

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. )

**COPY**

No. CV-07-0189-HU

DEPOSITION OF

MARK J. GINSBERG

Taken in behalf of Defendants

\* \* \*

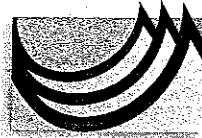
July 31, 2008

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Portland, Oregon

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APPEARANCES:

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

For the Defendants MESSRS. JAMES RICE and  
Humphreys, Nice, and DAVID A. LANDRUM  
City of Portland: Attorneys at Law  
1221 S.W. Fourth, Suite 430  
Portland, OR 97204

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

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

Also Present: Steven Kraemer

INDEX

EXAMINATION BY:	PAGE NO.
Mr. Rice	3 - 23
Ms. Dunaway	23 - 29
Ms. Back	29 - 30

EXHIBITS

No. 306 Diagram

1 PORTLAND, OREGON; THURSDAY, JULY 31, 2008

2 8:32 AM

3 \* \* \*

4 MARK J. GINSBERG

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 MR. RICE:

10 Q. Good morning, Mr. Ginsberg. I'm Jim Rice.

11 A. Hi, Mr. Rice.

12 Q. Nice to meet you. We're here to take your  
13 deposition today. Have you ever actually been deposed  
14 before?

15 A. I have never been deposed.

16 Q. Have you ever given depositions or taken  
17 depositions of other parties?

18 A. I've taken depositions, yes.

19 Q. And you're an attorney; is that right?

20 A. That's correct.

21 Q. How long have you been an attorney?

22 A. Since 1995.

23 Q. Do you generally practice in the civil  
24 field?

25 A. Yes, I do.

1 Q. And what kind of civil work do you do?

2 A. Vast majority of my work is plaintiff's side  
3 civil litigation, personal injury.

4 Q. Personal injury work.

5 All right. Is there any reason, either  
6 medically or on medication, lack of sleep, anything  
7 like that, that this is not a good day to take your  
8 deposition?

9 A. No, sir. Today is fine.

10 Q. And you understand you need to answer out  
11 loud to assist our court reporter in taking down the  
12 answers?

13 A. Yes, sir.

14 Q. I'm going to skip over the normal  
15 introductory stuff. You know what I'm talking about;  
16 right?

17 A. Yes, I do. Thank you.

18 Q. Would you give us your full name, for the  
19 record.

20 A. It's Mark Joshua Ginsberg, G-I-N-S-B-E-R-G.

21 Q. And what's your date of birth?

22 A. 5-31-70.

23 Q. If we need to either subpoena you or contact  
24 you, is it best to contact you either at home or at  
25 the office?

1           A. Either. I'm not planning on leaving either  
2 any time soon.

3           Q. And what's your office address?

4           A. I moved since my recorded statement. My  
5 current office address is 1216 S.E. Belmont Street,  
6 Portland, Oregon 97214.

7           Q. And is that the one that's listed with the  
8 Oregon State Bar?

9           A. Yes, it is.

10          Q. And what's your home address?

11          A. My address is [REDACTED]  
12 [REDACTED]

13          Q. Is there a best phone, a cell phone number  
14 or some other number that's best to reach you at?

15          A. Probably my office first, 503-542-3000, and  
16 then my cell phone is fine as well, [REDACTED].

17          Q. And how tall are you?

18          A. Five eight, five nine.

19          Q. Okay. And you went to college I assume?

20          A. Yes, I did.

21          Q. And where did you go to college?

22          A. I attended Brandeis University.

23          Q. And what year did you graduate from  
24 Brandeis?

25          A. I graduated early, but technically my

1 diploma was issued in May of '92, but I stopped taking  
2 classes at the end of the fall semester December '91.

3 Q. And what was your major?

4 A. Sociology.

5 Q. Did you have minors?

6 A. No.

7 Q. Did you go directly to law school?

8 A. Yes. Fall of '92 I began law school here at  
9 Lewis and Clark.

10 Q. And what year did you graduate from Lewis  
11 and Clark?

12 A. 1995.

13 Q. All right. Have you -- do you either wear  
14 glasses, have a hearing aid, anything like that, that  
15 assists you in observing or hearing things?

