

IN THE COURT OF COMMON PLEAS
FOR THE COUNTY OF PHILADELPHIA

- - -

██████████ : MAY TERM, 2021
Plaintiff,

:

vs.

:

██████████ a/k/a
██████████ and/or
██████████ and CITY OF
PHILADELPHIA,
Defendants. NO. 01397

- - -

December 2, 2021

- - -

Virtual Zoom Deposition of
██████████ held on the above date at 2:00
p.m., before ██████████ Professional
Shorthand Reporter and Notary Public.

██████████ INC.
(215) 627-6701
www.██████████.com

APPEARANCES:

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- - -

I N D E X

- - -

Testimony of: [REDACTED]

By Mr. Neuwirth

- - -

E X H I B I T S

- - -

EXHIBIT NUMBER	DESCRIPTION	PAGE MARKED
P-1	Photograph (Sidewalk 6)	
P-2	Photograph (sidewalk 2 with ruler)	
P-3	Photograph (sidewalk 3 with ruler)	
P-4	Photograph (long view)	
P-5	Photograph (sidewalk 1)	

- - -

- - -

(It is stipulated by and
among counsel for the respective
parties that reading, signing, sealing,
filing and certification are waived and
that all objections, except as to the
form of the question, are reserved until
the time of trial.)

- - -

[REDACTED] after
having been first duly sworn, was
examined and testified as follows:

- - -

THE REPORTER: Usual
stipulations?

MR. NEUWIRTH: Yes.

MR. [REDACTED] Yes.

MR. [REDACTED] That's

fine.

EXAMINATION

BY MR. NEUWIRTH:

Q. Good afternoon, Ms. [REDACTED]

How are you?

A. I'm fine, thank you. And you?

Q. Good. Thanks.

1 I represent [REDACTED]
2 [REDACTED] who has filed a lawsuit
3 alleging that she fell on your property,
4 specifically your sidewalk. And I have
5 some questions for you today, okay?
6 A. Okay.
7 Q. Have you previously been known
8 by a different name? As [REDACTED]
9 A. Yes, that's my married name.
10 Q. So, currently you are [REDACTED]
11 [REDACTED] or [REDACTED]
12 A. Currently I'm [REDACTED]
13 Q. Do you live at 9023 [REDACTED]
14 Road?
15 A. Yes, I do.
16 Q. Who do you live there with?
17 A. I live with there with my kids
18 and my husband.
19 Q. Okay. Who owns the -- do you
20 own the place yourself, or do you own it
21 with your husband?
22 A. I own it.
23 Q. Alone?
24 A. Yes.
25 Q. How long have you owned that

<p>6</p> <p>1 place?</p> <p>2 A. Since 2005. December.</p> <p>3 Q. Just a little more than 15</p> <p>4 years or so?</p> <p>5 A. Yeah, rough.</p> <p>6 Q. Do you own any other property?</p> <p>7 A. No, this is the only one.</p> <p>8 Q. Have you lived there</p> <p>9 consistently for the past 15 or 16</p> <p>10 years?</p> <p>11 A. Yes.</p> <p>12 Q. There aren't times when you</p> <p>13 moved out of that place or rented it or</p> <p>14 anything like that?</p> <p>15 A. No.</p> <p>16 Q. On May 20th through May 21st of</p> <p>17 2019, were you living there?</p> <p>18 A. Yes.</p> <p>19 Q. Can you tell me what your</p> <p>20 educational background is?</p> <p>21 A. I have a bachelor's in chemical</p> <p>22 engineering.</p> <p>23 Q. Okay. You are smarter than</p> <p>24 everyone else here.</p> <p>25 Do you have a master's</p>	<p>7</p> <p>1 degree or anything like that?</p> <p>2 A. I'm working on it.</p> <p>3 Q. Where did you get your</p> <p>4 bachelor's?</p> <p>5 A. From Rutgers, New Brunswick.</p> <p>6 Q. Is that New Brunswick,</p> <p>7 Connecticut?</p> <p>8 A. New Jersey. New Brunswick, New</p> <p>9 Jersey.</p> <p>10 Q. Okay. Are you still employed</p> <p>11 by the city?</p> <p>12 A. Yes, I am.</p> <p>13 Q. What do you do for the City of</p> <p>14 Philadelphia?</p> <p>15 A. I work as an environmental</p> <p>16 engineer.</p> <p>17 Q. What does that mean? What does</p> <p>18 that mean you do?</p> <p>19 A. Can you explain?</p> <p>20 Q. Sure. So, what sort of jobs do</p> <p>21 you work on for the city?</p> <p>22 A. I work in the planning and</p> <p>23 research department, more for water and</p> <p>24 wastewater planning.</p> <p>25 Q. Are you responsible in your</p>
<p>8</p> <p>1 role with the city for any sort of</p> <p>2 infrastructure inspection or work?</p> <p>3 A. No.</p> <p>4 Q. You are not responsible for</p> <p>5 surveying streets or roads or sidewalks?</p> <p>6 A. No, I don't.</p> <p>7 Q. Are you aware of the</p> <p>8 responsibility of the City of</p> <p>9 Philadelphia for homeowner's to maintain</p> <p>10 their sidewalks?</p> <p>11 A. No, I'm not.</p> <p>12 Q. Who did you believe was</p> <p>13 responsible for maintaining your</p> <p>14 sidewalk?</p> <p>15 MR. [REDACTED] Objection.</p> <p>16 THE WITNESS: I'm sorry,</p> <p>17 can you repeat?</p> <p>18 BY MR. NEUWIRTH:</p> <p>19 Q. Sure. Sometimes lawyers for</p> <p>20 the city or your lawyer may object to</p> <p>21 various questions. I know it kind of</p> <p>22 breaks things up, so if you need me to</p> <p>23 re-ask it I will be happy to do so.</p> <p>24 BY MR. NEUWIRTH:</p> <p>25 Q. Who did you believe was</p>	<p>9</p> <p>1 responsible for the maintenance of your</p> <p>2 sidewalk?</p> <p>3 A. I'm not sure.</p> <p>4 Q. Did you believe you had any</p> <p>5 responsibility at all to maintain your</p> <p>6 sidewalk?</p> <p>7 A. Partly so. I guess, like, make</p> <p>8 sure that, you know, when it snows you</p> <p>9 clear the snow, stuff like that.</p> <p>10 Q. So, when it would snow you</p> <p>11 would clear the snow yourself or your</p> <p>12 husband would or somebody would?</p> <p>13 A. Yes.</p> <p>14 Q. And you understood that you</p> <p>15 were clearing snow for safety reasons?</p> <p>16 A. Yes.</p> <p>17 Q. One, for your own family; and</p> <p>18 two, so people didn't fall as they</p> <p>19 walked by your property, correct?</p> <p>20 MR. [REDACTED] Objection.</p> <p>21 You can answer.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MR. NEUWIRTH:</p> <p>24 Q. I understand that some repairs</p> <p>25 were made to the sidewalks outside of</p>

