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TAMMY KRIEGER and RONNIE BASSETT

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF VENTURA**

10
11 TAMMY KRIEGER, an individual, and
12 RONNIE BASSETT, an individual,

13 Plaintiffs,

14 v.

15 CITY OF OXNARD, an incorporated municipality;
and DOES 1 through 100, Inclusive,

16 Defendants.
17

CASE NO. CIV 245237

**PLAINTIFFS' MANDATORY
SETTLEMENT CONFERENCE
STATEMENT**

Trial Date: January 7, 2008

18
19 **I.**

20 **PARTIES**

21 Plaintiffs Tammy Krieger and
22 Ronnie Basset

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1 Defendant CITY OF OXNARD

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6 **II.**

7 **INTRODUCTION**

8 In this wrongful death action, two Oxnard Police Officers drove a 6,500 pound SUV police
9 vehicle over plaintiffs' mother, Cindy Conolly, as she lay on the beach in Oxnard sunbathing. The
10 Officers ran over her first with the left front tire, then with the left rear tire. The weight of the 6,500
11 pound SUV smashed thirteen (13) of her ribs and fractured her skull, causing her death. The Officers
12 allegedly did not know they had just run over and killed Ms. Conolly, and turned and drove away down
13 the beach. They received a 911 call approximately 17 minutes later which summoned them back to the
14 location, at which time they, in an interview, claim to have first realized what they had done.

15 The instant wrongful death action was initiated against defendant City of Oxnard, which is liable
16 under the doctrine of *respondeat superior* for the conduct of the two Oxnard Police Officers, Officer
17 Frank Brisslinger ("Officer Brisslinger") and Officer Martin Polo ("Officer Polo").

18 Plaintiffs are Ronnie Bassett (age 32) and Tammy Krieger (age 34), Cindy Conolly's only two
19 children. Cindy Conolly had four grandchildren. Ronnie's child, Kiana (age 10), and Tammy's three
20 children, Tyler (age 14), Sydney (age 3) and Summer (age 18 months).

21 Cindy Conolly was only forty-nine (49) years old when she was killed. She had a life
22 expectancy of eighty-one (81) years, and thus her life was cut short by thirty-two (32) years.

23 Cindy was the central figure in the family, a cherished mother and grandmother. Plaintiffs, and
24 their children, have been deprived of thirty-two years of life with their mother and grandmother –
25 deprived of her love, companionship, advice, solace, humor, and many more things she brought to their
26 lives.

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III.

STATEMENT OF FACTS

A. Cindy Conolly's Tragic And Inexplicable Death

In early June of 2006, decedent Cindy Conolly had traveled from her home in Iowa to attend the wedding of her only son, plaintiff Ronnie Bassett. She stayed at the Embassy Suites Mandalay Beach Resort ("the Mandalay Beach Resort"), located oceanfront in Oxnard, California. Her daughter, Tammy Krieger, had also traveled from her home in Minnesota to California to attend the wedding, as did plaintiff Ronnie Bassett. The wedding took place on June 11, 2006, and the reception was held at the Mandalay Beach Resort.

The day after her son's wedding, June 12, 2006, Cindy Conolly had breakfast at a beach side café with her daughter Tammy and Tammy's husband. She then bid them farewell, as they were traveling up the coast to Northern California.

Ms. Conolly then decided to go and sunbathe on the public beach in front of the Resort. At approximately 1:00 p.m., she was lying on the beach, wearing a bright blue one-piece swimsuit. She was lying perpendicular to the water line, with her feet extended toward the ocean.

Also at approximately 1:00 p.m. on June 12, 2006, Officers Brisslinger and Polo were on duty, on patrol in a 6,500 pound Chevrolet Tahoe Sport Utility Vehicle ("Tahoe"). They had chosen this vehicle for their patrol that day "because of the comfort of it and the two reclining seats." *See* Polo Interview, p. 102¹. The Tahoe was driven by Senior Officer Frank Brisslinger. Senior Officer Martin Polo was a front-seat passenger. After patrolling various neighborhoods, Officer Brisslinger suggested that they drive out to the beach, "because it was a nice and sunny day." *Id.* at p. 103.

They gained access to the beach from the south parking lot of the Embassy Suites Hotel, where there is a sidewalk and concrete path that leads onto the sand and beach. *Id.* They had to drive up and over a curb to get to the concrete path. *Id.* Officer Brisslinger "hit the curb hard and may have scared some people on the beach walkway." *Id.* In his deposition, Officer Polo testified as follows:

¹ Attached hereto as Exhibit 1 is a true and correct copy of the interview of Officer Martin Polo contained in the Traffic Collision Report prepared by the Oxnard Police Department at pages 102-108.

1 “Q. Can you tell me how fast he went into the curb?
2 A. He drove straight, stopped, and then he punched it and it went up and over the
3 curb. I have no idea.
4 Q. Were the front wheels over the curb before he punched it?
5 A. No.
6 Q. Did the engine roar?
7 A. Yeah.
8 Q. Was this his normal approach into that, the curb area?
9 A. No.
10 Q. Did he go straight on perpendicular to the curb or did he take it at an angle?
11 A. Straight.
12 Q. Is that why you yelled at him?
13 A. (The witness nodded his head.)”

14 Polo Depo.², p. 44:25-46:3.

15 Indeed, one witness, Jinky Quemuel, walking on the path at the time the Officers were
16 approaching, stated that she was “startled” because they came up so fast. *See* Quemuel Interview, p.
17 124³. The witness thought they were going to an emergency, but then she looked in the vehicle and saw
18 them “laughing and having a good time.” *Id.* Officer Brisslinger admitted this in his deposition.

19 Officer Polo was reclined back in his seat, without a seatbelt on. Polo Depo., p. 132:1-11;
20 132:22-24. The car stereo was playing music, and Officer Polo had his foot up on the dashboard:

21 “Q. And you have a specific recollection right in that time frame you put your feet up
22 on the dash?
23 A. It was pretty much around that time.
24 Q. And how is it that you have that recollection today?
25 A. Because I had to sit up because these people that we were passing, remember I
26 told you about the scowl, I mean it's my beat, I am responsible for that. Pretty
27 much everyone I know out there or knows me. So I remember just sitting up,
28 watching them from my open window and he kind of looked at me kind of like,
you know, this kind of weird look.
The girls looked at us as we passed by. I can't remember if I waved, "Hi,"
or not. And it was about that time I just leaned back and I put my foot up right on
the dash. We are not looking at my leg up on the window. When I say leaned
back, not too far. I am not the tallest man in the world so I just sit there like this.
Q. Okay.”

² Attached hereto as Exhibit 2 is a true and correct copy of excerpts from the deposition of Officer
Martin Polo, taken in this matter on Wednesday, June 6, 2007.

³ Attached hereto as Exhibit 3 is a true and correct copy of the interview of witness Jinky Quemuel
contained in the Traffic Collision Report prepared by the Oxnard Police Department at pages
124-125.

1 Polo Depo., p. 131:2-23.

2 This all occurred within one minute of the Officers running over Ms. Conolly. . .

3 The Officers then proceeded onto the beach, oblivious to the fact they were driving the 6,500
4 pound Tahoe right over Cindy Conolly, as she lay on the beach.

