

Digital Evidence Assists San Diego Law Firm With Successful Mediation in Wrongful Death Case

San Diego, California – August 13, 2007

On August 13, 2007, Digital Evidence Legal Video Services assisted the law offices of Ms. Antoinette Middleton with successful mediation in the wrongful death of 9-year old, Sherry Jackson (not her real name) in San Diego, California.

The youngster was struck and killed by a distracted driver on November 30, 2005 while crossing a street in her neighborhood.

“Initially, our litigation support team was contracted to videotape various scenes at the location of the incident. The Middleton firm’s strategy was to utilize the video during mediation and in the event of trial, present scenes of the incident to the court. However, upon completing our forensic analysis of the photographic evidence produced by law enforcement officials, and conveying our conclusions to counsel, attorney Middleton enlisted the support of an accident re-constructionist to assist our team with producing a video reenactment of the incident,” Digital Evidence’ CEO, Michael Jones said from his Granada Hills, California office.

Flaws in the Police Report and Contradicting Statements by the Defendant Driver

The Middleton firm recruited Private Investigator, Frank Ritter to provide an accurate determination of the Defendant driver’s rate of speed, stopping distance, the vehicle’s point of impact with the victim, and other relevant data to assist Jones’ firm with the reenactment video. Subsequent to joining the team, investigator Ritter discovered and cited numerous flaws in the Police report, along with conflicting statements by the Defendant driver relative to the incident.

Originally, Police Officers conducting the investigation agreed with the Defendant driver’s version of the incident. However, after extensive analysis of the Police report, the photographic evidence, and Mr. Ritter’s calculations, the evidence contradicted the Defendant driver’s claim that the 9-year old “darted out” in front of her vehicle.

“We discovered among other things, the image of Ms. Jackson’s body imprinted on the hood of the Defendant driver’s vehicle – on the driver’s side of the vehicle! Given the visibility and driving conditions on that day (sunny, dry and clear), how was it possible for that child to run from the sidewalk and approximately 16-feet into the intersection, cross the passenger side of the vehicle, advance to the driver’s side of the vehicle without the Defendant driver seeing her?” Jones queried.

The Little Girl Owned the Street

According to investigator Frank Ritter’s analysis of the incident, “the little girl owned the street” because she was able to travel approximately 16-feet into the intersection successfully, in clear view of drivers using the roadway, and that gave the victim control of the street.

The child was wearing bright clothes, and the Defendant driver had more than 90-feet to negotiate a stopping point or initiate evasive action prior to striking the victim. The real tragedy is the fact that the child was approximately 1-foot from safely clearing the driver’s side of the vehicle prior to being struck by the Defendant driver’s mini-van.

“Mr. Ritter’s calculations established the solid foundation and irrefutable proof that the child was in the Defendant driver’s unobstructed field of view for a distance of at least 140-feet!

The Defendant was distracted, and over the course of approximately a year and a half of meticulous investigation, we had the evidence to substantiate the facts in court,” Jones said.

Defendant Driver Impeached During Deposition

Armed with investigator Ritter's calculations of the incident and the forensic analysis of the photographic evidence conducted by Digital Evidence, attorney Middleton proceeded to impeach the Defendant driver's testimony during her deposition.

Insurance Adjuster Parked at a Coin Operated Meter for the Mediation Conference

Subsequent to the deposition, Jones says his firm advanced the case by producing a video reenactment of the incident to incorporate those elements into a mediation documentary. Upon completing the mediation documentary, Jones says he drove from Los Angeles to San Diego to assist attorney Middleton with presenting the audio/visual evidence to the Defense team during the mediation conference.

"When I arrived at the mediation location, I noticed the insurance adjuster's car parked on the street at a 1-hour metered stall! In my mind that was significant, because it appeared to me that the opposition was clearly prepared to walk in and out of the mediation conference without making a realistic offer to our client. I conveyed my theory to attorney Middleton and she agreed," Jones said.

During the mediation conference Jones says attorney Middleton repeatedly cited numerous flaws in the Police report and other relevant facts, while he focused on conveying the forensic evidence analysis relative to the Police photographs and providing audio/video playback of the evidence contained in the mediation documentary.

"After several hours of intense negotiation, attorney Middleton and I convinced Defense Counsel and the insurance adjuster that there was absolutely no doubt that their client was distracted while operating her vehicle at the time of the incident. We were able to galvanize their comprehension of the facts by showcasing the evidence we had to prove to a jury that the Defendant had more than adequate time and space to see Ms. Jackson, and avoid hitting and killing her," Jones said.

The Mediation Documentary Was Instrumental in Obtaining Settlement

"Due to the overwhelming amount of evidence and statistical data incorporated in the video that our firm produced, we were extremely confident that we could persuade any jury in the land to side with our client.

In the end, our clients prevailed and they're pleased with the settlement. Our firm is satisfied in knowing that we did everything possible to assist the Law Offices of Antoinette Middleton with obtaining justice for 9-year old, Sherry Jackson.

In fact, after the conference the mediator conveyed the following comments to attorney Middleton and me; "That video was very compelling. You created an advantage by forcing the opposition to consider the gravity of a juror's perception of the evidence in the video. Attorney Middleton's exemplary skills as a lawyer was formidable, but make no mistake about it, without that video and the evidence contained therein, you may not have prevailed today," the mediator said. "Which means we did our job," Jones exclaimed with obvious joy.

However, Mr. Jones' entire countenance changed when he said, "To this very day I think of that beautiful child, and the horror she experienced seeing the Defendant's vehicle coming directly toward her at 35-miles per hour. Little Sherry Jackson's body took the full impact of the Defendant driver's 5,690 pound mini-van, ultimately succumbing from the impact. After examining all of the relevant facts of this case, it was abundantly clear to all parties concerned that this tragedy was avoidable, and that's what's so heartbreaking," Jones concluded.