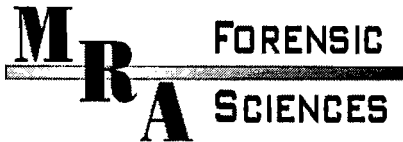


## EXHIBIT 2



January 22, 2007

Brian Rekofke, Esq.  
Witherspoon, Kelley, Davenport & Toole  
1100 U.S. Bank Building  
422 West Riverside Avenue  
Spokane, WA 99201

RE: Waite vs. LDS Church, et al.

Dear Mr. Rekofke:

This report conveys the findings of an investigation of an automobile accident involving your client.

**Background:**

On August 23, 2003, around 2:10 in the afternoon, an accident occurred at the intersection of 8<sup>th</sup> Avenue and Adams Road, in Spokane, Washington. Traffic at the subject intersection in question was controlled by 4-way stop signs. The accident involved a 2003 Dodge pickup truck, driven by Donald Fossum, and a 1988 Honda Accord, driven by Steve Brodhead. As events unfolded, the pickup truck was headed north on Adams and had come to a stop at the intersection. After looking in both directions and seeing that there were no vehicles in the vicinity of the intersection, the driver of the pickup truck proceeded to enter the intersection. At the same, and unbeknownst to the driver of the pickup, the Honda was heading east on 8<sup>th</sup> and approaching the intersection at an extremely high rate of speed. Not only was the driver of the Honda driving in a reckless manner, he was not familiar with the road he was on and did not know there was a stop sign ahead at the subject intersection. When the driver of the Honda finally realized there was a stop sign, he slammed on his brakes but was not able to stop before entering the intersection and striking the side of the pickup truck.

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**Information:**

The findings and opinions expressed in this report are based upon review of the following information sources:

1. State of Washington Police Traffic Collision Report 1592500 and an "additional report" by the investigating officers.
2. A Preliminary Investigative Report authored by Matthew Mecham, of MRA Forensic Sciences.
3. An inspection of the subject intersection.
4. The depositions of :
  - a) Donald Fossum
  - b) Steven Brodhead
5. Washington Driver Guide
6. An accident investigation report by John Hunter of Investigative Training Service.
7. Various Traffic Law references, including:
  - a) RCW 46.61.190(2)
  - b) WPI 70.02.02
  - c) Vehicle Traffic Law (ISBN 0-912642-00-9)
  - d) U.V.C.

**Findings and Opinions:**

1. The driver of the Honda drove in a reckless manner at excessive speed and failed to stop at the stop sign.
2. The driver of the pickup truck obeyed all traffic laws and fulfilled his duty to stop at the stop sign and to yield to any traffic at the intersection before him. He also looked down the road in both directions and observed the roadway in both directions to a sufficient distance to detect any vehicle likely to present an immediate threat.
3. At the time the driver of the pickup truck pulled out after having stopped he would not have had any real opportunity to observe the Honda approaching the intersection. Due to the excessive speed of the Honda it was about 200 feet away from the intersection when the pickup truck started to pull out. Moreover, a large tree on the street would have concealed the Honda from the driver of the pickup truck until it got within about 200 feet from the intersection. Therefore, the driver of the pickup would not have been able to observe the Honda approaching before he started to pull out.

4. In his report, John Hunter faults Fossum, the driver of the pickup truck, for failing to detect the oncoming Honda and identifying the threat it presented. In his report John Hunter states:

“Fossum had a flaw in his driving strategy and should have been able to detect and identify the approaching Honda as an immediate hazard and not entered the intersection.”

This criticism is invalid and fails to comprehend:

- a. The time-distance aspects of the accident that would have placed the Honda at such a distance from the intersection that there would be no reason to assume it was a threat.
- b. The features of the accident site that would have restricted the field of view of the driver of the pickup truck.
- c. Human factor aspects that would have bounded the ability of the driver of the pickup truck to identify the threat presented by the oncoming Honda. For example, Hunter presents no reasonable evidence that the driver of the pickup truck could have determined the approach speed of the Honda or heard its tires sliding.

5. In his report, John Hunter faults the driver of the pickup truck for not pulling to a point nearest the intersecting roadway, where he would have allegedly been able to see over several hundred feet. He implies this is required by RCW 46.61.190(2). This criticism is invalid because:

- a) RCW 46.61.190(2) actually instructs the driver to do one of three things in a prioritized way, namely, to stop at a clearly marked stop line, or if none, to stop at a marked cross walk, or if none, to stop at a point nearest the intersecting roadway. Police photographs taken at the time of the accident show that there was both a marked stop line and marked cross walk at the subject intersection in the direction the pickup truck would have traveled. Therefore according to RCW 46.61.190(2), the driver of the pickup truck was required to stop at the stop line.
- b) RCW 46.61.190(2) applies to stopping at a stop sign where the cross traffic has the right of way.

6. In his report John Hunter states,

“In my opinion, Fossum was inattentive and contributed to the collision. Had Fossum exercised reasonable care and checked traffic to his left before entering the intersection, the collision would not have occurred.”

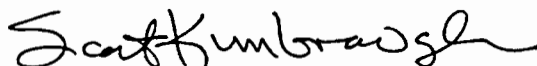
This criticism is invalid because:

- a) There is absolutely no evidence that Fossum was inattentive. To be found inattentive one must fail to react to stimuli strong enough to be “likely” to attract attention, and “likely” has to be determined in accordance with capabilities of the human perceptual systems. Hunter cannot support his claim the driver of the pickup truck was inattentive without first showing that driver of the pickup truck was presented with strong enough visual cues to enable him to determine the Honda was approaching at extreme speed. Unless the driver of the pickup truck would have been able to determine that the Honda was approaching at extreme speed, he would have no indication that it was a threat, even if he could see it, which in this case is strongly in doubt.
- b) The testimonial evidence indicates the driver of the pickup truck did look to his left before pulling out. There is a logical limit to how far down the road one needs to look and how long one needs to look before pulling out into an intersection after stopping at a 4-way stop. In a residential setting, such as the one where the subject accident occurred, one does not expect oncoming drivers to be doing 70 mph. One is highly disposed to expect that vehicle 200 feet from a 4-way stop intersection, in a 35 mph zone, will easily be able to stop and will probably not even reach the intersection before you clear the intersection.
- c) The criterion set forth by Hunter (by which he judges the driver of the pickup truck) is so unreasonable and so severe that its implementation by all drivers would greatly impede the flow of traffic.