5 First, the left front wheel drove directly over her head, back and buttocks, followed by the left
6 rear tire also driving directly over her head, back and buttocks. *See* Arthur Interview, p. 112.⁴

7 Officers Frank Brisslinger and Martin Polo claim to have been unaware that they had run over
8 Cindy Conolly. A swimmer in the ocean who witnessed the horrid event began yelling at the police
9 officers, waving his hands and running after the police vehicle trying to get them to stop. *Id.* at 111-
10 113. The Officers claim they did not notice him at all, and after running over Ms. Conolly, they then
11 turned their vehicle to the right, and proceeded down the beach, thereafter leaving the beach and
12 resuming their normal street patrol.

13 Officers Frank Brisslinger and Martin Polo were called back to the scene approximately
14 seventeen (17) minutes later in response to a 911 call. It was only at this time, according to Officer
15 Polo's statement to his fellow officers, that they realized that they had run over and crushed Ms.
16 Conolly. Shortly thereafter, Cindy Conolly was pronounced dead at the scene of the incident. She died
17 due to blunt force head and chest injuries.

18
19 **B. Cindy Conolly's Death Could Have Been Avoided If The Oxnard Police Had**
20 **Properly Trained Its Officers In Beach Patrolling**

21 It is undisputed in this case that the Oxnard Police Department did not train its Officers in how to
22 drive 4-wheel drive vehicles – or any vehicles for that matter – on the City's public beaches. Plaintiffs
23 served a Request for Admission as follows: "Admit that prior to the death of Cindy Conolly, the Oxnard
24 Police Department provided no training to its officers in how to properly drive a four-wheel drive
25 vehicle on the beach during patrol." The City admitted this fact. Plaintiffs further asked: "Admit that
26 prior to the death of Cindy Conolly, the Oxnard Police Department did not have a beach driving policy
27

28 ⁴ Attached hereto as Exhibit 4 is a true and correct copy of the interview of Witness Michael Arthur
contained in the Traffic Collision Report prepared by the Oxnard Police Department.

1 in effect.” The City also admitted this fact. *See* City’s Responses to Plaintiff Ronnie Bassett’s Request
2 for Admissions, Set One, Nos. 4 and 5.

3 What is even *more* shocking is the fact that *prior* to Cindy Conolly’s death, beginning around
4 2001, Officer Polo had made repeated requests for beach driving training, believing that without proper
5 training someone was going to get hurt -- but his requests were consistently ignored by the Oxnard
6 Police Department:

7 “Q. And this would have been roughly 2001, 2002?

8 A. Yes.

9 Q. And why did you want to be -- why did you want to have training in the Tahoe?

10 A. I’ve never owned a four by. And there had to be more to it than just a button.

11 Q. I’m sorry?

12 A. There had to be more to it than just a button.

13 Q. Okay. When was the next time you requested from the Oxnard Police
14 Department training in how to drive the Tahoe?

15 A. Every six months we shift officers. Officers are rotated from beat to beat and
16 every six months I put in a request for those incoming officers to get trained.

17 Q. Was that request for you too or just for your officers?

18 A. Yes, for me too.

19 Q. How would the request be phrased?

20 A. The best that I could remember, sir, I am asking these following officers are
21 assigned to me. I would like to receive training in use of the four by four for
22 patrol out on the beach.

23 Q. And do you believe you did that in an Email or verbal?

24 A. I did do it in an Email.

25 Q. Have you ever found those Emails?

26 A. No.

27 Q. And how long did you make those requests of the department in six month
28 intervals?

A. Probably every six months.”

Polo Depo., p. 30:3 – 32:10.

23 *In addition*, just months before Cindy Conolly’s death, Officer Polo wrote to Commander Steve
24 Blanchard requesting that the Department purchase an ATV for beach patrol, and in that request he
25 wrote that “someone is probably going to get hurt.” Polo Depo., p. 32:23 – 33:9. Officer Polo testified
26 that Commander Blanchard’s response to this request was the following statement: "Keep dreaming,
27 you ain't getting shit." *Id.* at p. 71:4-5.

1 Officer Polo testified in this case that Cindy Conolly's tragic death could readily have been
2 prevented:

3 "Q. At any time anywhere to anyone, did you voice an opinion as to what you
4 believed was the cause of Ms. Conolly's death, other than to your own counsel,
what could have prevented Ms. Conolly's death?

5 A. I believe I did.

6 Q. Okay. And who did you voice that to, other than counsel?

7 A. I believe that was in the class that we had for the training of the all terrain vehicle.

8 Q. And what did you voice as your opinion something that could have prevented or
would have prevented Ms. Conolly's death?

9 A. **If we had a policy, if we had an all terrain vehicle, this would have never
10 happened."**

11 Polo Depo., p. 264:3-17.

12 Had the Oxnard Police Department not ignored repeated requests for beach training and requests
13 for the use of All-Terrain-Vehicles instead of 6,500 pound four-wheel drive vehicles, Cindy Conolly
14 would be alive today.

15 IV.

16 PROCEDURAL HISTORY

17 In July 2006, the month after the death, plaintiffs were informed that the police report regarding
18 this tragic death was close to completion and would be provided to the family. In August, when no
19 police report was forthcoming, plaintiffs' counsel again requested a copy of the police report, as well as
20 proposed that plaintiffs informally be provided the Officers' statements about the events leading to Ms.
21 Conolly's death. Plaintiffs' counsel offered to take a pre-litigation "statement under oath" of Officers
22 Brisslinger and Polo to potentially obviate the need for litigation.

23 After months passed, plaintiffs were still not provided any police report, nor were they provided
24 any opportunity to question the Officers involved. Even the public questioned the City's failure to
25 produce the report, as evidenced by various *Ventura County Star* editorials on the subject.

26 Plaintiffs then proceeded with initiating the instant civil action, and then served notices setting
27 the depositions of Officer Brisslinger and Officer Polo. The depositions were set for February 26, 2007.

28 On January 23, 2007 -- over 215 days after Ms. Conolly was killed -- plaintiffs were finally
provided a copy of a formal report prepared by the Oxnard Police Department. Shockingly, nowhere in

1 the Traffic Report is there a statement provided by either Officer Brislinger or Officer Polo, *under*
2 *oath*, in which they are sworn to tell the truth. On the contrary, the report contains only an “interview”
3 of Officer Brislinger – conducted by a fellow officer while Brislinger’s own personal criminal defense
4 attorney present. Likewise, Officer Polo was only “interviewed.”

5 The Ventura County District Attorney’s Office also conducted an “investigation” into the death
6 of Cindy Conolly. That office released a written report dated January 22, 2007, the same day the City of
7 Oxnard released its Police Report. Again, within the D.A. Report, there is not one single statement
8 provided by either Officer Brislinger or Officer Polo *under oath*, in which they are sworn to tell the
9 truth. Indeed, the District Attorneys’ office did not separately question the officers involved, but
10 instead, contains only summaries of the interviews of these officers that had already been conducted by
11 the Oxnard Police Department.