<p style="text-align: right;">10</p> <p>1 9023 [REDACTED] at some point; is that 2 correct? 3 A. I believe so, yes. 4 Q. Did you pay for those repairs 5 to be made? 6 A. Yes, I did. 7 Q. When were the repairs made? 8 A. I would say September. 9 Q. Of this year? 10 A. September. No, September last 11 year I think. 12 Q. So, September 2020? 13 A. I don't recall. But it is 14 September. 15 Q. So you don't know if it was 16 September of 2019 or September of 2020? 17 A. I know it's September '20. 18 Definitely not this year. So September 19 '20. 20 Q. And then did you pay for 21 someone to repair your sidewalk? 22 A. Yes, I did. 23 Q. How much did you pay them? 24 A. I don't recall. 25 Q. Was it less than \$100?</p>	<p style="text-align: right;">11</p> <p>1 A. I don't recall because my 2 neighbor and I did a split/share. 3 Q. You shared the expense of 4 repairing the sidewalk? 5 A. Yes. The sidewalk and the 6 walkway. 7 Q. Could you estimate for me what 8 the cost was if you know? 9 A. I think an estimate maybe 450. 10 Q. Shared between the two houses, 11 or 450 was your share? 12 A. It was between. 13 Q. So you paid 225 or so? 14 A. I don't recall that, yes. 15 Q. I just want a general idea. 16 When you say the shared 17 walkway was repaired -- I will show you 18 some pictures later, but how many 19 squares of pavement or squares of 20 sidewalk were repaired? 21 A. I'm sorry, the sidewalk is just 22 one slab of sidewalk. 23 Q. Was it the slab that Ms. 24 [REDACTED] fell on? 25 A. I don't know where she fell.</p>
<p style="text-align: right;">12</p> <p>1 Q. Okay. The slab of sidewalk 2 that you had repaired, do you know who 3 did the repair, what company? 4 A. I don't recall. 5 Q. You didn't do it yourself? 6 A. No, I didn't do it myself. 7 Q. And the city didn't do it for 8 you? 9 A. No, the city didn't do it. 10 Q. Why did you decide to have that 11 square of sidewalk repaired? 12 A. So, my neighbor and I, we share 13 a common walkway, and we were getting 14 our common walkway done. So, I asked 15 the person doing it if they can repair 16 that as well. I wanted to do the whole 17 side, but it would have been more 18 expensive. 19 Q. Did you have plans to move in 20 the near future from your home? 21 A. Do I have what? 22 Q. Plans to move from your home? 23 A. Yes. 24 Q. When is that plan to move? 25 A. I don't have an exact date.</p>	<p style="text-align: right;">13</p> <p>1 Q. So, often in these cases 2 sometimes people tell me, oh, I had to 3 repair my sidewalk in order to sell the 4 house. Is that what was going on here? 5 A. No. 6 Q. So, why did you decide to 7 repair it? Just because you were 8 sharing the repair with your neighbor? 9 A. Yes. I thought it was a good 10 time. If she's agreed to it, then we 11 can do that. 12 Q. So, it was just a convenient 13 time for you to repair it? 14 A. Yes. 15 Q. Can you tell me, did you watch 16 the repair happen? 17 A. No, I didn't watch it happen. 18 Q. If I show you a picture of the 19 area would you be able to tell me which 20 block was repaired? 21 A. Yes. 22 Q. So, ma'am, I will show you a 23 bunch of photographs. Does that look 24 like the square of pavement that was 25 repaired?</p>