**Closure:**

According to the evidence, the sole cause of the subject accident was the reckless and extreme driving behavior of the driver of the Honda. According to the evidence, the driver of the pickup truck acted in a lawful and reasonable manner and took all due care when stopping and then proceeding at the subject intersection.

Best Regards,



Scott Kimbrough, Ph.D., P.E.

CURRICULUM VITAE  
Scott Kimbrough, Ph.D., P.E.

SPECIALTIES:

Forensics Engineering. Failure Analysis and Accident Investigation. Instrumentation and Testing. Human Factors. Safety Engineering. Electronic and Mechanical System Design and Prototype Fabrication.

MEMBERSHIPS:

SAE, SCCA, SOAR, HFES, IAAI, ACM-SIGAPL

Offices Held:

Utah Section SAE; Vice Chairman (1990), Chairman (1991), and Chairman on Student Activities (1992, 1993).

Utah Section ASME; Committee Chairman on Technical Activities (1990).

ASME; National Vehicle Design Committee ( 1998-2004 ).

Associate Editor of Heavy Vehicle Systems, International Journal of Vehicle Design.

EDUCATION:

Ph.D. EE 11/84 UCLA; Majored in Control Systems. Minored in Operations Research and Applied Math.

MSME 6/77 California Institute of Technology; Majored in Thermal Sciences. Minored in Mechanics.

BSME 6/75 University of Nevada (Reno); Majored in Thermal Science. Minored in Machine Design.

EMPLOYMENT:

7/94 - Present: Partner Motion Research Associates. Have handled many cases involving failure analysis. Past cases include: numerous vehicle fires, appliance fires, and structure fires (concentrating on electrical cause and origin), failure of hydraulic systems, alleged ABS brake system failures, bolt and fastener failures, structural failures, automatic gates and doors, commercial washing machine malfunction, traffic signal controllers, failure of a substation autotransformer, lightning damage to irrigation pumps, diagnosis of vehicle control systems, bridge collapse, several scaffolding collapses, construction crane tip-overs, failure of a natural gas powered engine, structural seismic conformance, failures of fire-protection sprinkler systems, and structural damage due to blasting or inadequate drainage.

Have performed hundreds of automobile, truck, motorcycle, and or trailer accident investigations. Have developed efficient and effective field techniques for gathering evidence. Able to perform broad ranging investigations that encompass looking at the design and the condition of the vehicles and analyzing the human factors involved. Extensive experience in mechanics, including the mechanics of heavy vehicles such as semi-tractors and earth moving equipment. Possess special instruments and training for the analysis of nighttime visibility. Well trained in driver perception reaction issues. Have analyzed collisions of all types, including accidents involving cars and trucks pulling trailers, single-vehicle rollovers, and heavy commercial vehicles. Have been involved in the analysis of scores of accidents where a tire failure precipitated the accident. Capable of creating realistic animations of vehicle accidents.

Other cases involve: dynamics analysis of bodies and objects, numerous slip-and-falls and trip-and-falls, vibration exposure analysis, and patent infringement. Have investigated construction and manufacturing defects, involving: soil settlement, stairways, ramps, retaining walls, water treatment systems, control systems for snow-cats, faulty stucco, failed snow-melt systems, ventilation systems, parking lot designs, and basement flood damage from ground water. Have designed methods for repairing fire and or water-damaged structures.

Have designed and built custom instrumentation systems and test apparatus, including such things as: instrument systems for cars, vans, buses, trailers, motorcycles, and boats, and apparatus for sensing steering torque, measuring brake pressures, measuring vibration levels, and measuring muscle response.

Also have performed research on brake systems and steering systems for Ford Motor Company. Conducted product tests for several major manufacturers.

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9/85 - Present: Owner KYOTE Scientific Co. Perform engineering design and prototype development. Designed solid state controller for series wound D.C. motors. Designed ABS lock-out for brake retarders. Designed, constructed, tested, and established production plans for an automatic, microprocessor-controlled, coffee-making machine that had a clock, timer, radio, and speech capability; this work performed for Salton.

9/94 - 9/97: Partner K-Tronics, Inc., Involved in design, test, and manufacturing of solid state controllers for electromagnetic brake retarders. Also developed line of associated hand control and brake pedal control devices. Sold partnership position for royalties.

9/88 - 7/94: Assistant Professor University of Utah Mechanical Engineering Department. Instructor of controls courses, dynamics courses, and systems courses. Performed research on vehicle dynamics and control. Led team that designed and built a trailer with an automatic steering system. Led team that designed and built an advanced brake research vehicle. Developed control theory on braking of ground vehicles and combined cornering and braking of ground vehicles.

9/90 - 7/94 Consultant to various agencies, worked on investigating accidents and equipment failures, e.g., a compressor explosion at a dairy, an alleged failure of an ABS brake system, and an accident on an alpine slide. Measured levels of vibrations in the locomotives of freight trains. Designed and fabricated monitoring devices and signal conditioning equipment. Wrote and utilized software for analyzing the amplitude and frequency distribution of the vibrations.

6/92-Present Consultant to KLAM America, performing testing and development of electromagnetic brake retarders.

8/90 Consultant to Motorcycle Specialist. Worked on a team that instrumented a motorcycle. Designed and fabricated instrumentation systems for several motorcycle tests. Designed test apparatus and conducted field tests.

