

1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
2 COUNTY OF WAKE SUPERIOR COURT DIVISION
3 10-CVS-019930

4 BRIAN CECCARELLI and LORI)
5 MILLETTE, individually and)
6 as class representatives,)
7)
8 Plaintiffs,)

9 v.)

10 TOWN OF CARY,)
11 Defendant.)

12
13 Deposition of LORI MILLETTE
14 (Taken by the Defendant)
15 Apex, North Carolina
16 Tuesday, September 4, 2012
17
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19

20 Reported by: Marisa Munoz-Vourakis -
RMR, CRR and Notary Public

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25 Job No. AMB200063

1 APPEARANCE OF COUNSEL:

2 For the Plaintiffs:

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10

11 Also Present: BRIAN CECCARELLI

12

13 For the Defendant:

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Deposition of LORI MILLETTE, taken by the
Defendant, at Stam & Denchi, 510 W. Williams Street,
Apex, North Carolina, on the 4th day of September, 2012
at 2:05 p.m., before Marisa Munoz-Vourakis, Registered
Merit Reporter, Certified Realtime Reporter and Notary
Public.

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I N D E X

Examination of:	Page
LORI MILLETTE	
EXAMINATION BY MS. MARTINEAU	5
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DEFENDANT EXHIBITS

EXHIBIT NUMBER	DESCRIPTION	PAGE
Exhibit 1	Traffic Citation	7
Exhibit 2	Blow up of photo	14

P R O C E E D I N G S

1
2 Whereupon, LORI MILLETTE, having been
3 first duly sworn, was examined
4 and testified as follows:

5 EXAMINATION BY COUNSEL FOR DEFENDANT

6 BY MS. MARTINEAU:

7 Q. Ms. Millette, my name is Elizabeth
8 Martineau, I'm an attorney for the Town of Cary, and I
9 represent them in a lawsuit brought by Brian Ceccarelli
10 as well as yourself. I'm here to take your deposition
11 today.

12 Have you ever given a deposition before?

13 A. Once about 25 years ago.

14 Q. Was that deposition given in relationship
15 to a lawsuit where you were either a plaintiff or a
16 defendant?

17 A. No.

18 Q. I know it was 25 years ago, but can you
19 just briefly tell me what that deposition was about?

20 A. I was in human resources, and I worked for
21 Eckerd Drugs, and there was a pharmacist who had a
22 misfill, and they were questioning me about retraining.

23 Q. Okay. Did that case ever go to trial?

24 A. I don't know anything more. I gave my
25 deposition, and that's all I know.

1 Q. So you weren't called to testify at a trial
2 related to this matter?

3 A. No.

4 Q. What we're trying to do here today is get a
5 written transcript of my questions and your answers.
6 So the best way to get that transcript, it's important
7 to allow me to go ahead and finish a question before
8 you answer it, and then I'll allow you to go ahead and
9 answer it, you know, say your answer as whatever you
10 want it to say.

11 Sometimes in normal conversation, people
12 can anticipate where the question is going to be. So
13 we tend to talk over each other. So if we can try not
14 to do that, that will be helpful, okay?

15 A. Um-hum.

16 Q. The other important thing is to answer
17 verbally, as opposed to gestures or ah-huhs or uh-huhs,
18 which you just did. Either the court reporter or
19 myself may prompt you to say is that a yes or is that a
20 no, okay?

21 A. Yes.

22 Q. I'm not here to try to trick you today. I
23 just want to get answers to the questions. So if at
24 any time you don't understand what my question was or
25 you missed a word, just let me know and I'll rephrase

1 it, okay?

2 A. Okay.

3 Q. If you want to take a break at any time,
4 let me know, we'll take a break, okay?

5 A. Okay.

6 Q. Do you promise to give your most truthful,
7 most accurate answers to my questions today?

8 A. I do.

9 Q. I'm going to mark as Exhibit 1 to your
10 deposition a document, which I believe to be a notice
11 of traffic violation that you received for running a
12 red light in the Town of Cary that's the subject of
13 your lawsuit.

14 (The document referred to was marked
15 Defendant's Exhibit Number 1 for
16 identification.)

