

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JAMES P. CHASSE, JR.; JAMES P. )  
CHASSE; LINDA GERBER; and MARK )  
CHASSE, individually and in his )  
capacity as Personal Representative )  
of the ESTATE OF JAMES P. CHASSE, )  
JR., )

Plaintiffs, )

v. )

CHRISTOPHER HUMPHREYS; KYLE NICE; )  
CITY OF PORTLAND; CITY OF PORTLAND )  
JOHN DOE FIREFIGHTERS/PARAMEDICS; )  
PORTLAND POLICE BUREAU and OTHER )  
PORTLAND JOHN and JANE DOE )  
OFFICIALS; BRET BURTON; MULTNOMAH )  
COUNTY; MULTNOMAH COUNTY JOHN and )  
JANE DOE DEPUTY SHERIFFS and MEDICAL )  
PERSONNEL; MULTNOMAH COUNTY JOHN and )  
JANE DOE SHERIFF'S OFFICE and OTHER )  
OFFICIALS; TRI-COUNTY METROPOLITAN )

TRANSPORTATION DISTRICT OF OREGON; )  
and AMERICAN MEDICAL RESPONSE )

NORTHWEST, INC., )  
Defendants. )

No. CV-07-0189-HU

COPY

DEPOSITION OF

BARRY N. BERNARD

Taken in behalf of Defendants

\* \* \*

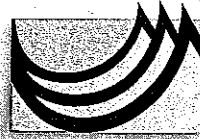
August 8, 2008

1211 S.W. Fifth, Suite 1900

Portland, Oregon

Shannon K. Krska, CSR

Court Reporter



400 Columbia, Suite 140  
Vancouver, WA 98660  
(360) 695-5554  
Fax (360) 695-1737

Schmitt & Lehmann, Inc.  
COURT REPORTERS  
www.slreporting.com

121 SW Morrison St., Suite 850  
Portland, OR 97204  
(503) 223-4040  
slinc@qwestoffice.net

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES:

For the Plaintiffs: MR. THOMAS M. STEENSON  
Attorney at Law  
815 S.W. Second, Suite 500  
Portland, OR 97204

For the Defendants  
Humphreys, Nice, and  
City of Portland: MR. JAMES RICE  
Attorney at Law  
1221 S.W. Fourth, Suite 430  
Portland, OR 97204

For the Defendants  
Burton and Multnomah  
County: MS. SUSAN DUNAWAY  
Attorney at Law  
501 S.E. Hawthorne, Suite 502  
Portland, OR 97214

For the Defendant  
AMR: MS. AMANDA GAMBLIN  
Attorney at Law  
1211 S.W. Fifth, Suite 1900  
Portland, OR 97204

Also Present: Kari Furnanz

INDEX

EXAMINATION BY:	PAGE NO.
Ms. Dunaway	3 - 28
Mr. Rice	28 - 38
Ms. Gamblin	39 - 39
Mr. Steenson	39 - 41

EXHIBITS

No. 314 Photograph

1 PORTLAND, OREGON; FRIDAY, AUGUST 8, 2008

2 4:25 PM

3 \* \* \*

4 BARRY N. BERNARD

5 called as a witness in behalf of the Defendants,

6 having first been sworn by the Reporter,

7 testifies as follows:

8 EXAMINATION

9 BY MS. DUNAWAY:

10 Q. Could you state your full name.

11 A. My name is Barry Neil Bernard.

12 Q. And what year were you born?

13 A. I was born in 1945.

14 Q. Were you born here in Oregon?

15 A. In Portland.

16 Q. Okay. And where did you go to high school  
17 then?

18 A. Milwaukie High School.

19 Q. And did you have any education past high  
20 school?

21 A. I went to the University of Oregon.

22 Q. Okay. And did you finish there?

23 A. I have an MA in English -- excuse me, a BA.  
24 I don't have an MA. I have a BA.

25 Q. And was there any education past the BA?

1 A. No.

2 Q. Okay. Just kind of briefly, what is your  
3 employment history?

4 A. Oh, I've done a lot of things. I've been  
5 employed with Radio Cab for ten years now. Before  
6 that I worked for the US Government Printing Office in  
7 their bookstore here.

8 Q. Okay. And during what years was that?

9 A. That would be roughly '98 to 2002.

10 Q. So in September of 2006 you were working for  
11 Radio Cab?

12 A. I was. I was a contract employee for Radio  
13 Cab.

14 Q. Have you talked to anybody about having your  
15 deposition taken?

16 A. I briefly talked to Tom on the phone and  
17 that's just about it. I don't know much about this.

18 Q. Okay. Have you ever had your deposition  
19 taken before?

20 A. No.

21 Q. What is going to happen is I'm going to ask  
22 you a series of questions. You'll have to answer  
23 those questions.

