

Superior Court of Justice  
(Central East Region)

BETWEEN:

HER MAJESTY THE QUEEN

- and -

MARCO MUZZO

---

AGREED STATEMENT OF FACT

---

At 3:15 p.m., on September 27, 2015, Mr. Marco Muzzo arrived on a private jet at Pearson Airport from Miami. After clearing customs he walked to his Jeep Grand Cherokee motor vehicle, leaving the parking facility by himself at 3:27 p.m.

From there Mr. Muzzo began travelling to his home in Vaughan. By approximately 4:00 p.m., Mr. Muzzo was travelling northbound on Kipling Avenue approaching Kirby Road. This is consistent with the average time it would take to travel this distance.

Kirby Road runs east to west with a single lane in each direction. The two lanes are divided by a solid yellow centre line. There are white fog lines marking the outer limit of each lane. The posted speed limit is **60** km / hr.

Kipling Avenue runs north to south with a single lane travelling in each direction. The posted speed limit is **80** km / hr. The intersection at Kipling and Kirby is controlled by a stop sign for traffic travelling north and south.

There is no stop sign on Kirby, thus giving the traffic on Kirby the right of way.

On September 27, 2015, the stop sign for northbound traffic was visible and unobstructed. There were no weather or traffic conditions, which would prevent traffic from stopping safely.

As Mr. Muzzo approached the intersection at Kirby, he applied his brakes, however, at 4:10 p.m. Mr. Muzzo entered the intersection at Kirby without stopping for the stop sign.

At that moment, Ms. Neriza Neville (64 years old) was travelling westbound in her daughter's 2016 Dodge Grand Caravan. There were a total of six people in the van. In the front passenger's seat was her mother, 91 year old Josefina Frias. In the middle row, her two grandsons, Daniel Neville-Lake (age 9) and Harrison Neville-Lake (age 5). In the back row, her granddaughter Milagros (Milly) Neville-Lake (age 2) and husband Gary Neville (age 65).

Although she had the right of way, Ms. Neriza Neville slowed down as she approached the intersection at Kirby and Kipling, as that was her usual practice.

Mr. Muzzo's vehicle entered the intersection as Ms. Neville was driving through, striking the driver's side of the Dodge Caravan. The impact sent the Caravan into the northwest corner, where it eventually came to rest in a ditch. During the collision, the stop sign for southbound traffic had been broken at its base and was lying near the ditch area on the northwest corner of the intersection. The minivan had struck the sign before travelling into the ditch.

There were obvious signs of injuries to all the occupants of the Caravan.

Mr. Muzzo's Jeep Cherokee rotated counter clockwise, and continued on northbound. The rear end of the Cherokee rotated into the southbound lane of Kipling Avenue on the other side of the intersection. There, the Cherokee struck an almost stopped white Mercedes on the front driver's side. Inside that car were Giovanni Angelucci and his wife.

As a result of the crash, airbags in both the Caravan and Jeep were deployed. Police later seized the Airbag Control Modules (ACM) from each vehicle, which monitors various systems. When there is an abrupt deceleration, the system will send a signal to the airbags to deploy depending on the geometry of the forces moving through the vehicle. Because it monitors a number of systems in the vehicle, the ACM system creates data files of pre and post collision information for up to 5 seconds. Information contained within these data files, include speeds, whether brakes were applied, wheel speed, velocity, and whether seatbelts were worn.

The Jeep Grand Cherokee was travelling at an excessive rate of speed prior to the impact. According to the ACM data, the brakes were being applied 3.7 seconds before impact and the Jeep Cherokee's speed was dropping significantly. **However, at impact, the Cherokee was still travelling at a speed of 85 km/hr.**

According to the ACM data for the Caravan, at 5 seconds prior to impact, the van was driving **at 54 km/hr**, with the brake on. During the next 5 seconds, the brake was listed as off and at impact the vehicle was travelling at **47 km/hr**.

Ms. Neville indicated that she recalled seeing a white vehicle to her right just prior to feeling her vehicle being struck. She then reported feeling a sense of being airborne. She never saw the vehicle that struck her. Ms. Neriza Neville was taken to the hospital shortly after police arrived.

