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HONORABLE GLENNA S. HALL
Hearing Date: August 17, 2007
[With Oral Argument]

ORIGINAL

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MARIA C. FEDERICI, a single woman,

Plaintiff,

vs.

U-HAUL INTERNATIONAL, INC., a foreign
corporation; U-HAUL CO. OF
WASHINGTON, a Washington corporation;
CAPRON HOLDINGS, INC., d/b/a LAKE
HILLS TEXACO, a Washington corporation,
and JAMES HEFLEY and JANE DOE
HEFLEY, individually and the marital
community thereof,

Defendants.

NO. 06-2-11563-5 SEA

DECLARATION OF JOHN
HABBERSTAD, PH.D., P.S.

John Habberstad declares as follows:

1. I am a consulting engineer with a Ph.D. in engineering science from Washington State University. Since 1970, I have focused my consulting engineering services in the areas of accident reconstruction, vehicular design and handling. A copy of my curriculum vitae is attached hereto as Exhibit A. I have personal knowledge of and am competent to testify to the matters stated herein.

2. Attached hereto as Exhibit B is a copy of the "expert disclosure" pertaining to my opinions which was filed by U-Haul International, Inc. on April 16, 2007. At that time, one of

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1 the opinions disclosed was that Ms. Federici "...was either inattentive or following too close, or
2 both, when the entertainment center exited the trailer."

3 3. Incident to preparing this Declaration, I have reviewed the June 7, 2007
4 Declaration of Marc Firestone, Ph.D. wherein he states, *inter alia*, as follows:

5
6 Based upon my review of the records identified above, it is
7 my professional opinion that it is impossible for a reasonably
8 prudent accident reconstruction expert, applying the standard of
9 care and principles applicable to the profession, to reconstruct with
10 any reasonable scientific basis the circumstances of the accident in
11 which the entertainment center that exited from the U-Haul open
12 trailer towed by James Hefley collided with the Jeep Liberty driven
13 by Maria Federici on February 22, 2007 [sic]. Because there is no
14 evidence that can be scientifically analyzed and no identified
15 witness saw the entertainment center exit the trailer, and no one
16 saw what happened to the entertainment center immediately after
17 the center exited the trailer, it is impossible to determine the
18 distance between the U-Haul trailer and Ms. Federici's vehicle or
19 the time available to Ms. Federici to react to the entertainment
20 center's exiting of the U-Haul trailer. Moreover, it is impossible to
21 reconstruct, with any degree of reasonable scientific certainty, the
22 physical orientation of the entertainment center as it exited the
23 vehicle or the position of the entertainment center in the roadway
24 at the time of the collision. Based upon the standard of care and
25 the principles applicable to the profession of accident
reconstruction, any opinions offered on these topics would
necessarily amount to nothing more than speculation, conjecture,
or mere possibility.

I have reviewed the anticipated opinions of Dr. John
Haberstad as stated in Defendants' Disclosure of Potential
Primary Fact and Expert Witnesses, dated April 16, 2007. It is my
professional opinion, based on a reasonable degree of scientific
certainty and the standards applicable to my profession, that Dr.
Haberstad's anticipated opinions amount to nothing more than
speculation, conjecture, and mere possibility.

Simply stated, Dr. Firestone is wrong on virtually every point. Evidence does exist sufficient to
allow me to state with reasonable scientific certainty that Ms. Federici was inattentive or
following too close, or both, when the entertainment center exited the trailer.

1 4. Subsequent to my initial disclosure, I was provided exemplars of the
2 entertainment center and Ms. Federici's Jeep. It is my understanding that Mr. Hefley has
3 confirmed that the exemplar of the entertainment center is consistent with the entertainment
4 center he was transporting on the evening in question. Two photos of the exemplar
5 entertainment center are attached hereto as Exhibit C. A photo of the exemplar Jeep is attached
6 as Exhibit D.

7
8 5. While Ms. Federici's Jeep was effectively destroyed months after the accident,
9 photos taken by the Washington State Patrol show the damage pattern on her car. These same
10 photos also show the board from the entertainment center which entered her vehicle, causing her
11 injury. The referenced photos are attached hereto as Exhibit E.

12
13 6. As was evident from the exemplar of the entertainment center and the picture of
14 the board in Ms. Federici's Jeep, the board entering her vehicle was the base of the entertainment
15 center. The bull nose edge, screw hole pattern and color scheme are all consistent with the board
16 being the base of the entertainment center.

17
18 7. In order for the base of the entertainment center to be in such a configuration for it
19 to go through the windshield, it had to be elevated above hood level of Ms. Federici's Jeep at the
20 time the accident occurred.

21 8. Based on my examination of the exemplar entertainment center, if it had come in
22 contact with the roadway, it would not have bounced but broken up in multiple pieces. Based on
23 the lack of any road surface abrasion on the board found in Ms. Federici's Jeep and the damage
24 pattern on the Jeep, when Ms. Federici hit the entertainment center, it was in an upside position
25

1 and substantially intact. The abrasions seen on the board in the Jeep were from going through
2 the laminated windshield, not from any contact with the road.

3 9. Attached hereto as Exhibit F are photographs taken of the exemplar entertainment
4 center and Jeep which reflect the approximate attitude of the entertainment center at the time of
5 impact. The entertainment center was upside down, approximately parallel to the center line of
6 the Jeep, lined up so that the edge of the entertainment center struck the second vertical bar of
7 the polymer grillwork. As can be seen in the photographs, the entertainment center base was
8 positioned at the top of the hood. The damage pattern on the hood shows abrasions which
9 suggests that the base board went down some and deflected off the hood before going through
10 the windshield.
11

12 10. As can also be seen in the Exhibit F photographs, the second main board from the
13 entertainment center lines up with the hood release area. Based on my physical inspection of the
14 exemplar Jeep and the crash scene photographs, this second board stretched the hood release
15 cable which explains how the hood opened during the initial impact.
16

17 11. For the entertainment center to be bottom up at the time of impact, it must have
18 fallen over the back tailgate of the trailer. While I cannot determine the angle of departure from
19 the trailer, I was able to determine the approximate attitude at impact which is the critical piece
20 of evidence.
21

22 12. As it would take less than half a second for the entertainment center to drop to the
23 roadway and as the entertainment center was substantially intact at impact, it is my opinion that
24 Ms. Federici's vehicle hit the entertainment center very shortly after striking the road and before
25

1 the entertainment center had time to tumble. This would be consistent with Anthony Cox's
2 eyewitness account. In his recent deposition which I reviewed, he testified as follows: "It
3 happened so fast; the sparks, the hood, the breakage of the box. It was all almost simultaneously
4 at the same time."

