of the emergency
 12 personnel at the scene?
 13 A I didn't talk to anybody. I just
 14 asked for help.
 15 Q Do you remember speaking with any
 16 police officers or emergency personnel once you
 17 got to the hospital?
 18 A In the ambulance I was talking to
 19 one of the ambulance staff. It was a young man.
 20 I was telling him I was concerned about my
 21 brother.
 22 Q Other than that conversation, do
 23 you remember any conversations with any police
 24 officers once you got to the hospital?
 25 A I can't remember.

1 E. Sierra
 2 Q Did they treat your injury at the
 3 hospital?
 4 A Yes.
 5 Q That was the burn to your arm?
 6 A Yes, on the left arm.
 7 Q Did you receive any further
 8 treatment after that initial hospital visit for
 9 the burn to your arm?
 10 A They gave me antibiotics that day
 11 and later on I had surgery.
 12 Q That surgery was for the burns to
 13 your arm?
 14 A Yes, because I had a third degree
 15 burn.
 16 Q Was all your medical treatment
 17 related to the burns to your arm as far as you
 18 understand it?
 19 A Yes, of course. They even had to
 20 take some skin from my leg and put it on my arm.
 21 Yes, of course, and then I have bandage on my
 22 leg.
 23 Q Were you ever treated after this
 24 accident for any injury other than burns?
 25 A Do you mean treatment after the

1 E. Sierra
 2 surgery?
 3 Q After the accident happened, was
 4 all your medical treatment related to your burns?
 5 A ~~Yes~~
 6 Q After the impact occurred, do you
 7 remember smelling gasoline at the scene of the
 8 accident?
 9 A I can't remember. I was far away
 10 from the car.
 11 Q I know I asked you this before, but
 12 I just want to be clear.
 13 When the impact occurred, do you
 14 have any recollection of what the rate of speed
 15 of the Toyota was?
 16 MR. CHASE: Objection.
 17 A You mean before the impact?
 18 Q No. At the time of the impact,
 19 what was the rate of speed the Toyota was
 20 proceeding at?
 21 MR. CHASE: Just note my objection.
 22 It's been asked and answered.
 23 A We were going about 30 miles. I
 24 didn't listen to any brakes.
 25 Q Do you know if your brother applied

1 E. Sierra
 2 the brakes before the accident happened?
 3 A I don't know.
 4 Q Once you got out of the car and you
 5 saw the Jeep, was the Jeep pointed in the same
 6 direction as the Toyota?
 7 A Yes.
 8 Q When you got out of the car, was
 9 the Jeep in front of the Toyota or was there some
 10 different alignment of the two cars?
 11 A I saw him and he was in the front
 12 of the car.
 13 MR. FLORIANI: I have no further
 14 questions.
 15 MR. GREENE: Off the record.
 16 (A discussion was held off the
 17 record.)
 18 EXAMINATION BY
 19 MR. FEEHAN:
 20 Q Good morning, Mr. Sierra.
 21 A Good morning.
 22 Q My name is David Feehan. I
 23 represent the Evans. I just have a couple of
 24 questions. You said about five to six seconds
 25 before the impact you had dropped a paper; is

1 E. Sierra
 2 to pick up the paper?
 3 A Yes.
 4 Q And your eyes were looking at the
 5 floor by your feet?
 6 A Yes.
 7 Q And you had picked up the paper
 8 before the impact?
 9 A I was in the process.
 10 Q At the moment of impact, where were
 11 you looking?
 12 A I was looking to the floor, but I
 13 was trying to get back to my sitting position.
 14 Q Just to make it clear. You have no
 15 recollection of seeing the Jeep at all before
 16 impact, specifically seeing the Jeep?
 17 A Exact.
 18 MR. FEEHAN: I have nothing
 19 further.
 20 EXAMINATION BY
 21 MS. MARINO:
 22 Q Good morning, Mr. Sierra.
 23 A Good morning.
 24 Q I represent the estate of your
 25 brother. When you were reaching for that piece

1 E. Sierra
 2 that correct?
 3 A Yes.
 4 Q For those five or six seconds, can
 5 you tell me where you were looking before the
 6 impact?
 7 A Looking to the floor.
 8 Q Can you show me how you were
 9 picking up the paper again? I would like to put
 10 a description of it on the record.
 11 A That car is very low so I'm trying
 12 to bend to pick up the paper.
 13 Q You're seated in position?
 14 A Yes.
 15 Q You're bending at the waist?
 16 A Okay.
 17 Q And you put your head down close to
 18 your knees?
 19 A Yes.
 20 Q Where was your head in relation to
 21 the dashboard, was it touching it, below it,
 22 above it?
 23 A I have plenty of room because of my
 24 seat so I had my head down.
 25 Q And you were reaching with your arm