<p style="text-align: right;">14</p> <p>1 A. Yes.</p> <p>2 Q. I will show you a different</p> <p>3 photo.</p> <p>4 MR. [REDACTED] Are you</p> <p>5 marking that as an exhibit by any</p> <p>6 chance?</p> <p>7 MR. NEUWIRTH: Yes, I</p> <p>8 will be.</p> <p>9 BY MR. NEUWIRTH:</p> <p>10 Q. Do you go by [REDACTED] or [REDACTED]</p> <p>11 A. [REDACTED]</p> <p>12 Q. Ms. [REDACTED] I put a different</p> <p>13 photo on this screen. Do you see that</p> <p>14 photo?</p> <p>15 A. Can you make it a little</p> <p>16 bigger?</p> <p>17 Q. Sure. I know sometimes the</p> <p>18 photos come out well, sometimes they</p> <p>19 don't. That's not good.</p> <p>20 Can you see that?</p> <p>21 A. Yes, I can see that.</p> <p>22 Q. Can you see it well enough to</p> <p>23 answer some questions about it?</p> <p>24 A. It depends on what question you</p> <p>25 ask me. There is a car in the driveway.</p>	<p style="text-align: right;">15</p> <p>1 Q. How about that, is that better?</p> <p>2 A. Yes.</p> <p>3 Q. So, is that a view of looking</p> <p>4 at your home from across [REDACTED] Road?</p> <p>5 A. Yes, it is.</p> <p>6 Q. Does that look like your Volvo</p> <p>7 in the driveway there?</p> <p>8 A. Yes.</p> <p>9 Q. Can you see my cursor if I move</p> <p>10 the hand around?</p> <p>11 A. Yes, I can see your cursor.</p> <p>12 Q. Do you see the block there that</p> <p>13 my cursor is on directly behind your</p> <p>14 vehicle?</p> <p>15 A. Yes, I do.</p> <p>16 Q. Is that the block that was</p> <p>17 repaired when you had the work done with</p> <p>18 your neighbor?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And the shared walkway,</p> <p>21 is it this area here, the sort of slant</p> <p>22 down the road, or is it something else?</p> <p>23 A. No, the shared walkway, that's</p> <p>24 between the two posts.</p> <p>25 Q. So, between the two garages?</p>
<p style="text-align: right;">16</p> <p>1 A. No. To the other -- to the</p> <p>2 left side. The stairs up and the walk,</p> <p>3 that's what I mean, walkway.</p> <p>4 Q. Where my cursor is now, that's</p> <p>5 your doorway?</p> <p>6 A. Yes.</p> <p>7 Q. And that's your neighbor's</p> <p>8 doorway next to it?</p> <p>9 A. Um-hum.</p> <p>10 Q. And you share the walkway from</p> <p>11 the stairs up to the doorways?</p> <p>12 A. Yes.</p> <p>13 MR. [REDACTED] By the</p> <p>14 way, you just used "um-hum," and I think</p> <p>15 you meant yes?</p> <p>16 THE WITNESS: I'm sorry,</p> <p>17 yes.</p> <p>18 MR. NEUWIRTH: That's</p> <p>19 all right. Thank you for that.</p> <p>20 THE WITNESS: Thank you</p> <p>21 for reminding me. I totally forgot.</p> <p>22 MR. [REDACTED] Everybody</p> <p>23 does it, don't worry.</p> <p>24 MR. NEUWIRTH: Kim, we</p> <p>25 will label this photo. I have it as</p>	<p style="text-align: right;">17</p> <p>1 photo sidewalk 6, a view from street.</p> <p>2 Call that Plaintiff's sidewalk 6.</p> <p>3 MR. [REDACTED] Is that a</p> <p>4 Google street view, or is that a photo</p> <p>5 that was actually taken by --</p> <p>6 MR. NEUWIRTH: I think</p> <p>7 that was taken by one of my mediocre</p> <p>8 investigator people.</p> <p>9 MR. [REDACTED] Sounds like</p> <p>10 a very high recommendation.</p> <p>11 MR. NEUWIRTH: He's no</p> <p>12 longer employed I think. It's hard to</p> <p>13 find a good investigator.</p> <p>14 BY MR. NEUWIRTH:</p> <p>15 Q. So, Ms. [REDACTED] I'm just going</p> <p>16 to show you a few more photographs now,</p> <p>17 okay?</p> <p>18 A. Um-hum.</p> <p>19 MR. [REDACTED] Is that a</p> <p>20 yes?</p> <p>21 THE WITNESS: Yes.</p> <p>22 MR. [REDACTED] I'm just</p> <p>23 trying to keep things clear here.</p> <p>24 THE WITNESS: Yes.</p> <p>25 BY MR. NEUWIRTH:</p>