6/89 - 9/89 Consultant to Fay Engineering Company. Performed automobile accident analysis using computer simulation. Case involved loss of control by the driver of a small truck.

2/85 - 9/88 Senior Research Engineer General Motors Research Laboratories. Developed control systems for automotive steering, braking, and suspension applications. Worked on active suspension car, semi-active suspension car, 4-wheel-steer car, and ABS research car.

3/82 - 9/82 Consultant to Hughes Aircraft. Analyzed spacecraft thermal systems.

8/81 - 3/82 Self Employed KYOTE Company. Designed, constructed, and tested a range of thermal-electric products, including an air-conditioned bed and an air-conditioned jacket.

3/81 - 8/81 Consultant to AeroJet General. Analyzed spacecraft thermal systems.

6/77 - 9/79 Consultant to IBM. Performed research on the design of energy efficient buildings. Wrote computer programs for predicting heating, cooling, and lighting loads. Developed optimization procedures for designing buildings to minimize energy costs. Developed optimal control algorithms for HVAC systems.

9/75 - 9/76 Development Engineer AiResearch. Developed and tested automotive turbochargers. Worked as liaison engineer to General Motors Detroit Diesel. Supervised laboratory personnel and supervised instrumentation of test cells.

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6/74 - 9/74 Coop Student Sierra Pacific Power Co.. Analyzed steam power plant performance; performed efficiency analysis. Developed water test procedures for detecting levels of silicon in feedwater. Designed water channel to carry and measure reservoir overflow. Designed a building to house auxiliary generators.

RESEARCH FUNDING:

1. 1990 - \$5,000 Faculty Grant from U.of U. to help build steering trailer.
2. 1990 - \$5,270 Research Equipment Grant from U.of U. to buy control computer.
3. 1991 - \$30,000 Contract from Ford to develop brake system research program.
4. 1991 - \$30,000 Equipment Grant from Bosch in the form of optical speed sensor.
5. 1992 - \$50,000 Grant from E-Systems to construct high-speed hydraulic brake system.
6. 1992 - \$4,000 Contract from Klam America to test brake retarder performance.
7. 1992 - \$30,000 Extension Grant from E-Systems to complete construction of hydraulics.
8. 1992 - \$12,000 Contract from VSE to investigate the application of advanced steering and braking controllers on Army tanker trucks.
9. 1993 - \$83,000 Contract from Ford to develop brake control strategies.
10. 1995 - \$74,000 Contract from Ford to develop brake control strategies.
11. 1996 - \$7,500 Contract from ICON to design motor controller.
12. 1997 - \$1,500 Contract from Ford to draft patent application on brake controller.

PUBLICATIONS:

REFEREED CONFERENCE PAPERS: (papers appear in proceedings)

1. Kimbrough, S., "Sub-Optimal Bilinear Regulation", Proceedings of the 1984 American Control Conference., pp 1641-1645
2. Kimbrough, S., "Linear Programming and HVAC Control", 1986 ASME Winter Annual Meeting, 86-WA/DSC-16
3. Kimbrough, S., "Control System Development Tools", Proceedings of APL87, APL Quote Quad, Vol.17, No. 4, pp 15-29
4. Kimbrough, S., Chiu, C., and Dewell, L., "An Automatic Steering System for Utility Trailers to Enhance Stability and Maneuverability", Proceedings of 1990 American Control Conference, pp 2924-2929
5. Kimbrough, S. and Dewell, L., "Electric Motor Selection for Motion Control Systems", Proceedings of 1990 American Control Conference, pp 2079-2082
6. Kimbrough, S. and Chiu, C., "A Brake Control Strategy for Emergency Stops of Vehicles Towing Trailers", Proceedings of 1991 American Control Conference, pp 409-414
7. Kimbrough, S., "A Sub-Optimal Dual Regulator for Bilinear Systems", Proceedings of ConCom 3, Victoria, B.C., pp 307-314
8. Elwell, M., and Kimbrough, S., "An Advanced Braking and Stability Controller for Tow-Vehicle and Trailer Combinations" SAE 931878
9. Kimbrough, S., "A Computer Investigation of the Performance Potential of an Advanced Brake Controller", SAE 940836
10. Kimbrough, S., "Optimal Control of ElectroMagnetic Brake Retarders", SAE 942325
11. Park, Y., and Kimbrough, S., "A Robust Backward Steering Controller Design for Combination Vehicles", SAE 942333
12. Kimbrough, S., "APL, Dynamic Programming, and the Optimal Control of Electromagnetic Brake Retarders", 1995 APL Conference.
13. Kimbrough, S., "Rule Based Wheel Slip Assignment for Vehicle Stability Enhancement", SAE 1999-01-0476
14. Kimbrough, S., "Rebound Characteristics of Seats", SAE 1999-01-0630

REFEREED SYMPOSIUM PAPERS: ( papers appear in bound volumes)

1. Kimbrough, S., "Bilinear Modelling and Regulation of Variable Component Suspensions", 1st Symposium on Transportation Systems, 1986 ASME Winter Annual Meeting, AMD-Vol. 80, DSC-Vol. 2, pp 235-255



