



# State of New Hampshire

DEPARTMENT OF SAFETY

BUREAU OF HEARINGS

James H. Hayes Safety Building, 33 Hazen Drive, Concord, NH 03305

## REPORT OF HEARINGS EXAMINER

<b>RESPONDENT:</b>	<b>Michael Gorsuch</b>
<b>DOB:</b>	<b>08/16/78</b>
<b>HEARING DATE:</b>	<b>05/20/09, 06/30/09</b>
<b>DATE OF REPORT:</b>	<b>07/17/09</b>
<b>HEARING LOCATION:</b>	<b>Concord, N.H.</b>
<b>LICENSE #:</b>	<b>08GHM78161</b>
<b>DOS HEARING #:</b>	<b>09-2525</b>
<b>REFERENCE:</b>	<b>FATAL CRASH INVOLVEMENT 0048</b>
<b>PRESIDING HEARING EXAMINER:</b>	<b>Mark M. Seymour, Esq.</b>
<b>RESPONDENT REPRESENTED BY:</b>	<b>Steven Levesque, Esq.</b>
<b>STATE REPRESENTATION:</b>	<b>Trooper Carleen Bowman, NHSP Troop G Sheri Kelloway, Esq., NH DMV Barbara and Hector Rodriguez</b>
<b>NEXT OF KIN:</b>	<b>Timothy Bush, Esq.</b>
<b>COUNSEL:</b>	<b>Charles Schack, CrashExperts Inc.</b>
<b>OTHER PERSONS PRESENT:</b>	<b>Lt. John Fisher, Nashua P.D.</b>

### OPENING REMARKS:

The Hearings Examiner opened the hearing with an introduction of all parties, indicating that this was a public hearing and that the hearing was being audio recorded and the audio would be available for 75 days. The victim's next-of-kin were present.

### SCOPE OF THE HEARING:

Based upon a complaint received from Trooper Bowman of the New Hampshire State Police alleging that the respondent Michael Gorsuch was the driver of a motor vehicle on Thornton Road, Nashua, on 10/29/07, and that he operated in an unlawful/reckless manner, thereby materially contributing to an accident that resulted in the death of Daniel Rodriguez of Nashua, New Hampshire.

## **PROVISIONS OF LAW:**

RSA 263:56,I(g), Safety Rule Saf-C 204.13, 209.

## **PRELIMINARY:**

The parties agreed on a number of issues. The respondent and Daniel Rodriguez were the only two occupants of a 2007 Toyota Scion tC at approximately 12:26 a.m. on 10/29/07 traveling northbound on Thornton Road in Nashua at a high rate of speed when the car left the road and struck a number of trees. The collision resulted in the immediate death of Daniel Rodriguez. Excessive speed and alcohol were factors in the crash.

The only contested issue was the identity of the driver at the time of the fatal collision. Both the State and the respondent submitted substantial documentary evidence in support of their positions, including police reports, photographs, diagrams, transcripts of interviews, an autopsy report by NH Chief Medical Examiner Dr. Thomas Andrew (submitted under seal by agreement); an expert report from Dr. Robert Eldridge Belliveau, M.D., and several lab reports including fingerprint analyses and DNA results. Lt. John Fisher testified as an expert witness for the State and Charles A. Schack testified as an expert witness for the respondent. Due to the volume of evidence the parties submitted written exhibit lists which are attached for reference. All of the testimony and documents listed were reviewed by the Hearings Examiner.

## **SYNOPSIS OF HEARING:**

### **Motion to Dismiss:**

Respondent moved to dismiss arguing that a State's expert, Chip Johnson, had rendered an opinion prior to the criminal trial arising from the same crash that conflicted with the State's theory and resulted in the State declining to prosecute the criminal charge. The motion was denied as it was premature and, pursuant to Saf-C 209.03 ©: "In proceedings concerning accidents involving motor vehicle fatalities, the hearings examiner shall not give weight to the lack of a criminal prosecution relative to the accident in making the decision concerning license suspension or revocation."

### **Trooper Bowman:**

Prior to the crash the two men had been drinking at the Sky Lounge in Nashua. The tab included 14 Bud Light beers and 8 "Jaegerbombs." They left the bar at about 12:14 a.m. in the Scion. At 67 Thornton Road the Scion left the road at a high rate of speed, rotating counterclockwise. The car struck two small trees and a larger tree causing the fatal impact.

Brett Parks was the first witness at the scene. He saw Daniel Rodriguez inside the car with his torso on the floor behind the driver's seat and his legs and feet extending through the console between the front seats.

The respondent told police and E.M.T.'s that he was o.k., that he was the passenger, that he was drunk, and that Daniel Rodriguez was driving because he (respondent) was "hammered." When asked how he exited the car, the respondent said he got out through the passenger door. When confronted with the fact that it would have been impossible to get out through the passenger door, he stated that he got out through the driver's side door, climbing over Daniel Rodriguez. Finally, he told the police that he did not recall how he got out of the vehicle.

