Improper Passing

Assignment

You asked Texas Claims & Consulting Company to conduct a full auto accident reconstruction analysis regarding the collision involving Mr. Smith and Mr. Jones, on or about December 22, 2003, in or near San Benito, Texas.

Additionally, you asked that we prepare an expert report of our findings, opinions and conclusions based on the information provided and our activity. Please note that any new data may, or may not, affect our final conclusions.

Discussion

Material Provided For Review

The following material was provided for our review,

1. Plaintiff's First Amended Petition
2. The San Benito Police Department Official Report dated December 22, 2003
3. Twelve (12) color copies of photographs of the accident site
4. Ten color copies of photographs of the plaintiff's vehicle and repair and/or appraisal documents.
5. A repair estimate on the defendant's vehicle
6. Valley Baptist Medical Center's records on Mr. Smith
7. The Deposition of Mr. Jones
8. The Deposition of Mr. Smith
9. The Deposition of Mr. Jones' Father
10. The Deposition of Mr. Jones' Mother

Brief Historical Review

This is a high speed, injury producing, car/pickup truck accident that occurred on or about December 22 at or near the intersection of the 2500 block of the East Expressway 83 frontage road and Lime M road, in or near San Benito, Texas.

The expressway feeder road is a curved, two-way roadway, with one lane in each direction. The speed limit is 35 miles per hour.

Unit # 1 was a 1968 blue Ford Mustang driven by Mr. Smith. He was proceeding westbound on the expressway feeder road. He was also following behind another vehicle. Mr. Smith testified that he was exceeding the 35 mph speed limit at the time of the accident. He testified to a speed of from 40 to 55 mph, but our calculations indicated his forward speed was from 57 to 70 mph. In either case he was exceeding the posted speed limit and excessive speed is an issue in how this accident occurred.

Unit # 2 was a 1996 White Ford F-350, super heavy duty, pickup truck driven by Mr. Jones. He was northbound on Line M road approaching its intersection with the expressway feeder. Our calculations indicated his forward speed at impact was about 11 miles per hour.

Mr. Jones testified he stopped at the stop sign, saw no approaching vehicles, and began to turn right. Sometime before, or just as, he completed his turn he was struck on the left front by Mr. Smith.

Mr. Smith testified he changed lanes from his lane into the oncoming traffic lane to pass a slower moving vehicle when the accident occurred.

The damage to the Mustang was from the center of the car to the left side and in the same place on the pickup truck. The Mustang photos confirm the damage location. There are no photos of the pickup truck. However, the damage model on the pickup truck was based on the testimony and the damage estimate.

Field Activity

We conducted a full accident reconstruction analysis of the accident site on January 14th. At that time the following activity was conducted,

1. An overall assessment of the accident site, construction area and roadway curve.
2. Appropriate photographs of the accident site
3. Detailed measurements for future scale diagrams
4. Appropriate photographs of the plaintiff's vehicle

Office Analysis

Our office analysis included the following,

1. A review of the police report
2. A review of the photographs provided and obtained
3. A review of the depositions provided
4. Speed/Time/Distance mathematical analysis
5. Preparation of scale diagrams
6. Preparation of crash diagrams
7. Research on each vehicle to determine basic characteristics
8. A review of the medical documents
9. A review of the tape recording of a witness
10. Preparation of this expert report

Important Police Report Data

Date of loss:	December 22nd
Time of Loss:	1448 P.M.
Location:	2500 E. Expressway 83 Frontage Road at Line M Road
Road Construction:	Yes
Frontage Road Lanes:	1 lane in each direction
Traffic Control Devices:	Stop Sign and Roadway Markings
Speed Limits;	35 mph or 51.33 ft./sec on Frontage Road 30 mph or 43.99 ft./sec on Line M Road
Light Condition:	Daylight
Weather:	Clear
Surface Condition:	Dry
Surface Type:	Blacktop (Bituminous Concrete)
Unit # 1:	1968 Blue Ford Mustang
Unit # 2:	1996 White Ford F-350 Super Duty Pickup
Passengers:	None reported in either vehicle
Factors & Conditions:	Investigating Officer indicated in his opinion Unit # 1 (Smith) failed to pass to the left safely.

Results of Mathematical Calculations

All of our mathematical calculations were completed using accepted scientific formulae, including but not limited to, Northwestern University Traffic Institute's *Basic Motion Equations.* Our primary reference texts are Traffic Collision Investigation and Traffic Accident Reconstruction by Kenneth Baker and Lynne Fricke respectively. Northwestern University Traffic Institute publishes both manuals.

1. Mr. Jones traveled 39 feet from the stop sign to the point of impact
2. Mr. Jones' ending velocity (Ve) was 11 mph
3. Mr. Jones' drive time to impact was 4.8 seconds

4. Mr. Jones' stopped clear time was 1.5 seconds
5. The total accident time is 6.3 seconds
6. Mr. Smith's time to skid 80 feet was 1.10 seconds
7. Mr. Smith's speed at impact, after skidding 80 feet, was 42 mph based on speed from crush assuming 50% of the Maximum Indentation.
8. Mr. Smith's speed at impact, after skidding 80 feet, was 70 mph based on speed from crush assuming 100% of the maximum indentation
9. Mr. Smith's speed, prior to skidding 80 feet, was from 57 mph to 70 mph depending on the crush percentage considered.
10. Mr. Smith's distance to make a normal lane change is 298 feet
11. Mr. Smith's time to make a normal lane change is 3.5 seconds
12. Mr. Smith was about 500 feet from impact when he started to change lanes
13. At 6.3 seconds to impact Mr. Smith had not started to changed lanes

Transportation Code

The Transportation Codes applicable for this accident include, but may not be limited to,

1. 545.056 Driving to Left of Center of Roadway
2. 545.060 Driving on a Roadway Laned for Traffic

Roadway Markings

In this case a broken yellow line is seen in the immediate crash area.

By definition, a normal broken yellow line is used to delineate the edge of a travel path where travel is permitted in the same direction on both sides of the line. A frequent application is a centerline of a two-lane, two-way roadway where overtaking and passing is permitted.[1]

Opinions

My expert opinion is based on the material provided to date, our field investigation, office review and analysis and my training, knowledge and over 34 years experience in accident investigation, analysis and reconstruction that Mr. Smith's negligence for failure to pass on the left safely is the primary proximate cause for this collision. Additionally, Mr. Smith's negligence for excessive speed for conditions and improper forward lookout must be considered as major contributing factors.

It is also my opinion that Mr. Carlos De Leon's actions did not contribute to the cause of the accident.

[1] Manual on Uniform Traffic Control Devices, 3A-7, 3

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Thank you for this very interesting assignment. Please call if I can be of further service.

Respectfully submitted,
Texas Claims & Consulting Co.

Ted Marules, Sr.
President & CEO
Accident Reconstruction Expert