17 Q. If you'll just take a moment, take a look
18 at that, and let me know, again, if that appears to be
19 a copy of your notice of traffic violation?

20 A. Yes, it is.

21 Q. Let me ask you a little bit about your
22 educational background.

23 What is the highest level of school you've
24 completed?

25 A. I have a master's.

1 Q. In what?

2 A. Human resources.

3 Q. When did you get that?

4 A. 2010.

5 Q. From where?

6 A. Western Carolina.

7 Q. Do you have a bachelor's degree?

8 A. I do.

9 Q. In what subject?

10 A. Business management.

11 Q. And when did you get that?

12 A. 1981.

13 Q. From where?

14 A. Indiana University.

15 Q. Do you have any training in engineering?

16 A. No.

17 Q. Do you have any understanding about what
18 the -- strike that.

19 Are you able to testify as to what is
20 proper engineering judgment?

21 A. No.

22 Q. Are you able to testify as to what is
23 proper engineering practices?

24 A. No.

25 Q. Do you have any information what the

1 standard of engineering is for the State of North
2 Carolina for traffic signal signs?

3 A. No.

4 Q. So you do not -- as far as your
5 understanding of your role in this case is not to
6 provide expert witness testimony, is that correct?

7 A. That's correct.

8 Q. All right. So I want to ask you about what
9 happened on May 7, 2010, okay.

10 Prior to doing the driving maneuver that
11 resulted in getting a violation, can you tell me where
12 were you coming from, where were you going?

13 A. If I recall, I was coming from Harris
14 Teeter at Crescent Commons.

15 Q. Where were you going?

16 A. Home.

17 Q. Where is home? What's your address?

18 A. 126 River Walk Circle.

19 Q. Is that your address now?

20 A. Yes.

21 Q. And I'm not from Cary, so tell me how would
22 you get from Harris Teeter to your home? What is the
23 route of travel?

24 A. I would travel on Kildaire Farm Road and
25 turn left onto Cary Parkway, and I would turn right on

1 Cork Harbor, right on Lake Pine and right into the
2 River Walk Circle.

3 Q. And about what time, and, again, if you
4 need to look at Exhibit 1, shows the time of violation
5 of 5:18. So is that the approximate time you recall
6 going through the intersection in question?

7 A. I don't recall what time I went through the
8 intersection. If it says 5:18, I believe it.

9 Q. Do you know whether or not May 7th 2010 was
10 a work day? Do you remember what day it was?

11 A. I don't. My guess would be a Friday, but I
12 don't recall.

13 Q. What are your normal working hours?

14 A. Usually eight to five.

15 Q. And back in 2010, May, where were you
16 working?

17 A. I work for the Department -- well, at the
18 time, it was the Department of Public Safety, excuse
19 me, Department of Correction, it's now the Department
20 of Public Safety.

21 Q. For the State of North Carolina?

22 A. Um-hum.

23 Q. Is that a yes?

24 A. Yes, it is.

25 Q. And do you recall driving through this

1 intersection? Do you have any memory of it?

2 A. Yeah. Yes.

3 Q. So go ahead and tell me once you left
4 Harris Teeter, what you remember doing?

5 A. As I recall, I went up to the light, and I
6 believe it was flashing yellow. I slowed down and
7 waited for the traffic to clear so I could proceed to
8 turn left, and I recall seeing the lights flash, the
9 camera and thinking I did not have enough time to get
10 through that intersection without the light turning red
11 and the cameras flashing.

12 Q. In the ten seconds -- do you recall
13 seeing -- as you were approaching the intersection in
14 question, do you recall seeing a green signal for left
15 turns?

16 A. I know there's one at that light. There's
17 a green arrow at that intersection.

18 Q. Do you recall whether you saw it or not at
19 the time in question?

20 A. I think -- no, I don't. I was going to say
21 I think it goes from a green arrow to yellow flashing,
22 but I don't recall on that particular evening if that's
23 what happened.