5 13. The physical evidence supports a conclusion that Ms. Federici was less than 60
6 feet back of the trailer as the entertainment center rolled over the trailer's tailgate. At such a
7 close distance, she had no opportunity to perceive and react to avoid the entertainment center,
8 which is, again, consistent with the eyewitness observation of no brake lights and the collision
9 investigation field diagram prepared by the Washington State Patrol which is attached hereto as
10 Exhibit G. If Ms. Federici had been following consistent with the Washington Department of
11 Transportation's two-second rule, which is a minimum, she would never have hit the
12 entertainment center. This accident would not have occurred.

13 14. While I was able to reach these opinions based upon the evidence available,
14 including the exemplars, other potentially corroborating evidence was not available, including
15 the Jeep's headlight, its seatbelt, the broken components of the entertainment center, the Jeep's
16 hood cable release, and multiple other components of the Jeep.

17 I declare under the penalty of perjury under the laws of the State of Washington that the
18 foregoing is true and correct to the best of my knowledge.

19 Dated this 17 day of June, 2007

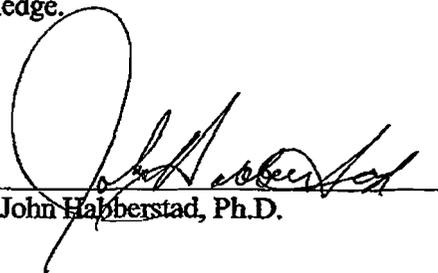
20
21
22
23
24
25

John Habberstad, Ph.D.

EXHIBIT A

Education:

Graduated from Colville High School in 1958.

Attended Washington State University, Pullman, Washington, from September 1958 through June of 1962, completing a Bachelors Degree in Mechanical Engineering.

Attended Washington State University, Pullman, Washington, from September 1962 through June 1964, completing a Masters Degree in Mechanical Engineering. Completed a Master's Degree Thesis entitled "Dynamic Stress Concentrations Around a Geometric Discontinuity."

Attended Washington State University, Pullman, Washington, from September 1966 through June of 1968, completing a Ph.D. in Engineering Science. Completed a Ph.D. Thesis entitled "Axisymmetric Elastic Wave Propagation Bars Containing a Discontinuity."

Professional Memberships:

American Society of Mechanical Engineers

Society of Automotive Engineers

American Association for Automotive Medicine

Honors:

Awarded Tau Beta Pi Fellowship for Graduate Study at the Masters Degree Level at Washington State University

Awarded a National Science Foundation Fellowship for Graduate Study at the Ph.D. level at Washington State University

Received the Life Saving Award for the Development of Underground Support Systems presented by the State of West Virginia in 1972

Inventions:

Method of evaluating mine rock fractures by gas injection and flow logging

Method of detecting mine rock fractures by gas injection

Work Experience Highlights:

- 1962-1963 SPOKANE MINING RESEARCH CENTER, Spokane, Washington
Associate Engineer/Consultant

- 1963 THE BOEING COMPANY, Seattle, Washington
Research Assistant

Conducted research on crack propagation in metals, specifically crack propagation in fuel storage systems for liquid propulsion systems

- 1964 WASHINGTON STATE UNIVERSITY, Pullman, Washington
Assistant Professor

Accepted a temporary position as Assistant Professor in Mechanical Engineering after completing the Master's program. Responsibilities included teaching junior level Applied Mechanics and the development and implementation of a laboratory program to go along with the theoretical Applied Mechanics program.

- 1964-1966 LAWRENCE LIVERMORE LABORATORY, Livermore, California
Research Engineer

Developed and set up specifications for environmental testing of various hardware designs and implemented test procedures using environmental test equipment such as hydraulic shakers, electrodynamic shakers, HYGE and thermal chambers. Responsible for the conceptual design and development of a large hydraulic centrifuge and large hydraulic shaker to be installed at the Lawrence Livermore Laboratory.

- 1966-1968 LAWRENCE LIVERMORE LABORATORY, Livermore, California
Consulting Engineer

Retained by Lawrence Livermore Laboratory to begin the design and development of an electrodynamic shaker that would be compatible with mounting on a hydraulic centrifuge.

- 1968-1970 LAWRENCE LIVERMORE LABORATORY, Livermore, California

Senior Research Engineer

Responsible for the development of advanced computer systems, including finite element and finite difference schemes to numerically solve mathematical models that could not be solved in closed form solution. Taught a course entitled "A Mathematical Review of Introductory Wave Mechanics" for graduate students enrolled at the University of California, Davis Campus.

•1970-1975

SPOKANE MINING RESEARCH CENTER, Spokane, Washington
Research Supervisor

Developed underground support systems and concepts. Reviewed concepts developed by others. Managed the technical work of a professional support staff. Supervised technicians. Managed large contracts in the area of the development of support systems designed to keep workers away from the hazards of unsupported roof structures within mines.

•1970-Present

INDEPENDENT CONSULTING SERVICES

Consulting Engineer/Accident Reconstruction, Vehicular Design, And Handling

Worked under the direction of Dr. James Collins, one of the earliest practitioners in the field of accident reconstruction. Developed equipment in conjunction with Dr. Collins to demonstrate modes of brake malfunction, steering response, and steering failure on full sized vehicles. Using equipment that was developed, seminars were provided. Developed handling and response procedures for various vehicles and motorcycles. Completed early test work in the field of Tungsten filament distortion. Responsible for reconstructing over 2,000 vehicle accidents throughout the United States and Canada. Clients have included attorneys representing injured parties, attorneys representing defendants, as well as various insurance companies. Acted as a member of the National Highway Transportation Safety Board with responsibilities for accident reconstruction. Responsible for conducting well over 200 individual vehicle crash tests in the United States and overseas, including rollover crash tests, two moving vehicle crash tests, and tests utilizing up to three vehicles for a single test. A large percentage of the tests involved the use of instrumented anthropometric dummies. Participated in the development of procedures to tow vehicles sideways on a test track to simulate out of control vehicle accidents. Vehicles that have been tested include motorcycles, passenger cars, Light trucks, heavy trucks, buses, and industrial equipment.