24 Last night did you get enough sleep to be  
25 able to fully understand --

1 A. Yes.

2 Q. Yes?

3 A. I'm a little tired, but I did get enough for  
4 this, yes.

5 Q. Not -- I mean, you don't feel so unrested --

6 A. No.

7 Q. -- that you won't be able to answer my  
8 questions?

9 A. No, I do not.

10 Q. What about medications, are you taking any  
11 medication --

12 A. No.

13 Q. -- that would interfere with your being able  
14 to comprehend my questions?

15 A. No.

16 Q. Okay. Well, if I ask a question and you  
17 don't fully understand my question, will you let me  
18 know right away --

19 A. Sure.

20 Q. -- so that I can try to rephrase it so you  
21 can understand my question?

22 A. Certainly.

23 Q. The reason why you were subpoenaed is  
24 because sometime this last year I sent a series of  
25 questions to Mr. Steenson. They're called

1       interrogatories. That's the form of the question.  
2       And when I got responses from Mr. Steenson to the  
3       questions, you were listed as somebody who could  
4       answer the questions, okay.

5               So the first question that I had asked  
6       Mr. Steenson was to list and describe with  
7       particularity each and every action or admission by  
8       Deputy Burton and/or any other Multnomah County  
9       employee which you believe was taken because of James  
10      P. Chasse, Jr.'s disability. And so a couple of  
11      questions -- a question later Mr. Steenson indicated  
12      that you had some information that could help me  
13      answer that question, so that was the reason why we  
14      sent a subpoena to you.

15             A. Okay.

16             Q. Okay. So my first question is: Did you  
17      know Mr. Chasse?

18             A. No.

19             Q. You did not, okay.

20                Do you have any information regarding any  
21      disability that Mr. Chasse may have had while he was  
22      living?

23             A. Well, I -- no, I don't know much about that.  
24      But I understand from news reports that he was  
25      schizophrenic or had some mental problems.

1 Q. Okay. But you -- you don't have any  
2 personal knowledge?

3 A. No.

4 Q. Okay. Do you have any knowledge regarding  
5 any action that -- let me explain, Deputy Burton was a  
6 Multnomah County deputy sheriff at the time of the  
7 incident involving Mr. Chasse, which it sounds like  
8 you read about or heard about --

9 A. M-hm.

10 Q. -- right?

11 And so what I would like to know is if you  
12 have any information regarding any action that Deputy  
13 Burton should have taken because Mr. Chasse had a  
14 disability?

15 A. I have no expertise in that or even an  
16 opinion about it.

17 Q. Okay. And I assume the same would be true  
18 in regard to any act or any admission that any other  
19 Multnomah County employee should have taken in regard  
20 to Mr. Chasse's disability?

21 A. I have no information, no.

22 Q. Okay. On September 17th, 2006, were you at  
23 work?

24 A. If this is the date of the incident, I -- I  
25 was walking to work when I was a witness.

1 Q. So you were an eye witness to something  
2 having to do with Mr. Chasse?

3 A. Yes.

4 Q. Okay. But you have no information about the  
5 Americans with Disability Act?

6 A. I know of the Americans with Disability Act,  
7 but I don't know how it would figure into this -- this  
8 incident.

9 Q. Okay, all right. Have you ever filed a  
10 claim under the Americans With Disabilities Act?

11 A. No.

12 Q. Have you ever had any kind of contact with a  
13 government entity where you asked them to accommodate  
14 you because of a disability?

15 A. No.

16 Q. Okay. So you were walking to work?

17 A. Yes.

18 Q. Where is Radio Cab then?

19 A. It's at 16th and Kearney Street.

20 Q. Okay. So you're walking to work and you see  
21 something. What's the first thing you see that  
22 involves Mr. Chasse?

23 A. I hear first some noise and I -- and it  
24 drawings my attention and I see two people running  
25 towards me.



1 Q. Okay. Where are you walking?

2 A. I'm on Everett walking west just shy of the  
3 Blue Hour by 13th.

4 Q. Okay. So you're walking west on Everett and  
5 you are on the south side of Everett?

6 A. Yes, I am.

7 Q. Okay. And are you on the -- as the  
8 intersection of 13th and Everett comes together, are  
9 you on the -- then you would be on the south -- the  
10 southeast side?

11 A. Yeah. I stopped short of the intersection  
12 when I heard the noise. And I was -- most of what I  
13 saw was from the south side and about maybe 20 feet  
14 away, 30 feet away.

15 Q. Okay. What did you see?

16 A. Well, there was two people running, one  
17 yelling -- somebody yelling. I didn't know what I was  
18 seeing and I don't have a lot of recollections of who  
19 was doing what, but they ended up in a scuffle. And I  
20 wasn't even aware that it was a police operation at  
21 first.

22 Q. Okay. So who's the first person that you  
23 see then?

24 A. I had -- it would have been Chasse coming  
25 towards me.

1 Q. Okay. So he's running straight towards you?

2 A. Well, I'm a little ways away, but he's  
3 running towards -- in my recollection, yes.

4 Q. Okay. And about how far away from him are  
5 you?

6 A. About quarter of a block at the most, maybe  
7 eighth of a block.

8 Q. Okay. So you are still on Everett?

9 A. Yeah, still on Everett.

10 Q. And you haven't started to cross 13th?

11 A. No.

12 Q. Okay.

13 A. I never do cross there because this looks  
14 like something I should be avoiding.

15 Q. Okay. So you are on Everett, you are like  
16 right next to the Blue Hour?

17 A. Just a little shy of it, yes.

18 Q. A little shy of the Blue Hour?

19 A. Yeah, just a little shy of it.

20 Q. And you see Mr. Everett -- I mean  
21 Mr. Everett -- Mr. Chasse running towards you?

22 A. Yes. Being chased by somebody.

23 Q. Okay. Were you able to make out who was  
24 chasing him?

25 A. Not really, not at first. The incident went

1 along for a -- maybe even a -- 30 seconds before I  
2 realized that the -- these were policemen. It was  
3 only when I saw the back of their shirt or wherever  
4 they had the letters that said police I realized it  
5 was a police operation. I first thought it might be  
6 some kind of a violent incident of another type.  
7 Actually I first thought that it might be some kind of  
8 a promotion, act, stunt. It was so unusual.