12 Plaintiffs then proceeded to push for the depositions for Officers Polo and Brislinger. The City,
13 after initially requesting the depositions be rescheduled, ultimately refused to produce the Officers for
14 deposition. Plaintiffs were forced to proceed with a Motion to Compel the depositions, which was
15 granted. The Officers depositions were finally taken in this matter in June of this year.

16 Plaintiffs depositions have also been completed, as has several rounds of written discovery by
17 both parties. The matter is ready to proceed to trial.

18 V.

19 **PLAINTIFFS TAMMY AND RONNIE, CINDY CONOLLY’S CHILDREN,**
20 **WERE EXTREMELY CLOSE TO THEIR MOTHER AND HAVE SUFFERED**
21 **TREMENDOUSLY DUE TO HER HORRID AND UNTIMELY DEATH**

22 Ronnie’s wedding on Sunday, June 11, 2007, was a wonderful event. The ceremony was
23 beautiful, and the reception at the Mandalay Resort was magnificent.

24 The day after his wedding, Ronnie went surfing in the ocean. When he finished, he sat relaxing
25 on the beach, less than a mile from the Resort. Shortly after 1:00 p.m., he saw police tape surrounding
26 an area off in the distance, toward the Resort. He wondered why so many police and emergency
27 workers were gathered around.

28 ///

1 It was not until later that night that the family was informed that Cindy Conolly had been killed.
2 As the afternoon had passed, the family realized Cindy was missing, and had not returned from the
3 beach. As they were trying to find their Mother, who had been missing since the early afternoon,
4 Ronnie learned why she had been missing. . . The emergency on the beach had been when his Mother
5 had been run over by an SUV which crushed and killed her. . . .

6 Ronnie still often is overcome with sorrow and grief as he reflects upon the fact that he was
7 sitting there watching from a distance as the events unfolded, but did not know it was his own Mother
8 who had been the victim.

9 Ronnie had been close with his mother, growing even closer as an adult. Cindy Conolly's death
10 on June 12, 2007 -- the day after Ronnie's wedding -- turned what should have been the happiest time
11 in his life to the most catastrophic and heartbreaking time in his life. Ronnie and his new wife even
12 considered having their marriage annulled and getting remarried on another date, so that they would not
13 be forever haunted on their anniversary with Cindy's death. They elected not to do so, and will have to
14 live with the horrible memories that will be magnified each year on June 12th as they celebrate their
15 wedding anniversary.

16 Tammy, like Ronnie, is devastated by the loss of her mother. Tammy was extraordinarily close
17 to her mother, and had been her entire life. When Tammy became an adult, Cindy was her best friend.
18 Cindy had been Tammy's maid of honor at each of her weddings. Cindy had been present at the birth of
19 all three of Tammy's children, Tyler, Sydney and Summer. They spoke often on the telephone, almost
20 daily. They would also communicate via email and Instant Messaging.

21 Tammy's mother was her mentor, her advisor, her teacher . . . Cindy would give Tammy
22 advice about life and raising her three children. Tammy would call for advice about illnesses when her
23 kids got sick, for advice about how to deal with teenage issues, for advice about everything. She
24 cherished her mother and respected her opinions and advice. Tammy still thinks about her every other
25 minute of every day. She misses her mom's friendship. She misses her parenting. She misses
26 everything about her, and forever will.

27 Cindy was also a wonderful grandmother, and loved spending time with her grandchildren.
28 Cindy had a life expectancy to age eighty-one (81). Tammy and Ronnie are angry that their mom was

1 taken from them so early in life, and that for the next thirty (30) years, Cindy won't be present as their
2 children grow up – that they won't have her there for baptisms, birthdays, first communions, first days
3 of school, graduations, weddings, and all of life's events.

4 **VI.**

5 **PLAINTIFFS CANNOT BE FORCED TO ACCEPT**

6 **THE CITY OF OXNARD'S PROPOSED STIPULATION TO LIABILITY**

7 In an effort to preclude the jury from hearing of the Officers' grossly negligent conduct,
8 defendant City of Oxnard has offered to stipulate to liability. Plaintiffs have refused, and continue to
9 refuse, to accept this proposed Stipulation, and defendant cannot force plaintiffs to accept the
10 Stipulation.

11 As the following rule is poignantly stated in American Jurisprudence:

12 **“It does not lie in the power of one party, however, to prevent the**
13 **introduction of relevant evidence by admitting in general terms the**
14 **fact which such evidence tends to prove.** The admission of such
15 evidence is a matter resting in the discretion of the judge presiding at the
16 trial. While he is not bound to receive or to take the time to hear evidence
17 offered in proof of a fact admitted by one's adversary, if, in his discretion
18 he deems it proper to receive such evidence, no exception lies to its
19 admission, assuming that it is relevant and competent under the
20 circumstances. Parties, as a general rule, are entitled to prove the essential
21 facts to present to the jury a picture of the events relied on. To substitute
22 for such a picture a naked admission might have the effect of robbing the
23 evidence of much of its fair and legitimate weight. Thus, in a number of
24 criminal cases the defendant's offer to concede or stipulate certain facts
25 has been held not to preclude the prosecution's rejection of the offer and
26 introduction of evidence to establish the same facts.”

27 53 Am.Jur. sec. 106; *see also Rowe v. Rennick* (1931) 112 Cal.App. 576, 580 (“The fact that the
28 evidence admitted might, as an incidental feature thereof, be inflammatory or have a tendency to unduly

1 arouse the jury does not render such evidence inadmissible.”)

2 Moreover, Corpus Juris Secundum states a similar rule:

3 “It does not lie in the power of one party to prevent the introduction of relevant evidence
4 by admitting the fact which such evidence tends to prove. A party is not bound to take
5 his adversary's admission.”

6 64 Corpus Juris Secundum 116d.

7 Accordingly, plaintiffs cannot be forced to accept the stipulation to liability of the City of
8 Oxnard and the City must not be allowed to hide the true facts relating to wrongful conduct by its
9 Officers by offering to stipulate to liability.

10 DATED: October 23, 2007

HIEPLER & HIEPLER
A Professional Partnership

11
12
13 By: _____

MARK O. HIEPLER
TERRY L. TRON
Attorneys for Plaintiffs

EXHIBIT 1

NARRATIVE/SUPPLEMENTAL

CHP 556 (REV 7-90) OPI 042

Page 102 of 158

DATE OF COLLISION 06-12-2006	TIME (2400) 1401	NCIC NUMBER 5604	OFFICER I.D. NUMBER 4591	NUMBER 06-16252	
X ONE <input type="checkbox"/> Narrative <input checked="" type="checkbox"/> Supplemental	*X* ONE <input checked="" type="checkbox"/> Collision Report <input type="checkbox"/> Other:	TYPE SUPPLEMENTAL (*X* APPLICABLE) <input type="checkbox"/> BA Update <input type="checkbox"/> Hazardous Materials			<input checked="" type="checkbox"/> Fatal <input type="checkbox"/> School Bus <input type="checkbox"/> Hit and Run Update <input type="checkbox"/> Other:
CITY / COUNTY / JUDICIAL DISTRICT OXNARD / VENTURA / VENTURA			REPORTING DISTRICT / BEAT / 21	CITATION NUMBER None	
LOCATION / SUBJECT 2100 Block Mandalay Beach Road (shoreline/beach)			STATE HIGHWAY RELATED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

During the investigation into the collision, Senior Officer Maria Peña and I conducted three separate interviews with Senior Officer Martin Polo (the passenger in V-1). Also present during the interviews was his attorney, Michael Schwartz. The dates of the three interviews were on June 12, 2006, at about 1913 hours, June 14, 2006 at about 1011 hours and June 19, 2006 at about 1600 hours. The taped interviews were conducted in an upstairs interview room at the Oxnard Police Department (251 South "C" Street Oxnard, California).