1 E. Sierra
 2 of paper, what arm were you reaching with?
 3 A I'm handwriting with my right so I
 4 guess it had to be with the right.
 5 Q Do you remember which arm you used?
 6 A No.
 7 Q When you got out of the car, did
 8 you still have the piece of paper in your hand?
 9 A No, I left all my belongings in the
 10 car.
 11 Q When you felt the impact, did you
 12 hit your head at all inside the car?
 13 A No.
 14 Q Earlier you described traffic
 15 conditions as normal. What would you consider
 16 normal traffic, light, medium, heavy?
 17 A There was traffic, but it was
 18 moving traffic.
 19 Q Did your car come to a stop at any
 20 point on the road where the accident happened
 21 prior to the accident happening?
 22 A No, I don't remember.
 23 Q Do you know what gear the Toyota
 24 was in when the accident happened?
 25 A 1999.

1 E. Sierra
 2 Q Gear.
 3 A I don't know.
 4 Q While you were bent down leaning
 5 over to pick up the piece of paper, did you
 6 observe your brother change gears at all?
 7 A No.
 8 Q Is there any conversation going on
 9 inside the car when the accident happened?
 10 A You mean when the impact happened?
 11 Q Within a couple of seconds before
 12 the impact.
 13 A I was reading the paper when the
 14 paper fall down.
 15 MS. MARINO: I have nothing
 16 further.
 17 EXAMINATION BY
 18 MR. CHASE:
 19 Q Good afternoon. My name is Jeffrey
 20 Chase. I'm going to be asking you some questions
 21 here today as well. I apologize. I'm going last
 22 so I may jump around. I may repeat a little. If
 23 there is anything you do not understand, let me
 24 know and I will rephrase it for you.
 25 A Yes.

1 E. Sierra
 2 Q Your attorney raised a question
 3 before which he said he wanted to ask about
 4 injuries that you learned of since being treated
 5 for the burns. I would like to ask you that
 6 question.
 7 Have you learned of other injuries
 8 that you sustained from the motor vehicle
 9 accident on September 1, 1999 other than the burn
 10 injuries?
 11 A You mean before or after the
 12 accident?
 13 Q After the accident, but that you
 14 believe that you sustained in the accident.
 15 A The only thing I have is an itch.
 16 Q You mentioned in response to
 17 earlier questioning feeling your neck hurting you
 18 in the accident. Did you hurt your neck in the
 19 accident?
 20 A No.
 21 Q Since the accident, has your neck
 22 bothered you on occasion?
 23 MR. FLORIANI: Just note my
 24 objection to the question.
 25 A No.

1 E. Sierra
 2 Q Have you seen any doctors to have
 3 any type of treatment on your neck or your arm
 4 other than burn related injuries?
 5 A After this accident happened I went
 6 to Puerto Rico and then I had another accident
 7 where they gave me a collar for my neck, but that
 8 has nothing to do with this accident.
 9 Q Can you tell us for how long your
 10 neck bothered you after the accident? You
 11 mentioned feeling pain. Was that just the day of
 12 the accident or did it last sometime afterwards?
 13 MR. FLORIANI: Objection. Which
 14 accident?
 15 MR. CHASE: I'm talking about the
 16 accident on September 1, 1999.
 17 MR. FLORIANI: I still have an
 18 objection.
 19 MS. MARINO: Yes.
 20 A A week or a week and a half. It
 21 happened because the impact since I had the seat
 22 belt on with the movement it hurts my neck. It's
 23 not that I hit the car against my head.
 24 Q How long did your neck bother you?
 25 MR. FLORIANI: Note my objection.

1 E. Sierra
 2 Asked and answered. Go ahead.
 3 A A week or a week and a half.
 4 Q Did you ever see any doctor
 5 concerning that neck pain?
 6 A I was in the hospital for almost a
 7 month. They took care of me.
 8 Q Did you receive any treatment for
 9 your neck while you were in the hospital?
 10 A No, they gave me creams because of
 11 the seat belt did a lot of scratch on my neck.
 12 Q Did you have any pain in either of
 13 your arms or shoulders?
 14 A No.
 15 Q What type of seat belt was the
 16 Toyota vehicle equipped with? In other words,
 17 was it just a lap belt or a combination shoulder
 18 lap belt or only a shoulder belt?
 19 A Both. The normal one. The one
 20 that crosses both your waist and the shoulder.
 21 Q You were wearing that seat belt at
 22 the time of the accident?
 23 A Yes.
 24 Q Was your brother Jose wearing a
 25 shoulder lap seat belt at the time of the