2. Kimbrough, S. and Chiu, C, "Control Strategies for Trailers Equipped with Steering Systems", 2nd Symposium on Transportation Systems, 1990 ASME Winter Annual Meeting, AMD-Vol. 108, pp 33-41
3. Kimbrough, S., "A Brake Control Strategy for Emergency Stops that Involve Steering: Part 1 Theory", 2nd Symposium on Transportation Systems, 1990 ASME Winter Annual Meeting, AMD-Vol. 108, pp 117-122
4. Kimbrough, S., "A Brake Control Strategy for Emergency Stops that Involve Steering: Part 2 Implementation Issues and Simulation Results", 2nd Symposium on Transportation Systems, 1990 ASME Winter Annual Meeting, AMD-Vol. 108, pp 123-129
5. Kimbrough, S., "Coordinated Steering and Braking Control for Emergency Stops That Involve Steering", 1991 ASME WAM Symposium on Advanced Automotive Technology, DE-Vol. 40, pp 229-244
6. Chiu, C. and Kimbrough, S., "The Domain of Stability of a Steering Controller for the Backward Motion of Steering Trailers", 1991 ASME WAM Symposium on Advance Automotive Technology, DE-Vol. 40, pp 57-67
7. Kimbrough, S., "Simultaneous D.C. Motor Selection and Control Policy Determination for Servo-Systems", Transactions of 1991 PCIM Conference, ISBN-0-931033-34-9, pp 246-259
8. Kimbrough, S. and Elwell, M., "Reduction of the Effects of Driver Delay using Closed-Loop Vehicle-Stability-Enhancement Systems", Transactions CSME Forum 1992, pp 140-146
9. Kimbrough, S., "Coordinated Braking and Steering Based on Side-Slip, Yaw-Rate, and Heading", Transactions CSME Forum 1992, pp 205-210
10. Kimbrough, S., "Sudden Heading Error as a Control Input for Vehicle Stability Enhancement Systems", Symposium on Transportation Systems, 1992 ASME WAM, DSC-Vol. 44, pp 397-411
11. Kimbrough, S., "A Control Strategy for Stabilizing Trailers Via Selective Application of Brakes", 1992 ASME WAM, DSC-Vol. 44, pp 413-428
12. Park Y., and Kimbrough, S., "A Robust Steering Controller Design for Combination Vehicles to Enhance Stability and Maneuverability", 1994 ISATA paper 94SF001
13. Kimbrough, S., "An Effective Method for Implementing Wheel Slip Control without Using a Ground Speed Sensor", 1995 IAVSD Conference.
14. Kimbrough, S., "A Topology for Vehicle Stability and Handling Enhancement via Wheel Slip Control", 1999 ASME
15. Kimbrough, S., "Probability Analysis of Motor Vehicle Accidents", 2002 ASME IMECE2002-32957
16. Kimbrough, S., "Monte Carlo Analysis of Safe Following Distances Under Different Road Conditions", IMECE2003-428605
17. Kimbrough, S., "Determining the Relative Likelihoods of Competing Scenarios of Events Leading to an Accident", SAE 2004-01-1222
18. Kimbrough, S., "Engineering Techniques for the Forensic Analysis of Visibility Conditions", IMECE2004-60345
19. Kimbrough, S., "Analysis of Common Accident Reconstruction Operations", IMECE2005-80438

#### INDUSTRIAL RESEARCH REPORTS:

1. Kimbrough, S., State-Space Analysis of Building Thermal Characteristics. 1978 IBM Internal Paper
2. Kimbrough, S., An Efficient Algorithm for Minimizing the Combined Heating, Cooling, and Lighting Cost. 1978 IBM Internal Paper
3. Kimbrough, S. and Chalasani R., "Control Strategies for 4-Wheel-Steer", 1987 General Motors Internal Research Paper
4. Kimbrough, S., "Nonlinear Strategies for Traction Control", 1987 General Motors Internal Research Paper
5. Kimbrough, S., "A Traction Control Algorithm Applicable to Partial Effort Braking and Accelerating", 1988 General Motors Internal Research Paper
6. Kimbrough, S., and Hoying, J., "Hydraulic Engine Mount Analysis", 1988 General Motors Internal Research Paper
7. Kimbrough, S. "A Comparison of the Performance of 5 Magnetic Brake Retarders", 1992 Report to Klam America Corporation.
8. Kimbrough, S., "Final Report on the Brake Research Project", 1992 report to Ford Motor Company.

9. Kimbrough, S., "A Technical Study Report on the Application of an Advanced Brake Controller on a Tanker Truck", 1993 Report to VSE corp.
10. Elwell, S., and Kimbrough, S., "A Technical Study Report on the Application of an Advanced Steering Controller on a Tanker Truck", a 1993 Report to VSE corp.
11. Kimbrough, S., "Final Report on 2ND Phase of Brake Research Project", 1994 Report to Ford.
12. Thomas, Tong, and Kimbrough, "An Investigation of the Roll Stability and Handling performance of an Oshkosh T-3000 Truck" National Research Council of Canada CSTT-HWV-CTR-027

JOURNAL PUBLICATIONS:

1. Kimbrough, S., Regulators for Bilinear Systems. 1984 Ph.D. Dissertation, UCLA
2. Kimbrough, S., " Nonlinear Regulators for a Class of Decomposable Systems", ASME J. of Dynamic System Measurement and Control, June 1987
3. Kimbrough, S., "Stability Enhancement and Traction Control of Ground Vehicles", International Journal of System Science, 1990, Vol. 21, No. 6, pp 1105-1119
4. Kimbrough, S., Elwell, M., and Chiu, C., "Braking Controllers and Steering Controllers for Combination Vehicles", Heavy Vehicle Systems, Series B., International Journal of Vehicle Design, Vol. 1, No. 2
5. Kimbrough, S., "A Steering Trailer: Design Aspects and Experimental Results" Heavy Vehicle Systems, Series B., International Journal of Vehicle Design, Vol. 1, No. 3
6. Kimbrough, S., "A Computer Investigation of the Performance Potential of an Advanced Brake Controller", 1995 SAE Transactions

PATENTS:

1. Kimbrough, S., and Hallman, S., "Four Wheel Steering System with Closed-Loop Feedback and Open-Loop Feedforward", Patent Number 4842089, Issued 6/27/89
2. Kimbrough, S., and Hallman, S., "Closed-Loop Four Wheel Steering System Having Dual Response Rate Rear Steering", Patent Number 4828061, Issued 5/9/89
3. Kimbrough, S., and Vincent S., " A Hitch Angle Sensor", Patent Number 5558350, Issued 9/24/96
4. Kimbrough, S. and Chiu, C., " An Automatic Steering System for Trailers", Patent Number 5579228, Issued 11/26/96
5. Kimbrough, S., Henderson, R., and Smiltneek, L., "Electromagnetic Retarder Control Apparatus and Method", Patent Number 5,743,599, Issued 4/28/98
6. Kimbrough, S., "Wheelslip Regulating Brake Control", Patent Number 6,292,735, Issued 9/18/2001
7. Kimbrough, S., "Method of Calculating Optimal Wheel-slips For Brake Controller", Patent Number 6,370,467, Issued 4/9/2002

**Depositions and Court Appearances**  
Scott Kimbrough

**Depositions:**

Staples v. Union Pacific Railroad; 12/4/90; Hired by plaintiff attorney D. Querin; District Court of 6<sup>th</sup> Judicial District of State of Idaho, Register # 40765-B; Testified about vibration levels in locomotives.

Freeman v. Allied Van: circa 1991; Hired by defense attorney John Fitzsimmons; Bakersfield California; Testified that tractor trailer did not create excessive wind blast because it was speeding.

Wilhelm v. Agency Rent-a-Car; circa 1992; Hired by plaintiff attorney J. Vilos; Third Judicial District Court, State of Utah, Civil No. 900907387PI; Testified that tow vehicle/trailer combination was unsafe for application.

Sammeck v. American Honda; 9/16/93; Hired by plaintiff expert Mark Ezra who was working for plaintiff attorney H. Tipler; U.S. District Court Middle District of Alabama North Division; case # CV-91-D-01071-N; Testified about test procedures used to test Honda Goldwing.

Rex A. Poe v. American Honda; 11/16/94; called into case as neutral party to testify about test procedures used to test Honda Goldwing; U.S. District Court Eastern District of Arkansas; case # LR-C-93-306 .

Brice v. Lamont Banner dba Seafari; 1/18/96; Hired by defense attorney F. Biesinger; The 6<sup>th</sup> Judicial District Court in and for Wayne County, State of Utah; case # 91-1-1262-3CV; Testified about stability properties of tow-vehicle/trailer combinations.

Mack, et al, v. Lincoln County Wyoming and Kistler Tent & Awning; 3/12/96; Hired by defense attorney M. Mullikin; The State of Wyoming, County of Lincoln in the District Court, Third Judicial District; civil # 9300; testified about tent construction procedures used by Kistler Tent.

Dennis Dayton v. Dee Dayton dba Dayton Construction Co.; 3/27/96; Hired by plaintiff attorney M. Larsen; The 2<sup>nd</sup> Judicial District Court of Weber County, State of Utah; civil # 930900313; testified as to dangerous condition of dump truck which rolled over.

Jess Martin vs. Roadmaster Corporation; 5/3/96; Hired by plaintiff attorney Charles Weller; The second Judicial District Court of the State of Nevada; Case No CV94-08166; testified that a weight bench had a design defect.

Palmer v. Hi-Ball; 7/24/96; Hired by defense attorney M. Mullikin; United States District Court for the District of Wyoming; Case No. 95CV285J; testified about road conditions at accident site.

Bustamante v. Haemonetics; 8/23/96; Hired by plaintiff attorney Gary Friedman; Testified that Cell Saver blood cell processing machine presented foreseeable risk.

Iacobellis vs. Kafesjian; 9/12/96; Hired by plaintiff attorney Ralph Tate; Third District Court of Salt Lake County, State of Utah, Case No. 960900803; Testified that it was more probable that car precipitated accident rather than motorcycle

Idaho Power Company vs. Keith Conner and Gregory Albert Lierman; Hired by defense attorney Leon Smith; In the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Gooding; Case No CV 96-00136; Testified that transformer was in weakened state and failed.

Hill v. Segal; 6/16/97; Hired by plaintiff Attorney Paul Knight; Teton County District Court, Ninth Judicial District; Civil Case No. 9699; Presented structural analysis of motel.

Garret v. Trench Shoring Services; 6/27/97; Hired by plaintiff attorney Robert Lunnen; Third Judicial District Court of Salt Lake County, State of Utah; Case No. 950908053; Testified that lifting eye was defective.

Altenau vs. Motor Cargo; 9/30/97; Hired by defense attorney Sherwin Wittman; United States District Court, District of Nevada; Case No. CV-N-97-00083-ECR; Testified that visibility was poor and injury was severe.

Racine vs. Hawkeye Security; 9/15/98; Hired by defense attorney Robert Vermillion; Montana Eighth Judicial District Court; Cause No. CDV-97-871; Testified that driver was not impaired.

Goe vs. Sanders Brine Shrimp et al; 9/18/98; Hired by plaintiff attorney Sam Gaufin; United States District Court, District of Utah, Central Division; Civil No. 1:97CV 0065B; Testified that rotary drum dryers infringed patent.

Mulligan vs Katz; 9/22/98; Hired by plaintiff attorney Scott Domer; District Court Clark County Nevada; Case A 361455; Testified that car pulled in front of motorcycle.

Knight et al vs. Wills Trucking and Gibbons and Reed; 12/22/98; Hired by defense attorney Ted Kanell; 3<sup>rd</sup> Judicial District Court, Salt Lake County, State of Utah; Civil No. 970902689PI; Testified that mobile sign was behind traffic barrels.

Moss et al vs. Guseff; 9/23/98; Hired by defense attorney Philip Goodhart; District Court, Clark County, State of Nevada; Case No. A355702; Testified that truck speed was 46 to 50 MPH.

Avelar vs. CMI; 4/20/99; Hired by plaintiff attorney Doug Durban; District Court, District of Utah, Northern Division; Case No. 1:98CV1; Testified that instruction manual was inadequate and the hazard could have been eliminated.

Saiz and Saiz v. Bish Jenkins and Sons et al; 8/27/99; Hired by plaintiff attorney James Spinner; District Court of Idaho; Case No. CVPI 98-562; Testified that seat was inadequate to support and protect passengers in boat.