Mr. Angelucci was the driver of the white Mercedes. He was traveling southbound on Kipling and was slowing down for the stop sign at Kirby. He was about 15 feet back from the intersection when the Caravan was hit. He saw a black car approaching from the south and heard the sound of a big crash. He believed the black car t-boned the Caravan. He saw the Caravan go into the ditch. The black vehicle then spun around and struck his Mercedes. Neither he nor his wife were injured.

Mr. Lawrence Attar and Monica Sanajko were travelling westbound on Kirby, with the crash happening about 15 feet in front of them. They reported it was very quick. They saw the two dark coloured vehicles hit. Then they saw the white car get hit. Following the accident they got out to help.

Ms. Sanajko noted the driver of the Cherokee was a young male. No one else was in that vehicle. Ms. Sanajko described the driver as not normal, that he had glossy eyes like when you are drunk. She believed the driver was under the influence of drugs or alcohol.

Ms. Sandra Mammone also witnessed the accident. She was the passenger in a vehicle travelling westbound. She described the impact as very hard. She reported to police that the weather was clear, the traffic was light, and the intersection at Kirby is marked by a large STOP sign for northbound traffic. Ms. Mammone told police that the driver of the Cherokee failed to stop for the sign before entering the intersection. She called 911 and stayed on the line until she heard sirens approaching.

Officer Matthew Landry of York Regional Police was the first officer on scene. Mr. Marco Muzzo was identified as the driver of the Cherokee. The officer spoke to Mr. Muzzo on scene. Officer Landry made the following observations of Mr. Muzzo:

1. He was unsteady on his feet;
2. He had glossy eyes
3. He attempted to use people to keep his balance;
4. He urinated himself;
5. He was having a difficult time comprehending directions; and
6. He had a smell of alcoholic beverage emanating from his breath.

After being cautioned by the officer, Mr. Muzzo admitted to being the driver of the Jeep Cherokee at the time of the collision. Based on his observations of Mr. Muzzo and the accident, Officer Landry formed the opinion that Mr. Muzzo had been

operating a motor vehicle while his ability to do so was impaired by alcohol and had caused bodily harm to the passengers in the Dodge.

Mr. Muzzo was arrested at 4:30 p.m and a demand was made for samples of his breath to be taken at the police station.

Shortly after arriving at the police station, police learned of the death of Gary Neville and Daniel Neville-Lake. Mr. Muzzo was advised that he was now facing additional charges.

After speaking with counsel of choice, Mr. Muzzo provided two breath samples. The first was received at 6:13 pm, and resulted in a reading of **192** mg of alcohol in 100 ml of blood. The second reading was received at 6:34 p.m and resulted in a reading of **204 mg** of alcohol in 100 ml of blood.

A "Letter of Opinion" dated November 10, 2015 was prepared by Ms. Rachelle Wallage, a toxicologist at the Centre of Forensic Sciences. According to the report, Mr. Muzzo's blood alcohol concentration would have been between 190 - 245 mg/alcohol / 100 ml of blood at the time of the collision.

After the breath samples were taken, it was learned that Milly Neville-Lake and Harrison Neville-Lake had died from their injuries. Mr. Muzzo was advised of the additional charges.

After once again speaking to counsel of his choice, Mr. Muzzo provided a videotaped statement to Det. Titleman. Mr. Muzzo once again admitted being the driver of the Cherokee.

**On September 27, 2015, Gary Neville, Daniel Neville-Lake , Harrison Neville-Lake and Milly Neville-Lake all died from the injuries they sustained that day as a direct result of the collision.**

Ms. Neriza Neville's injuries included abrasions to her neck, chest and legs. Non-displaced fractures to her right lateral ribs and minimally displaced fractures to two left anterior ribs, as well as a left knee hematoma, liver hematoma and right adrenal hematoma. She is recuperating at home, but still suffers from ongoing neck and shoulder pain, fatigue and suffering from anxiety.

Josefina Frias suffered fractures to her seventh cervical vertebrae, sternum, and right clavicle. Ms. Frias was in hospital for about two weeks before she could be released. From there, Ms. Frias when to a residential rehabilitation centre, where she stayed for five weeks. As of today, Ms. Frias continues to suffer from a brain bleed and has significant memory loss issues.