

Appendix D

Transcripts Using the Drivers Manual and Rules of the Road Method

Previously in this book, we talked about using rules and standards with defense witnesses. Here are some transcripts that Robyn L. Wishart, an Advanced Deposition College faculty member, sent to us. In these transcripts, she is using the defendant to establish the rules in a car versus pedestrian case and a failure to yield the right of way auto collision case. Note how she makes multiple references to the driver's manual and test that the driver needed to pass. She also is taking many of her questions directly from the manual itself. This is an especially effective technique when you have the manual with you at the deposition and can have the defendant identify the manual and read the rules right out of it. We have examples from two different attorneys with slightly different approaches. The first two are from Robyn, the last is from Phillip.

See the Video

- **Mousetrap Driver Manual Wet Road**
- **Driver Manual**

Example: Pedestrian Car Collision Case

Here is an example from the pedestrian versus car collision:

Q Do you remember going to driver's ed?

A Yes.

Q Did you pass the written test the first time?

A Yes.

Q And would you agree with me that it's the obligation of a driver to look forward and see what is there to be seen while operating a motor vehicle?

A Yes.

Q And do you know why it's important to look forward and see what is there to be seen when you're operating a motor vehicle?

A For safety, everything around you.

Q And when you mean "safety," you mean—do you mean paying attention to things in your surroundings? Is that what you mean by that?

A Yes.

Q Would you agree with me that it's important to pay attention to your surroundings so that you can predict hazards that might happen?

A Yes.

Q And as a driver, the reason—would you agree with me that it's important to look at your surroundings, predict a hazard so that you have time to react? Is that fair to say?

A Yes.

Q If we don't react to the things we see as a driver, someone could unnecessarily be hurt. Can you agree—do you agree with me?

A I still don't really follow, like . . .

Q Okay. I'll try again. You would agree—would you agree with me that paying attention to the things in front of you can help you react to hazards while you're operating a motor vehicle?

A Yes.

Q And if you fail to see a hazard— Things on the roadway that can, can cause—it's in the driver's handbook, that when you're operating a motor vehicle, you have to keep your eyes open for other vehicles on the road; is that correct?

A I—it's been a long time since I read the handbook. I don't really remember, but that's the general idea, yes.

Q And when we operate a motor vehicle we keep our eyes open for pedestrians on the road. Is that fair to say?

A Yes.

Q And we want to keep space between our vehicle and other cars. Is that fair to say?

A Yes.

Q And we want to keep space between our vehicle and pedestrians. Is that fair to say?

A Yes.

Q So, we want to keep our vehicle away from pedestrians that are on the roadway?

A Yes.

Q And if you see a pedestrian on the roadway, you need to have time to stop your vehicle in order not to hit them. Is that fair to say?

A Yes.

Q So, to pass the written test you took the time to learn the rules of the road. Is that fair to say?

A Yes.

Q Do you remember how long you had your learner's license for before you took the road test?

A I don't remember exactly how long.

Q But you remember going to the Avanti Driving School to learn how to drive a car. Is that correct?

A Yes.

Example: Failure to Yield Case

Here is another example from the deposition of a defendant driver in a failure to yield the right of way case.

Q Okay. To qualify for a driver's license, were you required to write a knowledge test, a written test?

A Yes.

Q Do you remember that, as part of that knowledge test, you were required to properly identify road signs?

A Yes.

Q And to pass that knowledge test, do you remember you were required to know the rules of the road?

A Yes.

Q And to pass the knowledge test, you're required to know safe driving tips?

A Which was covered in the defense course, yeah.

Q And you passed the knowledge test, the written test, and the road test. Is that correct?

A Yes.

Q Would it be fair to say that it is a rule that you must take care when you're driving a car not to collide with a vehicle in front of you?

A Yes.

Q Would it be fair to say that coming from the position of east 5th Avenue, turning left onto Renfrew, you're required to yield to traffic on Renfrew?

A Yes.

Q Is it fair to say that making your left-hand turn from 5th onto Renfrew that you have to wait for a safe gap before making that left turn?

A Yes.

Q Would it be fair to say that the requirement to yield to traffic and to wait for a safe gap before making a left turn is an important rule to ensure accidents don't occur?

A Yes.

Example: Turning Left Across Traffic

One of the things we have learned, and discussed earlier, is that it is far easier to control a witness with a document than it is with just questions alone. Phillip's technique generally involves copying appropriate pages from the driver's handbook, circling or highlighting text, asking the witness to read the text, and then using the mousetrap or some variation of follow-up questions. It is very difficult for any witness to disagree with the text of a state driver's manual once they have read it into the record. Here is an example.

Q I am handing you a page out of the Tennessee Driver Handbook, and I've circled some text in the upper left hand corner. Can you read that for me?

A When turning left, you must wait for oncoming traffic that is going straight ahead or turning right.

Q Do you agree with that?

A Yes, sir.

Q No question about it.

A No, sir.

Q Do you expect other drivers to follow that rule?

A Yes.

Q Why is it important?

A Because someone could get in a wreck.