

Exposure Assessment

What is my case really worth?

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The Claim

- 2 car t-bone collision at intersection
- Plaintiff is a quadriplegic

You know it has the possibility to be a big exposure – so what do you do next?

Investigate



Investigate

- More information about the plaintiff:
 - Age - 24
 - In Law School
 - Married (less than year)
 - No children

Investigate

- Information about other people in car
 - Dad – driver (deceased)
 - Mom – passenger (deceased)
 - Brother – passenger (deceased)
- He was home visiting family. Accident happened as they were driving to dinner. Wife stayed home as she had not been feeling well.

Investigate

- Having gathered some initial information, what do you think?
- What is the exposure?
- What is your plan of action?

Continue Investigation

- Finally get police report
- Learn that the driver of the other vehicle ran the stop sign
- Learn the other driver was intoxicated

Now what do you think?

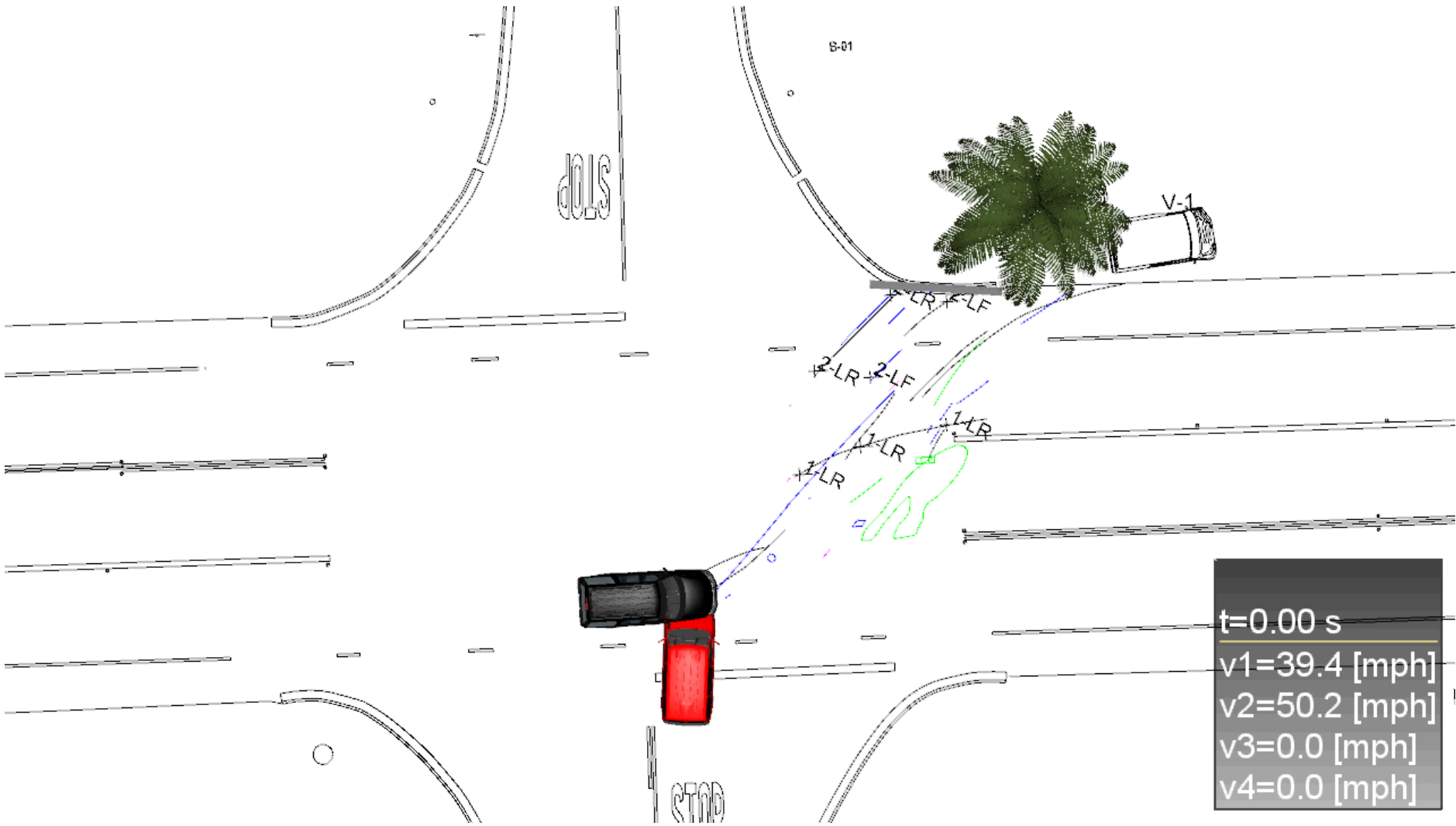
Scene



Scene

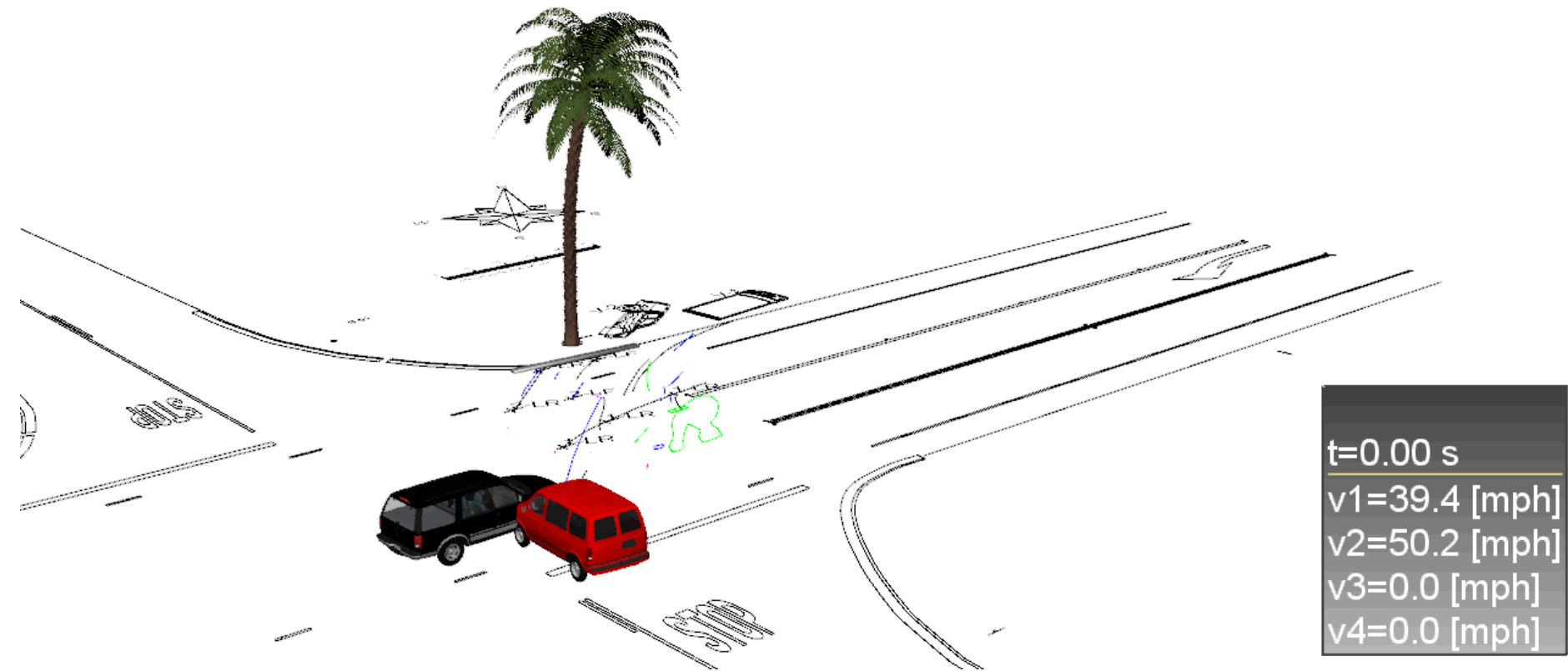


Accident – top view



t=0.00 s
v1=39.4 [mph]
v2=50.2 [mph]
v3=0.0 [mph]
v4=0.0 [mph]

Accident – nw view



Accident – sw view



Liability Claims

- Dangerous Condition of Public Property
 - A condition of property that creates a substantial risk of injury when used with due care
 - The injury was caused by the dangerous condition
 - The dangerous condition created a reasonably foreseeable risk of the kind of injury which occurred
 - The entity created the condition or had notice of it.