<p>18</p> <p>1</p> <p>2 Q. Are you aware of how deep the</p> <p>3 hole was in the sidewalk where the</p> <p>4 pavement is broken up?</p> <p>5 MR. [REDACTED] Objection.</p> <p>6 THE WITNESS: No.</p> <p>7 MR. [REDACTED] You can</p> <p>8 answer.</p> <p>9 MR. NEUWIRTH: She said</p> <p>10 no.</p> <p>11 THE WITNESS: Wait,</p> <p>12 where is this?</p> <p>13 MR. NEUWIRTH: So, this</p> <p>14 is a photograph. Kim, this will be</p> <p>15 Plaintiff's photo sidewalk 2 with ruler.</p> <p>16 BY MR. NEUWIRTH:</p> <p>17 Q. Do you see the ruler in the</p> <p>18 pavement there?</p> <p>19 A. Yes.</p> <p>20 Q. Would you agree that the hole</p> <p>21 in your sidewalk was two inches or more?</p> <p>22 MR. [REDACTED] Objection.</p> <p>23 You can answer.</p> <p>24 BY MR. NEUWIRTH:</p> <p>25 Q. Ma'am, you can answer.</p>	<p>19</p> <p>1 A. Yes, I see the ruler.</p> <p>2 Q. Would you agree with me that</p> <p>3 that ruler is placed outside your home</p> <p>4 in the sidewalk?</p> <p>5 A. Yes.</p> <p>6 MR. NEUWIRTH: Kim, I've</p> <p>7 marked and put up on the screen</p> <p>8 Plaintiff's photo sidewalk 3 with ruler.</p> <p>9 And I've put up</p> <p>10 Plaintiff's photo sidewalk 4, long view.</p> <p>11 MR. NEUWIRTH.</p> <p>12 Q. Ms. [REDACTED] do you see that</p> <p>13 photograph?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Does that appear to be looking</p> <p>16 along the sidewalk down [REDACTED] Street?</p> <p>17 A. I couldn't tell.</p> <p>18 Q. Okay. Do you see the "for</p> <p>19 sale" sign there in the left of the</p> <p>20 photograph?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Was your neighbor's home for</p> <p>23 sale during this time period?</p> <p>24 A. I don't recall.</p> <p>25 Q. Okay. Are you able to tell me</p>
<p>20</p> <p>1 whether or not that appears to be your</p> <p>2 broken sidewalk there?</p> <p>3 A. No, I can't.</p> <p>4 MR. NEUWIRTH: Kim, this</p> <p>5 will be Plaintiff's photo sidewalk 1.</p> <p>6 BY MR. NEUWIRTH:</p> <p>7 Q. Ms. [REDACTED] do you see this</p> <p>8 photograph?</p> <p>9 MR. [REDACTED] You don't</p> <p>10 have it up yet?</p> <p>11 MR. [REDACTED] We don't</p> <p>12 see it.</p> <p>13 BY MR. NEUWIRTH:</p> <p>14 Q. Ms. [REDACTED] do you see this</p> <p>15 photograph?</p> <p>16 A. Yes, I do.</p> <p>17 MR. NEUWIRTH: So, Kim,</p> <p>18 this is again Plaintiff's photo sidewalk</p> <p>19 1.</p> <p>20 BY MR. NEUWIRTH:</p> <p>21 Q. Ms. [REDACTED] this is the square</p> <p>22 of concrete you replaced, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Did you replace any other</p> <p>25 squares of concrete when you had the</p>	<p>21</p> <p>1 contractor come and fix your walk with</p> <p>2 your neighbor?</p> <p>3 A. I fixed that and the walkway.</p> <p>4 Q. Okay. Did you choose this</p> <p>5 square to be replaced because it was all</p> <p>6 broken up?</p> <p>7 A. Yes.</p> <p>8 Q. How long had it been in this</p> <p>9 condition?</p> <p>10 A. I don't recall.</p> <p>11 Q. More than a year?</p> <p>12 A. I couldn't say.</p> <p>13 Q. When did you hire the</p> <p>14 contractor to do the work on your</p> <p>15 walkway?</p> <p>16 A. The work was done in September.</p> <p>17 Q. When did you hire them, though?</p> <p>18 A. In September.</p> <p>19 Q. Okay. Are you able to give me</p> <p>20 a time frame for how long the sidewalk</p> <p>21 was in the condition it was in the</p> <p>22 photographs?</p> <p>23 A. No, I wouldn't be able to.</p> <p>24 Q. Why is that?</p> <p>25 A. Because I don't use it</p>