Below is a summary of the various statements made by Polo during the three separate interviews.

Passenger Martin Polo's Statements:

Senior Officer Polo told me that on 06-12-2006 he was teamed up to work a two man unit with Senior Officer Frank Brisslinger. He said that they were scheduled to work a twelve-hour shift on that date, targeting various problem areas in Beat 21 and Beat 22. Polo said he was also scheduled to attend a community meeting that started at 5:00 P.M.

Polo said that they started their shift at their normal time which was around 0800 hours. Polo said that whoever of them (Brisslinger or himself) arrived at the station first, was the Officer who "checked out" the police unit and the officer who drove the unit during the shift. Polo said that when he arrived to work, he saw that Frank was already preparing the police 4x4 Tahoe for duty. Noticing this, he went to check on his department e-mails. After checking his messages, he went outside to the parking lot to meet up with Frank. Polo said he noticed that the unit Mobile Data Computer (MDC) was not working. Polo said that they discussed not taking the police Tahoe out for patrol and put a repair order for the MDC. Polo stated that he contacted Victor Laguna (from computer services) and requested he look at the unit MDC and repair it. Polo said he was told to submit a request via the "help desk". Polo said that they then decided to go out on patrol in the Tahoe because of the comfort of it and the two reclining seats.

PREPARER'S NAME AND I.D. NUMBER Humberto Jimenez # 4171 PO III	DATE 06/20/06	REVIEWER'S NAME	DATE
--	-------------------------	-----------------	------

DATE OF COLLISION	TIME (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
06-12-2006	1401	5604	4591	06-16252

Polo said that the work plan for the day was to address several areas where there had been complaints of narcotic activity. Polo said that they both went to several neighborhoods in Beat 22 (which is Brisslinger's area of responsibility). Polo said that he and Brisslinger made several arrests at the different locations. Polo said that they went to a house on "F" Street and possibly "H" Street. Polo stated that they were having a good day and that they had made about nine arrests out of the various locations.

Polo said that sometime between 1000 hours and 1200 hours, they drove to his residence because he needed to get a flashlight that needed to be repaired. Polo said that Brisslinger fixed the MDC while he was getting the flashlight from his house.

Polo said that at about 11:30 p.m., they decided to beat the lunch crowd and go to lunch. Polo said they went to Quizno's at Second Street and Ventura Road to have lunch.

After lunch they decided to go to Polo's area of responsibility (Beat 21). Polo and Brisslinger went to beat 21 and started to drive in and out of the different neighborhoods. (Sea Air, Via Marina, Marina West, and Sea View) Polo said that at one point, Brisslinger suggested that they drive out to the beach because it was a nice and sunny day. Brisslinger stated to Polo, "Hey, do you want to drive out on the sand?" Polo said he agreed with Brisslinger.

Polo stated that Brisslinger drove through their "normal" access to get to the beach. Polo described the location where they gain access to the beach as the south parking lot of the Embassy Suites Hotel where there is a sidewalk and a concrete path that leads onto the sand and beach.

Polo said that as Brisslinger was getting up onto the curb, he hit the curb "hard" and may have scared some people on the beach walkway. Polo said that he told Brisslinger to be careful because the Tahoe had recently been serviced and he did not want anything to get broken. Brisslinger replied to his comments by telling him that he should not worry and because he was going slow.

Polo said that once Brisslinger got up onto the sidewalk they drove past three pedestrians. Polo described the pedestrians as a male carrying a blue bag, and two other females. Polo said he waived hello to the pedestrians as they drove past them. Polo said the speed of the Tahoe was about ten to 15 miles an hour. Polo said that Brisslinger was driving slowly on the sand.

PREPARER'S NAME AND I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
Humberto Jimenez # 4171 PO III	06/20/06		

DATE OF COLLISION	TIME (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
06-12-2006	1401	5604	4591	06-16252

Polo said that as they drove out towards the beach (referring to the shoreline), he reclined back in his seat, unit radio on, stereo on, sun glasses-on, with his foot on the dash board. At this moment, Polo demonstrated this position. I noticed that he was slumped down in the seat with his right foot up on the interview desk.

Polo said that as they were approaching the beach (referring to the shoreline), Polo saw a male subject in the ocean, which looked like either a surfer or a boogie boarder. Polo could see that the male in the ocean was wearing all black. Polo originally stated that the boogie boarder appeared to be in distress waving his arms. Polo later stated that the boogie boarder was not in distress and merely appeared to be trying to swim into shore. Thinking the boogie boarder was not in distress, he did not mention his observations to Brisslinger.

Polo said that as they reached the berm line he hear Brisslinger saying "North, South, North, South" Polo said that Brisslinger was referring to them driving north or south along the beach. Polo said he replied to Brisslinger by saying "North." Polo said that he looked in a northern direction, and then looked south, as he looked to the south; Polo saw that Brisslinger was already looking south. Polo said he looked north and south to check if it was clear for them to proceed. Polo said that at no time did the Tahoe stop on the beach. Polo said that Brisslinger continued driving forward. Polo said that he then felt them go over the berm. Polo said that when they went over the berm and came down. Polo said that Brisslinger then made a right turn and drove northbound along the shoreline. Polo said that when they went over the berm he did not feel anything under the vehicle. Polo said that as they drove away he did not hear anyone yelling or trying to get their attention.

Polo said that as they were driving north, he saw a lady with a poodle on the beach. Polo said he noticed that the poodle was not on a leash. As Polo and Brisslinger drove past her, Polo yelled at her "Hey, get your leash on your dog!" Polo stated that he yelled at the lady because he had received complaints of people walking their dogs on the beach without a leash and not picking up after the dogs.

Polo said that they decided to drive off the beach because there weren't very many people on the beach. Polo said they drove off the beach. Polo said he thought they drove off the beach in the area of Amalfi. Polo said they decided to address some narcotics activity complaints that he had received in the area of Mandalay Bay.

PREPARER'S NAME AND I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
Humberto Jimenez # 4171 PO III	06/20/06		

DATE OF COLLISION	TIME (2400)	NCIC NUMBER	OFFICER I.D. NUMBER	NUMBER
06-12-2006	1401	5604	4591	06-16252

They then drove to the area of Eastbourne Bay where they saw a lady standing outside of a red car. Polo suspected that the female was involved in narcotic activity and they stopped to investigate. Polo described the female as looking like a "junkie." Polo said that when they reached the location of the female, he got out of the Tahoe 4x4 to contact her. While Polo was talking to the female, Brisslinger yelled out to him to return to the Tahoe. Polo said that Brisslinger then told him that he had spoken to Steve (Officer Steve Ramirez) in dispatch at the Oxnard Police Department. Brisslinger told him that someone had reported that they had run over someone on the beach and that fire and ambulance were responding to the beach. Polo stated that he did not believe it and thought that it was just someone complaining. Polo said he thought it was the male subject that they had past on the walkway or the lady with the poodle. Polo said he then stopped his 11550 investigation and got back into the Tahoe so they could respond back to the beach.