16 A. I wear glasses.

17 Q. And is it for reading or distance or both?

18 A. For distance.

19 Q. Ever in the military?

20 A. No, sir.

21 Q. Do you have any involvement working for law  
22 enforcement?

23 A. No, sir.

24 Q. Have you had any contact with law  
25 enforcement other than for routine matters?

1           A. Yes. I -- here in Portland I chair the City  
2 of Portland's bicycle advisory committee, and in that  
3 role I certainly deal with the police on an ongoing  
4 basis. Right now there are two police officers who  
5 sit on -- well, one police officer sits on the  
6 committee formally and two others also attend our  
7 meetings regularly. And in that capacity I've also  
8 dealt with other officers through the years as the  
9 traffic division's leadership has changed, as the  
10 chief has changed, and then also because of that I've  
11 had the opportunity this year to actually mediate a  
12 case at the request of the Portland Police Bureau.  
13 And I know a couple officers personally.

14           Q. All right. Do you have any medical  
15 training?

16           A. No, sir.

17           Q. EMT training?

18           A. No, sir.

19           Q. Ever in the military?

20           A. Still no, sir.

21           Q. Prior to the incident we're talking about  
22 today, had you ever met Mr. Chasse, the deceased?

23           A. No, sir.

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

1           A. Other than their attorneys making sure I was  
2 available to be here today, no, sir.

3           Q. Okay. And that's Mr. Steenson; is that  
4 correct?

5           A. Correct.

6           Q. And in terms of did he contact you to set up  
7 a good time to come in, is that what that consisted  
8 of?

9           A. I think county counsel scheduled my  
10 appearance today, but Mr. Steenson called me to make  
11 sure I understood what a deposition was as well.

12          Q. Okay. Any other contact with the Chasse  
13 family?

14          A. No, sir.

15          Q. Let's talk about the incident that occurred  
16 on September 17th. You recall that incident with  
17 Mr. Chasse?

18          A. Yes, sir.

19          Q. And you recall what you were doing at the  
20 time you were observing Mr. Chasse the first time you  
21 saw him?

22          A. I was sitting in my car at the time.

23          Q. Okay. What kind of car was it?

24          A. It was a Volkswagen Jetta wagon, it's a 1994  
25 I believe.



1 Q. Okay.

2 A. Might be '95 -- or, I'm sorry, 2005.

3 Q. Okay. And about what time of the day was  
4 this?

5 A. It was early evening. I don't remember the  
6 exact time, but my wife was shopping for a picnic  
7 dinner for us and I had our baby son in the car so I  
8 was, in essence, driving around the neighborhood of  
9 the store waiting for her.

10 Q. To come out of the Whole Foods?

11 A. Our son was happy in the car, we left him in  
12 the car.

13 Q. All right. As you approached the  
14 intersection of 13th and N.W. Everett, which direction  
15 were you traveling?

16 A. Was traveling southbound.

17 Q. Okay. And when you first observed  
18 Mr. Chasse, were there any vehicles between you and  
19 Mr. Chasse or in front of you as you're in line?

20 A. No. The first time I saw him I had come to  
21 a full stop at the stop sign and when I looked through  
22 the intersection I saw him on the opposite side of the  
23 intersection.

24 Q. Is the Jetta an automatic transmission or a  
25 stick?

1 A. It's a stick shift.

2 Q. Okay. When you first observed Mr. Chasse is  
3 he just directly across the street from you or is he  
4 off to the side?

5 A. He was on the sidewalk not in the roadway,  
6 so if I was facing due south he was slightly off to my  
7 right approximately on a clock face about my one  
8 o'clock.

9 Q. And when you first observed him, what did  
10 you notice about him?

11 A. Simply that he was standing there. You  
12 know, as I said in my recorded statement to Detective  
13 Courtney, I noticed him and I just wanted to make sure  
14 he wasn't a pedestrian walking into the roadway so I  
15 didn't hit him.