Responsible for conducting tests on various components including restraint systems, steering columns, steering wheels, brake systems, tire response, etc., using high speed photography and appropriate instrumentation to record the system response.

Responsible for the development and execution of vehicle handling and response programs. Involved in the early pioneering effort to develop instrumentation systems for use in recording vehicle accelerations, steering angles, steering rates, roll rates, vehicle handling and response characteristics.

In addition to eight years of higher education in the field of engineering, more than 25 years of experience in the area of automotive and heavy equipment technology places me in a unique position to evaluate overall vehicle designs as well as component designs. Extensive background in vehicle fuel systems, fire ignition and propagation, and vehicle handling and stability.

LIST OF PUBLICATIONS

1. Habberstad, J.L. "Load Relations in Preloaded Rock Bolt Testing," U.S. Bureau of Mines Report, RI6613
2. Habberstad, J.L. "A Two-Dimensional Numerical Solution for Elastic Waves in Various Configured Rods," University of California Radiation Laboratory, Livermore, California, Rpt. 71811 (1971),
3. Habberstad, J.L. "A Two-Dimensional Numerical Solution for Elastic Waves in Variously Configured Rods," Journal of Applied Mechanics., Vol. 38, No. 1 (1971)
4. Habberstad, J.L. "A Two-Dimensional Numerical Solution for Elastic Waves in Variously Configured Rods," Sixth U.S. National Congress of Applied Mechanics, Harvard University, Boston, Massachusetts, June 15 – 17, (1970)
5. Habberstad, J.L. "The Effects of a Discontinuity in Cross-Section on Elastic Pulse," University of California Radiation Laboratory, Livermore, California, Report 71681
6. Habberstad, J.L. "The Effects of a Discontinuity in Cross-Section on Elastic Pulse," Journal of Applied Mechanics, Volume 38, No. 1, March (1971)
7. Habberstad, J.L. "An Experimental and Numerical Study of Elastic Strain Waves on the Center Line of a 6061 T6 Aluminum Bar," University of California Radiation Laboratory, Livermore, California, Report 72717
8. Habberstad, J.L. "An Experimental and Numerical Study of Elastic Strain Waves on the Center Line of a 6061 T6 Aluminum Bar," Journal of Applied Mechanics, Volume 38, No. 4, (1971)

9. Habberstad, J.L. "An Experimental and Numerical Study of Elastic Strain Waves on the Center Line of a 6061 T6 Aluminum Bar," Regional Congress of Applied Mechanics, University of Southern California, Los Angeles, California, June (1971)
10. Habberstad, J.L. "Axisymmetric Elastic Wave Propagation in Bars Containing A Discontinuity," Washington State University Shock Dynamics Laboratory, Pullman, Washington, Ph.D. Thesis in Engineering Science, Report 70-40, September (1970)
11. Habberstad, J.L. "Dynamic Stress Concentrations Around a Geometric Discontinuity," Washington State University Department of Industrial Technology, Pullman, Washington, Thesis for Master of Science Degree in Mechanical Engineering, Report 64-20, (1964)
12. Habberstad, J.L. "Gas Gun for Impact Studies," Presented American Physical Society, San Diego, California, December (1968)
13. Habberstad, J.L. "A Mathematical Review of Introductory Wave Mechanics," University of California, Livermore, California, Report 15803, (1971)
14. Habberstad, J.L. "Analysis of Thin Shells Contained in a Ridged Cavity," University of California, Livermore, California, Report 70381, (1970)
15. Habberstad, J.L. "Spallation Criteria for Gamma Phase Uranium - 7.5 percent Niobium, - 2.5 percent Zirconium Alloy," University of California Radiation Laboratory, Livermore, California, Report 50686, (1966) (Contents are classified)
16. Habberstad, J.L. "Feasibility Study of a Shaker Mounted on a Centrifuge," University of California, Livermore, California, Report 2130, (1968)
17. Habberstad, J.L. "Feasibility Study of a Shaker Mounted on a Centrifuge," IMOG, Berkeley, California, Presented February, (1970)

18. Habberstad, J.L. "A Convertible 300G, 20 Foot Radius Arm, 800G, 5 Foot Radius Arm, Centrifuge System," IMOG, Berkeley, California, Presented July, (1966)
19. Habberstad, J.L. "The Effect of Temperature on the Spallation Strength of 2014T-6 Aluminum," University of California Radiation Laboratory, Livermore, California, Report 72610, (1970)
20. Stephenson, M., Habberstad, J.L. "Motorcycle Braking," Cycle World, Volume 10, No. 3, March (1971)
21. Habberstad, J.L. "Application of Polymers to Underground Coal Mine Support," Annual Governor's Safety Conference, Charleston, West Virginia, Presented May 1-2, (1972)
22. Habberstad, J.L. "Application of Polymers to Underground Coal Mine Support," AIME Conference, Lexington, Kentucky, April 21-22, (1972)
23. Habberstad, J.L. "The Pumpable Rock Bolt, A New Roof Control Concept," Engineering and Mining Journal, Volume 174, No. 8, August, (1993)
24. Habberstad, J.L. "Fiberglass Reinforced Polymeric Rock Bolt," Rapid Excavation and Tunneling Conference, San Francisco, California, June 24-27, (1974)
25. Accident Reconstruction, published by Charles C. Thomas, Springfield, Illinois, (1979)
Edited by James C. Collins-Contributing Author John Habberstad
26. Habberstad, J.L., Collins, J.C., "Investigation Of Collision-Related Vehicle Fires," Annual Winter Meeting of The American Society of Mechanical Engineers, Chicago, Illinois, Sponsored by The Safety Division, ASME, November 16-21, (1980)
27. Habberstad, J.L., Wagner, Roger C., Thomas, Terry M., "Rollover And Interior Kinematics Test Procedures Revisited," Society of Automotive Engineers, Inc.,