24 Q. How many times -- how long have you lived
25 in Cary, Ms. Millette?

1 A. I've lived at 12 River Walk Circle for ten
2 years.

3 Q. And about how many times prior to receiving
4 this violation had you gone through that intersection?

5 A. Many.

6 Q. Is that -- would you go through that
7 intersection typically on your way home from work?

8 A. No.

9 Q. So when you say many, can you quantify it
10 in any way, like hundreds?

11 A. Yeah, hundreds.

12 Q. And had you had the opportunity prior to
13 May 7, 2010 to make left-hand turns at that
14 intersection?

15 A. Yes.

16 Q. About how many times?

17 A. Hundreds.

18 Q. Do you know about -- strike that.

19 Do you know approximately how many feet you
20 were from the intersection when you first noticed the
21 yellow turning signal?

22 A. No.

23 Q. What was the traffic like, do you remember?

24 A. Well, at that time of day, it's usually
25 pretty busy. It's pretty much rush traffic.

1 Q. Do you recall, I know you can say in
2 general what the traffic is like, but do you have a
3 recollection of what the traffic was like specifically
4 on May 7, 2010?

5 A. No.

6 Q. If you take a look at page two of Exhibit
7 1, and this is a photocopy of a photo, page three, I'm
8 sorry, take a look at page three of Exhibit 1, when you
9 look at either the first photograph or the second
10 photograph on page three, does that refresh your
11 recollection as to what the traffic was like?

12 A. No.

13 Q. Do you have any information to dispute that
14 these are accurate photos in terms of depicting where
15 cars are in roads?

16 A. No.

17 Q. And as far as the length of the yellow
18 light that was in play on May 7, 2010, do you have any
19 information that that length of the yellow light was
20 any shorter than it was supposed to be on the NCDOT
21 plans?

22 A. Can you repeat the question, please?

23 Q. Yeah. You don't have any information --
24 strike that.

25 I guess I'm asking you, do you have any

1 information of whether or not that yellow light on
2 May 7, 2010 was malfunctioning in any way on that day?

3 A. No.

4 Q. So as far as you know, the yellow -- the
5 length of the yellow arrow was the length that was
6 shown on the signal plan, correct?

7 A. I have no idea about signal plans. I'm
8 just a resident who was traveling through a traffic
9 intersection.

10 Q. I'm going to mark a blowup of that first
11 photograph as Exhibit 2 to your deposition.

12 (The document referred to was marked
13 Defendant's Exhibit Number 2 for
14 identification.)

15 Q. Do you recognize your vehicle in Exhibit 2
16 that you were driving on May 7, 2010?

17 A. Yes.

18 Q. Can you just circle it for me?

19 A. (Witness complying.)

20 Q. And if you look at Exhibit 2, it says
21 vehicle speed 23 miles an hour. Do you see that?

22 A. Yes.

23 Q. Do you know whether or not at the time this
24 photograph was taken, whether you were traveling
25 23 miles an hour?

1 A. I don't know. I would have to think I was
2 not, but I don't know.

3 Q. Tell me -- you told me, you know, what
4 happened, but I didn't ask you about speed. In the ten
5 seconds before you noticed that the light was flashing
6 yellow, what do you recall doing and how fast do you
7 recall going, if you even remember?

8 A. Well, I know what I would typically do. I
9 don't recall that particular night. But typically, you
10 know, you go into the intersection, you slow down, look
11 for the traffic to clear and proceed.

12 Q. Do you know how fast you were traveling
13 once you got up to your traveling speed after coming
14 out of Harris Teeter, how fast were you traveling on
15 Kildaire Farm Road before approaching the intersection?

16 A. The speed limit on Kildaire Farm is
17 45 miles per hour, so I was going 45 or less.

18 Q. Do you know what the traffic was? I mean,
19 do you know whether the volume of traffic was traveling
20 at a speed lower than 45 miles an hour?

21 A. I don't recall.

22 Q. Do you know what's typical on Kildaire Farm
23 Road at 5:18 on Fridays?

24 A. 35 to 45.

25 Q. Had you had to stop at the intersection?

1 A. At this intersection?

2 Q. Yeah, did you have to stop?

3 A. I don't recall.

4 Q. So do you recall whether you were, in terms
5 of this day on May 7, 2010, whether when you approached
6 the intersection, the light was red and the cars were
7 stopped, or were there cars as you approached green and
8 turning left? Do you even remember?