16 Q. Okay. And you mentioned in your statement  
17 to Detective Courtney?

18 A. Yes, sir.

19 Q. Have you given any statements to anyone  
20 other than Detective Courtney?

21 A. His and the grand jury.

22 Q. Okay.

23 A. I did testify in front of the grand jury,  
24 but other than that, no, only Detective Courtney.

25 Q. All right. And when you observed

1 Mr. Chasse, what did you notice about his appearance?

2 A. Well, as I said in the recorded statement,  
3 he definitely looked like a scruffy homeless person.

4 Q. Okay. And what was, if anything, was  
5 Mr. Chasse doing when you saw him?

6 A. It appeared to me that he was just standing  
7 there.

8 Q. What direction was he facing?

9 A. He was facing westbound.

10 Q. All right. So as he's facing westbound, are  
11 you looking at the profile of his face?

12 A. Yes. I would be looking at the right side  
13 of his face, that's correct.

14 Q. Did you notice anything about his clothing?

15 A. Nothing that stands out now, sir, no.

16 Q. Do you recall him having anything with him  
17 at the time?

18 A. You know, I -- I didn't. And I have had the  
19 chance to review my recorded statement with Detective  
20 Courtney. As I said then, I don't recall if he had  
21 anything with him, but he might have had a bag or  
22 something, but I'm not positive.

23 Q. Did you see him do anything that we've not  
24 talked about prior to a police car arriving?

25 A. No.

1           Q. And when you first saw a police car, what  
2 direction was it coming from?

3           A. They were coming from my right so it would  
4 have been traveling eastbound.

5           Q. Okay. And what did you see the police car  
6 do?

7           A. The first car I saw was a white police car  
8 in the furthest lane from me. And they pulled to  
9 their right at an angle so that I was able to see the  
10 entire driver's side. And I noticed that it said  
11 transit police which because, as I've mentioned, I've  
12 dealt with different police, I sort of noticed that  
13 right away and wondered to myself what the transit  
14 police would be doing over there. And their car  
15 stopped so that the nose of it was pulled into a  
16 parked -- a parking space and the rear of the car was  
17 still in the roadway. And there were two officers who  
18 I recognized by uniform colors Portland Police Bureau  
19 officers who both got out were standing with their  
20 doors open.

21           Q. Okay. And what happened next?

22           A. Then I -- I intentionally didn't enter the  
23 intersection because I wanted to make sure I was safe.  
24 And then a second car came past them and pulled up  
25 almost directly in front of me which was a white

1 vehicle, but the person who stepped out of the  
2 driver's seat, based on the color of their uniform, I  
3 recognized as a Multnomah County Sheriff, the dark  
4 green, olive drab uniform. And then I saw Mr. Chasse  
5 himself rotate counterclockwise, that is say sort of  
6 on his left foot, so he went from his right side  
7 profile facing me to his left side profile facing me,  
8 but he turned with his back to me.

9 Q. Like a 270 degrees?

10 A. Correct.

11 No. It would have been 180 degrees from  
12 facing looking to my right rotating to looking to my  
13 left.

14 Q. All right.

15 A. And he did that such that his back was  
16 facing me during the rotation.

17 Q. And while he's doing that are any of the  
18 officers out of their cars or are they still in their  
19 cars?

20 A. I believe they were all out of their cars  
21 but standing by their cars.

22 Q. Okay. What happened next?

23 A. One of the officers said something along the  
24 lines of he's running or he's going, and all three  
25 officers approached him rapidly, you know. As I said

1 in the recorded statement to Detective Courtney, one  
2 of them definitely tackled him. My recollection is it  
3 was the Portland Police officer who had been on the  
4 passenger side of the Portland Police Bureau car.

5 Q. Okay. And when you saw him make contact  
6 with them, could you see what the Portland Police  
7 officer was doing with his arms?

8 A. Well, to the extent that anything I say  
9 today varies from that recorded statement, that was  
10 certainly the most contemporaneous thing that I've  
11 done, so to the extent that I don't remember things  
12 exactly today I would say whatever I said in the  
13 recorded statement is the most accurate.

14 Q. Sure.

15 A. But it's my recollection that the officer  
16 sort of did a flying tackle at him. And I don't  
17 remember if his arms remember wrapped around  
18 Mr. Chasse or if they were at his sides, but I believe  
19 they were sort of in an attempt to -- to catch and  
20 hold Mr. Chasse.