Trooper Bowman submitted the New Hampshire Medical Examiner's autopsy report (**under seal by agreement**). Dr. Andrew concluded that "Daniel Rodriguez...died as a result of multiple blunt impact injuries sustained as the unrestrained passenger in a vehicle that left the roadway and struck a stand of trees on the passenger side." (Autopsy Report pg. 7).

Daniel Rodriguez's injuries included a patterned abrasion on the right side of his neck consistent with the fabric pattern of the passenger side airbag. He also suffered multiple fractured ribs on his right side consistent with the intrusion of the tree from the second collision. Additionally, he suffered a deep bruise to his right shoulder consistent with where the passenger's body would have struck the "D-Ring" of the passenger seatbelt. The respondent's injuries were minor. In addition to his conflicting statements regarding how he got out of the car, he initially told police that Daniel Rodriguez was in the driver's seat, "passed out", after the crash. The respondent said he reached over and checked for Daniel Rodriguez's pulse while Rodriguez was in the driver's seat.

In an interview with NPD detectives the respondent recalled a number of details both before and after the crash. He indicated that Daniel Rodriguez was driving aggressively, speeding and spinning the tires; he recalled reaching for his seatbelt twice but not fastening it. He recalled details immediately after the crash such as attempting to render aid to his friend. However, he ultimately said he did not recall how he got out of the car.

Due to time constraints the hearing was recessed for the day and reconvened on June 30, 2009.

**Lt. John C. Fisher**

Following is a synopsis of Lt. Fisher's testimony:

Lt. Fisher is the Nashua Police Department Collision Reconstruction Team Supervisor. In this capacity he reviews and signs off on crash investigation

reports. He was involved in the investigation from start to finish. Lt. Fisher gave an overview of the crash using a large aerial photograph of the section of Nashua encompassing the route traveled by the Scion from the Sky Lounge to the crash scene off Thornton Road (State's Exhibit 17), and a large diagram of the section of Thornton Road where the vehicle left the road ultimately striking the trees (State's Exhibit 18).

The size of the trees matches the damage to the Scion from three distinct impacts. The damage was all on the passenger's side; the driver's side was virtually unscathed. The first collision took place when the car struck a small tree with the right front quarter panel; the second when it struck a larger tree which intruded directly into the passenger side; and the final impact with a much larger tree caused the greatest damage to the right rear quarter of the Scion. The car was going a minimum of 59 M.P.H. on this road with a 30 M.P.H. speed limit.

The massive injuries to Daniel Rodriguez were consistent with an unrestrained passenger where virtually all of the damage was to the passenger's side. Daniel Rodriguez's skull fracture (right rear of skull), patterned neck abrasion (consistent with passenger side airbag), broken ribs on the right side, and right shoulder injury are all consistent with him being the passenger. The broken ribs on the right side are what one would expect from the vertical intrusion of the second tree directly into the passenger side door, and the bruise to the right shoulder is consistent with the location of the "D-Ring" passenger side seat belt anchor. The respondent's injuries were relatively minor, consistent with the lack of damage on the driver's side.

Lt. Fisher and his colleagues also considered the possibility that Daniel Rodriguez was the driver; however they were unable to come up with a plausible scenario other than the one in which respondent was the driver. The damage was "simply not there" to indicate Daniel Rodriguez was the driver.

Based on the respondent's inconsistent statements, the injuries (particularly the bruise to Daniel Rodriguez's right shoulder consistent with the passenger side seatbelt D-Ring and the patterned abrasion on his neck consistent with the passenger side airbag), the damage to the vehicle, the DNA evidence (including respondent's DNA on the steering wheel and three samples from the passenger seat of Daniel Rodriguez), Lt. Fisher formed the opinion that the respondent was the driver and Daniel Rodriguez the passenger at the time of the fatal collision.

### **Cross:**

Striking the first trees would not have decreased the rate of rotation. The roof of the car impacted the tree as well as the right rear corner of the vehicle. The damage to the right rear of the car was substantial. The Scion was still spinning as it struck and rotated around the final large tree. The third impact was by far the

most severe; everything in the vehicle that wasn't nailed down moved toward the passenger side and rear of the vehicle (point of impact). The passenger side airbag covers the entire right side of the car. The airbag was not tested to confirm that it was the source of the injury to Daniel Rodriguez's shoulder. Lt. Fisher did not believe a test was necessary; the pattern of the injury was visibly consistent with the distinctive pattern on the airbag and there were no other items that would have caused such an injury.