Polo said that they then drove from Eastbourne Bay to southbound Harbor Blvd., to westbound Costa De Oro, to southbound Mandalay Bay, to Sunset and into the south parking lot of the Embassy. Polo said that they wanted to retrace their path from earlier. Polo said that when they reached the south parking lot, he saw an Oxnard Fire Department truck had also arrived.

Polo said that at this point they became concerned that it was not someone complaining that that someone might be hurt. Polo said he then told Brisslinger "there was no one out there; there was no one on the beach."

Polo said that Brisslinger then began to drive towards the sidewalk and walkway leading to the beach. Polo said the Ford fire truck drove up to them and someone said, "We're going this way." Polo said that the Fire Department drove towards the beach behind the Tahoe.

Polo said that as they made the turn on the walkway headed towards the beach/shoreline, he could see two people standing near the edge of the water. Polo said that he could see the tire marks from their unit on the sand. Polo said the tire marks led right to the location of the two people standing by the edge of the water. Polo said he saw that one of persons standing near the shoreline was wearing black. Polo said that this person was the same boogie boarder he had seen earlier in the water.

Polo said that Brisslinger drove westbound towards the location of the bogie boarder. Polo said that when they were near the berm, Brisslinger drove the Tahoe to the right and stopped before the berm facing in a

PREPARER'S NAME AND I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
Humberto Jimenez # 4171 PO III	06/20/06		

DATE OF COLLISION 06-12-2006	TIME (2400) 1401	NCIC NUMBER 5604	OFFICER I.D. NUMBER 4591	NUMBER 06-16252
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northerly direction. Polo said that he then saw a lady (Conolly) on the sand. Polo said he told Brisslinger not to get out of the Tahoe. Polo told Brisslinger, "Just stay here, pal, let me handle this." Polo said he wanted to find out what was going on first. Polo said at this point he got the mini cassette recorder from Brisslinger and began recording. Polo said he began to record everything because he did not want to miss anything that was going on. Polo said that he later gave the mini cassette tape to Sergeant Randey Cole from the Oxnard Police Department.

After getting the mini recorder, he ran up to where Conolly was lying in the sand. Polo said that he recalled that the fire department personnel arrived with Conolly at the same time. Polo saw the paramedics roll Conolly over onto her back. Polo said he saw that Conolly had seen blood on her face.

Polo said he saw Brisslinger step out of the Tahoe and appeared to begin to make his way towards Conolly. Polo then told Brisslinger, "don't come over here, stay right there." Polo said that he saw that Brisslinger was possibly going into shock. Polo said he went to Brisslinger to assist him. Polo heard Brisslinger say, "This is like a bad dream."

Polo saw that the paramedics started CPR on Conolly. Polo had Brisslinger sit in the passenger seat. Polo said that Brisslinger was just holding his hands on his face and was saying "this is like a bad dream, Oh my God." Polo told Brisslinger, "You know, we didn't do this on purpose, pal, we didn't see her. Just hang tight pal, don't lose it. Just hang tight, don't get out of this car, and just relax." Polo said Brisslinger kept repeating "no, no, please no."

Polo said that he then left Brisslinger and returned to Conolly's location. The paramedics then told Polo that Conolly had died. Polo said he then began calling for a Sergeant, the Traffic Investigator, a Chaplain, and other units to respond to the scene. Polo said he also called the Watch Commander and told him of what was happening.

Polo said that a short while later, he spoke with Sergeant Cole, gave him the mini cassette and left the scene. Polo said he was then transported to the Police Department where he waited for us to interview him.

Polo said that he was sitting in the passenger seat and was wearing his prescription sunglasses at the time of the incident. Polo said that he was not wearing his seatbelt at the time of the incident. While sitting on the

PREPARER'S NAME AND I.D. NUMBER Humberto Jimenez # 4171 PO III	DATE 06/20/06	REVIEWER'S NAME	DATE
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EXHIBIT 2

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA

TAMMIE KREIGER, AN INDIVIDUAL,)
RONNIE BASSETT, AN INDIVIDUAL,)
)
PLAINTIFFS,)
)
VS.) CASE NO. CIV245237
)
CITY OF OXNARD, AN)
INCORPORATED MUNICIPALITY; AND)
DOES 1 THROUGH 100, INCLUSIVE,)
)
DEFENDANTS.)
_____)

DEPOSITION OF MARTIN POLO
WEDNESDAY, JUNE 6, 2007

FILE NO. 070606KAW
REPORTED BY KATHERINE A. WINTER, C.S.R. 6266

1 Q. BY MR. HIEPLER: Did you ask at least
2 two or three other times, "Could I get some
3 additional beach driver's training," of the Oxnard
4 P.D?

5 A. Yes.

6 Q. Okay. Who did you ask?

7 A. When the 2001 Tahoe was purchased, I
8 was told that Greg -- or I'm sorry, Scott Hebert was
9 going to be responsible for the training. I submit
10 to him through Email training for myself and every
11 officer assigned to my beat.

12 Q. And so you asked him in an Email, "Can
13 myself and my officers have training for this new
14 Tahoe?"

15 A. Yes.

16 Q. Have you ever seen that Email?

17 A. No.

18 Q. Did you ever try to find it?

19 A. Yeah.

20 Q. Okay. Were you successful?

21 A. No.

22 Q. Did you ever talk to Scott about this
23 since the incident?

24 A. No.

25 Q. Was that Email returned to you?

1 A. He said that they are working on a
2 training program and he'll get with me.

3 Q. And this would have been roughly 2001,
4 2002?

5 A. Yes.

6 Q. And why did you want to be -- why did
7 you want to have training in the Tahoe?

8 A. I've never owned a four by. And there
9 had to be more to it than just a button.

10 Q. I'm sorry?

11 A. There had to be more to it than just a
12 button.

13 Q. Okay. When was the next time you
14 requested from the Oxnard Police Department training
15 in how to drive the Tahoe?

16 A. Every six months we shift officers.
17 Officers are rotated from beat to beat and every six
18 months I put in a request for those incoming officers
19 to get trained.

20 Q. Was that request for you too or just
21 for your officers?

22 A. Yes, for me too.

23 Q. How would the request be phrased?

24 A. The best that I could remember, sir, I
25 am asking these following officers are assigned to

1 me. I would like to receive training in use of the
2 four by four for patrol out on the beach.

3 Q. And do you believe you did that in an
4 Email or verbal?

5 A. I did do it in an Email.

6 Q. Have you ever found those Emails?

7 A. No.

8 Q. And how long did you make those
9 requests of the department in six month intervals?

10 A. Probably every six months.

11 Q. Okay.

12 A. To the best of my knowledge -- to the
13 best that I could remember. Because officers coming
14 in, they would ask me, "Hey, man, can I use your four
15 by?" I would tell them, "They are going to come up
16 with this training." I kept having to blow people
17 off on that.