9 A. As I said, I think that it was flashing
10 yellow when I went through.

11 Q. How far away were you from the intersection
12 when you first noticed that the light was flashing
13 yellow?

14 A. I don't know.

15 Q. Do you know how long it takes your car to
16 stop when you're going 45 miles an hour?

17 A. I do not.

18 Q. Do you typically slow down in order to make
19 a left-hand turn?

20 A. Yes.

21 Q. Do you consider yourself a reasonably safe
22 driver?

23 A. I do.

24 Q. Do you know from experience when you're
25 making a left-hand turn at intersections similar to the

1 one at Kildaire Farm and Cary Parkway how slow you slow
2 down to in order to execute the turn?

3 A. To a safe speed.

4 Q. And, again, I don't know if I would know,
5 but I'm asking you, do you know what that is for you?

6 A. I don't.

7 Q. If you had decided to, as you approached
8 the Kildaire Farm and Cary Parkway intersection and
9 observed the yellow signal for left turns, if you had
10 decided to stop, do you know if you could have stopped?

11 A. I think you always have in the back of your
12 mind that somebody is going to rear end you, and you
13 make that split second decision do I go or do I slam on
14 the brakes.

15 Q. And I think you testified earlier that as
16 you were approaching the intersection, that you saw the
17 flashing yellow, and that you slowed down waiting for
18 the traffic to clear. So it was your turn to make the
19 left-hand turn, is that right?

20 A. Yes.

21 Q. How much when you first saw the flashing
22 yellow, again, I know you don't know what your speed
23 was, but do you know what you slow down to?

24 A. I don't.

25 Q. Do you know how long you had to wait in

1 order to allow the traffic that was ahead of you to
2 complete their left turns?

3 A. Probably a few seconds.

4 Q. From an engineering standpoint, do you know
5 whether you could have safely stopped if you had
6 applied your brakes instead of just made the decision
7 to go through the intersection?

8 A. Not from an engineering standpoint, no.

9 Q. Do you recall how close you were being
10 followed by other vehicles in that line of traffic
11 turning left?

12 A. I can only go by the second picture here.

13 Q. Do you see any car behind you in that
14 second picture?

15 A. I don't.

16 Q. Do you know the purpose of yellow lights,
17 what the purpose is?

18 A. Proceed with caution.

19 Q. Where did you learn that from?

20 A. Driver's ed when I was 16, I think.

21 Q. On May 7, 2010, did you have an
22 understanding that when a yellow light is showing, it
23 means that the light is going to change to red?

24 A. Ultimately, yeah.

25 Q. But you proceeded through because it was

1 your understanding that yellow meant proceed?

2 A. Yes, in that I would be able to execute the
3 turn without the light turning red during my turn.

4 Q. So just so I understand it, back on May 7,
5 2010, when you saw the yellow turn signal for your
6 direction of travel, you felt that it was your
7 understanding that that meant you could proceed through
8 the intersection or proceed into the intersection prior
9 to the light turning red?

10 A. I thought I could safely go through the
11 intersection prior to the light turning red.

12 Q. Have you done any investigation since
13 receiving your traffic citation to find out what
14 traffic engineers -- what traffic engineers believe
15 yellow times are for?

16 A. No.

17 Q. Have you done any investigation to see
18 whether or not you could have safely stopped?

19 A. No.

20 Q. As you were approaching the intersection
21 but prior to entering into it, were you accelerating or
22 decelerating?

23 A. I don't recall.

24 Q. And I think you said you don't recall how
25 far from the intersection you were when the signal

1 originally turned yellow, is that right?

2 A. That's correct.

3 Q. Were you on your cell phone when you were
4 entering this intersection on May 7, 2010?

5 A. No.

6 Q. As you can see, Exhibit 2 has a recorded
7 speed of 23 miles an hour. Do you have an opinion of
8 whether you were going slower than 23 miles an hour as
9 you were entering the turn or you don't recall?

10 A. I don't recall. Actually, that's the first
11 time I've seen that, so I don't know. I mean, I don't
12 know when it was clocked, so maybe I was going through
13 the intersection, you know, sped up to get through it,
14 so I don't know when exactly they clock that.