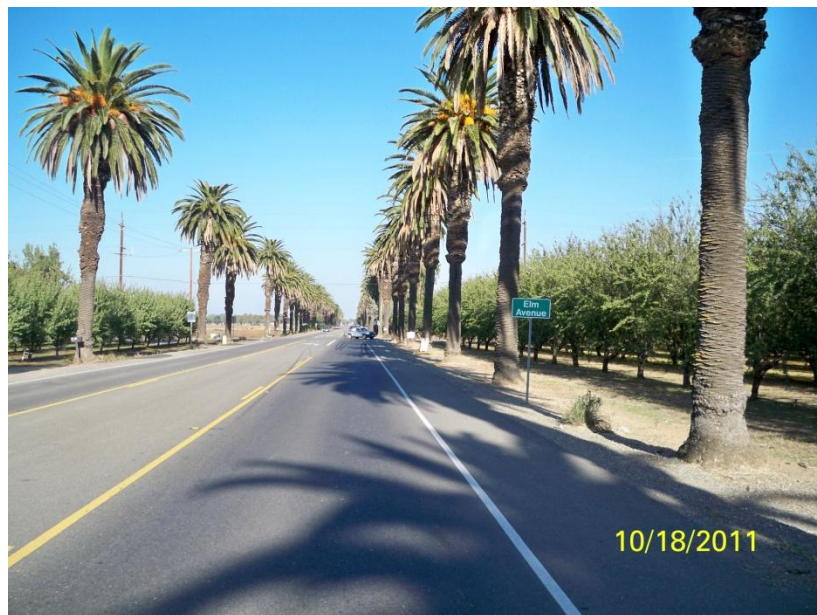
Liability – Plaintiff's position

- Intersection is dangerous because:
 - Palm trees too close to side of road
 - Because of palm trees there are line of sight restrictions (claim to violate engineering standards)
 - Sight restrictions also existed because of the orchard
 - Intersection ahead sign obscured by tree
 - Failure to put in stop sign or otherwise warn of dangerous intersection

Liability – Defendant's Position

- A dangerous condition did not exist at the intersection
- The palm trees and sight restriction were considered as part of the design of the 2001-02 road widening project
- Sight distance not really restricted
- Sight restriction is not what caused the accident (the drunk driver did not pull into the intersection because he could not see to his left)
- Accident caused by a drunk driver
- No requirement to put in stop sign
- Traffic studies were performed which showed there was not a traffic/engineering justification to put in a stop sign
- No significant prior accident history