1 E. Sierra
 2 accident?
 3 A I'm not sure.
 4 Q Can you briefly tell us what your
 5 educational background is? Did you go to high
 6 school or something else?
 7 A Last December I finish a mechanic
 8 course in Puerto Rico.
 9 Q Did you go to high school in Puerto
 10 Rico or the United States?
 11 A Yes, in Puerto Rico.
 12 Q Did you graduate high school?
 13 A Yes.
 14 MR. CHASE: Can you mark these.
 15 Make them Defendant's A1 through A12.
 16 (Whereupon, photographs were
 17 received and marked Defendant's Exhibit
 18 A1 through A12 for identification, as of
 19 this date.)
 20 Q Mr. Sierra, with your counsel's
 21 permission I would like you to take a look at a
 22 set of color photographs that have been marked A1
 23 to A12. I just ask you to take a look at them
 24 first.
 25 Mr. Sierra, do any of those

1 E. Sierra
 2 Q What particular exhibit are you
 3 referring to?
 4 MR. GREENE: That was referring to
 5 number six. Are there any others?
 6 THE WITNESS: And seven.
 7 MR. GREENE: Any others?
 8 THE WITNESS: And 12.
 9 MR. GREENE: Six, 7 and 12.
 10 Q Mr. Sierra, I'm going to show you
 11 six color photographs which were part of a set of
 12 exhibits marked on April 5th, 2001, Defendant's
 13 Exhibit one through six, which I represent were
 14 part of the police photos and ask you to take a
 15 look at those with your counsel's permission.
 16 MR. FLORIANI: Off the record.
 17 (Discussion off the record.)
 18 MR. CHASE: These exhibits, which
 19 have been shown to Mr. Sierra, are part
 20 of Defendant's Exhibit E which were
 21 marked at a deposition on April 5th,
 22 2001.
 23 I gave the witness one through
 24 six, which are color photographs which I
 25 represent were part of the police photos

1 E. Sierra
 2 photographs in A1 to A12 generally show the area
 3 of where the accident took place on September 1,
 4 1999?
 5 A Not exactly because I don't see the
 6 burned cars over there.
 7 Q Do any of those photos show the
 8 roadway where the accident took place? I'm not
 9 asking you whether it depicts the post-accident
 10 scene that day, but just generally where the
 11 accident took place.
 12 A I would say yes, but the only thing
 13 I know is that the road was straight like this
 14 one.
 15 Q But can you identify one way or the
 16 other as where the accident took place?
 17 A I can see that the fire was here,
 18 but that could have happened from another
 19 accident.
 20 Q So, you can't tell one way or the
 21 other based on those photographs whether that is
 22 the scene or not?
 23 A I know the road. I can identify
 24 the road. I'm almost sure that was the street
 25 where the accident occurred.

1 E. Sierra
 2 that have been used I think at a few
 3 depositions in this case.
 4 MS. MARINO: Let's take a break.
 5 (A recess was taken.)
 6 Q Do those photographs fairly and
 7 accurately show the position of the Toyota and
 8 the Jeep vehicle after the accident?
 9 A Yes, that was our car.
 10 MR. CHASE: Let's take a break.
 11 (A recess was taken.)
 12 Q That series of photos also showed
 13 the Jeep vehicle that the Toyota vehicle came in
 14 contact with?
 15 A Yes.
 16 Q Jumping back to when you picked up
 17 your brother at work. Did you and he have any
 18 appointment that evening at home that you were
 19 going to?
 20 A No.
 21 Q Were you due home at any particular
 22 hour?
 23 A No, from work to cook.
 24 Q Was there any luggage, equipment or
 25 packages in the Toyota vehicle that night?

1 E. Sierra
 2 A I have a serving table. I have
 3 personal clothing, my cellular phone. Everything
 4 stayed inside the car.
 5 Q Did the vehicle have a trunk in the
 6 rear or the front?
 7 A Both.
 8 Q Do you know whether there was any
 9 type of luggage, packages in the front of the
 10 trunk or the rear trunk of the Toyota?
 11 A Just a spare tire. The spare tire
 12 was in the front and the clothing was in the
 13 back.
 14 Q Did your brother keep any of his
 15 gardening supplies in the Toyota vehicle?
 16 A No, we worked for a company and
 17 they provide for everything.
 18 Q Were there any cans or bottles
 19 containing any type of fluid including gasoline
 20 in either the front trunk or the rear trunk of
 21 the Toyota vehicle?
 22 A No.
 23 Q Approximately how many miles did
 24 you drive the Toyota vehicle on the day of the
 25 accident?