18 Q. Would that estimate continue into
19 2006, six months before the accident or within six
20 months of the accident prior you made some request of
21 somebody for that continued Tahoe training you had
22 never received?

23 A. No. In November of 2005, I researched
24 and I thought it would be best if we had a utility
25 vehicle out there which would be easier to drive. I

1 was dealing with Bombadier and I wrote them a formal
2 letter and I put in a request through my supervisors
3 for the purchase of a UTV.

4 Q. And why did you think an ATV would be
5 better out there?

6 A. It's just easier to maneuver and I
7 think I prefaced it in an Email to my commander,
8 Commander Steve Blanchard that someone is probably
9 going to get hurt.

10 Q. Have you looked for that Email?

11 A. Yes.

12 Q. Have you found that one?

13 A. No.

14 Q. Do you know what happened to it?

15 A. Last year -- and it's something that a
16 lot of department members joke about -- there was a
17 crash of our hard drive and we lost everything that
18 was on hard drive and everything had to be reset,
19 re-booted. Any information, documents that you had,
20 every search warrant I had ever written was lost.
21 Every personnel file of every employee that I had at
22 that time was lost.

23 Q. And who other than yourself could
24 document that's what happened there? Who is your
25 information services person?

1 A. No, I think he -- he beat me to the
2 seat. I was driving and if I got out to get a soda
3 or got out to use the restroom he would run around
4 and jump in. We did that quite often to each other.

5 Q. And I understand there's no beach
6 driver's training for either of you. On the 12th did
7 you make any suggestions to him as to how to navigate
8 once you were up on the sand until you got the call?

9 A. Prior to getting on the sand?

10 Q. Okay. Thank you. Did you make any
11 suggestions to Officer Brisslinger as to how to
12 navigate the berm?

13 A. No.

14 Q. Based on your custom and practice, did
15 you feel that he was driving safely at the time that
16 he was on the sand going over the berm?

17 A. Yes.

18 Q. After he went over the berm without
19 stopping, did you ever offer any criticism to him?

20 A. No.

21 Q. How soon after going over the berm
22 without stopping did you take a right turn, best of
23 your recollection?

24 A. Maybe ten feet.

25 Q. Back to your answer, you said prior to

1 being on the sand you gave Officer Brisslinger some
2 instruction regarding the driving in and around
3 Mandalay. What was it?

4 A. When we first got into the parking lot
5 he drove directly straight into the curb and there
6 was some people walking and he accelerated and the
7 truck just popped up straight on. And I told him I
8 didn't appreciate it. I told him we just got the
9 truck back from service, he's going to screw it up,
10 the alignment. I pretty much yelled at him.

11 Q. Can you tell me how fast he went into
12 the curb?

13 A. He drove straight, stopped, and then
14 he punched it and it went up and over the curb. I
15 have no idea.

16 Q. Were the front wheels over the curb
17 before he punched it?

18 A. No.

19 Q. Did the engine roar?

20 A. Yeah.

21 Q. Was this his normal approach into
22 that, the curb area?

23 A. No.

24 Q. Did he go straight on perpendicular to
25 the curb or did he take it at an angle?

1 A. Straight.

2 Q. Is that why you yelled at him?

3 A. (The witness nodded his head.)

4 Q. You indicated the vehicle had just
5 been serviced in some manner with regard to the
6 alignment; is that correct?

7 A. We just got it back from service the
8 week prior. And in service they do the alignment.
9 The tires I think were changed, they were new, oil
10 change, stuff like that.

11 Q. When was the last time you drove on
12 the Mandalay Beach beat prior to the accident?

13 A. It might have been the week prior, a
14 couple days maybe before we got stuck.

15 Q. Where were you when you got stuck on
16 the Thursday before Ms. Conolly's death?

17 A. We were on the beach north of Fifth at
18 Mandalay.

19 Q. And where were you in relation to the
20 hotel, north of it?

21 A. North of it.

22 Q. And soft sand, hard sand, in between?

23 A. Turned out to be soft sand.

24 Q. And was Frank going too slow? What
25 was the cause of getting stuck, if you know?

1 vividly was the response to my request for an ATV.

2 Q. What was your response to your request
3 for an ATV?

4 A. He -- he told me, "Keep dreaming, you
5 ain't getting shit." And I had that written on my
6 refrigerator for a long time.

7 Q. Keep dreaming?

8 A. And my son used to think that was for
9 him. He goes, "I'm not asking you for anything."
10 Every time he'd come over he'd say, "I'm not asking
11 you for anything."

12 Q. Was this like with an erasable marker?

13 A. Yes. I told him, "It has nothing to
14 do with you."

15 Q. In your mind that recitation or that
16 writing on your refrigerator was actually Commander
17 Blanchard's response for your request for an ATV?

18 A. Yes.

19 Q. Did you at any time refuse to use the
20 Tahoe on the beach because you were driving there
21 without beach driver's training?

22 A. No.

23 Q. Had you ever driven an ATV on any
24 beach at any time prior to the incident?

25 A. No.

1 I think it was right before we hit the sand.

2 Q. And you have a specific recollection
3 right in that time frame you put your feet up on the
4 dash?

5 A. It was pretty much around that time.

6 Q. And how is it that you have that
7 recollection today?

8 A. Because I had to sit up because these
9 people that we were passing, remember I told you
10 about the scowl, I mean it's my beat, I am
11 responsible for that. Pretty much everyone I know
12 out there or knows me. So I remember just sitting
13 up, watching them from my open window and he kind of
14 looked at me kind of like, you know, this kind of
15 weird look.

16 The girls looked at us as we passed
17 by. I can't remember if I waved, "Hi," or not. And
18 it was about that time I just leaned back and I put
19 my foot up right on the dash. We are not looking at
20 my leg up on the window. When I say leaned back, not
21 too far. I am not the tallest man in the world so I
22 just sit there like this.

23 Q. Okay.

24 A. And pretty much this is probably
25 leaned back what I'm telling you.

1 Q. How far was the seat reclined from its
2 upright position?

3 A. Probably right where it's at right
4 now.

5 Q. Okay.

6 MR. WISOTSKY: Where you are referencing.

7 THE WITNESS: Because I remember.

8 Q. BY MR. HIEPLER: 35, 40 degree angle?

9 A. I don't know. I'd say that's a little
10 extreme. It's probably about that far back. I
11 wouldn't lean it way back.

12 Q. Okay. Because the farther you lean
13 back the less vision you have, correct?

14 A. I had full view of the dash. I mean I
15 look at this picture and I can see it. I had a
16 better view because I mean your head is a little bit
17 higher. You can see a little bit more. But not much
18 more. I mean it's the same as -- I'm pretty much
19 sitting up. I never once allowed the -- like if I'm
20 leaning back like this or something. No, pretty much
21 straight up, always put my foot up, just kept it up.

22 Q. Did you have a seatbelt on during the
23 time frame that you encountered the beach?

24 A. No, sir.

25 Q. Do you have a recollection as to why?

1 wrote his phone number. I think I wrote his driver's
2 license number down. He was with the man that was
3 with the two women on the sidewalk.