9 Q. Okay. Did you feel -- I mean, did you feel  
10 concerned for yourself when you saw this going on?

11 A. Oh, there were a lot of people around and I  
12 didn't really -- I didn't feel any fear, but it looked  
13 like something I didn't want to get involved in and  
14 that I might edge away from.

15 Q. Okay. What did you do then? You see them  
16 coming towards you.

17 A. Well, it was too compelling not to watch  
18 some of it, which I did. And then I saw them subdue  
19 him actually -- or they had so much of a scuffle that  
20 he was just laying there without motion. And when I  
21 heard an ambulance coming I thought to myself they  
22 don't need me anymore, I shall walk on.

23 Q. Okay.

24 A. And I thought a sense of relief that  
25 somebody was coming to examine what had happened.

1 Q. Okay. Well, let's go back a few steps.

2 A. Sure.

3 Q. Okay. So you see Mr. Chasse, he's running  
4 at you?

5 A. So to speak, yeah.

6 Q. So to speak, okay.

7 And then all of a sudden you realize that  
8 there is how many police officers?

9 A. Well, as I say, it took me a while to  
10 realize who was police and what was going on. But  
11 there were -- there was Chasse and then two other  
12 people and then I think maybe a third one appeared  
13 after some time went by. It's -- I'm very confused  
14 about some of these details.

15 Q. Okay.

16 A. But there -- it seemed to me like there were  
17 three people before everything was done.

18 Q. Three people -- three police officers?

19 A. I don't know what they were, but I saw  
20 police on the back of one of the jackets so I realized  
21 this was a police operation, and the rest of it I  
22 couldn't differentiate.

23 Q. So you were able to definitely identify one  
24 of the people as Chasse and one of the people as a  
25 police officer?

1           A. That's -- yes, unless the -- it was a --  
2           somebody impersonating a police officer, yeah, that  
3           was my impression for sure.

4           Q. Okay, all right. So can you -- I just want  
5           you to break it down a little bit for me in terms of  
6           exactly what it was you saw.

7           A. I will try.

8           Q. He's running at you.

9           A. M-hm.

10          Q. What happens next?

11          A. Well, there's a lot of yelling. He's  
12          yelling and he's not articulating anything but kind of  
13          in agony. I'm not getting any specific words so I  
14          have no idea what's going on. And there's a -- just  
15          like a cartoon with legs and feet and hands coming out  
16          in a flurry.

17          Q. Okay.

18          A. And then there was this -- there was some  
19          yelling by somebody other than Chasse, and it was to  
20          the effect of they wanted him to get down, they wanted  
21          him to get on his stomach, they wanted him to do --  
22          I'm not sure which came first, but it -- it wasn't  
23          long before somebody yelled quit biting him and --

24          Q. Were you able to distinguish who said that?

25          A. No, I'm not sure. But it wasn't Chasse.

1 Q. Okay, all right. At some point, everyone  
2 winds up down on the ground; is that correct?

3 A. Well, kind of. There was some kneeling. I  
4 don't know exactly what you mean by on the ground, but  
5 Chasse is definitely on the ground.

6 Q. Okay. Did you see Mr. Chasse go to the  
7 ground?

8 A. I -- I can't really remember seeing the --  
9 the fall or the trajectory. He was just down. It was  
10 just very fast and they had him down and they were  
11 trying to get handcuffs on him it appeared to me.

12 Q. Okay. So all this is happening like in  
13 split seconds?

14 A. This is happening and it's very confusing.  
15 As I said, first it takes me a second to realize it is  
16 the police, then what is -- what are they trying to  
17 get him to do and why isn't he doing it, what's going  
18 on here. So I had more -- many more questions than I  
19 still have any kind of answers for this.

20 Q. Okay. Had you ever seen anything like this  
21 happen before?

22 A. No, not really. I -- nothing quite like  
23 this, no.

24 Q. Okay. You've never seen anybody arrested?

25 A. Well, I've seen -- come upon somebody being

1 taken into custody more than once, you know, over the  
2 years, but not with such a scuffle.

3 Q. Okay, all right. So Mr. Chasse's on the  
4 ground?

5 A. M-hm.

6 Q. Did you see any of the officers use any type  
7 of force against Mr. Chasse?

8 A. Well, they were certainly trying to force  
9 him into the position they wanted him to handcuff him.

10 Q. And what kind of force were they using?

11 A. Well, pushing on him, just -- just trying --  
12 just getting physical with him trying to get him into  
13 the position that they wanted him. He didn't seem to  
14 be understanding anything.

15 Q. Why do you say that?

16 A. Because of the look on his face and the  
17 noises he was making.

18 Q. Okay. What were the noises he was making --

19 A. They were grunts and groans. They weren't  
20 articulations. It may be there was a no and a stop,  
21 you know, but that was the most -- the most words I  
22 could hear. Just -- he was just kind of yelling  
23 inarticulately.