- Warrendale, Pennsylvania, USA., 30th Stapp Car Crash Conference, San Diego, California, Document Number 861875, P-189, October 27-29, (1986)
28. Habberstad, J.L., Leonard, M. Mark., Croteau, Jeffrey J., Werner, Stephen M., Tuskan, Steven M., "HVE EDSMAC4 Trailer Model Simulation Comparison with Crash Test Data," Society of Automotive Engineering, Inc., Detroit, Michigan, USA., 2000 SAE World Congress, Cobo Center, Detroit, Michigan, Document Number 00-00B-0189, March 6-9, (2000)
29. Habberstad, J.L., Croteau, Jeffrey J., Werner, Stephen M., Gollhofer, Joseph, "Determining Closing Speed in Rear Impact Collisions With Offset and Override," Society of Automotive Engineers, Inc., Detroit, Michigan, USA, 2001 SAE World Congress, Cobo Center, Detroit, Michigan, Document Number 2001-01-1170, March 6-9, (2001)
30. Habberstad, J.L., Croteau, Jeffrey J., Werner, Stephen M., Gollhofer, Joseph, "Determining Closing Speed in Rear Impact Collisions With Offset and Override," SAE 2000 Safety Series TOPTEC, Embassy Suites Hotel, Tempe, Arizona, May 22-23, (2001)
31. Carter, Jarrod W., Habberstad, John L., Croteau, Jeffrey, "A Comparison of the Controlled Rollover Impact System (CRIS) with the J2114 Rollover Dolly," SAE 2001 World Congress, Detroit, Michigan, February (2001)

EXHIBIT B

21 3. John Habberstad
22 12314 E. Broadway
23 Spokane, WA 99216

3 Dr. Habberstad is a consulting engineer and an accident reconstruction expert. He holds
24 a Ph.D. in Engineering Science from Washington State University. He also received a
25 Bachelor's Degree and Master's Degree from Washington State University in Mechanical
1 Engineering. Since 1970, Dr. Habberstad has focused his consulting engineering services in the
2 areas of accident reconstruction, vehicular design and handling. A copy of his curriculum vitae
3 is attached.

4 Dr. Habberstad will offer opinions relating to Plaintiff's ability to perceive and/or react to
5 the circumstances caused by the entertainment center exiting the trailer being towed by Mr.
6 Hefley.

7 More specifically, Dr. Habberstad will testify that there is no evidence of brake activation
8 by Plaintiff or other evidence suggesting that she perceived or reacted to the danger posed by the
9 entertainment center exiting the trailer. Dr. Habberstad will further testify that the "sparks"
0 generated when the entertainment center came in contact with the roadway would have alerted an
11 attentive driver who, if following at the distance determined as reasonable by the Washington
12 Department of Licensing and Washington Department of Transportation, would have had time
13 sufficient to react. It is Dr. Habberstad's opinion that the plaintiff was either inattentive or
14 following too close, or both, when the entertainment center exited the trailer.

15 It is Dr. Habberstad's opinion that the entertainment center exited the trailer over the back
16 tailgate. Once Mr. Hefley's deposition is completed and the characteristics of the entertainment
17 center are further defined along with the manner of its placement in the trailer, Dr. Habberstad
18 will opine further as to times and distances involved in the accident as regards Plaintiff's vehicle
19 and the trailer.

20 Dr. Habberstad's ability to do a more thorough reconstruction of the accident has been
21 hindered by Plaintiff's failure to preserve the pieces of the entertainment center originally in the
22 possession of the Washington State Patrol and Plaintiff's failure to preserve the vehicle and
23 maintain its condition after the accident. Dr. Habberstad's ability to reconstruct the accident has
24 been limited by his inability to examine the left hood hinge, the hood latch system, the hood, the

1 braking system, including the presence of an anti-lock system, the instrument panel, the steering
2 wheel and the electronic data recorder, if so equipped.

3 Dr. Habberstad may also offer opinions regarding Mr. Hefley's conduct after he has the
4 opportunity to review Mr. Hefley's deposition transcript and other discovery. He is also
5 expected to respond to testimony and opinions of Plaintiff's expert(s) that are within his stated
6 area of expertise.

7 Dr. Habberstad's testimony will be based on his education, training and professional
8 experience, as described in the attached curriculum vitae, as well as his review of the file
9 material, including the following: the Washington State Patrol investigative file and the witness
10 statements contained therein; discovery responses in this litigation; depositions received to date;
11 Dodge Ram Truck 2001 Owner's Manual; materials from various sources related to vehicle
12 characteristics; various pictures of the RO trailer at issue; Washington Department of Licensing
13 Driver Guide; 2 DOTS 2 Safety Program materials; and Washington State DOT Trips System
14 Horizontal and Vertical Alignment Report. Additionally, Dr. Habberstad has conducted an
15 inspection of the RO trailer at issue and has visited the accident scene. As discovery progresses,
16 Dr. Habberstad will consider all testimony and additional documents potentially relevant to his
17 opinions expressed herein.