Liability – Defendant's Position



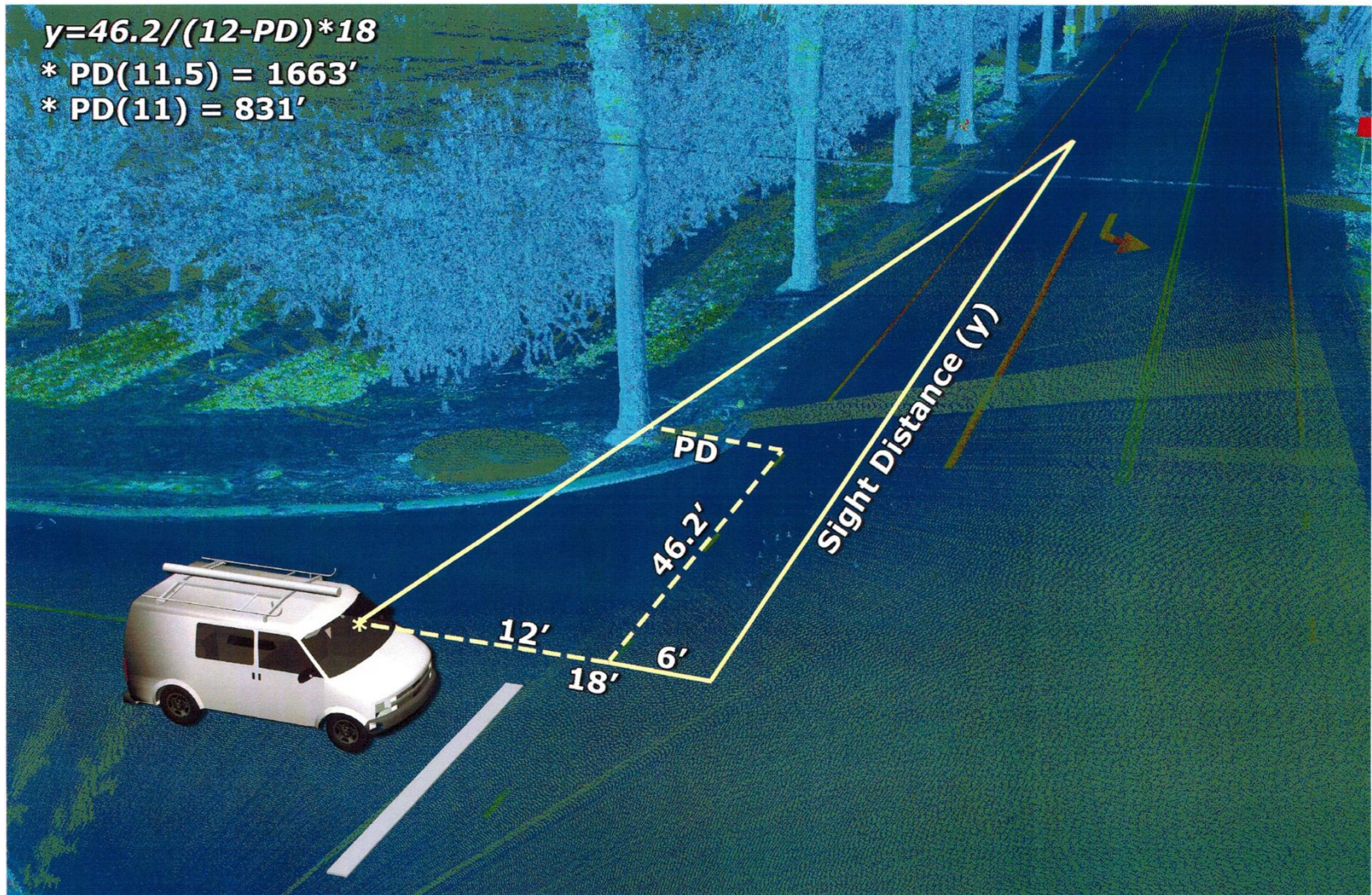
Liability – Defendant's Position



Liability – Defendant's Position



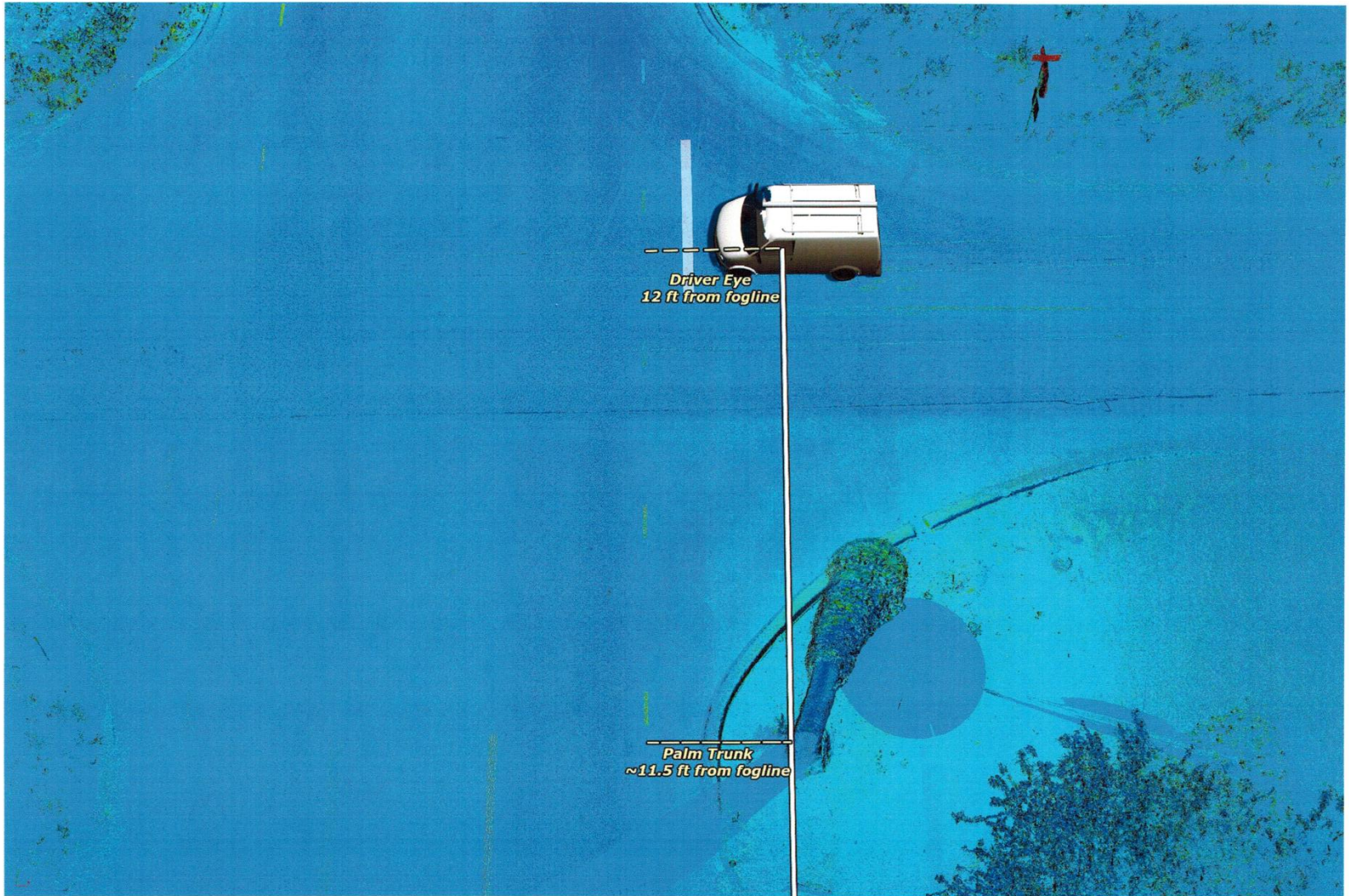
Liability – Defendant's Position



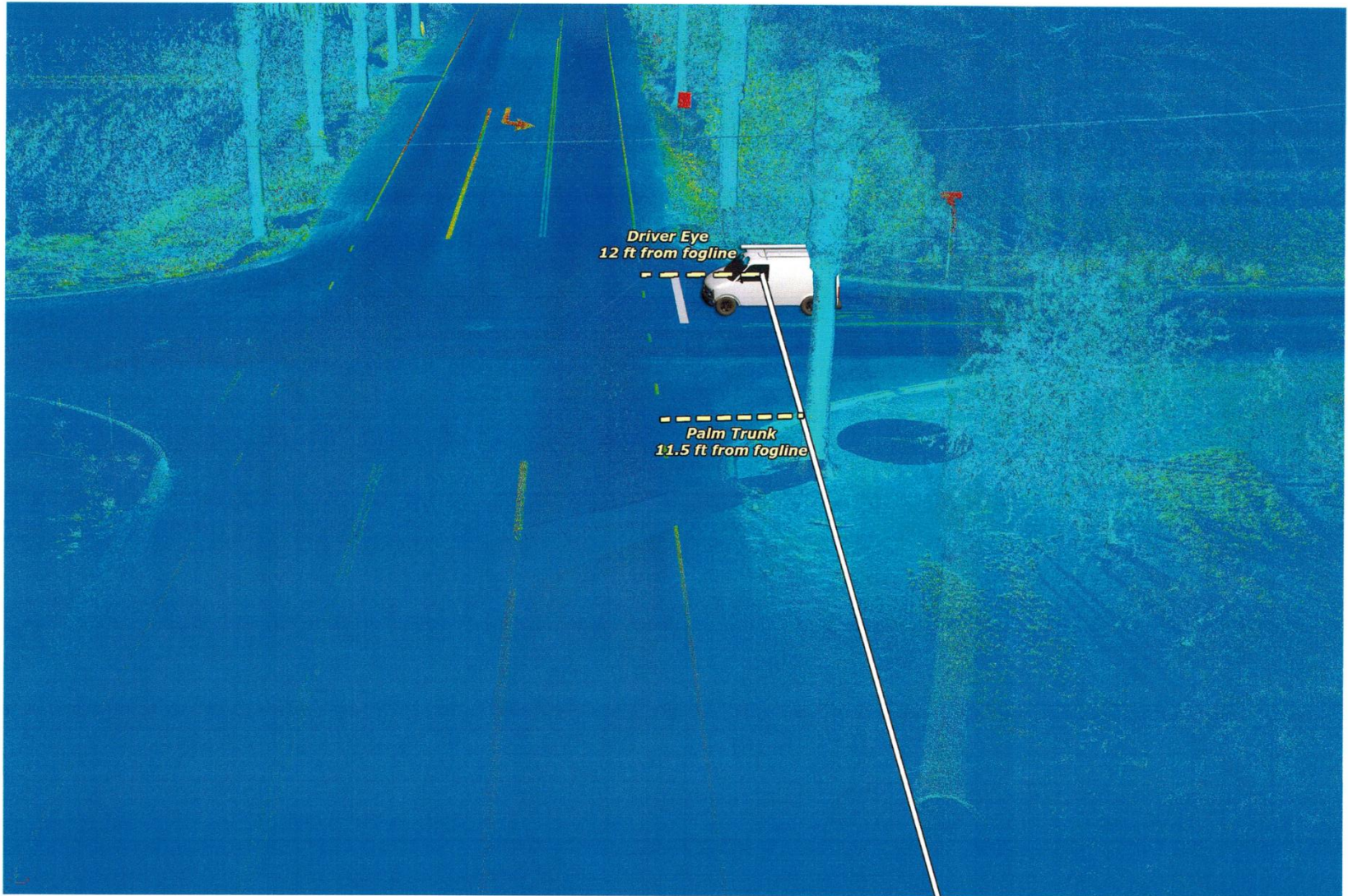
Liability – Defendant's Position



Liability – Defendant's Position



Liability – Defendant's Position



Liability – Defendant's Position