24 Q. Was he very loud?

25 A. Well, he was loud enough. He wasn't yelling

1 at the top of his lungs, but I -- I would be surprised  
2 if the other witnesses didn't hear the same thing it  
3 was so loud.

4 Q. Okay. And were -- I don't know if I  
5 understood you correctly. Were you able to  
6 distinguish him saying no and stop?

7 A. You know, if you would have asked me that  
8 the next day I -- I may be a little more sure of  
9 myself, but it's -- that's what I recollect.  
10 Those were words -- that primitive kind of  
11 communication.

12 Q. Okay.

13 A. Maybe he didn't actually stay stop, but he  
14 was using his voice to imply that he wanted it to  
15 stop, and I can't remember.

16 Q. Okay. You didn't hear him say anything that  
17 was a complete sentence?

18 A. I did not.

19 Q. Okay. So the -- the officers are struggling  
20 with him?

21 A. M-hm.

22 Q. What is Mr. Chasse doing?

23 A. He's just kind of writhing and -- and making  
24 these noises. He doesn't seem to do what they want  
25 him to do and that's making it worse it appeared to



1 me.

2 Q. Okay.

3 A. I mean, I kept saying to myself if he'd just  
4 let them cuff him, get it over with. He's going to  
5 get hurt this way.

6 Q. But Mr. Chasse isn't cooperating at all?

7 A. Not really. I wouldn't call it cooperation.

8 Q. Okay.

9 A. I don't know what I'd call it, but confused  
10 and agonized is what I would call it.

11 Q. But physically does he look like he's  
12 resisting what the officers are trying to get him to  
13 do?

14 A. No, resisting isn't the right word either.  
15 Just not -- he's not on the same planet. It's not  
16 connecting what he wants -- what he wants to do, what  
17 they want him to do. None of it's connecting.

18 Q. Okay. Now, what makes you think that he's  
19 not connecting?

20 A. Because they're -- they're doing everything  
21 they can to get him to take an action that he's not  
22 taking and he seems confused.

23 Q. Okay. And so because he is resisting you're  
24 assuming he doesn't understand?

25 MR. STEENSON: Objection, argumentative, not

1 what he testified to.

2 Q. (By Ms. Dunaway) Because he's resisting and  
3 struggling you're assuming that he doesn't understand  
4 what it is that they want him to do?

5 MR. STEENSON: Same objection.

6 Q. (By Ms. Dunaway) You can go ahead and  
7 answer.

8 A. Well, could I have that rephrased or at  
9 least said again so I know what I'm answering for  
10 sure?

11 Q. Well, you've described Mr. Chasse as not  
12 cooperating with what the officers wanted him to do.

13 A. That's what it appeared to me, yeah.

14 Q. And that's what it seemed like clearly was  
15 going on to you; right?

16 A. That's what it seemed like to me, yes.

17 Q. All right. And your assumption then is that  
18 the reason why he is not cooperating is because he  
19 doesn't understand what they're saying?

20 A: Well, yeah. They're giving him direct  
21 commands and he's not -- he's obviously in a situation  
22 that he's -- that's not in his control and he's not  
23 responding.

24 Q. Okay. And that couldn't be because he just  
25 didn't want to do it?

1           A. Oh, I -- I have no idea what his motive was.  
2 He just wasn't responding.

3           Q. But it could have been because he just  
4 didn't want to cooperate with the police?

5           A. It could have been. I mean, I don't -- at  
6 the time I certainly didn't think that, but in  
7 retrospect, that's one of the possibilities. I don't  
8 know for sure.

9           Q. Okay. 'Cause you don't -- you just don't  
10 know for sure --

11          A. Yeah.

12          Q. -- correct?

13                 Okay. I'm assume at some point that this  
14 struggle actually ends. Right? Is that correct?

15          A. The struggle ended and Chasse was laying  
16 there immobile. He wasn't a threat to anyone it  
17 appeared to me at that time. He was subdued. I don't  
18 know if he was unconscious or what, but he'd been  
19 pretty much immobilized and then the struggle ended --

20          Q. Okay.

21          A. -- m-hm.

22          Q. Prior to the struggle ending, did you see  
23 any of the officers hit Mr. Chasse?

24          A. They used their hands a lot, yes. Hit? I'm  
25 not sure I could say they hit. But kick, yes, I saw

1 him kick him.

2 Q. Okay. Do you remember which part of  
3 Mr. Chasse's body was struck with the kick?

4 A. The kick that I saw most vividly was in the  
5 side.

6 Q. Okay. Which -- which side, do you remember?

7 A. I can't be sure of that. It just was just  
8 too confusing. The officer doing the kicking was  
9 closest to me, closest to the Blue Hour.

10 Q. Okay. So would that -- what would -- which  
11 way is Mr. Chasse lying at this point in time when --

12 A. He's kind of diagonally in the intersection  
13 or close to one side of the intersection and I --

14 Q. Okay.

15 A. My memory just doesn't --

16 Q. Okay. His head --

17 A. I tried to reconstruct that and I could be  
18 confused and I'm not sure of myself there.

19 Q. Can you remember if his head was at the  
20 north of the intersection, the south of the  
21 intersection, east, west?