EXHIBIT C

BEST AVAIL ARIF IMAGE POSSIBLE

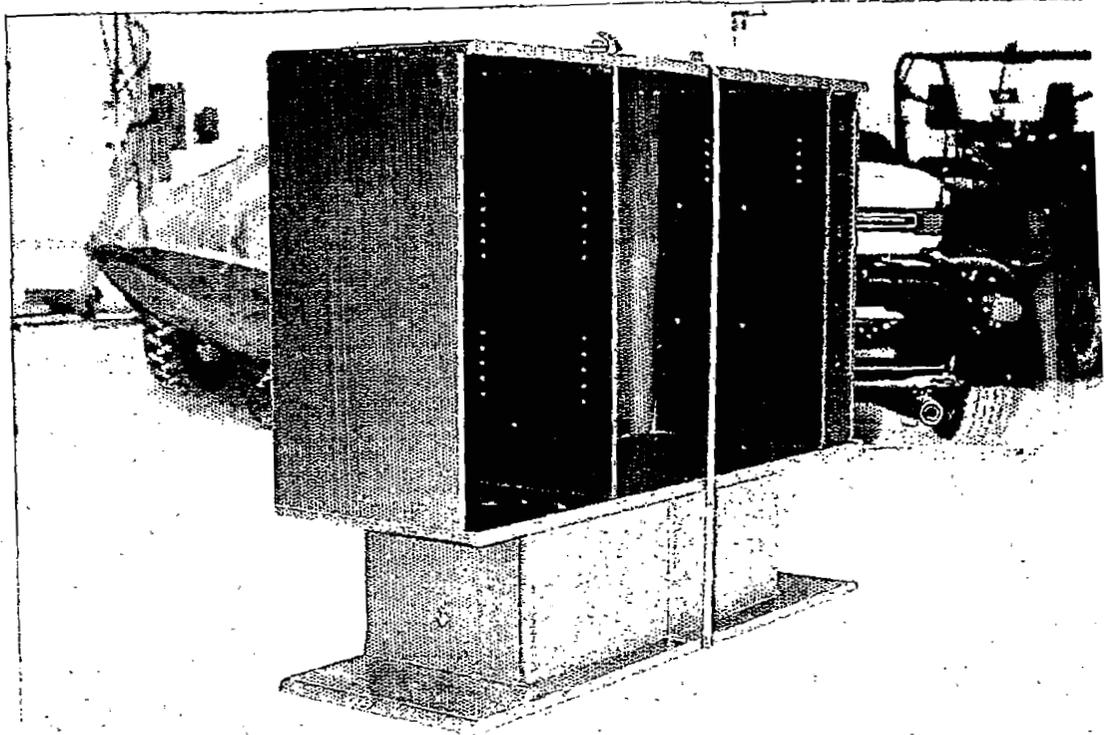


EXHIBIT C

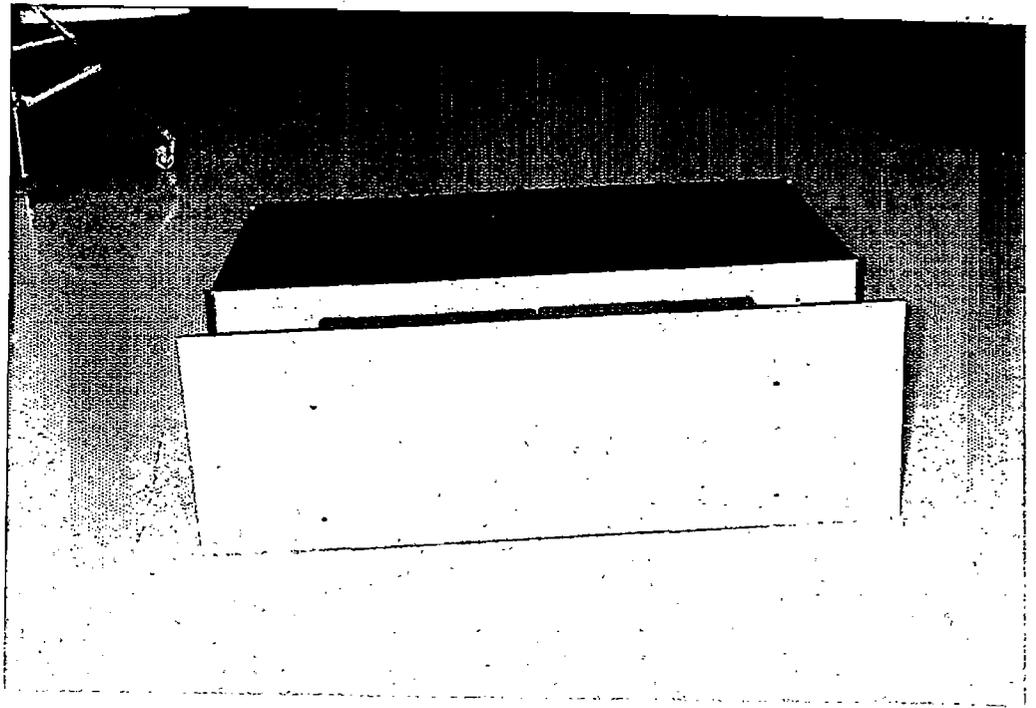
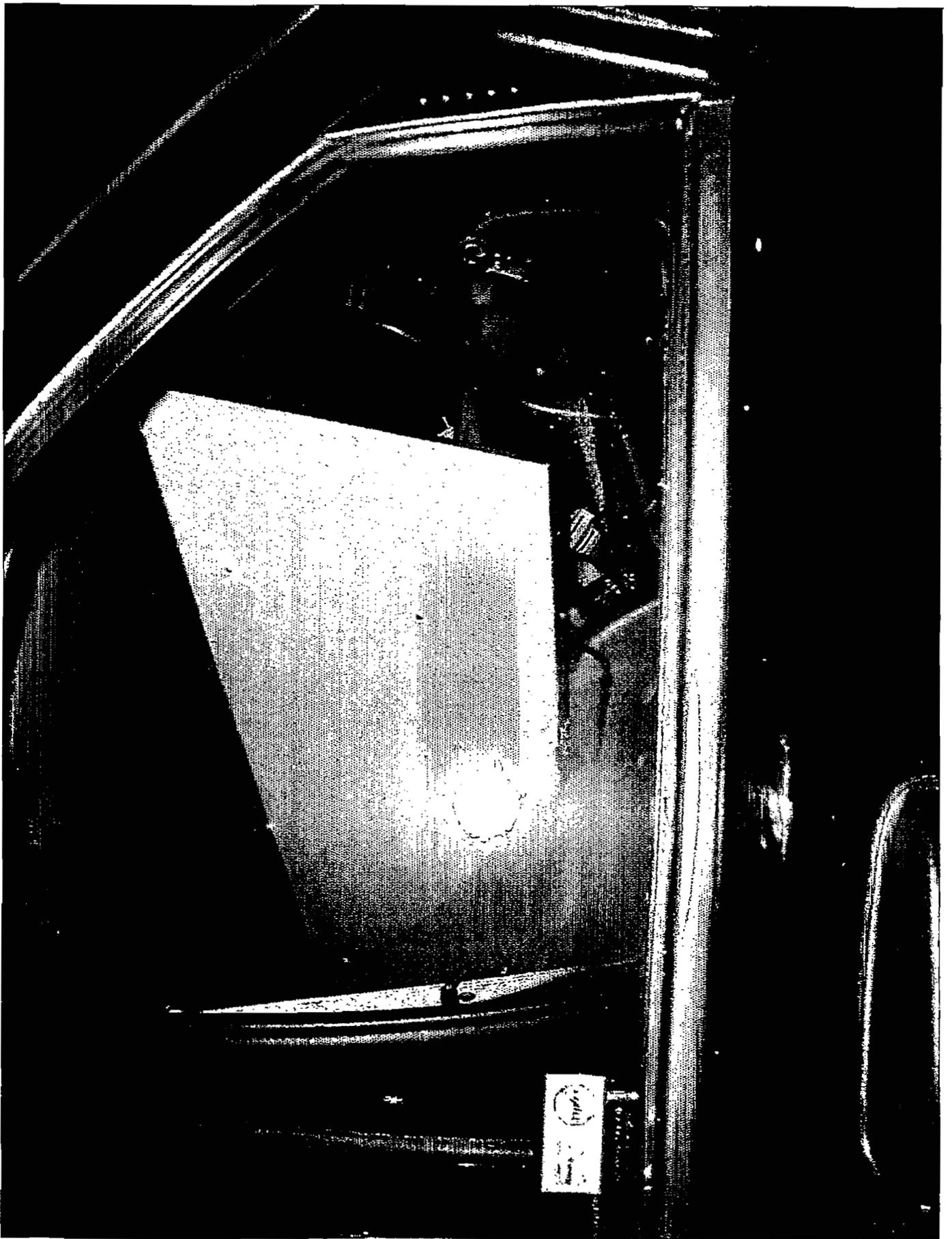