Rees v. K Mart; 9/20/99; Hired by defense attorney Susan Sherrod; District Court Clark County Nevada; Case No. A344830; Testified that opposing expert improperly measured slip resistance of floor.

Lasco vs. Rowe; 1/20/2000; Hired by defense attorney James Holman; District Court (7<sup>th</sup>) State of Idaho; Case No. CV-97-6512; Testified that plaintiff would not have hit windshield if she was wearing a seat belt.

Munns vs. Swift Transportation et al; 2/4/2000; Hired by plaintiff attorney Robin Dunn; District Court (7<sup>th</sup>) State of Idaho; Case No. CV 98-5627; Testified that vehicle speed was in neighborhood of 60 MPH.

Burgess vs. Schultz; 3/2/2000; Hired by defense attorney Fredrick Harrison; District Court (3<sup>rd</sup>) of Wyoming; Case No. CV TA 97-394; Testified that plaintiff chose to leave pathway.

Sato vs. Lamb; 2/21/2000; Hired by defense attorney Thomas Lyons; District Court (6<sup>th</sup>) State of Idaho; Case No. CVPI-99-00029A; Testified to the change in velocity experienced in a collision.

Gori vs. Lamonica's ; 4/20/2000; Hired by defense attorney Steve Morgan; Weber District Court of Utah; Case No. 960900428; Testified that Lamonica's was acting in subordinate position to Pizza Hut.

Nemes vs. M.S. Concrete; 5/2/2000; Hired by defense attorney Martina Vero; District Court Clark County Nevada; Case No. A371068; Testified to speeds of vehicles at impact and the probability of signal light malfunction.



Selley vs. U.S. Energy; 6/29/00; Hired by defense attorney Richard Day; District Court of Fremont County, Wyoming 9<sup>th</sup> Judicial District; Case No. CV 30869; Testified about building code compliance issues regarding a structure that burned down.

Stanga vs. Salt lake City; 7/13/2000; Hired by defense attorney Robert Wallace; 3<sup>rd</sup> Judicial District, County of Salt Lake, State of Utah; Case No. 980913001; Testified regarding the safety of a curb at a location where a lady fell.

Townsend vs. Stever, etal; 9/7/2000; Hired by plaintiff attorney Steve Nichols; Superior Court of California for Los Angeles; Case No. BC 210055; Testified regarding who precipitated a head-on collision.

Feddersen vs. Sun Power; 9/19/2000; Hired by plaintiff attorney Fredrick Harrison; Wyoming District Court, 6<sup>th</sup> Judicial District; Case No. 22096; Testified regarding need for warnings on automatic gate.

Everett vs. Harts Gas & Food; 9/20/2000; Hired by defense attorney Baird Morgan; Utah District Court, 7<sup>th</sup> District; Case No. 990700044; Testified regarding slip resistance of floor.

Nittoli vs. Prestige Stations; 9/21/2000; Hired by defense attorney Robert McBride; Nevada District Court, Clark County; Case No. A369494; Testified regarding injury potential of cigarette tray.

Gray vs. Great Southern Express; 10/30/00; Hired by defense attorney Marvin Tyler; U.S. District Court for District of Wyoming; C.V. No. 00-CV-0088-D; Testified that opposing truck was across center line.

Bailie vs. Schorling; 12/28/2000; Hired by plaintiff attorney Steve Nichols; Superior Court, State of California, County of Kern; No. 234753-RA; Testified that based upon eye-witness testimony the defendant ran the red light.

Jones vs. Snow and Nichols; 2/14/01; Hired by defense attorney Clinton Casey; District Court of Idaho, Ada County; No. CV PI 0000028D; Testified that there was uncertainty over location where vehicle began to turn.

Ramirez vs. Chicago Automatic Door; 4/23/01; Hired by defense attorney Martina Jaccarino; District Court, Clark County, Nevada; Case No. A 381447; Testified that automatic door had been altered by intervening parties.

Lucero vs. Cannon et. al. ; 5/9/01; Hired by plaintiff attorney William Rawlings; 3<sup>rd</sup> District Court, Salt Lake County, State of Utah; Civil No. 000903392; Testified that if the parking lot lights had been on the probability of the accident would have been reduced.

Church vs. Jessop et al; 10/24/01; Hired by plaintiff attorney Tracy Mendola; District Court, Las Vegas Nevada; Civil No. A388441; Testified that truck violated right of way of plaintiff.

Rocha vs. Bridgestone/Firestone; 11/1/01; Hired by plaintiff attorney Tracy Mendola; District Court, Clark County Nevada; Civil No. A408483; Testified that tire failure precipitated accident.

Degen et al vs. Clark & Sons Trucking et al; 1/9/02; Hired by defense attorney Douglas Balfour; 5<sup>th</sup> District State of Idaho; CV-00-00730; Testified that car pulled in front of semi-truck.

Laughlin vs. Angel; 2/14/02; Hired by defense attorney William Mattix; 14<sup>th</sup> District Court, State of Montana; CV 99-55; Testified that tow truck created hazard.

Spauling vs. Rutstein; 2/18/02; Hired by defense attorney Marvin Tyler; 3<sup>rd</sup> District Court, Wyoming; C-00-424; Testified that opposing expert improperly ruled out scenario proffered by defendant.

Hofland vs. Evans Construction; 5/10/02; Hired by defense attorney Joe Minnoc; District Court of Teton County Wyoming; Case No. 11818; Testified that hydraulic brake system was functional.

Rightman vs. Crystal Clear; 6/6/02; Hired by defense attorney George Ranalli; District Court, Clark County Nevada; Case No. A435093; Testified that tonneau cover was defective.

Bodirsky vs. Artman; 8/13/02; Hired by plaintiff attorney Steve Nichols; Superior Court of California, Kern County; No. 243293; Testified that truck passed by close to fog line.