22 A. He was -- he wasn't subdued yet and he was  
23 moving around so it's -- it's just too unclear. I  
24 want to say his head was facing southwards, but it may  
25 not have been a moment later, and I'm -- you know, I'm

1 just not sure enough to make that as a definite  
2 statement.

3 Q. Because he was moving around a lot?

4 A. Yeah. He was moving around still. At one  
5 point he wasn't, but at this point he still was.

6 Q. And do you recall if the kick was high on  
7 the body? You said the side. High on the -- or low  
8 on his side?

9 A. My thought was that it was at the --  
10 directed towards the kidneys and it alarmed me that it  
11 might be injurious.

12 Q. Okay. So it seemed closer to the back?

13 A. Perhaps a little closer to the back than the  
14 front, perhaps. But with him moving like that I --  
15 I'm not completely sure.

16 Q. Okay. Other than that, did you see any  
17 other -- besides just the struggling and trying to get  
18 Mr. Chasse under control, did you see any other kicks  
19 or punches or any other --

20 A. Well, they were manhandling him. As far as  
21 punch, I don't think I saw at least with any  
22 certainty. The kick is what stands out in my mind  
23 that they were trying -- they were trying to  
24 manipulate his body into a position where they could  
25 cuff him it appeared to me and they were using his

1 hands on him.

2 Q. And they were using their hands?

3 A. They were using his hands. But punching, I  
4 don't -- I don't know if I saw that and I don't want  
5 to -- I don't want to be with any certainty about  
6 that.

7 Q. Okay. Then at some point Mr. Chasse all --  
8 is still --

9 A. M-hm.

10 Q. -- right?

11 Okay. What did you observe in terms of  
12 Mr. Chasse in terms of his stillness? Did you see  
13 whether or not or observe whether or not Mr. Chasse  
14 was breathing?

15 A. No, I didn't. I didn't observe him  
16 breathing. He looked perfectly still. I didn't jump  
17 to any conclusion about it, but I didn't see him  
18 breathing.

19 Q. Okay. I didn't phrase that very well. Let  
20 me try this again.

21 A. M-hm.

22 MR. STEENSON: You didn't like the answer.

23 Q. (By Ms. Dunaway) Did you -- do you remember  
24 whether or not you were actually looking to see if he  
25 was breathing?

1           A. No, I wasn't looking to see if he was  
2 breathing. That wasn't -- at this point when he was  
3 perfectly still, this is about the time I heard the  
4 ambulance and that made me feel like he was going to  
5 get attention.

6           Q. Okay.

7           A. So I wasn't too concerned about anything  
8 else. Perhaps I would have been more concerned if  
9 there -- if I hadn't heard those sirens.

10          Q. Okay. So when you're standing there are you  
11 looking to see whether or not his chest is moving up  
12 and down?

13          A. I didn't observe that, but I wasn't  
14 consciously trying to observe it.

15          Q. So would it be safe to say that you don't  
16 know whether or not he was breathing or not breathing?

17          A. I do not know.

18          Q. Well, you said that at the beginning when  
19 you saw Mr. Chasse running towards you that you were  
20 on Everett --

21          A. M-hm.

22          Q. -- just before the Blue Hour.

23          A. Yes.

24          Q. Okay. During the struggle, where were you  
25 standing?

1           A. I just stopped in my tracks there. I was  
2 pretty much in that position until -- I might have  
3 moved a little away from the scene trying to cross the  
4 street slowly as the incident was happening. And then  
5 when -- as I say, I left as soon as I heard the  
6 sirens. I left the scene entirely.

7           Q. Okay. Which direction did you go in?

8           A. North.

9           Q. North?

10          A. I was going up towards Kearney Street.

11          Q. Okay. So did you -- you crossed Everett  
12 there at --

13          A. Yes.

14          Q. Okay, all right. Did you -- have you talked  
15 to anybody about this incident?

16          A. You mean my friends and --

17          Q. Anybody.

18          A. Well, yes. I've -- I've talked about it --  
19 it's been, what, quite a while. I've mentioned it,  
20 but not -- I've never talked to another witness or  
21 anybody that knew anything about it.

22          Q. Okay. You haven't talked to anybody who's  
23 involved in the case?

24          A. Well, I've talked to Tom on the phone about  
25 it briefly.



1 Q. Okay. Do you --

2 A. In fact, I called him originally.

3 Q. You called him originally?

4 A. Yes.

5 Q. Okay. So when did you call Mr. Steenson?

6 A. Maybe a week or two after the incident.

7 Q. And after you called Mr. Steenson, did  
8 anybody interview you?

9 A. No.

10 Q. So you have only talked to Mr. Steenson?

11 A. Yes.

12 Q. Okay. So besides your friends, family  
13 members, and Mr. Steenson, have you talked to anybody  
14 else?

15 A. No.

16 Q. Okay. During the time that you were there  
17 and you were watching the struggle, did you talk to  
18 anybody during the incident?

19 A. No, I didn't.

20 Q. Okay. Was there anybody else standing  
21 around you on Everett while this was happening?

22 A. Well, there were quite a few people there.  
23 That was another reason I felt I wasn't needed. There  
24 were quite a few people observing it intently.

25 Q. Okay. After -- after Mr. Chasse was under

1 control and the ambulance shows up, can -- did you  
2 have any estimation of how long that took?