EXHIBIT E



LIBRARY



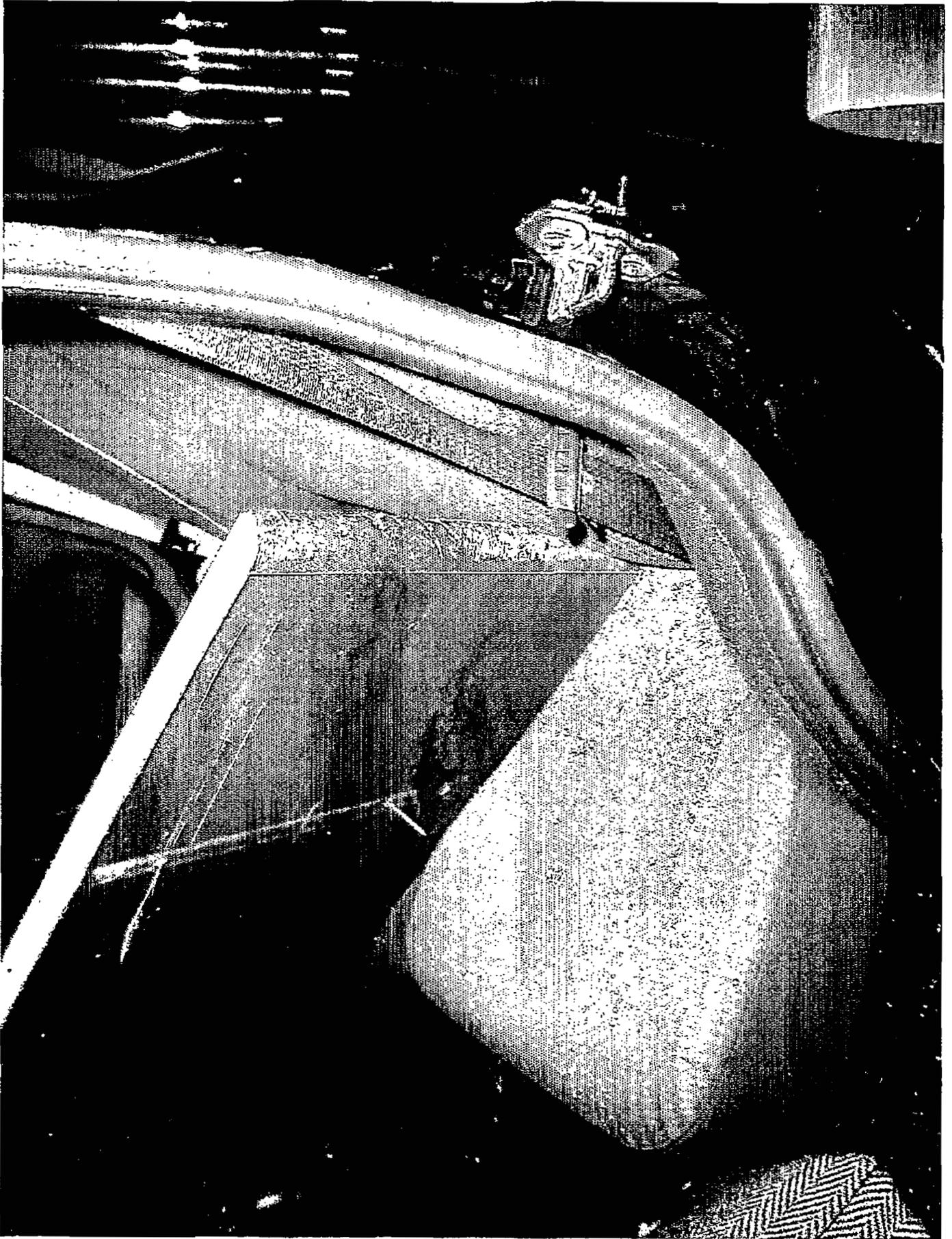


EXHIBIT F

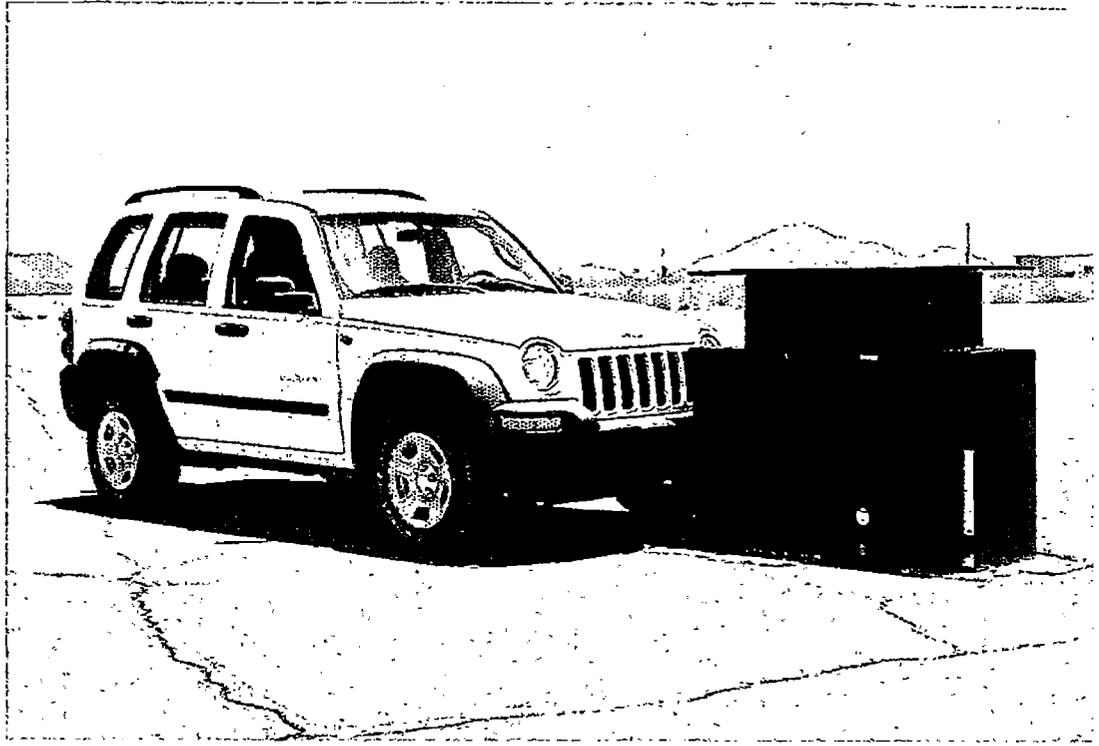
