

January 10, 2011

Re: Jan Chung vs. Tire Corporation of America, Videotaped Deposition of Charles Crowder

Date of Deposition: December 5, 2010

BACKGROUND

Witness' full name is Charles David Crowder. He is 6'5" tall and 240 lbs, about the same weight as he was at the time of the accident. He is a tow truck operator. He has been employed by Dartnell's Towing for 13 years. The principals of Dartnell's Towing are Sara and Don Dartnell, husband and wife.

He knows Trooper Matthews, Police Officer Tate, and Deputy McIntyre from other accidents.

Other than what has been produced today, he has no other notes and did not take any photographs. He would not consider himself a tire expert but since the accident he studies the tires that they buy and they put on their wreckers just out of curiosity.

WHAT DID HE DO?

Mr. Crowder recalls this accident which happened on February 5, 2007 in Loland County. He does not remember the time he arrived at the scene of the accident but recalls it was a Sunday afternoon. He remembers this was a tough job to do because the vehicle was lying against a tree away from the road and he had to back roll it and drag it up through the sand, which was difficult because the vehicle was torn up. He could not get a good angle on it to do a good recovery without just completely tearing the vehicle all to pieces. This is why he had to take the shovel and dig a trench to get underneath it, to get his chains underneath it, so he could go to the bottom side of it.

He was able to remove the vehicle from the scene by going by the driver's side door right behind the front tire. He took a shovel to dig a trench. He then pushed a chain underneath it to the backside, hooked it, positioned the rollback somewhere up the road and rolled it where it would fall on down. It slid sideways in the dirt and then it fell over on all four wheels to its normal driving position. He was then able to rehook it and bring it to the road. He had to rehook it a couple of more times because of the damage.

He was able to get the vehicle off the tree but there were small metal pieces of the vehicle he had to also pick up. He was able to get the rubber tires of his tow truck onto the shoulder but got stuck where his rear wheels were spinning. He did not have a four-wheel drive tow truck so he had to push himself out with his under-reach wheel lift which is on the back of the tow truck. There is a tube that comes out and has a bar on it, where you can tow two cars at a time. You can put this down and push it out, if you release your brakes, and as you push it out, it will push the wreck. He backed about two to three feet off the emergency lane, just enough to get out of the road, and started pulling from there which is when he went to reposition one time. He then realized, after the wheels spun a little bit, it was stuck, and got out and pushed himself out. He did not have to use a dolly or a caster. The tire was dragged through the soft sand but did not roll, because of the section of interstate they were on. The tires did not roll they just slide through it. He had to reposition the truck one time because the tire was flat and the way it was sliding it would not cooperate to get on the truck completely.

It was his intention to get the vehicle off the tree and pull it onto a flatbed. He tried to make sure the vehicle was secure because he did not want parts flying off of it as he went down the highway. The driver's side sliding door was still on securely enough that it was not going to come off. He had nothing to do with cutting or removing any of the doors on the vehicle. When he got the truck onto his flatbed, he tie-scraped the passenger's side door closed with a ratchet-strap-type device. The furthest rear window on the passenger's side was still intact but bowed out in the open position. When he pushed it to close it, the glass shattered in his hand. He could not go down the highway with a window bowed like it was, so he had to do something. As he tried to push it to close it, it shattered.

After the incident, he did not do any depth or tread analysis. He did not speak with any of the Chungs, any of the officers, firemen, or the coroner.

WHAT DID HE OBSERVE?

It was not raining the day of the accident and the paved road was dry. The shoulder of the road had a slight slope away from the paved travel lane. It's very sandy, sugar sand, which was normal for the region.

When he arrived at the scene there were already a few police officers, county police officers, state patrol, fire trucks there.

As far as he knows, the sliding door on the passenger's side was still attached to the vehicle because he did not remove it. When he arrived at the accident scene, the vehicle was lying on its side and the condition of the rear driver's side rear door appeared to be folded back up underneath the vehicle. He does not know whether the fire department had anything to do with that. The driver's side sliding door was still hanging on to the vehicle when he removed the car from the tree but it was mangled.