3 A. It wasn't long. I'm afraid my estimation of  
4 time -- it wasn't long. I couldn't give you an exact.  
5 30 seconds, a minute. The sirens came right away.  
6 They seemed to be there almost -- I mean, I seemed to  
7 have heard them almost as soon as I saw him subdued.

8 Q. Okay.

9 A. They must not have been coming from far  
10 away.

11 Q. During the time that you were observing the  
12 chase and then the struggle --

13 A. M-hm.

14 Q. -- did you see any officers in a green -- in  
15 green uniforms?

16 A. I wasn't -- I wasn't aware of uniforms. In  
17 fact, they didn't look like uniforms to me at first.  
18 That added to my confusion.

19 Q. Okay. And during that period of time when  
20 Mr. Chasse has stopped struggling and that interim  
21 between then and the ambulance shows up --

22 A. M-hm.

23 Q. -- did you observe at all what the police  
24 officers were doing?

25 A. No. They had -- they had -- I heard the

1 word Taser and they were monkeying around with it and  
2 it didn't seem to be working or they changed their  
3 mind or something -- that plan didn't seem to come to  
4 fruition. But that's about the only thing I can think  
5 of. They were -- they had the thing in their hand, if  
6 I remember right, and they were talking about it.

7 Q. Did you see anybody use the Taser?

8 A. No.

9 Q. Okay. Did you see anybody actually make a  
10 phone call to call the paramedics?

11 A. No, I never saw the phone call being made.  
12 But it certainly, in this age of cell phones nothing  
13 surprised me about that.

14 Q. Okay, all right. And do you remember  
15 anything else about what the police were doing between  
16 the time that Mr. Chasse appears to be under control  
17 and the ambulance shows up?

18 A. I remember them being there, but I don't  
19 remember much about what they were -- talking to each  
20 other it seems to me, but I can't remember much else.

21 Q. Okay. Did they ever leave Mr. Chasse  
22 unattended?

23 A. I -- I don't think there was any time at  
24 least one of them wasn't there that I observed. As I  
25 say, I walked away before the ambulance got there

1 actually.

2 Q. Okay. Did you observe any injuries on  
3 Mr. Chasse?

4 A. I -- I didn't -- you mean like blood or --

5 Q. M-hm --

6 A. -- dislocated --

7 Q. -- yes.

8 A. No, I didn't observe anything.

9 Q. And did you hear Mr. Chasse saying anything  
10 during that period of time?

11 A. When he was laying there subdued?

12 Q. M-hm.

13 A. No. He was quiet at that time.

14 Q. Okay. I don't have any more questions.

15 Thanks.

16 A. M-hm, you're welcome.

17 EXAMINATION

18 BY MR. RICE:

19 Q. Mr. Bernard, I'm Jim Rice. We introduced  
20 ourselves --

21 A. Yes, right.

22 Q. -- just before we got going here.

23 What's your date of birth?

24 A. 4-19-45.

25 Q. Have you gone by any other names?

1 A. Not officially.

2 Q. All right. I don't mean nicknames.

3 Where do you reside?

4 A. I currently live at 1904 S.E. Woodward  
5 Street.

6 Q. Okay. If you're called as a witness at  
7 trial, if we issue a subpoena, but sometimes it's good  
8 to have a phone number on someone to make  
9 arrangements, is there a best phone number to reach  
10 you, either a cell phone or a home phone or work  
11 phone?

12 A. The home phone is the best, you can leave a  
13 message. And I sleep during the day and I won't even  
14 hear it, but you can leave a message. It's  
15 503-222-8821.

16 Q. How tall are you?

17 A. Oh, about six three.

18 Q. Okay. Back in September 2006 when you were  
19 observing what you did, were you wearing glasses or  
20 contacts?

21 A. Contact lens.

22 Q. And do you wear those all the time?

23 A. All the time.

24 Q. Were you wearing them that day?

25 A. Yes, I was.

1 Q. Do you have any hearing impairment or  
2 anything like that?

3 A. No.

4 Q. All different kinds of things happen to  
5 people in life. Sometimes people end up with  
6 injuries. I'm wondering, since the time of this event  
7 and today, have you had any kind of an injury to your  
8 head where it might affect your memory?

9 A. Well, I'm not sure that I would know, but --

10 Q. Right. It could be that bad.

11 MS. DUNAWAY: Good answer.

12 Q. (By Mr. Rice) Sometimes we know we were in a  
13 car accident or something of that nature.

14 A. No, there's nothing.

15 Q. All right. Do you have any training in  
16 mental illness?

17 A. No, I don't.

18 Q. Any training in psychology?

19 A. No.

20 Q. Were you ever in the military?

21 A. No.

22 Q. Okay. Any training in martial arts?

23 A. No.

24 Q. Have you had any contact with the Chasse  
25 family?

1 A. No.

2 Q. Aside from talking to Mr. Steenson, have you  
3 talked to any other lawyers about this matter?

4 A. No.

5 Q. My understanding is you've not given any  
6 written statements to anybody?

7 A. No.

8 Q. Did you file any kind of a complaint or a  
9 notice with Portland or the police department?

10 A. No.

11 Q. Have you been video recorded by anybody,  
12 anybody come and say we want to take a video of you?

13 A. No.

14 Q. As this sort of unexpected event transpired,  
15 did you watch it the whole time? Did you ever divert  
16 your gaze from what was going on?