<p style="text-align: right;">22</p> <p>1 frequently. I mean, I just walk through 2 the side and get into my car and drive 3 out. So, I couldn't. . . 4 Q. So, do I understand, ma'am, 5 that that sidewalk could have been in 6 that condition for five years and you 7 wouldn't have noticed it? 8 MR. [REDACTED] Objection 9 to form. You can answer though. 10 THE WITNESS: I'm sorry, 11 can you come again? 12 BY MR. NEUWIRTH: 13 Q. Sure. Was the sidewalk in that 14 condition for more than a year? 15 A. I couldn't tell. 16 Q. Was it in that condition for 17 more than five years? 18 A. I couldn't tell either. 19 Q. Do you believe that you have a 20 responsibility to keep your sidewalk 21 safe for people walking by? 22 MR. [REDACTED] Objection. 23 You can answer. 24 THE WITNESS: I found 25 out later that it's my responsibility,</p>	<p style="text-align: right;">23</p> <p>1 yes. 2 BY MR. NEUWIRTH: 3 Q. Looking at that sidewalk block 4 that you had replaced, would you agree 5 that it was not safe in the condition it 6 was in? 7 MR. [REDACTED] Objection. 8 MR. [REDACTED] Objection. 9 BY MR. NEUWIRTH: 10 Q. You can answer. 11 A. Partly and partly not. 12 Q. Partly why? 13 A. Well, it has some cracks in it, 14 but that's not, like, in a bad 15 condition. 16 Q. To your mind it's partly unsafe 17 and it's partly safe? 18 A. Yes. 19 Q. The part that is unsafe, do I 20 understand correctly that that's the 21 part that is broken out where the 22 concrete is missing? 23 A. Yes. 24 MR. [REDACTED] Objection. 25 BY MR. NEUWIRTH:</p>
<p style="text-align: right;">24</p> <p>1 Q. And just looking at it in the 2 photographs and the way it was, you can 3 see that someone might trip and fall if 4 they stepped wrong on that block? 5 MR. [REDACTED] Objection. 6 MR. [REDACTED] Join. 7 BY MR. NEUWIRTH: 8 Q. You can answer. 9 MR. [REDACTED] If you 10 are able to answer you can answer. 11 THE WITNESS: Can you 12 please repeat the question? 13 MR. NEUWIRTH: Sure. 14 BY MR. NEUWIRTH: 15 Q. Is the reason that it appears 16 unsafe partly to you is that the 17 pavement is uneven there, correct? 18 MR. [REDACTED] Objection. 19 MR. [REDACTED] Same, go 20 ahead. 21 BY MR. NEUWIRTH: 22 Q. You can answer, ma'am. 23 A. Yes, it's partly unsafe. 24 Q. Would you agree that you would 25 not have had that block replaced if it</p>	<p style="text-align: right;">25</p> <p>1 was perfectly flat and safe? 2 MR. [REDACTED] Object to 3 the form. You can answer. 4 THE WITNESS: Yes. 5 BY MR. NEUWIRTH: 6 Q. Did your decision to have that 7 block replaced have anything to do with 8 the lawsuit in this case? 9 MR. [REDACTED] Objection. 10 THE WITNESS: No. 11 BY MR. NEUWIRTH: 12 Q. Did you have the block replaced 13 before the lawsuit was filed or before 14 you learned about it? 15 A. No. 16 Q. So, after the lawsuit was filed 17 that's when you had the block replaced? 18 A. Yes. 19 Q. Did anyone tell you to have the 20 block replaced other than a lawyer? 21 A. Nobody told me. 22 Q. Okay. 23 A. It was just, you know, my 24 neighbor saying she wants to get the 25 walkway done, so it gave me the</p>

26

1 incentive to.
2 If someone is getting
3 the walkway done, then I might as well
4 add that too, because when they mix the
5 concrete sometimes some goes to waste.
6 So the mason said, you know . . .
7 Q. I understand.
8 If I understand you
9 correctly, ma'am -- I know I'm asking a
10 lot of questions about a stupid concrete
11 block, but do I understand correctly
12 that basically it was an opportune time,
13 convenient time, for you and the
14 contractor to fix that?
15 A. Yes.
16 Q. Okay. And that 225 or \$450,
17 that was not a substantial amount of
18 money for you, was it?
19 MR. [REDACTED] Objection.
20 You can answer.
21 THE WITNESS: It was.
22 BY MR. NEUWIRTH:
23 Q. You make a pretty decent living
24 with the city, correct?
25 A. Yes.

28

1 correct?
2 MR. [REDACTED] Just to
3 clarify in case anyone else reads this
4 transcript: Mr. Helms is not typically
5 presented as the city's expert, but
6 rather as a witness or designee from the
7 streets department. Just so that
8 nothing can be misconstrued by my
9 silence.
10 MR. NEUWIRTH: Sorry for
11 my out-of-line commentary.
12 BY MR. NEUWIRTH:
13 Q. Ms. [REDACTED] I take a fair
14 amount of depositions in cases involving
15 the city. I've dealt with city
16 witnesses before.
17 My question was directed
18 at the following: I wanted to make sure
19 you didn't get advice from anyone at the
20 City of Philadelphia regarding this
21 lawsuit or your sidewalk; is that
22 correct?
23 A. That's correct.
24 Q. So, I want to direct your
25 attention to the time period of May 20,