When he began working on the vehicle there was still a device from the firefighters in the vehicle. It was wood cribbing or blocks used to stabilize the vehicle so it did not teeter or roll either way. It appears in photos that the wood is driven between the door and the van. Once he got ready to remove the vehicle he does not remember if they left the cribbing there or they picked it up after he moved the vehicle. He did not touch it because it was their equipment.

He does not recall if the other glass on any of the windows of the vehicle was broken. He has no recollection of what glass was still intact and what glass had been shattered when he arrived at the scene. He just knows of the one that broke on his head.

As far as tire shreds, he recalls seeing some on the side of the interstate just because of the nature of driving but did not pay any particular attention to any of them. He has no recollection of seeing a piece of tire tread identified by Trooper Mathews in Exhibit 7. In the process of towing the vehicle up onto the flatbed, he noticed that the driver's side rear tire was deflated and there was nothing obstructing it from turning.

PRESERVATION OF EVIDENCE

In connection with the accident, the only paperwork Mr. Crowder completed was a tow ticket but he no longer has it. Exhibit 16 is the vehicle information sheet from his office prepared by the secretary.

He did not inspect the tires of the van at the scene or at the yard. Once the vehicle was back at the yard they had a couple of different companies call wanting the manufacture dates off of the tires, and he had to go out there and get them. He never attempted at any time to determine whether the tires were inflated or how many pounds per square inch they had. He did not inspect the tires of the van at the scene or at the yard. Once it was back at the yard, they had a couple of different companies call wanting the manufacture dates off of the tires, and he had to go out there and get them. He never attempted at any time to determine whether the tires were inflated or how many pounds per square inch they had. He does not have any specific information regarding the detread of the left passenger's side tire.

Exhibit 17 is one of his standard county tow-in sheets for an accident. On the sheet you describe what is in the vehicle. It is more of a cover-your-behind-type document for liability purposes. Most of the time on wrecks they are very vague, because cars are torn up. Sometimes they have to put "vehicle tore all to pieces" and usually it has the customer's name, what kind of vehicle and the tag number. He does not do his own inventory of the contents of the vehicle and does not recall any of the contents of this vehicle. He does not recall finding any personal belongings or effects in the area of the accident scene.

At the yard, someone told him to go out and get the DOT numbers off of three tires that were on the van. He did not do the rear tire on the driver's side. He does not know if someone removed the driver's side rear tire while it was at Dartnell's. The vehicle was in the fenced in yard at Dartnell's for close to a year, uncovered by a tarp and exposed. No one took steps to protect rain from getting inside the vehicle.

To his knowledge, no lawyers, adjusters or investigators came out and looked at the vehicle. Mr. and Mrs. Dartnell never made him aware that a request had been made to preserve the subject van. He is not sure if there came a point in time where the driver's side rear tire was taken off of the van but he believes he heard them talking about it being removed. He was never asked to remove it. He was never asked to go out and collect any detached tread or tread pieces from the vehicle. Other than mowing the lawn around the vehicle, he had no involvement with this vehicle after he dropped it off at the yard on the day of the accident, other than writing down the three DOT numbers.

He was not involved in transporting the vehicle from Dartnell's Towing to its next location.

TIRE MISMATCH

According to Exhibit 18, somebody called the yard and spoke with Sandy, one of the dispatchers in the office. Mr. Crowder was then asked to go out and get the DOT numbers from the three tires which he found on the side walls. He knows the tires on this van were mismatched in that the front tires were constructed in 2005 and the rear tire was constructed in 2003. He does not know about size, just the dates. The tires on the front were newer than the tires on the back, according to the last four digits of the DOT numbers. From the last four digits you are able to determine the week and the year that the tire was built. He called a friend at a tire store and asked him how the tires were dated. He was told the first number represents the month that the tire was constructed; the second number is either the day or week depending on the manufacturer; and the 0-5, or the last two numbers, is the year.

He does not know anything about the manufacturer or the brand of the tires. He does not know anything about the driver's side rear tire and whether it matched the passenger's side rear tire.

KNOWLEDGE OF NEGLIGENCE

Mr. Crowder has no knowledge of negligence on the part of the tire store and does not have an opinion as to whether the fact that the tires were mismatched contributed to the accident. Prior to calling his friend who worked at the tire store, he had no independent knowledge of tires or DOTs. What he characterized as a mismatch is based on information that somebody else gave him.