21 Q. Okay. And when that officer made contact  
22 with Mr. Chasse, did -- were there other officers  
23 making contact with him at the same moment or --

24 A. It's my recollection that the one officer  
25 was the one who -- the first initial contact or impact

1 with Mr. Chasse and then when they landed on the  
2 ground the two other officers also joined in.

3 Q. Okay. Do you know how far the officer who  
4 made contact with Mr. Chasse was from him when Mr. --  
5 when he sort of went flying or -- did he leave his  
6 feet?

7 A. I don't recall. And I don't know that I  
8 would have been able to see his feet because there  
9 were parked cars as well even though I could see  
10 Mr. Chasse. But I'm not sure, I don't recall.

11 Q. All right. So Mr. Chasse goes to the  
12 ground?

13 A. Correct.

14 Q. And the other officer, where did he end up,  
15 the one who tackled him as you described it?

16 A. Oh, that officer ended up on top of  
17 Mr. Chasse.

18 Q. Okay. When Mr. Chasse went to the ground,  
19 were you able to see where Mr. Chasse's hands were?

20 A. When he hit the ground?

21 Q. Yes.

22 A. I don't recall where they were, no.

23 Q. All right. And when the officer landed on  
24 top of Mr. Chasse as you described, would you describe  
25 it as landing directly on top of him, as to one side

1 one way or another?

2 A. No, my recollection is he landed directly on  
3 top of Mr. Chasse.

4 Q. And when that occurred, the other two  
5 officers, did they approach Mr. Chasse?

6 A. Yes, they did.

7 Q. How far do you think they were from  
8 Mr. Chasse when he was knocked to the ground?

9 A. Oh, all three of them were approaching  
10 Mr. Chasse at the same time so in the time that it  
11 took Mr. Chasse to -- to be tackled the two other  
12 officers were also continuing to approach.

13 Q. Okay. What happened next?

14 A. There was -- there was a struggle.  
15 Mr. Chasse and the officers -- and the officers were  
16 trying to -- Mr. Chasse, at that point, I seem to  
17 recall ended up face down and the officers were  
18 attempting to -- what appeared to me to get his arms  
19 behind his back I assume to handcuff him.

20 Q. Okay. And is the one officer who initially  
21 made contact with Mr. Chasse still on top of him?

22 A. I believe so, yes, sir.

23 Q. And did the other two officers, are they  
24 standing, sitting, kneeling? What's their position?

25 A. They were also -- they were certainly not



1 standing. They were I would say scuffling with  
2 Mr. Chasse so they may have been a combination of on  
3 him and kneeling and trying to wrestle his arms  
4 around.

5 Q. Okay. And did you see, during that period  
6 of time, either of the officers or the deputies make  
7 any blows or strike any blows against Mr. Chasse?

8 A. No, sir, I did not.

9 Q. Did you see him kick him in any way?

10 A. No, sir, I did not.

11 Q. Did you see Mr. Chasse doing anything to the  
12 officers other than physically resisting them?

13 A. No, I did not.

14 Q. Didn't see him bite an officer?

15 A. I did not.

16 Q. Didn't see him strike an officer?

17 A. I did not see him strike an officer.

18 Q. What's the next thing that happened?

19 A. It -- within that struggling period it  
20 became very clear to me that the -- the officers had  
21 physical control of Mr. Chasse.

22 Q. And how long did that take from the first  
23 contact to actually maintaining control of Mr. Chasse?

24 A. Oh, it would be an estimate, but it seemed  
25 very quick. The whole thing I would say would be less

1 than -- less than a minute and a half.

2 Q. Okay.

3 A. Maybe even less time than that.

4 Q. All right. And as they are maintaining  
5 control of him, what are you doing?

6 A. I was still in my car. I hadn't moved yet.

7 Q. Okay.

8 A. If I had pulled straight forward it would  
9 have been very close to the officers while this event  
10 was happening and I -- I really didn't want to  
11 endanger the officers or personally get involved. And  
12 when it seemed as the officers had physical control of  
13 Mr. Chasse, although they hadn't handcuffed him yet, I  
14 proceeded through the intersection.