27

1 Q. So, you are able to pay 225 or
2 450 without too much trouble, correct?
3 A. That's not correct.
4 Q. Okay. Did you ever request
5 that the City of Philadelphia replace
6 your sidewalk?
7 A. No, I never.
8 Q. Did you ever make any
9 complaints to the city about that
10 sidewalk?
11 A. No.
12 Q. Have you gone back to review
13 any city records to see whether the city
14 was aware that there were problems on
15 [REDACTED] Road with the sidewalks?
16 A. No.
17 Q. I guess Scott Helms retired.
18 Do you know someone by the name of Scott
19 Helms?
20 A. No.
21 Q. He was like the city's expert
22 for all these sidewalk and road cases.
23 So, you didn't discuss
24 your deposition today or this lawsuit
25 with anyone from the city; is that

29

1 2019 to May 21, 2019, okay?
2 A. Um-hum.
3 MR. [REDACTED] Is that a
4 yes?
5 THE WITNESS: Yes.
6 BY MR. NEUWIRTH:
7 Q. I'm going to ask you some
8 questions just about that time period,
9 and we will move on from there, okay?
10 A. Okay.
11 Q. My client alleges that she fell
12 on your property at about 3:00 a.m. on
13 what appears to be May 21, 2019
14 possibly.
15 Did you witness her
16 fall?
17 A. No.
18 Q. Did you have any video or
19 recording of her fall?
20 A. No.
21 Q. Did you have any photographs of
22 her fall?
23 A. No.
24 Q. When was the first time you
25 learned that she had fallen?

<p>30</p> <p>1 A. When I received a letter from 2 the attorney, being sued. 3 Q. Okay. Did you ever speak with 4 [REDACTED] 5 A. No. 6 Q. Do you know who that is? 7 A. No. 8 Q. When you first learned about 9 the lawsuit, did you give a statement of 10 any sort to Allstate Insurance Company? 11 MR. [REDACTED] Besides 12 anyone from my office. 13 BY MR. NEUWIRTH: 14 Q. Right. Not anyone from Mr. 15 [REDACTED] or Kevin O'Neill's office. 16 Did you talk to any 17 representative of Allstate Insurance 18 Company? 19 A. Yes. 20 Q. Did you give a recorded 21 statement, to your knowledge? 22 A. I don't recall. 23 Q. What do you remember saying to 24 the Allstate Insurance Company people? 25 A. That I received a letter about</p>	<p>31</p> <p>1 someone falling or having an accident on 2 my property. 3 Q. Okay. And then did you know 4 anything about the fall before you got 5 that letter? 6 A. No. 7 Q. Had you ever been -- withdrawn. 8 Ms. [REDACTED] have you as 9 a property owner ever been the subject 10 of a lawsuit before this case? 11 A. Never. 12 Q. Have other lawsuits been filed 13 against you since this case was filed? 14 A. Never. 15 Q. Have you been involved in any 16 other litigation before? 17 A. No. 18 Q. Did you learn from your 19 insurance company what Ms. [REDACTED] 20 claims were? 21 A. I don't recall. 22 Q. Did you learn that she had 23 fallen at that block that you had 24 replaced? 25 A. I learned she had fallen, but I</p>
<p>32</p> <p>1 don't recall where she fell. 2 Q. Okay. So since you have never 3 talked to her you have no way to judge 4 her as a person, correct? 5 A. No. I've never seen her or 6 know her, no. 7 Q. Did you ever see anyone walking 8 their dogs on [REDACTED] Road past your 9 property? 10 A. A lot of people walk their 11 dogs. 12 Q. Has anyone ever told you that 13 you need to fix that sidewalk? 14 A. No, never. 15 Q. Can you tell me when someone in 16 2019 would walk by your house what the 17 lighting was like in the middle of the 18 night? 19 A. I don't know. 20 Q. Are there street lights 21 directly over your house's sidewalk? 22 A. I haven't paid attention. 23 There may be some street lights, but I 24 don't know if they are directly along. 25 Q. Do you have one of those motion</p>	<p>33</p> <p>1 sensitive spotlights that lights up if 2 someone walks by your property? 3 A. No, I don't. 4 Q. Have you noticed that it's dark 5 at night such that people can't see when 6 they are walking along the roadway 7 there? 8 MR. [REDACTED] Objection. 9 MR. [REDACTED] Objection. 10 MR. [REDACTED] You can 11 answer. 12 MR. NEUWIRTH: I will 13 ask a better question. Withdraw the 14 question. 15 BY MR. NEUWIRTH: 16 Q. Ms. [REDACTED] is there enough 17 street lighting on [REDACTED] on your 18 sidewalk to walk through there at night? 19 MR. [REDACTED] Objection. 20 Go ahead. 21 THE WITNESS: I would 22 think so. I haven't really paid 23 attention, but it seems there is. 24 BY MR. NEUWIRTH: 25 Q. Do you walk outside your home</p>