17 A. During the struggle and the noise I was  
18 pretty riveted to it.

19 Q. Okay.

20 A. I did, after he was subdued, I looked around  
21 at the rest of the crowd and saw it was considerable  
22 and the other people were kind of agitated about what  
23 they saw.

24 Q. Okay. Did you talk to any of those people?

25 A. No.

1 Q. You were going to work; is that right?

2 A. I was -- yes.

3 Q. Your shift was going to begin a little  
4 later?

5 A. My shift begins when I get there.

6 Q. Okay.

7 A. And I was just -- it's in my interest to get  
8 to -- get out as quick as I can so I didn't want to  
9 stay there any longer than I had to.

10 Q. All right. Do you have a commercial  
11 driver's license to be a cab driver?

12 A. Yes.

13 Q. Is that right?

14 A. Yes.

15 Q. I would assume that going to work to be a  
16 cab driver you had not had any alcohol to drink that  
17 day --

18 A. Oh, absolutely not.

19 Q. -- is that correct?

20 A. That would be the quickest way to get fired.

21 Q. I bet it would be.

22 When you saw Mr. Chasse, did you notice  
23 anything about his clothing?

24 A. Nothing that strikes me now, no.

25 Q. Did you see him carrying anything?



1           A. Good question. I -- I didn't see that, no.  
2 I couldn't rule it out in my mind, but I didn't see  
3 it.

4           Q. Am I correct that the first thing you saw  
5 was Mr. Chasse running and someone was chasing him?

6           A. A scuffle, a noise, a chase, and it was  
7 coming towards me, and Chasse was in the lead, yes.

8           Q. All right. And do you have a clear vision  
9 of how Mr. Chasse ended up on the ground?

10          A. I do not have a clear vision of that, but I  
11 know the -- the policemen got him down there somehow.  
12 He didn't want to go down.

13          Q. All right. So he ended up on the ground?

14          A. Yeah.

15          Q. And the officers were grappling with him; is  
16 that right?

17          A. Yeah, grappling is a good word for it.

18          Q. All right. And at one point, you saw an  
19 officer who was the closest to you kick Mr. Chasse; is  
20 that right?

21          A. Yes.

22          Q. Did he kick him one time or more than once?

23          A. I -- I think he kicked him more than once,  
24 but I have this -- such a distinction impression of  
25 this one kick that that's the -- that's what stands

1 out in my mind.

2 Q. Okay. The one kick is what stands out in  
3 your mind?

4 A. Yeah. Because it was just right in my view  
5 and it was just clear as a bell and it alarmed me.

6 Q. Okay. Was he -- do you recall whether he  
7 was holding on to any part of Mr. Chasse's body when  
8 that occurred?

9 A. Whether the officer was?

10 Q. The officer that did the kicking.

11 A. Well, he was standing at his side and he  
12 kicked him from the side. I don't think he had his  
13 hands on him at that time. He might have just have  
14 his hands on him, but at that time he was standing up  
15 to kick.

16 Q. Okay. Was he standing up completely  
17 straight or was he completely hunched over?

18 A. A little -- a little bit crouched, but not  
19 overly.

20 Q. Okay.

21 A. In the position one might get in to for a  
22 kick.

23 Q. In other words -- well, I don't want to say.  
24 Is the top part of his body leaning in one direction?

25 A. Yeah, crouched leaning a little bit forward

1 into the action.

2 Q. Do you know the names of any of the police  
3 officers that were involved that day?

4 A. You know, I don't. I -- I've seen them  
5 before in the paper, but I -- I don't -- I didn't  
6 commit them to memory and I don't know which officer  
7 was which.

8 Q. Okay, all right. Had you had any contact  
9 with any of those officers before?

10 A. No. I tried to call the detectives about  
11 it, but I never got a response.

12 Q. Did you leave a message with someone?

13 A. Yeah. I left a message on their machine,  
14 but they never got back.

15 Q. Okay. How long was that after the incident  
16 took place?

17 A. That was fairly soon after because I got  
18 the phone number. I think it was in the Tribune but  
19 it could have been in The Oregonian about anybody  
20 that saw anything to call in, and I decided to do it  
21 at that point. But as I say, I didn't make any  
22 contact.

23 Q. And am I correct that you heard someone  
24 mention don't bite me?

25 Did you ever see anyone bite anybody?

1 A. No, I didn't see a bite.

2 Q. You just heard it?

3 A. I heard about it, in the air, yeah.

4 Q. Okay. When you observed Mr. Chasse on the  
5 ground, this grappling was going on, can you tell me,  
6 was he -- was his chest on the ground, was he on his  
7 side, was he on his back? What was Mr. Chasse's  
8 position?

9 A. Everywhere but what they wanted him, which  
10 was on his stomach.

11 Q. Okay.

12 A. And that's -- he was everywhere but that.  
13 It reminded me of trying to put a cat in a bag.

14 Q. Did he appear to be flexible?

15 A. That word didn't come to mind.

16 Q. All right. Are you familiar with Tasers?

17 A. Just from the movies.

18 Q. Are you aware of a Taser making any kind of  
19 sound?

20 A. I didn't hear anything.

21 Q. Do you know whether Tasers do make a sound?

22 A. No, I don't know if they make a sound and I  
23 don't know if there's more than one type or -- I don't  
24 have that -- not something I know about.