15 Q. Okay. Up to that point, had you heard any  
16 officer or deputy say anything to Mr. Chasse?

17 A. I -- I don't recall. I think they may have  
18 been speaking with him something along the lines of  
19 get your hands behind your back, but I don't -- I  
20 really don't recall. The part that stands out for me  
21 is, as I was pulling past them, and I did have the  
22 front windows of my car open, was that as I was  
23 driving past them I did hear Mr. Chasse yelling mercy,  
24 mercy, mercy, and that was personally pretty sort of  
25 disturbing to me. And then I left.

1 Q. Okay. So Mr. Chasse made some statements  
2 mercy, mercy?

3 A. Yes, sir.

4 Q. And how about did you hear any police  
5 officer say anything to each other?

6 A. At the very beginning before they -- one of  
7 them said something along the lines of he's running or  
8 he's going which is -- which was the statement before  
9 the officers started approaching Mr. Chasse.

10 Q. Was there any way of you telling which  
11 officer said that?

12 A. I don't recall, no, sir.

13 Q. All right. Was there any other conversation  
14 you recall that day that we've not talked about?

15 A. Between whom?

16 Q. Between any of the parties, Mr. Chasse and  
17 the police officer, the police officers among each  
18 other.

19 A. Oh, no, not -- not that I heard. I'm sure  
20 there must have been, but not that I heard.

21 Q. Okay. And as you drove by there was then  
22 sufficient space for you to go to the left of where  
23 Mr. Chasse was and continue down 13th; is that right?

24 A. No, no. They were to my right, so as I  
25 continued straight across the intersection they were

1 still on the sidewalk.

2 Q. Okay.

3 A. And so they were on the right side of my car  
4 on the passenger side.

5 Q. So there was sufficient room for you to  
6 travel down 13th and continue straight ahead?

7 A. Yes, sir, correct.

8 Q. Okay. Did you have -- observe or hear  
9 anything else about Mr. Chasse and the police officers  
10 that day?

11 A. Well, eventually my wife called my cell  
12 phone, told me she was done with her food shopping,  
13 and so I picked her up. And as we were leaving we  
14 drove -- I mentioned to her sort of vaguely what I had  
15 just seen. And as we were driving up Davis, I forget  
16 which, a block away to head to our final destination,  
17 we could see a lot of police vehicles with their  
18 lights on, and I pointed to them and said that was  
19 where that thing I just saw happened. But that was  
20 it.

21 Q. Have you followed the events involving  
22 Mr. Chasse in the media?

23 A. A little bit, yes.

24 Q. Okay. Do you read The Oregonian?

25 A. Sometimes, but not regularly.

1 Q. Okay. What's your principal source of news?

2 A. I'm embarrassed to say the Internet these  
3 days.

4 Q. All right. Nothing embarrassing about that.

5 A. And the way that I found out that it was  
6 Mr. Chasse was that -- and that was -- that was where  
7 things ended for me. And then later that week or it  
8 might have even been the next week the Mercury ran a  
9 story about it, and when reading that I realized that  
10 this was the event that I had witnessed.

11 Q. All right.

12 A. And I was in my old office suite at that  
13 point and I mentioned it to one of my suite mates who  
14 mentioned that Mr. Steenson's firm was handling the  
15 case. And I called Mr. Steenson's firm and I also  
16 called Norm Frink at the DA's office to let them know  
17 I was out here which precipitated Detective Courtney's  
18 call to me and my scheduling with the grand jury. And  
19 then I also knew Matt Davis from the Mercury who has  
20 been, shall we say, very aggressive in attempting to  
21 get me to talk with him.

22 Q. Okay. Have you given him any statements?

23 A. No. Since the Chasse incident, Mr. --  
24 Mr. Davis has run a story about a client of mine and  
25 he -- he very much has extended invitations to me.

1 It's my understanding the Mercury is doing a movie of  
2 some kind. And I've declined those invitations of  
3 his.

4 Q. Was it a Sunday this incident happened with  
5 Mr. Chasse, does that sound right to you?

6 A. I don't know, but it sounds right.

7 Q. Okay. Had you have any alcohol to drink  
8 that day?

9 A. No. No, sir.

10 Q. Any prescribed medicine, anything like that?

11 A. No, sir.

12 Q. And after driving along Davis heading to  
13 wherever you were going, that's the last thing that  
14 you saw that day regarding Mr. Chasse or any police  
15 officer involved with Mr. Chasse; is that right?