<p style="text-align: right;">34</p> <p>1 at night in the dark?</p> <p>2 A. I mean, maybe if, like, I go</p> <p>3 out and I come back home in the</p> <p>4 driveway. I mean, I park my car and I'm</p> <p>5 walking, yes, there is light.</p> <p>6 Q. Do you ever walk around your</p> <p>7 block at night on [REDACTED]</p> <p>8 A. No, I don't walk around at</p> <p>9 night.</p> <p>10 Q. Ms. [REDACTED] if and when you do</p> <p>11 go outside at night outside your home do</p> <p>12 you need to put on your cell phone</p> <p>13 flashlight or use some sort of</p> <p>14 flashlight?</p> <p>15 A. No.</p> <p>16 Q. When your kids go out to walk,</p> <p>17 do they use flashlights?</p> <p>18 A. They don't go out at night.</p> <p>19 Q. How old are your children?</p> <p>20 A. 11 and 15.</p> <p>21 Q. It sounds to me like basically</p> <p>22 you drive in to your place and you go to</p> <p>23 your home and you don't spend too much</p> <p>24 time on the sidewalk outside your house;</p> <p>25 is that correct?</p>	<p style="text-align: right;">35</p> <p>1 A. That's correct.</p> <p>2 Q. Have any of the street lights</p> <p>3 outside on [REDACTED] Road been repaired or</p> <p>4 replaced in the past two years, to your</p> <p>5 knowledge?</p> <p>6 A. I don't know.</p> <p>7 Q. Have you ever made any</p> <p>8 complaints to the City of Philadelphia</p> <p>9 about the lighting on [REDACTED] Road?</p> <p>10 A. No.</p> <p>11 Q. Have there been any workmen</p> <p>12 from the city on [REDACTED] Road, to your</p> <p>13 knowledge, in the past -- well, before</p> <p>14 May 20, 2019?</p> <p>15 A. I don't know.</p> <p>16 Q. Have there been any notable</p> <p>17 events like sinkholes or sewer backups</p> <p>18 or anything like that on your street?</p> <p>19 A. I don't know.</p> <p>20 Q. Apart from the Volvo that you</p> <p>21 own there in the picture I showed you</p> <p>22 earlier, does your family own other</p> <p>23 vehicles?</p> <p>24 A. We don't own the Volvo anymore.</p> <p>25 We have a replacement for it.</p>
<p style="text-align: right;">36</p> <p>1 Q. At the time of the photo, the</p> <p>2 Volvo was your family car?</p> <p>3 A. Yes.</p> <p>4 Q. Did you have another one, or</p> <p>5 was this the only one?</p> <p>6 A. That was just it.</p> <p>7 Q. Do I understand correctly,</p> <p>8 ma'am, that you had not replaced the</p> <p>9 concrete block for the 15 years or so</p> <p>10 you had owned the house before the</p> <p>11 recent repair?</p> <p>12 A. Yes.</p> <p>13 Q. So, the sidewalk was in the</p> <p>14 same condition it was in from the time</p> <p>15 you bought it to the time you repaired</p> <p>16 the sidewalk?</p> <p>17 MR. [REDACTED] Objection.</p> <p>18 I would ask you to rephrase that. You</p> <p>19 asked her earlier and she said she</p> <p>20 didn't know how long that condition was</p> <p>21 there.</p> <p>22 MR. NEUWIRTH: That's</p> <p>23 fair.</p> <p>24 BY MR. NEUWIRTH:</p> <p>25 Q. So, Ms. [REDACTED] regardless of</p>	<p style="text-align: right;">37</p> <p>1 how long the sidewalk was in that</p> <p>2 condition, you had not made repairs to</p> <p>3 the sidewalk before the September 2020</p> <p>4 repair, correct?</p> <p>5 A. Correct.</p> <p>6 Q. When was the first time that</p> <p>7 you realized the concrete block was in</p> <p>8 the condition it was in in the</p> <p>9 photographs?</p> <p>10 A. I don't recall.</p> <p>11 Q. Did anyone in your family ever</p> <p>12 tell you you should replace that</p> <p>13 concrete block?</p> <p>14 A. No.</p> <p>15 Q. Are you aware that Ms.</p> <p>16 [REDACTED] broke her wrist in the fall at</p> <p>17 your sidewalk?</p> <p>18 MR. [REDACTED] Objection.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MR. NEUWIRTH:</p> <p>21 Q. Did you ever see any pictures</p> <p>22 or medical records of her after her</p> <p>23 fall?</p> <p>24 A. No.</p> <p>25 Q. You never had any interaction</p>

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1 with her whatsoever, correct?
2 A. Correct.
3 Q. You never put up cones or
4 caution tape to make sure people avoided
5 that broken concrete block, correct?
6 A. Correct.
7 Q. Did you or your husband or
8 family ever make any efforts kind of on
9 your own to repair that concrete block
10 other than hiring a contractor to do it?
11 A. I don't recall.
12 Q. At the time that you --
13 withdrawn.
14 Back in September 2019
15 -- I'm showing you that picture, ma'am.
16 I will represent to you that that is a
17 photo looking down [REDACTED]
18 MR. NEUWIRTH: Kim, this
19 is Plaintiff's photo sidewalk 4, long
20 view of sidewalk.
21 BY MR. NEUWIRTH:
22 Q. Ma'am, can you tell me what you
23 think about the condition of the
24 sidewalks on [REDACTED] Road?
25 MR. [REDACTED] Do you