Liability

What's your position on liability?

New Information

- In 2002 the road was widened to add center turn lane
- Moved lane closer to palm trees
- This made it difficult to see to the left, so had to creep out to see if cars were approaching
- The sight limitations and palm trees were considered as part of the design

New Information

- 2004 a neighbor contacts the entity and requests a stop sign
- Entity send an engineer to do a traffic study
 - Palm trees could cause sight restrictions
 - All way stop with flashing beacon could be warranted

Change opinion of case?

New Information

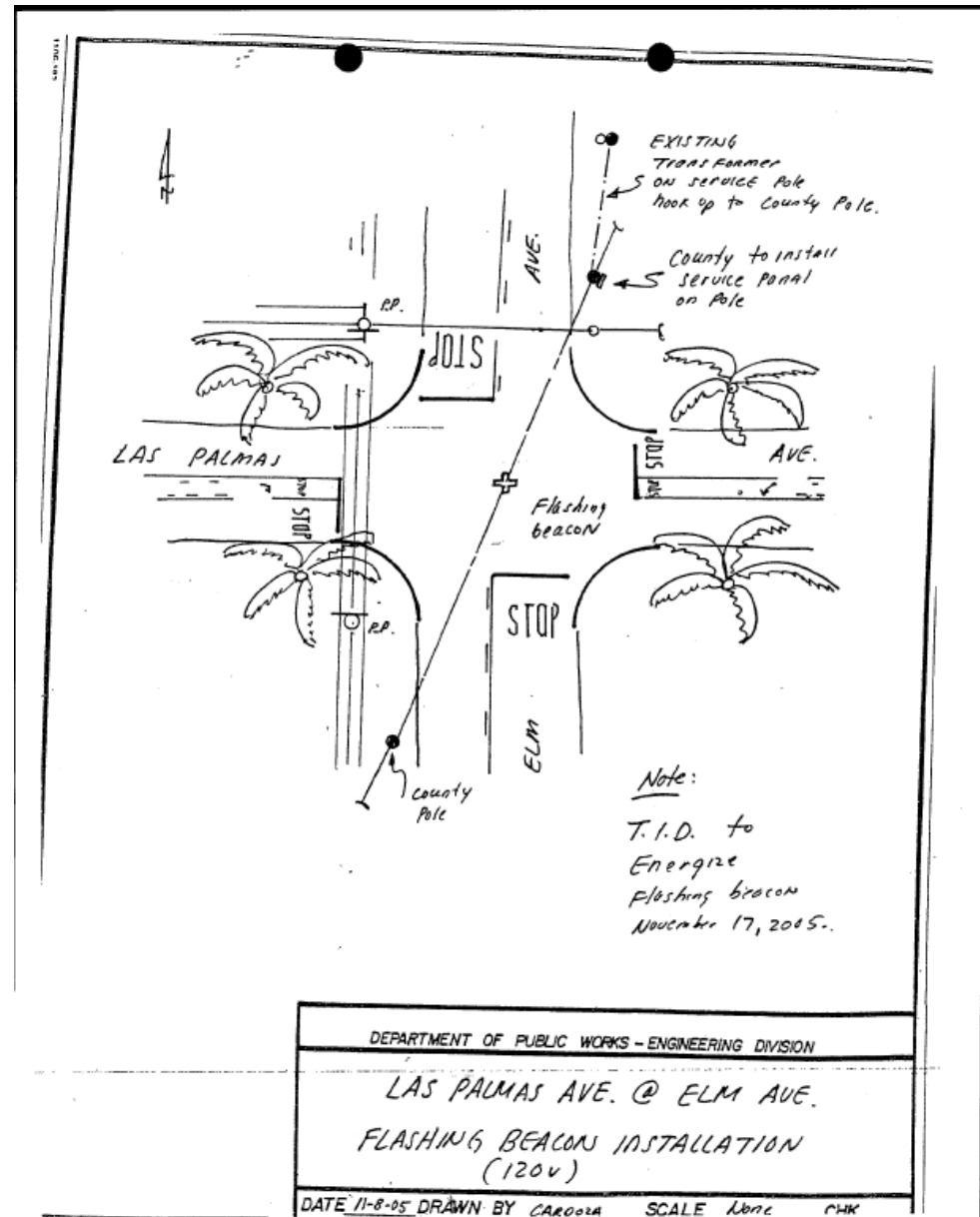
- 2005 neighbors submit petition to entity requesting four-way stop sign
 - “is a deadly accident waiting to happen and most certainly needs to be remedied as soon as possible”