25 Q. When you crossed Everett Street heading

1 north, were you looking at Mr. Chasse once you got  
2 safely across the intersection?

3 A. Well, I looked back a couple times and  
4 surveyed the -- the entire scene. I think that was  
5 the first time I noticed that there was a police car  
6 up parked nearby.

7 Q. Okay.

8 A. I didn't see that at first.

9 Q. Okay. And where was that vehicle parked?

10 A. Up on Everett on the -- between 13th and  
11 14th.

12 Q. So it would be in the westerly direction?

13 A. Yeah. But it was far enough away from the  
14 action that I didn't see it at first. I guess they'd  
15 come out of the car, I don't know. I mean, or they --  
16 they'd seen him on the street and parked the car there  
17 I guess.

18 Q. All you know is there was a car there;  
19 right?

20 A. Later I saw it, yeah.

21 Q. All right. And when you were walking either  
22 across Everett street or looking back, could you see  
23 Mr. Chasse's face?

24 A. Yeah, I -- I saw his face.

25 Q. Okay. Did you notice anything wrong with

1 his face, any injury to his face, anything like that?

2 A. No, I couldn't -- I couldn't really assess  
3 what injury. He wasn't looking too happy, but I  
4 wouldn't have expected him to anyway.

5 Q. Okay. And am I correct, you did not see any  
6 medical personnel treat Mr. Chasse --

7 A. No.

8 Q. -- EMTs, anything like that?

9 A. No. I left before they got there. But I  
10 did hear the sirens.

11 Q. Did you take any photographs of the  
12 incident?

13 A. No.

14 Q. How did you come to learn that Mr. Chasse  
15 ultimately died?

16 A. Either TV or newspaper.

17 Q. Okay. Were you surprised when you learned  
18 that?

19 A. Yes, yes.

20 Q. Have you yourself ever been convicted of a  
21 crime?

22 A. No.

23 Q. That's all the questions I have. Thank you.

24 A. M-hm.

25 /

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

EXAMINATION

BY MS. GAMBLIN:

Q. I'm Amanda Gamblin. I represent AMR, the ambulance company. We met before.

A. Yes.

Q. I have one quick question. It sounds like you didn't see ambulance personnel arrive or otherwise observe them perform their duties?

A. No, I didn't see them get on the scene.

Q. Okay. Did you ever go back afterwards and -- and witness anything about the event?

A. No.

Q. Okay. Then I have no further questions.

A. Okay.

(Discussion off the record.)

(DEPOSITION EXHIBIT NO. 314 was marked for identification.)

EXAMINATION

BY MR. STEENSON:

Q. Mr. Bernard, I've marked Exhibit 314. And, for the record, this may or may not have been marked previously. I'll represent it was a photograph taken it would have been after you had left --

A. M-hm.

Q. -- because the medical people had arrived.

1 It was taken on a cell phone camera from someone near  
2 the Blue Hour. My question is: There's a couple of  
3 different people that have baseball hats on.

4 A. M-hm.

5 Q. Do you recall whether any of the officers  
6 you saw involved with Mr. Chasse originally had any  
7 baseball hats on?

8 A. Yeah, I saw baseball hats. Everybody looks  
9 the same in a baseball hat to me and that I think is  
10 why I didn't know what was going on. I didn't know  
11 they were officers. But yes, I don't know if they all  
12 had -- there were like three officers, I don't know,  
13 or three personnel anyway, and -- one of them had  
14 police on his shirt, at least one of them had a  
15 baseball hat, and that's about the best I can  
16 remember.

17 Q. Do you recall, today, whether the officer  
18 who kicked Mr. Chasse, as you've described today --

19 A. M-hm.

20 Q. -- was bearing a baseball cap or not?

21 A. Well, I think he was, but I just don't want  
22 to say with airtight certainty. If he did, the bill  
23 would have been in the front because I was seeing him  
24 from a little bit from behind and I -- and I noticed  
25 no bill.



1 Q. Okay.

2 A. You know, some people wear them like that.  
3 But he -- he may not have had it on then. I'm just  
4 not positive.

5 Q. That's all I have. Thank you.

6 A. Yeah.

7 MR. RICE: No further questions from me.

8 MS. DUNAWAY: No.

9 MR. RICE: Thank you.

10 (The deposition concluded at 5:08 PM.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

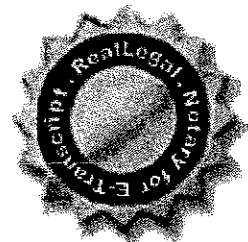
C E R T I F I C A T E

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF CLARK )

I, Shannon K. Krska, a Certified Shorthand Reporter for Oregon, do hereby certify that, pursuant to stipulation of counsel for the respective parties hereinbefore set forth, BARRY N. BERNARD personally appeared before me at the time and place set forth in the caption hereof; that at said time and place I reported in Stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were reduced to typewriting under my direction; and that the foregoing transcript, pages 3 to 41, both inclusive, constitutes a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof.

Witness my hand and CSR stamp at Vancouver, Washington, this 14th day of August, 2008.

*Shannon K. Krska*



Shannon K. Krska  
Certified Shorthand Reporter  
Oregon CSR No. 90-0216