1 E. Sierra
 2 A Me?
 3 MR. GREENE: Yes, you.
 4 A I don't know.
 5 Q Did you have any type of problems
 6 with either the steering or the brakes on the
 7 Toyota vehicle during the time that you drove it
 8 on September 1, 1999?
 9 A No, nothing.
 10 Q In the Toyota vehicle, do you know
 11 where the gas tank was located?
 12 A Yes.
 13 Q Where was it located?
 14 A Can I have one of the pictures that
 15 I can show you or may I draw it?
 16 MR. GREENE: Maybe you should draw
 17 it.
 18 Q If you would rather not see it,
 19 draw it.
 20 A Passenger seat, driver's seat,
 21 under the car here like this.
 22 Q Was it under the two front seats
 23 approximately?
 24 A Between the two seats.
 25 MR. FLORIANI: Why don't we mark

1 E. Sierra
 2 this as Defendant's Exhibit B.
 3 Q With your counsel's permission if
 4 you point to the area of the gas tank and put
 5 your initials on the paper.
 6 (Whereupon, a drawing was received
 7 and marked Defendant's Exhibit B, for
 8 identification, as of this date.)
 9 Q Can you put an arrow to where the
 10 tank is.
 11 MR. FLORIANI: He has an X.
 12 MR. CHASE: That's good.
 13 Q Mr. Sierra, did you purchase
 14 gasoline for the Toyota vehicle at any time on
 15 September 1, 1999?
 16 A No.
 17 Q Are you aware whether your brother
 18 Jose Sierra purchased any gas for the car on
 19 September 1, 1999?
 20 A I don't remember.
 21 Q At any time before the accident on
 22 September 1, 1999, did you observe the gas gauge
 23 for the Toyota vehicle and if so, do you recall
 24 whether it was full, half full or something else
 25 at the time of the accident?

1 E. Sierra
 2 A No.
 3 Q Did your brother Jose complain to
 4 you within two days right up to the accident of
 5 any problems he had with either steering or
 6 braking with the Toyota vehicle?
 7 A No.
 8 Q Was it sunny out at the time of the
 9 accident?
 10 A I'm not sure if it was sunny, but
 11 it was daylight.
 12 Q In the direction that you were
 13 proceeding at the time of the accident, do you
 14 recall whether you were going towards New York
 15 City or away from New York City and towards
 16 Montauk Point?
 17 A I believe that they were in the
 18 opposite direction to Montauk, but since I don't
 19 live here I don't know.
 20 Q But you think you were going away
 21 from Montauk Point?
 22 A Yes, because Montauk was in the
 23 opposite direction of where I work. I think so.
 24 Q Was the Toyota vehicle either
 25 equipped with a radio or a CD player?

1 E. Sierra
 2 A No, my brother didn't use any music
 3 to the car. The car was only for work.
 4 Q Were either you or Jose smoking at
 5 the time the accident took place?
 6 A We don't smoke.
 7 Q Were you drinking or eating
 8 anything when the accident took place?
 9 A No.
 10 Q Were there two or four side windows
 11 for the Toyota vehicle? In other words, were
 12 there just two by the driver's door and passenger
 13 door or were there windows in the rear area?
 14 A He has two on the sides, two small
 15 ones and the one in the back.
 16 Q At the time of the accident, were
 17 any of the windows open?
 18 A Yes, the two big ones.
 19 Q They were open?
 20 A Yes.
 21 Q Before you started reading, how far
 22 was the nearest car in front of you for your
 23 direction of travel that you observed?
 24 A About two car lengths, whatever is
 25 required.

1 E. Sierra
 2 Q You made that observation sometime
 3 before you started reading for the five to six
 4 minutes before the accident?
 5 A Yes, before I started reading I was
 6 looking and during all the time that we were
 7 driving I was looking at the traffic.
 8 Q When you were reaching over for the
 9 newspaper at or about the time of the accident
 10 taking place, was your head facing towards your
 11 brother Jose or towards the passenger door?
 12 MR. FLORIANI: Note my objection.
 13 Q Or somewhere else?
 14 A I was looking to the floor to pick
 15 up the paper.
 16 Q Did you observe Jose steer the
 17 vehicle in any direction within five seconds of
 18 the accident taking place?
 19 A No, I was looking to the floor when
 20 the accident happened.
 21 Q Within five seconds of the accident
 22 taking place and while you were looking down at
 23 the floor, did you feel the front end of the
 24 Toyota vehicle either dip or seem to go downward
 25 from the position you were in?