Barton vs. Ford; 11/27/02; Hired by plaintiff attorney Frank Falk; 3<sup>rd</sup> Judicial District Court Salt Lake County, Utah; No. 010900529; Testified that fire started in fuse box of truck.

Huff vs. Shumate; 1/17/03; Hired by plaintiff attorney Peter Young; US District Court for the District of Wyoming; No. 02-CV-1047D; Testified that the driver did not react in an unreasonable way.

Garcia vs. Southwest Coil Steel; 1/24/03; Hired by defense attorney Tom Sandenaw; State of New Mexico 3<sup>rd</sup> Judicial District Court; CV-2001-1142; Testified that crane operating practices were compliant with OSHA regulations.

Collins vs. Dixon; 1/31/03; Hired by Plaintiff attorney Daniel Simon; 5<sup>th</sup> Judicial District Court for Washington County, Utah; No. 000500291; Testified that van precipitated accident with motorcycle.

Ripley vs. Sunnyside; 2/5/03; Hired by defense attorney Mitch Rice; 7<sup>th</sup> Judicial District Court for Carbon County, Utah; No. 000700772; Testified that powerplant had adequate safety program.

Hansen vs. Garriot; 2/6/03; Hired by plaintiff attorney Peter Young; 5<sup>th</sup> District Court, State of Wyoming; No. 22035; Testified that driver towing trailer was negligent.

Johnson vs. New Holland; 9/16/03; Hired by plaintiff attorney Sherwin Wittman; District Court of Colorado; No. 02-WM-1457 (CBS); Testified that skid-steer loader was unreasonably dangerous.

Starly vs. Cornhusker, et. al.; 1/5/04 and 1/14/04; Hired by defense attorney Steve Owens; District Court of Utah for Salt Lake County; Case No. 020907021 PI; Testified that Starely hit back of Chavez semi.

Drew v. Western Construction Components; 3/5/04; Hired by Plaintiff Attorney Don Lojeck; Case Idaho No. CV PI 0200465D; Testified that there was no evidence that the trailer was overloaded or being misused when it failed.

Carbrera v. Clark; 4/2/04; Hired by defense attorney Michael Mills; Case Nevada No. A457024; Testified that struck vehicle must have pulled to the left and slowed down before impact.

Cross v. General Motors; Hired by plaintiff attorney Ron Adkinson; Case No. 2-03CV-317; District Court, Eastern District of Texas, Marshall Division; Testified that failure of airbag to deploy caused fatality and that airbag design was defective.

Murray v. Caterpillar et al.; Hired by defense attorney John Gormley; Case No. A436691; District Court Clark County Nevada; Testified that filter system was adequate to protect seat hydraulic system from disabling contamination.

Larsen vs. Riverton Music et al.; Hired by defense attorney Cory Memmott; Case No. 20021800151; District Court Utah County Utah; Testified that there were alternate explanations for why a truck veered across traffic lanes after impacting another a car.

USAA vs. Caldera Spas et al.; Hired by plaintiff attorney Richard Briski; Case No. DV-03-421, Montana 18<sup>th</sup> Judicial Dist. Court; Testified that cause of fire was either spa motor or receptacle.



Utah Local Government Trust vs. Wheel Machinery; Hired by defense attorney Joseph Rust; Case No. 030501330; The 5<sup>th</sup> Judicial District of Utah; Testified that Wheeler was only a supplier.

Edizone vs Cloud Nine; Hired by defense attorney Ted Kanell; Case No. 1:04CV00117 TS; US District Court, Utah; Testified that Cloud 9 formula was prior art.

Travelers v. Snow Electric; Hired by defense attorney Robert Thompson; Case No. 020501864; Washington County District Court, State of Utah; Testified about vibration measurements taken during investigation.

Raslich v. McGinness et al.; Hired by defense attorney Michael Mills; Case No A451365; Clark County Nevada District Court; Testified that there was no proof that the van driver reacted in an impaired manner.

USAA v. Allied Precision; Hired by plaintiff attorney Ralph Tate; Case No. 040907977; Third Judicial District Court Utah, Salt Lake County; Testified that bucket heater was probable cause of fire.

Ignacio Garcia v. Paramount Citrus; Hired by plaintiff attorney Todd Gall; Case No. 03 CECG 02782; Superior Court for California, County of Fresno; Testified about reconstruction of accident in orchard.

Anderson v. State Farm; Hired by defence attorney Paul Belnap; Case No. 990906757; 3<sup>rd</sup> Judicial Court, Salt Lake County, State of Utah; Testified that there was no evidence to support a claim that vehicle struck motorcycle.

Lunelli v. Hayden; Hired by plaintiff attorney Spencer Siebers; Case No. 020700297; 7<sup>th</sup> District Court, Carbon County, State of Utah; Testified about time distance aspects of accident.

Sharp v. Icon; Hired by plaintiff attorney Lynn Heward; Civil Number 050601842; 2<sup>nd</sup> District Court, State of Utah; Testified about cause of failure of treadmill.

Crawford and Montoya v. Sullivan et al.; 9/12/06; Hired by plaintiff attorney Fred Harrison; Civil No. 82708 7<sup>th</sup> District Court of the State of Wyoming, Natrona County; Testified that truck driver was inattentive.

**Court Appearances:**

Jacobson v. Poulsen Construction; 8/28/91; Defense witness; In the Third Judicial Court in and for Salt Lake County, State of Utah; Testified about acceleration levels experience when hitting a pothole.

King v. Salt Lake Airport Authority; 5/17/94; Plaintiff witness; Testified as to defect in automatic door sensor system.

Salazar v. ; 11/21/95; Appearance before Industrial Commission; Testified that tire was worn out when it suffered blow-out.

State of Utah v. Jason Pearson; 6/29/95; Defense witness; Testified as to accuracy of shooting from moving vehicle.

