

***EXHIBIT E***

March 3, 2011

At approximately 14:25 I was downstairs in the Freight Office building of BNSF, preparing to meet with Mr. Michael Drake to conduct a field vision test for recertification of his engineer license. Mr. Mike Elliott was at the computer in the same room, and since I had not yet informed Mr. Elliott that he was scheduled to have a NetSim annual ride evaluation this year, I let him know that he was scheduled for March 14 at the usual time, 0730 CST or 0530 PST. He acknowledged that he was scheduled as I had said and told me that he had some questions and would get back to me on it.

Since this was not a confusing issue, and Mr. Elliott had operated the NetSim on prior occasions, I was not able to understand what would require additional clarification. I called to him as he was leaving, and he did not stop.

I followed Mr. Elliott out the door calling to him several times and asking him to stop so I could be sure that he understood the instructions I had given him and to ask what questions he indicated having. He failed to stop and started to enter his vehicle.

Mr. Salvatore Mastrullo was exiting the building while Mr. Elliott was entering his vehicle, and I asked him to assist me in having Mr. Elliott stop so I could talk with him.

As Mr. Elliott backed out of his parking space behind the building, we positioned ourselves in a clearly visible place in the parking lot (I was standing in line with the route that his vehicle would travel; Mr. Mastrullo was more to the side, closer to the building). I waived my arms in a gesture for Mr. Elliott to stop, and at first it appeared that he would do so. But then, instead of stopping, Mr. Elliott accelerated his vehicle and struck me squarely with the front of his vehicle. I landed on the hood of his vehicle and grasped anything that would hold me in place so I wouldn't fall off, pulling off the passenger windshield wiper in the process. At this point I was extremely concerned for my wellbeing, not sure what Mr. Elliott would do next.

Mr. Elliott stopped his vehicle suddenly, and I got off from my position on the hood of the vehicle. He then exited his vehicle and, shouting at me angrily, approached me and stuck me with his fist, hitting my upper lip. He continued to shout at me, and I called for Mr. Mastrullo to call the police. Mr. Elliott then went into the BNSF Freight Office building.

I stayed outside with Mr. Mastrullo, attempting to contact Mr. Benjamin Marx to report the incident. My first call to Mr. Marx's cell phone went to his voicemail. I started to call 911 and decided to attempt to contact Mr. Marx again, since he would be able to respond more quickly. This time my call went through to him, and I explained what happened. Mr. Marx mentioned that Mr. Elliott was in his office. I have since verified that the time now was approximately 14:38.

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Mr. Marx came downstairs, accompanied by Mr. Elliott. He asked Mr. Elliott to move his car out of the way, which Mr. Elliott did. Mr. Marx then asked for me to go into my office, which I did.

I then called my supervisor, Mr. Gary Hein to report the incident to him. He asked about my wellbeing and then we discussed the incident. Mr. Hein then said he would call our General Manager, Mr. Douglas Jones to inform him of the incident and then would call me back.

Upon receiving the return call from Mr. Hein, he informed me that Mr. Jones would be coming to Tacoma to obtain firsthand information of the incident.

I then called the Tacoma police department by calling 911 on my company cell phone, answering the questions from the dispatcher after I reported the incident. In an attempt to provide the dispatcher with the information they requested, I left my office and went downstairs to determine the make and model and license number of Mr. Elliott's vehicle. While I was doing this, Mr. Marx came to me and asked me to return to my office, which I did. Mr. Dennis Wright entered my office and asked if I was alright, indicating that he will be taking photographs of the vehicle. I remained in my office, providing a statement to the Tacoma police first, and Mr. Jones later. I told the Tacoma police officer, Mr. T. Deccio (badge number 294), that I wanted to file assault charges, and those charges were filed. I was provided case number 110620659 by the officer, and he indicated to me that another officer would be coming by to take photographs of the vehicle, the site of the incident, and of my visible injury.

I left the office only when instructed to do so in order to comply with a U/A test.

After completing the test, I returned to the office to finish my statement. While doing so, a police officer came in to take photographs of me.

My next step in this process is to file a personal injury report.

Dennis Kautzmann  
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