1 E. Sierra
 2 A I didn't feel anything.
 3 Q Did you hear your brother say
 4 anything within the five seconds of the impact
 5 taking place including shouting to you or
 6 anything of that nature?
 7 A No.
 8 Q Did your brother state to you that
 9 he saw a friend or family member in the area of
 10 the fruit stand as you were approaching the fruit
 11 stand?
 12 A No.
 13 Q Has anyone told you since the date
 14 of the accident that they saw Jose waving to
 15 someone at the fruit stand just before the
 16 accident took place?
 17 A No.
 18 Q Can you describe the impact with
 19 the Jeep vehicle in terms of whether it was hard
 20 or moderate or something else?
 21 MR. FLORIANI: I want to make an
 22 objection to the question.
 23 A I can't say that it was like a
 24 light impact, some kind of impact that you just
 25 break a bone. I felt like it was something like

1 E. Sierra
 2 I said before it was very fast, very strong from
 3 30 miles to zero. I felt that it was very
 4 strong. I don't know if it was strong.
 5 Q Was it your sense that after a
 6 short time you went from going 30 miles an hour
 7 to a complete stop?
 8 MR. FLORIANI: Just note my
 9 objection.
 10 A Yes, because the speed limit in
 11 that area was 30 and the impact happened very
 12 fast.
 13 Q Did the entire front end of the
 14 Toyota vehicle come in contact with the rear of
 15 the Jeep vehicle or did a portion of the front
 16 end of the Toyota vehicle miss the rear end of
 17 the Jeep vehicle?
 18 MR. FLORIANI: Objection.
 19 A I'm not sure. I just felt the
 20 impact, I got out of the car and I saw the Jeep.
 21 Q Did any portion of the front end of
 22 the Toyota vehicle go under the Jeep vehicle?
 23 MR. FLORIANI: Objection.
 24 A Honestly I don't know. I just
 25 saw the fire. I think that's what happened

1 E. Sierra
 2 because the Toyota is a very low car, but I'm not
 3 quite sure because I didn't look at it.
 4 Q Did any portion of the windshield
 5 or windshield frame of the Toyota vehicle come in
 6 contact with any portion of the rear of the Jeep
 7 vehicle?
 8 A I don't think so.
 9 Q At some point after the impact, did
 10 you observe or feel as if you were traveling with
 11 the Jeep vehicle while in contact with the Jeep
 12 vehicle?
 13 MR. FLORIANI: Note my objection.
 14 A Can you explain that again.
 15 Q Shortly after impacting the Jeep
 16 vehicle, did you either feel or see the Toyota
 17 vehicle and the Jeep vehicle moving together as
 18 if they were attached?
 19 MS. MARINO: This is while he's in
 20 the car?
 21 MR. CHASE: Yes.
 22 A I didn't pay attention.
 23 Q While you were still in the Toyota
 24 vehicle, did you either see or feel the Toyota
 25 vehicle moving forward after impact?

1 E. Sierra
 2 A No.
 3 Q Did you observe the Jeep vehicle
 4 moving at any time after the impact?
 5 A I did not.
 6 Q Did you lose consciousness at any
 7 time during the collision?
 8 A No.
 9 Q Did you observe whether or not your
 10 brother Jose lost consciousness at any time
 11 during the collision?
 12 A I don't think so because when he
 13 got out of the car he was talking to me and he
 14 was asking me how did I look.
 15 Q How long did it take from the point
 16 of impact until you got out of the car?
 17 A Seconds. Three or four seconds. I
 18 saw the fire.
 19 Q When you say you saw the fire, when
 20 you first saw the fire, was it at the front end
 21 of the Toyota vehicle or somewhere else?
 22 A The only thing I saw was there was
 23 a fire between the two cars.
 24 Q Before you got out of the Toyota
 25 vehicle, did you see any flames on the front end

1 E. Sierra
 2 of the Toyota vehicle?
 3 A No, of course not. No, I didn't.
 4 Q Before you got out of the Toyota
 5 vehicle, did you see any flames inside the
 6 passenger car?
 7 A No, I just got out of the car and
 8 then I saw the fire in front of the car. I
 9 didn't pay attention. I didn't notice if there
 10 was fire inside the car.
 11 Q Did you see it inside the car at
 12 any time before you got out?
 13 A No, I didn't notice. My only
 14 concern was I was going to be burned so I got out
 15 of the car. If there was fire inside the car I
 16 didn't notice. I don't know.
 17 Q What did you do immediately after
 18 getting out of the Toyota vehicle?
 19 A I got out of the car, I went down
 20 to the floor just in case I have some flames on
 21 me. I stand up is when I saw the fire between
 22 the two cars so I went around in the back.
 23 Q When you got out of your car, did
 24 you kneel on the ground or sit on the ground or
 25 something else?