Iacobellis vs. Kafesjian; 6/5/97; Plaintiff witness; Third District Court of Salt Lake County, State of Utah, Case No. 960900803; Testified that car precipitated accident rather than motorcycle.

Garret vs Trench Shoring; 9/24/98; Plaintiff witness; Third District Court of Salt Lake County, State of Utah; Civil No. 950908053; Testified that lifting eye was defective.

Stringer v. Pioneer Pipe et al; 9/16/99; Defense witness; Colorado; Testified that overhanging pipe did not cause accident.

Rees v. K Mart; 10/6/99; Defense witness; District Court Clark County Nevada; Case No. A344830; Testified that opposing expert improperly measured slip resistance of floor.

Munns vs. Swift Transport; 4/27/2000; Hired by Plaintiff attorney Robin Dunn; District Court (7<sup>th</sup>) State of Idaho; Case No. CV 98-5627; Testified that police measurements were in error and could not be used to estimate vehicle speeds.

Harmon vs. Harmon; 11/28/00; Hired by plaintiff attorney David Cannon; District Court (6<sup>th</sup>) State of Idaho; Case No. CVPI-00-00020C; Testified that a ladder and its usage were unreasonably dangerous.

Bedeger vs. Allstate; 3/28/01; Hired by defense attorney Lloyd Hardcastle; Mediation Conference 81 134 00028 01; Testified regarding visibility conditions at accident site at night.

Newhall vs. Burt Bros.; 6/29/01; Hired by defense attorney Trystan Smith; 3<sup>rd</sup> District Court, Salt Lake County, Utah; Civil No. 000910586; Testified regarding engine repair.

Bonds vs. Carter; 8/8/01; Hired by defense attorney Martina Jaccarino; District Court, Clark County Nevada; Binding Arbitration Hearing; Case No. A401946; Testified regarding appropriate speed.

Singer vs. NY/NY Casino; 9/17/02; Hired by Plaintiff attorney Devera Petak; US District Court for Nevada; Case No. CV-S-99-0717-JBR-RLH; Testified that it was negligent to have a loose hand-grip in the spa.

Fabela vs. U-Haul; 2/29/03; Hired by defense attorney John Tuffnell; Iowa District Court for Polk County; Case No. CL87464; Testified that brakes on truck were adequately maintained.

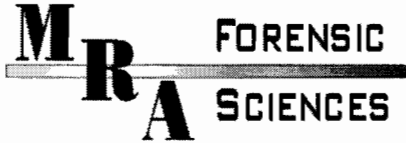
Angela Wong-Kurtz vs. Jeffery Allen Eastes, et. al.; 10/23/03; Hired by defence attorney Christopher Moore; Nevada District Court for Eureka County; Case No. 3543; Testified that semitruck had duty to stop in dust storm.

Hoopes vs. State of Idaho; 11/25/03; Hired by defense attorney Joel Tingey; Idaho District Court for Fremont County; Case No. CV-02-475; Testified that semitruck driver locked brakes of semi and lost ability to steer.

Bear River v. Crete; 8/19/05; Mediation Conference; Hired by defense attorney Cory Memmott; The Third District Court of Salt Lake County, State of Utah; Case No. 020907090; Testified to speeds and positions of vehicles preceeding impact.

Garcia v. Paramount; 1/8/06; Hired by plaintiff attorney Tom Brill; Superior Court of the State of California, County of Kern, Case No. 248679-SPC; Testified to the speed of the vehicles involved and to the visibility conditions existing at the time of the accident. Also testified about Human Factors.

Lunelli v. Hayden; 6/13/06; Hired by plaintiff attorney Fred Silvester; 7<sup>th</sup> District Court for Carbon County, Utah, Case No. 020700297; Testified to time/distance aspects of accident.



**FEE SCHEDULE and POLICIES**

As of January 1, 2007

	<u>Non-testifying activities</u>	<u>Depositions &amp; other testimonies</u>
E. Paul France, Ph.D., B.C.F.E.	\$200.00 per hour	\$250.00 per hour
Scott Kimbrough, Ph.D., P.E.	\$185.00 per hour	\$250.00 per hour
Matthew D. Mecham, M.S., P.E.	\$175.00 per hour	\$250.00 per hour
Larry Smiltneek, M.S., P.E.	\$150.00 per hour	\$200.00 per hour
Jamie Maddux	\$140.00 per hour	\$180.00 per hour
John A. Droge, M.S.	\$120.00 per hour	\$160.00 per hour

The non-testifying rate is for the following services: case work up, testing, reconstruction, analysis, meetings and travel time.

**Case Set-up Fee:** Applies to cases that are sent without materials necessary to accomplish assignment. \$250.00. NON-REFUNDABLE six months after date received. If work begins prior to the six month date, the fee will be applied to work accomplished.

**Retainer: NON-REFUNDABLE.** We do not consider ourselves retained until the payment is received. Retainers are required of new clients with no payment history or existing clients with poor payment histories.

**Automobile Fees:** Mileage will be charged for any travel in reference to the case at **.60 cents per mile.**

**Travel Fees (if applicable):** Airfare, Hotel, Meals & Mileage, etc.

**Cancellation Policy:** [scheduling/reserving a date for TRIAL or DEPOSITION Testimony]

Extended Travel: Cancellations less than **6 Days** before scheduled travel date **\$250.00 plus** incurred hours & expenses.

Local: Cancellations less than **6 Days** before scheduled trial or depo date **\$125.00 plus** incurred hours & expenses.

A **service charge of 1½% per month** is charged on the unpaid balance of **all** accounts that are **30 days** or older. Statements are sent on a monthly basis.

We would like to avoid any unnecessary costs, as would you, so if there are any changes in the status of the TRIAL, ARBITRATION or DEPOSITION, please notify us as soon as possible. If you have any questions, regarding this letter, please call.

**TAX ID #: 87-0431453, for corporate name: Motion Research Associates, Inc.**

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