More importantly, the County’s study doesn’t address the main problem of dangerously poor visibility at the intersection. Las Palmas Avenue is lined with the historical palm trees that cannot be moved, and ever since the road was widened to three lanes, cross traffic has had to pull past the stop bar into the oncoming traffic lane to see beyond the palm trees. This puts all vehicles, particularly the larger trucks and farm equipment, at increased jeopardy of collision. In this matter, the *Manual on Uniform Traffic Control Devices* twice states (2B.05, paragraph D and 2B.07, paragraph C) the need for a control by a stop sign if there is “High Speed, Restricted View, or Crash Records” which indicate a problem.

Since the traffic is growing on a daily basis due to Patterson’s population explosion, the intersection of Las Palmas Avenue and Elm Avenue is a deadly accident waiting to happen and most certainly needs to be remedied as soon as possible.

New Information

- Few months later, entity has engineering department prepare plans and drawings for installation of four-way stop and flashing beacon
- Entity undertook action to mark pavement for sign posts and where electrical lines would be located
- But, never went forward and completed project



New Information

- In 2005, 2006, and 2007 the entity conducted various traffic studies. Generally, concluded that there is not a traffic/engineering justification for a stop sign.

New Information

- In 2006, the entity evaluated the intersection
- At limit line for the stop sign, there could be sight restrictions looking left (car should creep forward)
- Make recommendations, including moving limit line forward three feet
- Entity made change – which did improve sight restriction caused by palm trees

New Information

- As of 2007, engineering department felt there was no need for a stop sign. The recommendation was to continue to monitor

So, now what do you think?

New Information

- 2007, entity authorizes traffic signals to be placed at the intersection
- Not installed prior to accident
- Traffic study showed that intersection signal, nor a stop sign was justified, under engineering standards
- Signal was finally installed in 2013. There were delays due to property acquisition, design and money issues

Updated Liability Analysis

- What is your assessment of liability?
- What is your plan of action for handling this file?

Damages

- Quadriplegia
 - 24 years old
 - In law school
 - Very active
 - Planned to have family
- Was conscious after accident and witnessed injuries to family
- Wrongful death of family
- Loss of Consortium

Damages - economic

- Economic damages – plaintiff
 - Past medical - \$800,000
 - Life care - \$11,000,000 (if attendant care \$19,000,000)
 - Wage – \$4,500,000 – \$6,000,000
- Economic damages – defendant
 - Life care - \$8,000,000 - \$12,000,000
 - Future wage - \$2,500,000 - \$3,000,000

Damages – non-economic

- Pain and suffering
 - Physical injuries
 - Wrongful death and bystander claims
- Loss of Consortium

Assessment

- Forget liability – what is case worth?
- How do liability issues impact evaluation?
- What would be your recommendation?