1 E. Sierra
 2 A Yes, I went down to the ground and
 3 then I roll over.
 4 Q In the area where you were rolling
 5 there was no flames?
 6 A Thank God, no.
 7 Q How much time did it take for you
 8 to get out of the car, roll on the ground?
 9 Approximately how much time did you spend doing
 10 that?
 11 A Less than ten seconds.
 12 Q Was anybody near you at that time?
 13 A No.
 14 Q After rolling on the ground, you
 15 got on the ground, about ten seconds went by,
 16 what did you next do?
 17 A Like I said before, I saw the fire
 18 between the two cars so I went back over in the
 19 back.
 20 Q How long did it take you to walk
 21 around the back until the point where you saw
 22 your brother coming out of the car?
 23 A I didn't count it, but a few
 24 seconds. I was very nervous.
 25 Q At the time when you first saw the

1 E. Sierra
2 flames between the two cars, did you observe
3 whether there was flames coming from any portion
4 of the Jeep vehicle?

5 A The only thing that I noticed was
6 that it was in the middle of the two cars. I
7 can't tell you if they were from the Jeep or from
8 the Toyota.

9 Q When you got out of the Toyota,
10 what was the approximate distance between the
11 Jeep and the Toyota where you saw the flames?

12 A I didn't notice.

13 MR. CHASE: Off the record.

14 (A discussion was held off the
15 record.)

16 Q Mr. Sierra, I'm going to show you
17 Defendant's Exhibit E1, which was marked on April
18 5th, 2001 and ask you if the flames you saw when
19 you got out of the Toyota were somewhere
20 in-between the white Jeep and the red Toyota
21 shown on this exhibit?

22 A The flames were between the front
23 of the Toyota and the back of the white car.

24 Q When you first saw those flames,
25 approximately how high were they?

1 E. Sierra
2 being assisted by somebody.

3 Q At any time from the point of
4 impact until the firemen were at the scene, did
5 you hear any type of explosion?

6 A Yes, I heard some of them, but they
7 were not the cars. I believe that they were the
8 tires.

9 Q Immediately after the impact, were
10 you still on the seat of the Toyota, on your
11 passenger seat?

12 A Yes, of course.

13 Q Were you bleeding from any portion
14 of your body after the accident?

15 A A little bit on my neck.

16 Q And your seat belt was still
17 fastened after the accident?

18 A Yes, I took it out.

19 Q After the accident, was the lap
20 portion of the belt still across your abdomen or
21 belly area?

22 A Yes, after the impact the seat belt
23 was still on.

24 Q Was the shoulder portion across
25 your chest or was it on some other portion of

1 E. Sierra

2 A I can't tell you. I don't know.

3 Q When your brother came out of the
4 Toyota, you went over to the side of the road
5 where the fruit stand was located?

6 A Yes, the accident happened
7 somewhere right here and the fruit stand was in
8 front of where the accident happened.

9 Q Before your brother got out of the
10 Toyota vehicle, did you see any occupants come
11 out of the Jeep vehicle?

12 A No, I didn't notice. The only
13 thing that I remember is minutes later I saw
14 Natasha Austin and I believe she had burns on her
15 legs. I think they were three burns because I
16 read in the newspaper.

17 Q At any time that night, did you see
18 Natasha Austin in the roadway in the vicinity of
19 either the Jeep or the Toyota vehicle?

20 A No, I don't know her.

21 Q Well, did you see this person you
22 believe came out of the Jeep vehicle in the
23 roadway or on the side of the road or somewhere
24 else?

25 A No, when I saw her she was already

1 E. Sierra
2 your body after the accident?

3 A Yes.

4 Q Was your brother Jose bleeding from
5 any portion of his body right after the accident?

6 A Honestly when I saw him he was all
7 burned. I don't know.

8 Q Did you talk to him at all before
9 you got out of the car?

10 A I can't remember.

11 Q Besides the area on the roadway
12 between the Jeep and the Toyota vehicle, did you
13 see flames on any other portions of the roadway?

14 A I didn't notice.

15 Q At any time after going to the side
16 of the road with your brother Jose, did you
17 observe the Jeep vehicle on fire?