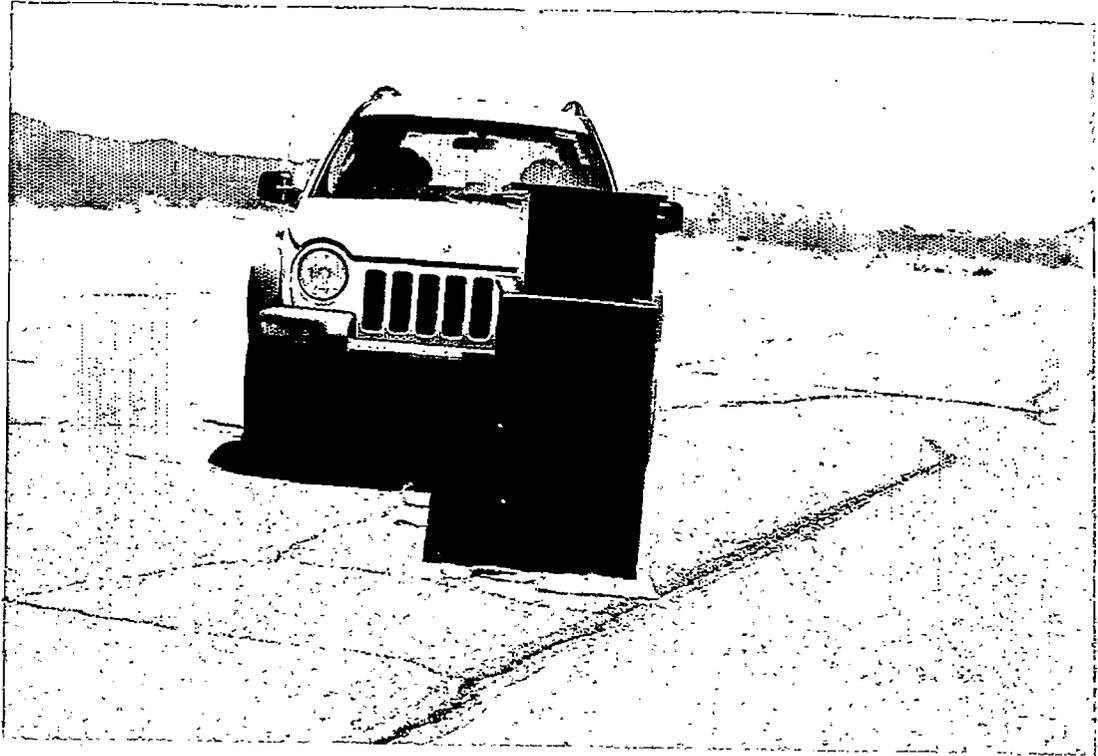
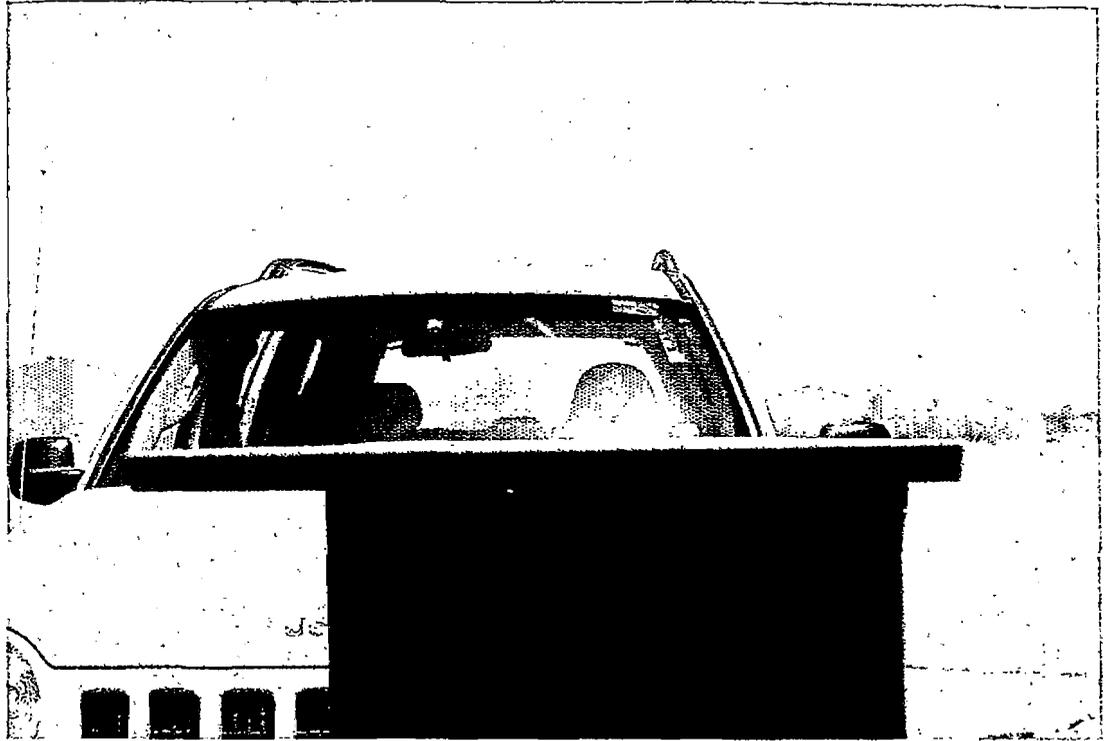


