

## Entry 6 Porter Deposition

### DEPOSITION SUMMARY OF KELLY PORTER, ACCIDENT RECONSTRUCTION EXPERT

My name is Kelly Porter. I am a 45-year-old forensic accident reconstruction expert. I received my two-year AA degree at Modesto Junior College after high school. Upon graduation, I joined the Major State Patrol. After five years, I took a competitive examination and became eligible for specialized training as an accident reconstructionist on the patrol. I was sent to the Traffic Institute at Northwestern University for a six-month period, receiving my certification. I have been back several times since then for refresher courses at Northwestern.

After ten years working as an accident reconstruction expert for the State Patrol, I left and set up my own independent consulting firm. Most of my work comes from referrals either from lawyers representing plaintiffs injured in roadway accidents, or insurance companies or government risk management representatives defending claims. I don't keep an exact record of percentages, but currently it's about 60% for the plaintiff, 40% for the defense. In the early years after I left the State Patrol, most of my consultations came from attorneys representing various levels of government. Gradually, over time, I have done more and more plaintiffs' work.

I charge \$250 an hour for consultations involving record reviews, scene visits and writing preliminary reports. My billing rate for deposition or court testimony is \$350 per hour. I net at least \$200,000 per year from my forensic consulting business. When I left the State Patrol, my salary was \$55,000 per year.

I have reviewed all of the reports, photos, highway maintenance documents and other materials in this case. I also have inspected the vehicle involved in this rollover. I have the following opinions in this case:

1. The County's failure to post reduced speed signs and abrupt lane edge signs were significant factors in causing the accident. If such signs had been posted, the driver could have safely regained the roadway without loss of traction and control.
2. Terry O'Brien went off Pioneer Road due to the abrupt lane edge. It is evident looking at the photos that the right front tire dropped off due to this condition.
3. The shoulder of the road is hazardous on the side that Terry O'Brien went off. If O'Brien had not tried to steer back onto the road, there is no question that the vehicle would have rolled over on the right side. Either way, O'Brien was in a very dangerous situation, with hazard staying on that side of the road and hazard trying to get back on. This was a no win situation.

4. The posted speed on the day of the accident was 50 m.p.h. Had this been lowered, as it should have been, given the dangerous, abrupt edge drop off and the absence of a reasonable recovery area on the opposite side of the roadway, any vehicle going at a reduced speed would not have been nearly as seriously affected by the dramatic steering angle required to regain the roadway. Any reduction of speed below 50 m.p.h. increases a driver's chance of survival exponentially in this situation. On dry asphalt, such as the surface that Terry O'Brien was traveling on, any vehicle going 30 m.p.h. or less is highly unlikely to sideslip at all. The driver could have safely regained the roadway without loss of traction and control.
5. I am advised that the County has retained the services of an engineer who states that the design of the Suzuki was partly to blame for what happened. While I do not have an engineering degree, my training and experience in accident reconstruction allows me to render an opinion on this.
6. The typical rollover case due to poor design occurs when the driver makes an abrupt steering correction and the vehicle flips due to inadequate wheelbase, narrow track and high center of gravity. That isn't what happened here. Terry O'Brien was out of control on the narrow roadway due to the edge drop-off from the road construction. O'Brien had no opportunity to correct safely. The shoulders on this road were dismal. Even if this were a Mercedes Benz, it would likely have flipped over due to the steepness of the shoulder and the unevenness of the terrain. While I do not have the same engineering calculations as the defense expert to back me up on this, that is not necessary for me to give an opinion here. My training and experience as an accident reconstructionist, where I have to deal with fundamental physics kind of issues on a daily basis, leads me to conclude there is no good faith basis to blame the vehicle manufacturer here. I am aware that there is some litigation against the manufacturer concerning this particular model, but just the fact that there may be lawsuits does not mean that there is any validity to the claims.