18 A Yes, when I saw there was a lot of
19 fires in both cars. Our car was already almost
20 burnt.

21 Q About how long after the impact did
22 you see that?

23 A You mean when I saw for the first
24 time the fire or when the two cars were already
25 burnt?

1 E. Sierra
 2 Q When you first saw the fire.
 3 A Seconds, very fast.
 4 Q Do you recall when you observed the
 5 Jeep vehicle burning, what area was burning
 6 first?
 7 A I can't tell you exactly because
 8 when I saw the fire for the first time I was
 9 inside the car.
 10 Q Did you observe the speedometer on
 11 the Toyota vehicle within ten, 15 seconds before
 12 the impact?
 13 A No.
 14 MR. CHASE: That's all I have.
 15 MR. FLORIANI: Just a couple of
 16 follow-up
 17 CONTINUED EXAMINATION
 18 BY MR. FLORIANI:
 19 Q Mr. Sierra, in the area where the
 20 accident happened, the roadway was straight; is
 21 that correct?
 22 A Yes.
 23 Q When Mr. Chase was questioning you
 24 he asked you whether your brother waved to
 25 somebody over by the fruit stand that he

1 E. Sierra
 2 recognized.
 3 After the accident occurred and you
 4 were with your brother over by the fruit stand,
 5 did anybody come over to you and identify
 6 themselves as somebody that you knew?
 7 A No.
 8 Q As far as you know, your brother
 9 got out of the car after the impact on his own;
 10 is that correct?
 11 A I don't know how he did it, but he
 12 did it.
 13 Q Before when we were asking you
 14 questions about the speed at the time of the
 15 impact, those were estimates given by you, your
 16 answers were estimates; is that correct?
 17 A Yes.
 18 Q Once you got out of the car you
 19 testified that you went down and rolled over.
 20 Before you did that, did you notice that you were
 21 burning from any part of your body?
 22 MR. CHASE: Objection. Asked and
 23 answered.
 24 A I felt that I have burn, but then
 25 it got worse later.

1 E. Sierra
 2 Q Before you went down to the ground
 3 and rolled over, did you notice any fire on your
 4 person or your clothes?
 5 A No.
 6 Q Why was it that you rolled over?
 7 A Just precaution.
 8 Q Do you know where it was that you
 9 got the burn on your arm?
 10 A When I got out of the car I covered
 11 my face and I guess that's when it happened.
 12 Q Was that before you rolled over?
 13 A Exactly.
 14 Q You indicated that when you got out
 15 of the car you put your hand up over your face to
 16 protect your face, correct?
 17 A Yes.
 18 Q Previously you had your own case
 19 pending against Daimler Chrysler, correct?
 20 A Yes.
 21 Q Your case was resolved with Daimler
 22 Chrysler?
 23 MR. CHASE: Just note my objection
 24 to any reference to settlement and also
 25 I believe the amount was subject to a

1 E. Sierra
 2 confidentiality order.
 3 MR. GREENE: Off the record.
 4 (A discussion was held off the
 5 record.)
 6 MR. GREENE: By counsel, yes, it
 7 was.
 8 MR. FLORIANI: I have no further
 9 questions.
 10 MS. MARINO: I have a couple of
 11 follow-ups.
 12 CONTINUED EXAMINATION
 13 BY MS. MARINO:
 14 Q When you immediately exited the
 15 vehicle, did you observe the position of the
 16 vehicle with respect to the Jeep? Was the Jeep
 17 in front of the Toyota or were they side by side?
 18 A It was in front of our car.
 19 Q While you were on the side of the
 20 road, did you ever look back at the cars on fire?
 21 A Yes, I was in front of the cars.
 22 Q At any point did you ever see
 23 either car moving in any direction?
 24 A No.
 25 Q While you were at the accident

1 E. Sierra
 2 scene that day, did your brother ever tell you
 3 what happened?
 4 A My brother was in a lot of pain and
 5 he was asking me how did I look.
 6 MR. CHASE: I just have one or two.
 7 CONTINUED EXAMINATION
 8 BY MR. CHASE:
 9 Q Did you help your brother in any
 10 way to get out of the car?
 11 A No, I didn't have time.
 12 Q Did you help him to the side of the
 13 road?
 14 A Yes, when he got out I helped him.
 15 Q I don't believe this was asked
 16 before. I'm showing you Defendant's Exhibit E1
 17 which was marked April 5th, 2001. Does this
 18 photo show the position of the vehicles after the
 19 accident?
 20 MR. FLORIANI: Just note my
 21 objection.
 22 A No, I saw that in the newspaper.
 23 Maybe the fire people, the firemen move the cars.
 24 Q In what manner were they moved?
 25 A Because when the accident happened,