EXHIBIT F





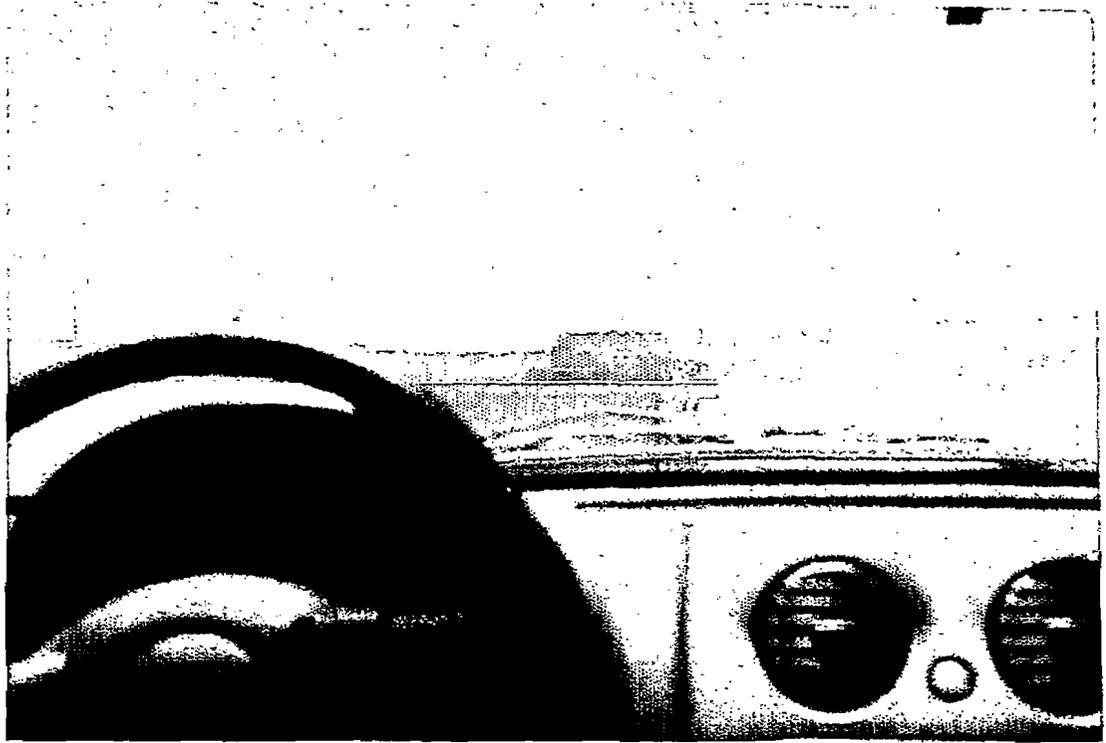




EXHIBIT G

**COLLISION INVESTIGATION
FIELD DIAGRAM**

04002382

| | | | |
|---|------------------------------|---------------------------------------|-----------------------|
| LOCATION SIB I-405 JUST SOUTH NE 30th ST | | | COUNTY KING |
| # OF LANES EACH DIRECTION 3 | GRADE OF ROADWAY — | SUPERELEVATION — | STRIPING — |
| LIGHTING STREET LIGHTS | VISIBILITY GOOD | COEFFICIENT OF FRICTION — — | HOW OBTAINED |
| TYPE ROAD SURFACE ASPHALT | | | |
| WEATHER CLEAR & DRY | | | TEMP F |

| | | | | | |
|---|--|--|---|---|---|
| ↑ | | | ↑ | ↑ |  NORTH |
| ◇ | | | 2 | 1 | |

BRACKET WALL

SIB I-405

SHOULDER PAVERS

BRACKET WALL

| | | | |
|-----------------------------------|------------------------------------|-----------------------|------------------------|
| SIGNATURE L.B. MITCHELL | PRINT NAME L.B. MITCHELL | BADGE # 592 | DATE 2-23-07 |
|-----------------------------------|------------------------------------|-----------------------|------------------------|