16 A. That's correct.

17 Q. Did you testify at the grand jury?

18 A. I did.

19 Q. What was the first indication you had that  
20 Mr. Chasse had died after the incident you observed?

21 A. When I read about it in the Mercury.

22 Q. Okay. Were you surprised that he had died?

23 A. I would agree with that, yes.

24 Q. Okay. That's all the questions I have.

25 Thank you for coming down today. Some of the other

1 attorneys may have some questions to ask you.

2 A. Thank you.

3 EXAMINATION

4 BY MS. DUNAWAY:

5 Q. I just have a couple of questions and then  
6 this is a diagram that we've been using through these  
7 eye witness depositions.

8 First question is: Why were you surprised  
9 to find out that Mr. Chasse died?

10 A. Well, the last time I -- the only time I saw  
11 him he was -- he was alive yelling mercy, mercy, and I  
12 didn't know anything about the events following that  
13 until I read about it in the Portland Mercury, so that  
14 was the first I knew that -- that he was dead.

15 Q. So would it be true that you didn't observe,  
16 personally, any injuries occur that you would have  
17 expected to result in Mr. Chasse dying?

18 A. Well, I don't know that I'm qualified to  
19 answer the second part of that. Certainly what I  
20 observed was the contact between him and the police  
21 and the deputies as I've described. To the extent  
22 they may have resulted in injuries, I don't know that  
23 I saw any physical -- I didn't see any blood, I didn't  
24 see anything like an obvious external fracture of a  
25 bone, or anything like that.

1 Q. Okay.

2 A. And I don't have x-ray vision so I don't  
3 know that I would have been able to see anything like  
4 internal injury.

5 Q. But nothing that you saw led you to believe  
6 that Mr. Chasse was at risk?

7 A. At risk?

8 Q. Of dying.

9 A. Oh, again, I don't know that I'm qualified  
10 to tell you the risk for his dying, but I was  
11 surprised to hear that he had passed away, yes.

12 Q. Okay. Can you study that for a second and  
13 see if you recognize that intersection?

14 A. Sure. Is this premarked as an exhibit or we  
15 just --

16 Q. No, we're going to mark it.

17 A. Okay.

18 Q. So this is in blue.

19 A. All right.

20 Q. There's a pen.

21 First thing I need for you to mark is where  
22 your car was.

23 A. When I came to a stop I was on 13th and  
24 that's my car.

25 Q. Okay. Can you mark where Mr. Chasse was



1 standing when you first saw him with a 1?

2 A. (Witness complied.)

3 Q. Let me look. So you were going north on  
4 13th?

5 A. No. I was heading -- I'm sorry, do I have  
6 the intersection backwards?

7 Q. Yes, you do.

8 A. My apologies. I was heading south.

9 Yes, I'm sorry, I have the intersection  
10 reversed.

11 Q. Yeah.

12 A. Should I start with a clean copy or should I  
13 just draw on this?

14 Q. I don't know that I have a clean copy with  
15 me. Let me see.

16 A. I apologize.

17 I can do it in a black pen if you wish.

18 MR. RICE: I've got a red pen. Whose red is  
19 better?

20 MR. KRAEMER: Yours is closer.

21 THE WITNESS: Thank you, I apologize.

22 Q. (By Ms. Dunaway) That's all right.

23 A. The blue markings I did were reversed.

24 Q. Okay.

25 A. I was heading southbound on Everett and

1 Mr. Chasse was diagonally across the street as I  
2 indicated approximately --

3 Q. Okay. Before you start marking --

4 A. Thank you.

5 Q. -- look at that intersection and try -- and  
6 try to picture because there is also a tree mark. Do  
7 you see that?

8 A. Yes.

9 Q. Okay. So you still want to mark it where  
10 that first little dash is?

11 A. That's approximately where I first saw  
12 Mr. Chasse.

13 Q. Okay. So he was just at the intersection?

14 A. That's my recollection, yes.

15 Q. Okay. You want to mark that with a 1?

16 A. Sure. He may have been further west closer  
17 to the tree, but it was somewhere within a foot or two  
18 of where I've indicated.