15 Q. Do you think it's possible that you sped up
16 in order to get through the intersection, since you
17 were trying to get through it prior to the light
18 turning red?

19 A. That's possible.

20 Q. So it's quite possible you were going
21 slower than 23 miles an hour as you were approaching
22 the intersection?

23 A. That's correct.

24 Q. Prior to getting a red light citation on
25 May 7, 2010, had you ever received any red light

1 citations before?

2 A. No.

3 Q. How about from like a police officer? Had
4 you ever been ticketed for running a red light before?

5 A. No.

6 Q. And, again, have you discussed your case at
7 all with any traffic engineers?

8 A. No.

9 Q. And once you got the citation, did you
10 appeal your citation?

11 A. Yes, I did.

12 Q. And who appeared for you when you appealed
13 your citation? Anyone? Or did you go by yourself?

14 A. I went by myself.

15 Q. And what was the basis of your appeal? Do
16 you remember what you talked to the board about?

17 A. I felt like I couldn't get through the
18 intersection with the time allotted.

19 Q. So you felt that you were not able to get
20 through the entire intersection before the light turned
21 red?

22 A. That's correct.

23 Q. Do you know whether or not you entered the
24 intersection on a red light?

25 A. I did not. It was yellow when I entered

1 the intersection.

2 Q. Do you know how the red light camera system
3 is programmed as far as when it -- what its
4 requirements are before it will send out a civil
5 traffic citation for running red lights?

6 A. I don't.

7 Q. Do you know whether or not if you had
8 entered the intersection on a yellow light but did not
9 clear it before the light went red, do you know if that
10 violates the North Carolina traffic laws?

11 A. I don't know.

12 Q. Do you know whether or not any of the
13 photographs on page three of Exhibit 1 show you
14 entering the intersection in question on a red light?

15 A. I don't believe they do.

16 Q. Did you see the camera go off as you -- did
17 you know the camera was taking your photograph as you
18 went through?

19 A. I did. I saw the light flash.

20 Q. And what happened at the appeal?

21 A. I explained what happened, and they told me
22 that the revenue goes towards funding education, and
23 that I would hear back in writing.

24 Q. Okay. And so they didn't tell you what
25 their decision was that day?

1 A. No.

2 Q. And then you heard back, and what did they
3 say?

4 A. It was denied. I got a letter, it was
5 denied.

6 Q. And how did you first meet Mr. Ceccarelli?

7 A. He had -- there was an article in the Cary
8 News that he was having -- doing the class action
9 lawsuit, so I contacted him. I didn't know him prior
10 to.

11 Q. Is there anything about your approach or
12 entering into the intersection that we haven't
13 discussed?

14 A. No.

15 MS. MARTINEAU: Okay, Ms. Millette,
16 those are the questions I have for you.
17 Thank you very much.

18 EXAMINATION BY COUNSEL FOR PLAINTIFF

19 BY MR. STAM:

20 Q. Just a couple.

21 Did you find out later that Cary only gave
22 you three seconds for a yellow light there?

23 A. I heard that later.

24 Q. And did you know that the American
25 Association of State Highway Traffic Officials say you

1 should have at least two and a half seconds just to
2 decide what to do after you see the yellow light?

3 A. I learned that later.

4 Q. Giving you a half a second to actually
5 stop?

6 MR. STAM: No further questions.

7 MS. MARTINEAU: Thank you.

8 (Whereupon the deposition was
9 concluded at 2:32 p.m.)

10 (Signature waived.)

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C E R T I F I C A T E

I, Marisa Munoz-Vourakis, RMR, CRR and Notary Public, the officer before whom the foregoing proceeding was conducted, do hereby certify that the witness(es) whose testimony appears in the foregoing proceeding were duly sworn by me; that the testimony of said witness(es) were taken by me to the best of my ability and thereafter transcribed under my supervision; and that the foregoing pages, inclusive, constitute a true and accurate transcription of the testimony of the witness(es).

I do further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in which this proceeding was conducted, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereof, nor financially or otherwise interested in the outcome of the action.

IN WITNESS WHEREOF, I have hereunto subscribed my name this of , 2012.

MARISA MUNOZ-VOURAKIS

Notary #20032900127

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