4 Q. Santa Clarita, does that ring a bell?

5 A. I think he was from out of town.

6 Q. Do you have a recollection as to the
7 actual distance the SUV -- the actual mileage the SUV
8 would have encountered from the curb to the exit over
9 there where you exited the beach? Would you give me
10 a rough estimate?

11 A. I'd say about a mile.

12 Q. Okay. Is there any reason you exited
13 the beach at that point that you've talked about
14 earlier as opposed to going further down the beach?

15 A. Just no one was out there.

16 Q. One of the reviews you indicate Frank
17 wanted to go to the beach, he liked it there. Can
18 you tell me anything else that day why Frank wanted
19 to go to the beach?

20 A. Sunny day. I mean it looked
21 beautiful. We had such a good day. We wanted to
22 just relax and we thought we'd drive out to the beach
23 and see what's out there.

24 Q. And when you use the term good day,
25 you had effectuated a group of arrests, got some bad

1 people behind bars and that's what you meant by
2 wanting to relax after that?

3 A. Yes.

4 Q. Generally it's a little more relaxing
5 patrolling the beach than it would be in the area
6 that you had encountered in the morning?

7 A. Yeah, as opposed to arresting junkies.
8 I mean we are going to the beach, there's just people
9 drinking there. There's a lot of families out there
10 so it's just, "Hey, stop the drinking, don't do
11 that." We get to tell people, "Hey, put your dog on
12 the leash." It seems to be a big thing for those
13 people out there, just minor things in comparison to
14 what we were doing.

15 Q. Generally the beach patrol is a more
16 relaxed environment for officers, correct, unless you
17 are on a call?

18 A. It depends what the situation is.

19 Q. That day you had hoped it to be a more
20 relaxed environment?

21 A. Yes.

22 Q. And what about that patrol that you
23 took that day is relaxing from an officer's
24 standpoint? I think I understand.

25 A. To be quite frank with you it's just a

1 Q. -- to dispute Pena's conclusion?

2 A. No, sir.

3 Q. At any time anywhere to anyone, did
4 you voice an opinion as to what you believed was the
5 cause of Ms. Conolly's death, other than to your own
6 counsel, what could have prevented Ms. Conolly's
7 death?

8 A. I believe I did.

9 Q. Okay. And who did you voice that to,
10 other than counsel?

11 A. I believe that was in the class that
12 we had for the training of the all terrain vehicle.

13 Q. And what did you voice as your opinion
14 something that could have prevented or would have
15 prevented Ms. Conolly's death?

16 A. If we had a policy, if we had an all
17 terrain vehicle this would have never happened.

18 Q. Did you ever voice to anyone anywhere
19 that if you had had appropriate SUV beach driver's
20 training, Ms. Conolly would not have died?

21 A. I believe I said it in that class
22 encompassed with what I just told you.

23 Q. So it was your opinion at least voiced
24 somewhere after the accident is that a policy, use of
25 an ATV vehicle and the class you got after the fact

EXHIBIT 3

NARRATIVE/SUPPLEMENTAL

CHP 556 (REV 7-90) OPI 042

Page 124 of 158

DATE OF COLLISION 06-12-2006	TIME (2400) 1401	NCIC NUMBER 5604	OFFICER I.D. NUMBER 4591	NUMBER 06-16252
<input type="checkbox"/> Narrative <input checked="" type="checkbox"/> Supplemental		<input type="checkbox"/> Collision Report <input type="checkbox"/> Other:		<input type="checkbox"/> BA Update <input type="checkbox"/> Hazardous Materials
<input type="checkbox"/> Fatal <input type="checkbox"/> School Bus		<input type="checkbox"/> Hit and Run Update <input type="checkbox"/> Other:		
CITY / COUNTY / JUDICIAL DISTRICT OXNARD / VENTURA / VENTURA			REPORTING DISTRICT / BEAT / 21	CITATION NUMBER C
LOCATION / SUBJECT 2100 Block Mandalay Beach Rd (shoreline/beach)			STATE HIGHWAY RELATED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Witness Jinky Quemuel's Statement:

Witness Quemuel said she was walking on the cement walking trail that leads from the parking lot of 2100 Mandalay Beach Rd. to the beach. Quemuel said as she was walking on the trail, the trail that goes around a blind turn and she had just stepped off the trail and "all of a sudden there was Police Officer's that whipped around the corner" (referring to around the bend in the concrete walkway). Quemel said, "They came from behind me and it startled me because they came around so fast; too fast for being a walking trail." Quemuel could not give a speed of the S.U.V. but it was a speed that she felt was "too fast" for a vehicle traveling on a walking trail. I attempted to obtain an approximate speed of vehicle 1 from Quemuel. Quemuel said it was faster than 5 to 10 miles per hour but was unable to estimate a speed.

Quemuel said she usually has her son with her and thought that if she was further back on the trail, "they could have hit me." Quemuel said that she was not expecting this big SUV to come out of nowhere. Quemuel said that the walking trail is between sand dunes and it is hard to see. Quemuel said that if she had stopped to tie her shoe or something that she could have been hit. Quemuel said she does not think the police saw her, because they didn't look at her. Quemuel said they continued straight onto the beach, thought maybe they were going to an emergency or something. Quemuel said she looked in and saw them "laughing and having a goodtime". Quemuel said she then thought maybe there wasn't an emergency because the lights were not on. Quemuel said that when the Police SUV passed her, it was approximately 10 to 15 feet away from her. Quemuel saw Oxnard P.D. and saw that it was a big S.U.V.

Quemuel said she saw two Officers inside the SUV Quemuel said she continued walking onto the beach toward the front of the Mandalay Hotel and the Police SUV drove towards the water. Quemuel said there was a couple in their fifties walking in front of her on the sand pulling a grey ice chest. Quemuel said that they were not affected by the Police because they were in front of her. Quemuel said approximately ten minutes later she heard siren's and thought the Police had "caught the bad guy." Quemuel had walked to the walk trail by Oxnard State Beach, she looked back in the direction she had come from and saw a red truck, thought

PREPARER'S NAME AND I.D. NUMBER Jamie Brown 4761	DATE 06-15-06	REVIEWER'S NAME	DATE
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DATE OF COLLISION 06-12-2006	TIME (2400) 1401	NCIC NUMBER 5604	OFFICER I.D. NUMBER 4591	NUMBER 06-16252
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possibly a medic truck and the same SUV again thinking the police had caught the "bad guys." Quemuel walked to her vehicle which was parked in the parking lot at the Oxnard State Beach. As Quemuel was leaving, she saw a white Police car driving fast with lights and siren on Harbor Boulevard. Quemuel said she was going to go and see what was going on, but did not.

at the beach. Commander Blanchard told Quemuel that he would notify the D.A's office and the investigating unit of what she had told him. Quemuel called the D.A's office on Wednesday at 0900 hour's and spoke to "Laura "in the D.A's office. Laura said that she had not heard from Commander Blanchard at this time. Quemuel said that if the "Accident" hadn't happened, she would not have given it a second thought."