19 Q. Okay. Could you circle that so --

20 A. Sure.

21 Q. All right. Where did you see the white  
22 police car parked?

23 A. The first police car?

24 Q. Yeah.

25 A. They were both white is my recollection.

1 Q. Okay. The first one then.

2 A. The Portland Police Bureau vehicle?

3 Q. The transit vehicle.

4 A. Okay. That one would have been pretty much  
5 at the edge of this map so approximately where we've  
6 got the arrow for the 13-foot sidewalk.

7 Q. Okay.

8 A. I would estimate they were partially, as  
9 I've indicated, in the parked car lane and partially  
10 sticking out of the parked car lane at an angle. I  
11 can draw part of the vehicle in if you'd wish.

12 Q. Okay, that would be great.

13 A. So I saw them coming down Everett from my  
14 right and then they pulled in at an angle something  
15 approximating that.

16 Q. Okay. Can you put a 2 in there?

17 A. Sure.

18 Q. Okay. Now, I think that you said that there  
19 was another police car?

20 A. That's correct.

21 Q. Okay. Could you draw in where that other  
22 police car was parked?

23 A. Sure. My recollection is the second car  
24 came around the first on Everett and then pulled also  
25 to the curb type position.

1 Q. And could you put a 3 in there?

2 A. Sure.

3 Q. Okay. Can you put a 4 where it was that you  
4 believe that Mr. Chasse was tackled?

5 A. Also approximately where he was. As I said,  
6 he took maybe a single pivot step. I don't think he  
7 moved very far at all. So if I were to draw the 4  
8 with a circle it would overlap the circle from the 1.  
9 Shall I do that?

10 Q. All right. So you're saying that he was  
11 still on the sidewalk?

12 A. That's my recollection, yes.

13 Q. And not in the intersection?

14 A. That's my recollection, yes.

15 Q. Okay. Can you put a 4 there?

16 A. Sure.

17 Q. Okay. When you drove by after the struggle  
18 began, where were the police officers and Mr. Chasse?

19 A. My recollection is they were still on the  
20 sidewalk. It's possible they may have come into the  
21 parking -- the parked car lane, but I -- I know that  
22 when I pulled through the intersection I was able to  
23 drive through the travel lane.

24 Q. Is that part of 13th one lane or two lanes?

25 A. I believe 13th in that place is two lanes

1 both southbound. So two travel lanes, two parked car  
2 lanes.

3 Q. Okay. So when you traveled through that  
4 intersection, were you in the right-hand lane?

5 A. I was in the right-hand or west-side lane,  
6 yes.

7 Q. Okay. Can you put a 5 then where the --  
8 where you believe the struggle was occurring?

9 A. The struggle was also occurring pretty much  
10 where I wrote 1 and 4, in the very same region.

11 Q. Okay. And that was the last that you saw?

12 A. Yes. After I drove past I didn't see them  
13 ever again.

14 Q. Okay. That's all I have.

15 A. Thank you.

16 MR. RICE: You want to mark that? You want  
17 to put an MG --

18 MS. DUNAWAY: Sure.

19 MR. RICE: -- in that vehicle?

20 MS. DUNAWAY: All right, that was it.

21 EXAMINATION

22 BY MS. BACK:

23 Q. My name is Jean Back. I represent the  
24 paramedics and the ambulance company that were there  
25 that day.

1                   You didn't see -- my recollection from your  
2                   testimony is you didn't see anything with respect to  
3                   the ambulance providers that were there?

4                   A. That's correct.

5                   Q. Okay. Did you see whether Mr. Chasse hit  
6                   his head when he came down on the ground?

7                   A. I don't recall if I saw that or not, no.

8                   Q. Okay. That's all the questions I have.

9                   MR. STEENSON: No questions.

10                   (The deposition concluded at 8:57 AM.)

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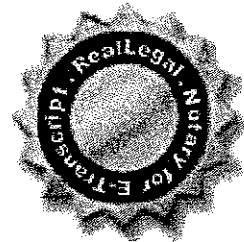
C E R T I F I C A T E

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, MARK J. GINSBERG 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 30, 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 11th day of August, 2008.

*Shannon K. Krska*



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