1 E. Sierra
 2 when the impact happened the cars were together.
 3 During the time, during the fire I was looking at
 4 the cars and the cars were one after each other.
 5 Q I'm a little unclear. Is it your
 6 recollection that when you got out of the car,
 7 the cars were still touching?
 8 A Yes, during the fire they were also
 9 touching and also during the time that I was
 10 asking for help the cars were in the same
 11 position. After they took me to the hospital I
 12 don't know what happened after that.
 13 Q Right after the collision the front
 14 end of the Toyota was in contact or under a
 15 portion of the rear of the Jeep?
 16 A I think so, but I'm not quite sure
 17 because the fire was covering everything.
 18 Q Mr. Sierra, you previously
 19 testified that the fire, I'm not trying to
 20 confuse you, that the fire was in the area
 21 between the Jeep vehicle and the Toyota vehicle
 22 when you got out of the Toyota.
 23 Are you unsure of that testimony
 24 now or is it your testimony still that the fire
 25 was in-between the Jeep and the Toyota

1 E. Sierra
 2 immediately after the accident?
 3 MS. MARINO: Just note my objection
 4 because you're mischaracterizing his
 5 testimony. He testified that the fire
 6 was behind the Toyota and in front of
 7 the Jeep.
 8 MR. FLORIANI: You mean in front
 9 of the Toyota and behind the Jeep.
 10 MR. CHASE: I recall his
 11 testimony as in-between the vehicles.
 12 MS. MARINO: He said behind the
 13 Toyota and in front of the Jeep.
 14 MR. FLORIANI: No, in front of
 15 the Toyota and behind the Jeep.
 16 MR. CHASE: Let me rephrase it.
 17 Q Was there a fire in-between the
 18 Jeep vehicle and the Toyota vehicle as depicted
 19 in Defendant's Exhibit E1?
 20 MR. GREENE: I think we should go
 21 off the record for a moment.
 22 (A discussion was held off the
 23 record.)
 24 Q Was there any distance between
 25 the Jeep vehicle and the Toyota vehicle when you

1 E. Sierra
 2 got out of the Toyota vehicle?
 3 A I couldn't see anything.
 4 Q Did it appear to you that they were
 5 in contact when you got out of the Toyota
 6 vehicle?
 7 A I think so.
 8 Q When you got out of the Toyota
 9 vehicle, was the Jeep vehicle fully in the lane
 10 of travel proceeding in the direction you were
 11 before the accident?
 12 A Yes, in the same lane.
 13 Q Was the Toyota vehicle fully within
 14 the same lane of travel you were proceeding prior
 15 to the accident going in the direction away from
 16 Montauk?
 17 A Yes.
 18 Q Was the Jeep vehicle at an angle to
 19 its either right or left when it was stopped
 20 after the accident?
 21 A Like I said before, after the
 22 impact the only thing I noticed when I got out of
 23 the car is the car was in front of us and I saw
 24 the fire. I can't tell you if he has an angle.
 25 Q Do you recall whether the Toyota

1 E. Sierra
2 vehicle was on an angle to its direction of
3 travel either to the right or left when you got
4 out?

5 A I didn't notice. The fire was very
6 high at that time.

7 MR. CHASE: I have nothing further.
8 (Continued on next page for
9 jurat.)

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22 SULLIVAN COURT REPORTING
23 388 Tarrytown Road
24 White Plains, New York 10607
25

1 E. Sierra
2 MR. FLORIANI: I'm done. Thank
3 you. You're going to accept a copy of
4 the transcript for him to sign the
5 original, for the witness to sign?

6 MR. GREENE: To forward to his
7 address.

8 MR. FLORIANI: Thank you very
9 much.

10 (TIME NOTED: 1:30 p.m.)

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EUSEBIO SIERRA

Subscribed and sworn to before me
this ____ day of _____, 2003.

Notary Public

CERTIFICATE

1
2 STATE OF NEW YORK)
3) ss:
4 COUNTY OF NEW YORK)

5
6 I, BRENDA FITZGERALD, a Shorthand
7 Reporter and Notary Public within and for the
8 State of New York, do hereby certify:
9 That, EUSEBIO SIERRA, the nonparty
10 witness whose DEPOSITION was held on April 21,
11 2003, as hereinbefore set forth, was duly sworn
12 by me, and that this transcript of such
13 Examination is a true and accurate record of the
14 testimony given by such witness.

15 I further certify that I am not related
16 to any of the parties to this action by blood or
17 by marriage, and that I am in no way interested
18 in the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto set
20 my hand this 30th day of April 2003.

21
22
23
24
25
26

BRENDA FITZGERALD

SULLIVAN COURT REPORTING
388 Tarrytown Road
White Plains, New York 10607