END OF REPORT - Jamie Brown

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PREPARER'S NAME AND I.D. NUMBER Jamie Brown 4761	DATE 06-15-06	REVIEWER'S NAME	DATE
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EXHIBIT 4

DATE OF COLLISION 06-12-2006	TIME (2400) 1401	NCIC NUMBER 5604	OFFICER I.D. NUMBER 4591	NUMBER 06-16252	
X ONE <input type="checkbox"/> Narrative <input checked="" type="checkbox"/> Supplemental		*X* ONE <input checked="" type="checkbox"/> Collision Report <input type="checkbox"/> Other:		TYPE SUPPLEMENTAL (*X* APPLICABLE) <input type="checkbox"/> BA Update <input type="checkbox"/> Hazardous Materials	<input checked="" type="checkbox"/> Fatal <input type="checkbox"/> School Bus <input type="checkbox"/> Hit and Run Update <input type="checkbox"/> Other:
CITY / COUNTY / JUDICIAL DISTRICT OXNARD / VENTURA / VENTURA			REPORTING DISTRICT / BEAT / 21	CITATION NUMBER C	
LOCATION / SUBJECT 2100 Block Mandalay Beach Road (Shoreline/Beach)			STATE HIGHWAY RELATED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

Witness Michael D. Arthur's Statements (2nd Interview):

Witness Michael David Arthur told me that he and his wife (Witness Patricia Meyer-Arthur) arrived at the beach at approximately 1300 hours and had parked his vehicle on Sunset Drive. He and his wife then walked through a parking lot located on the south side of the Mandalay Beach Resort. He said that they walked along the concrete walkway to access the beach. Once they passed some concrete benches at the end of the concrete walkway, he and his wife continued walking along a set of tire impressions in the sand.

Witness Arthur told me that they walked in a southwest direction on the sand toward the shore. He said they placed their boogie board and other beach items near the shore approximately 40 feet south of where the victim (later identified as Cindy Conolly) was laying. He and his wife then got into the ocean and began swimming and "boogie boarding."

Once at the shoreline, he said his wife remained near the shore and stayed close to their belongings on the beach. He said he then got into the ocean and began "boogie boarding" in deeper water. He told me that the current pushed him north as he was swimming. After approximately 20 minutes in the ocean, he said he was approximately 60-100 feet offshore and noticed that he was directly in line with the concrete walkway. At that point Arthur said he saw Conolly was lying on the sand near the shore also directly in line with the concrete walkway. He said Conolly was laying face down on the berm near the shore. He said that Conolly's feet were toward the ocean and her head was toward the top of a small berm. He said Conolly's head was approximately one foot below the crest of the berm. He said Conolly was lying on a purple towel and she appeared to be sleeping or sunbathing. He believed Conolly was alone and that the only person near her was an older white male sitting on a blue chair. The white male was sitting on the top of the berm approximately 15 feet north of where Conolly was laying.

Witness Arthur told me that as he looked at the shore while he was swimming, he saw a black and white police "Chevy" Tahoe driving westbound toward the shore from the end of the concrete walkway. He could not see into the Tahoe and could not identify the officer driving the Tahoe however noticed that the officer

PREPARER'S NAME AND I.D. NUMBER Ricardo Vazquez PO II #4733	DATE 08/16/06	REVIEWER'S NAME	DATE
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DATE OF COLLISION 06-12-2006	TIME (2400) 1401	NCIC NUMBER 5604	OFFICER I.D. NUMBER 4591	NUMBER 06-16252
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driving was wearing sunglasses. He did not know whether there were any passengers in the Tahoe. He said he noticed that the officer of the Tahoe was driving directly toward the shore and heading directly toward Conolly. He told me that the officer was driving at approximately 4-6 mph and continued straight toward the shore. He said the wheels of the Tahoe were not throwing sand up and were not "squirreling". He also did not hear the vehicles engine revving.

Witness Arthur said he continued looking at the Tahoe as the officer continued driving toward the shore and thought the officer was going to drive around Conolly and at first, did not attempt to alert the officer. He said it appeared as if the officer was looking at him in the ocean and not looking at the shore. As the officer approached to shore, He said he noticed the officer was driving directly toward Conolly. He then attempted to alert the officer by waving his arms and yelling. He also began to swim back to shore in an attempt to alert the officer and Conolly. He believed the officer may have been distracted because it appeared that the officer was looking at him in the ocean. He then saw the officer drive over the berm. He said the front end of the Tahoe hung over the berm approximately two feet as the front wheels of the vehicle reached the crest of the berm. He said Conolly did not move as the officer continued over the berm. He saw the front left wheel of the Tahoe drive directly over Conolly's head, back and buttocks. He said Conolly's body did not move once the vehicle's front wheel cleared her body. He then saw the left rear wheel of Tahoe drive over directly over Conolly's head, back and buttocks. He said the Tahoe's wheels, axles or body did not articulate or flex in an unusual manor as the officer drove over the berm and Conolly. He said Conolly remained motionless as the officer continued onto the shore.

Once the officer drove approximately three feet off the berm and onto the shore, he said the officer turned right and continued northbound along the shore. He said the officer accelerated slowly to a speed of approximately 12 mph. As the officer continued northbound, he said he was yelling to the officer and other people on the beach in an attempt to alert the officer to stop. Once he was on the shore, the officer was several hundred feet north where the collision occurred and continued traveling northbound. He told me he ran northbound along the shore yelling toward the officer and other people on the beach in attempt to alert the officer however the officer did not respond.

Witness Arthur said that since the officer did not stop, he yelled at his wife and several people who were on the beach to call 911 however no one on the shore had a phone. As a result, he ran toward a male and female couple who where walking westbound from the concrete walkway to the shore (later identified as Doug Kirk and Linn Kirk). He ran toward Doug and Linn Kirk and asked them if they had a phone in order to

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call 911. He said Doug had a cell phone and Doug called 911. He and Doug then went over to Conolly and began to render first aid. He said Conolly was found on the berm on her knees face down in the fetal position. He said Doug was attempting to provide first aid checking Conolly's pulse and attempting to immobilize her. He said Doug was talking on the cell phone with 911 operators however Doug was losing connection. As a result, Doug told him to keep Conolly immobilized as Doug walked away in attempt to maintain connection with the 911 operator.

Witness Arthur told me that while he was holding Conolly, he noticed Conolly had difficulty breathing and was gasping for air. He said Conolly was attempting to move or stand as he was attempting to maintain her position. He noticed Conolly had bruising and swelling to her face, back and legs. He also noticed blood on her fingers and pool of blood in the sand adjacent to her body. He said he was holding Conolly for approximately ten minutes prior to fire and medical personnel arriving. He noticed first responding fire and medical personnel arrived on foot running from the area of the resort. Approximately two minutes after fire personnel arrived, he said the police vehicle, which was involved in the collision, arrived and parked on the sand north of where the collision occurred. He said an officer (later identified as Officer Polo) got out of the Tahoe from the passenger side and the officer driving the Tahoe remained seated in the vehicle. He could not identify the officer driving the vehicle.

Witness Arthur said Officer Polo set a perimeter around Conolly and obtained his statement. After his statement was obtained, He and his wife were escorted off the beach. He said additional fire and police personnel arrived on foot and vehicles. He did not know which route the vehicles and additional personnel arrived at the scene.

END OF REPORT - Ricardo Vazquez

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