39

1 mean all the way down the road or in
2 front of her road?
3 BY MR. NEUWIRTH:
4 Q. On your side of [REDACTED] what is
5 your view of the sidewalk condition?
6 MR. [REDACTED] Objection.
7 MR. [REDACTED] I join in
8 the objection. You can answer, though.
9 THE WITNESS: I would
10 say it's 50/50. Uneven and -- yes,
11 50/50. Uneven and some cracks and
12 stuff, yes.
13 BY MR. NEUWIRTH:
14 Q. What about all of the other
15 neighbors on [REDACTED] do they leave their
16 concrete in the condition you see in
17 that photograph, or do they take better
18 care of their concrete than you?
19 MR. [REDACTED] Objection.
20 You can answer.
21 THE WITNESS: I mean, I
22 wouldn't tell -- I couldn't tell.
23 Sorry.
24 BY MR. NEUWIRTH:
25 Q. Have you ever looked at your

40

1 neighbor's concrete in relation to your
2 concrete?
3 A. You mean my direct neighbor?
4 Q. Yes, like the neighbors in your
5 photograph right there.
6 I will ask a better
7 question.
8 A. Yes.
9 Q. Would you agree that everybody
10 else's sidewalk is in good shape, and
11 yours in this photograph is in poor
12 shape?
13 MR. [REDACTED] Objection.
14 You can answer.
15 THE WITNESS: I wouldn't
16 say that everybody else is in good shape
17 and my mine is in bad shape.
18 BY MR. NEUWIRTH:
19 Q. Okay. What would you say?
20 A. I would say that it's not in a
21 bad shape, at the same time it is not in
22 a good shape.
23 Q. Okay. Were there times when
24 you would put salt out ahead of a
25 snowfall on your sidewalk?

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1 A. Sometimes.
2 Q. Would you go out and collect
3 leaves or blow leaves off your sidewalk?
4 A. I don't recall that.
5 Q. Is there maintenance that you
6 do on your sidewalk or your property on
7 [REDACTED] Road outside of your home?
8 A. Can you explain that?
9 Q. Sure. Let me see if I can pull
10 that up again.
11 A. I don't understand your
12 question.
13 Q. Do you see that photograph
14 which is Plaintiff's 6. Can you see
15 that?
16 A. Yes.
17 Q. That's the view of your house
18 from across the street, correct?
19 A. Yes.
20 Q. There is grass in front of your
21 shared walkway with your neighbor on the
22 sidewalk, correct, where the cursor is?
23 A. Yes.
24 Q. Did someone cut that grass?
25 A. Yes.

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1 Q. Who is that?
2 A. One of the neighbors.
3 Q. Do you know when [REDACTED] was
4 last repaved?
5 A. When what?
6 Q. When [REDACTED] Road was last
7 repaved?
8 A. You mean the road -- the whole
9 road?
10 Q. Yes, ma'am.
11 A. No.
12 MR. NEUWIRTH: I think
13 that is just about all I have. Give me
14 one minute, I'm just going to hop off
15 the video and I will be back with a
16 question or two.
17 MR. [REDACTED] In the
18 meantime, I have no questions.
19 MR. [REDACTED] I also
20 don't have any questions.
21 MR. [REDACTED] And while
22 we're off, [REDACTED] I will take a copy
23 of the transcript with color copies of
24 the exhibits attached. I will take it
25 electronically.

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1 MR. [REDACTED] I would
2 like the same order as [REDACTED]
3 (Discussion off the record.)
4 MR. NEUWIRTH: Back on
5 the record.
6 BY MR. NEUWIRTH:
7 Q. So, Ms. [REDACTED] is there
8 anything that you know about this
9 incident, Ms. [REDACTED] fall, that you
10 haven't told me?
11 A. No.
12 Q. Have you made any photographs
13 or recordings of the sidewalk outside
14 your house since you learned of the
15 lawsuit?
16 A. No.
17 MR. NEUWIRTH: I think
18 that is all I have. Thank you for your
19 time, ma'am.
20 (The deposition
21 concluded at 2:50 p.m.)
22
23
24
25

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1 CERTIFICATE
2 COURT OF COMMON PLEAS :
3 PHILADELPHIA COUNTY :
4
5 I, [REDACTED] before whom the
6 examination under oath of said witness was taken,
7 do hereby certify that the witness, whose
8 testimony appears in the foregoing examination
9 under oath, was duly sworn, and that the
10 transcribed deposition of said witness is a true
11 record of the testimony given by the witness;
12 that the proceedings herein are recorded fully
13 and accurately; that I am neither attorney nor
14 counsel for, nor related to any of the parties to
15 the action in which this examination under oath
16 was taken; and, further, that I am not a relative
17 of any attorney or counsel employed by the
18 parties hereto, or financially interested in this
19 action.
20
21
22 [REDACTED] Professional
23 Shorthand Reporter
24

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