

FOR FREDERICK COUNTY
COURT HOUSE
FREDERICK, MARYLAND 21701

1 just like, um, the Plaintiff on 70 West, and, uh, there was
2 an accident. And if you decide that because there was an
3 accident that's Ms. Sapp's fault then you should find against
4 her. We hope that you look a little bit deeper into the
5 evidence, uh, consider a little bit more than what Counsel's
6 indicated to you, and really judge for yourself whether she
7 was negligent in the operation of her vehicle.

8 Now, um, Ms. Zois, at the very end of her opening
9 statement, uh, said that, you know, keep in mind that the
10 burden of proof is on her client. Well, it is on her client.
11 Um, Ms. Sapp does not have a burden of proof to show that she
12 was not negligent, nor, does she have the burden of proof to
13 show that she did not cause damages or injuries to Ms. Zois'
14 client. That burden of proof rests with Ms. Zois during the

1 preponderance of the evidence then those damages should not

2 be awarded to Mr. [redacted] client Mr. [redacted] Eugene Hessler

1

wet, she remembers sort of a foggy, misty thing on the road,

1 submit to that that just doesn't make sense

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 car darting around her, a dark color car darting around her.

2 She also observed a white truck, she also observed an 18-

1 Now, Ms. Sapp got this ticket, she got notice of
2 the hearing, went to Court and she said what you heard, or at
3 least parts of what you heard, but again, something that said
4 that was maybe cut off or, or not played for you was that
5 this all happened so quickly, and she didn't know what

1 to instruct you on the law of negligence. If that was the

1 what your verdict is, if she, if you feel that they have
2 carried their burden of proof and to you, to your
3 satisfaction then it would be appropriate for you to award
4 damages.

5 But the most important thing I can say about
6 damages is only those damages that this young lady sitting
7 over here caused are damages that you should award in this
8 case. This lady sitting over here is the Defendant in this
9 case, she's getting sued for a lot of money by the lady
10 sitting over here. They're both very nice people. One of
11

K COUNTY

1701



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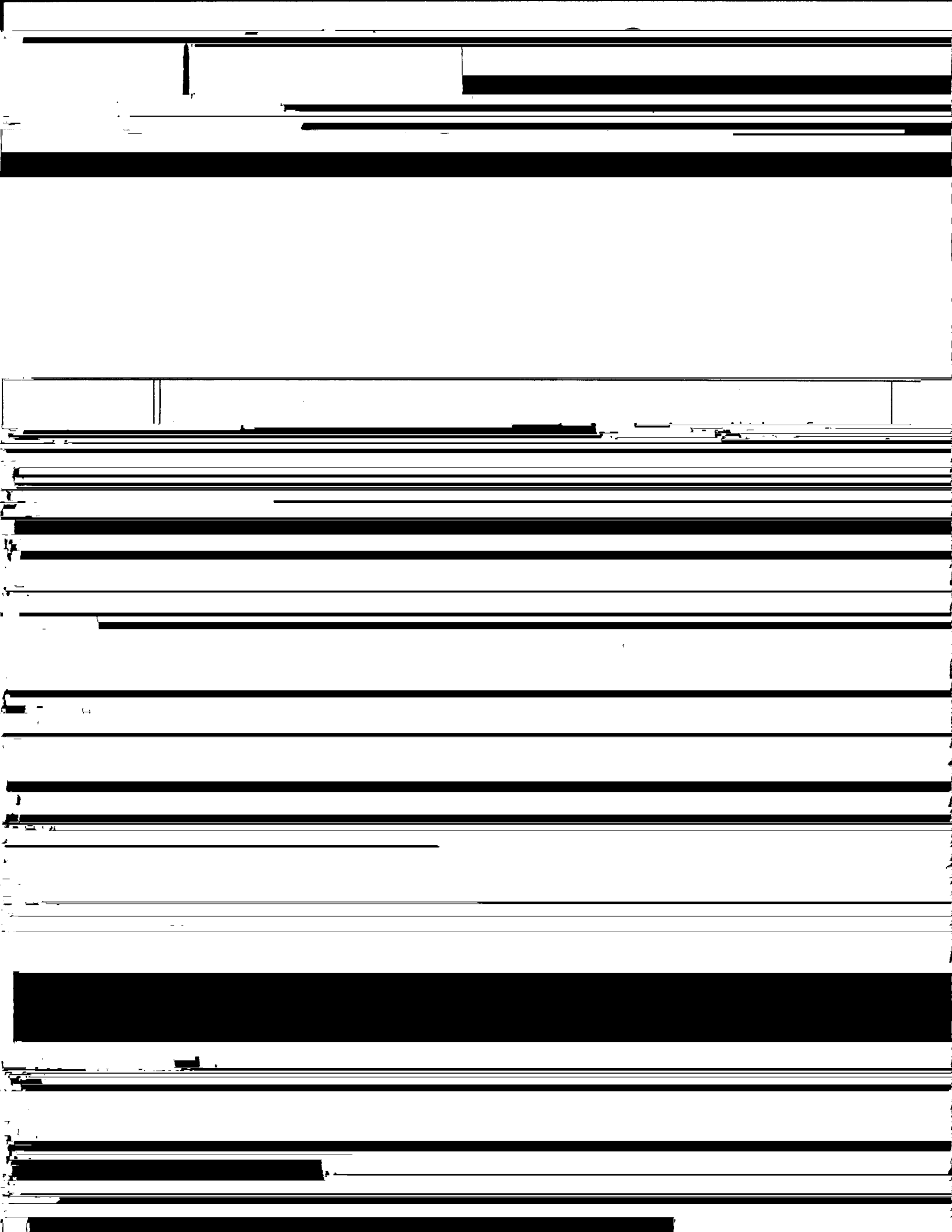
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1 accident, because she needed it, she was having ongoing low
2 back pain. So, yes, we don't have her having a neurosurgeon
3 tell her that she needs surgery in 2008, we don't have an
4 orthopedic spine specialist telling her that she's got a
5 herniated disc or anything like that. What we have though

1 center, uh, I think it was the next day, didn't mention
2 anything about her low back, there was no treatment to her
3 low back, there was no suggestion that she was having spasm
4



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 was going on with her. And, in fact, throughout the course

2 of her medical treatment, as Counsel acknowledged, she

1 that that was related to what Ms. Sapp had caused. Now,
2 they've now withdrawn, it's no longer something they're able
3 to prove, but at one point in this case it was, they were
4 attempting to prove that, that Ms. Sapp caused that as well.
5 That's by the wayside now, it's not going to be for your
6 consideration, but under oath the Plaintiff in this case did
7 make such a contention.

8 MS. ZOIS: Objection, Your Honor. May we approach?

9 THE COURT: Sure

10 (Counsel approached the bench and the following
11 occurred:)

12 (Husher turned on.)

13 MS. ZOIS: I let the carpal tunnel thing go until he
14 said under oath. Here's how the deposition went, and I can
15 pull up the transcript, and I'm pretty sure the other two
16 attorneys that were actually at the deposition will back me
17 up on this.

18 MR. GILLCRIST: I'm referring to the answers to
19 interrogatories they were in.

20 MS. ZOIS: Well, you just said deposition.

21 MR. GILLCRIST: No, I said under oath.

22 THE COURT: No, he said under oath.

23 MS. ZOIS: Okay, either way, in her deposition what we
24 said at the time, which was after the answers to
25 interrogatories were executed it was before expert