Mr. Parks found Daniel Rodriguez in the vehicle with his torso in the backseat area behind the driver's seat and his legs and feet in the front. The Red Sox cap found wedged between the passenger side headrest and B-Pillar contained the respondent's DNA. A blood sample taken from the driver's seat came from Daniel Rodriguez. A pack of Camel cigarettes (brand smoked by Daniel Rodriguez) was found on the driver's side between the driver's seat and the door jamb. The respondent was arrested and charged within hours of the accident (at approximately 2:30 a.m.). The autopsy of Daniel Rodriguez had not yet been done.

**Redirect:**

Daniel Rodriguez's blood on the driver's seat could have been transferred there in attempts to move him after the crash. The collision with the second tree was a direct sideways impact into the passenger side. At the moment of the third collision the degree of rotation was closer to 90 degrees than 180 degrees.

**Re-cross:**

The airbags in the Scion once deployed activated very quickly. An inflated airbag would have covered the passenger side D-Ring and the passenger door to some extent. There was no indication the respondent acted as a "human airbag." Daniel Rodriguez was removed from the back seat, not across the front seat.

**RESPONDENT'S CASE:**

Counsel for respondent reviewed respondent's exhibit list and explained the significance of each item to the respondent's case.

**Charles A. Schack:**

Mr. Schack is an accident reconstructionist and the president of CrashExperts, Inc. He is a former reconstructionist for the New Hampshire State Police (first and only trooper to receive full ACTAR accreditation), has been teaching accident reconstruction to police officers since 1991, and has investigated and/or reconstructed thousands of traffic collisions throughout the country over the past 23 years. In preparing his report Mr. Schack reviewed all available relevant material, including the police reports and attachments, the autopsy report,

photographs, the vehicle itself, and the collision scene. He began his investigation “with a blank slate”, examining everything in an effort to determine who was the driver of the Toyota Scion at the time of the fatal collision.

Phase I of Mr. Schack’s investigation involved determining how the collision occurred, taking into account such factors as directions of force, likely orientation of occupants, and how the occupants were positioned within the vehicle. Mr. Schack agreed with much of Lt. Fisher’s testimony:

- The Scion was traveling northbound on Thornton Road at a high rate of speed (65 – 70 mph using a slightly different coefficient of friction than the State’s) prior to the collision.
- The vehicle was rotating counterclockwise as it left the road and spun into the trees.
- The vehicle engaged in a series of three collisions in rapid succession.

A significant point of disagreement was the degree to which the vehicle had rotated prior to striking the large tree. Mr. Schack’s opinion was that the car had rotated close to 180 degrees, causing more of a rear-end than a side impact. Mr. Schack tested various possible scenarios, including placing the respondent in the driver’s seat; however the only one that ultimately fit the evidence was Daniel Rodriguez in the driver’s seat and respondent in the passenger’s seat.

Important factors considered by Mr. Schack included:

- Impact forces on unrestrained occupants as determined by the physics of the collision(s);
- Location of Red Sox baseball cap with respondent’s DNA (wedged between passenger seat headrest and B-Pillar.);
- Location of Daniel Rodriguez’s shoes in the front with one in the front driver’s side;
- Presence and deployment of passenger side airbags;
- Magnitude of injuries to each occupant;

Mr. Schack had no doubt about his conclusion that Daniel Rodriguez was the driver. The minor injuries to the respondent were consistent with the impact forces and airbag deployment. The airbag deployed during the first and second impact and likely was still inflated on the third impact. The driver, conversely, would have been vulnerable to serious injury based on the magnitude and angle of the final impact. The car struck the large tree in such a way that an unrestrained driver would have been forced from front to back and left to right. Nothing was in the way of the driver getting thrown violently and forcefully to the back seat area.

In violent collisions it is not uncommon for victims to be knocked out of their shoes. Given the forces involved with this crash this is a likely scenario and consistent with Daniel Rodriguez's sneaker in the front driver's side. At the moment of the third impact, the driver was thrown toward the right rear of the car and toward the large tree head first. This is consistent with the massive injuries to Daniel Rodriguez and with his position in the vehicle as observed by Mr. Parks and others immediately after the crash.

The unrestrained driver in this crash would have experienced 30 G's or more of force and could not possibly have remained in the driver's seat and escaped serious injury. The "forces were all going in the wrong direction" for the passenger to end up behind the driver's seat. Mr. Schack drew the Examiner's attention to several photographs in his report to support and explain his testimony regarding the directions of force, particularly Figure 1, a photograph of the rear of the Scion showing the point of impact and the severe damage to the right rear of the car; and figure 17, with arrows indicating the likely paths of travel of the unrestrained occupants resulting from each of the three collisions.

**Counsel drew the Hearings Examiner's attention to the following additional evidence:**

Mr. Parks was the first to arrive at the scene and he described the position of Daniel Rodriguez to the 911 dispatcher. The respondent is recorded on a 911 call attempting to give aid to and periodically speaking to Daniel Rodriguez.

Michelle Bergeron, Daniel Rodriguez's fiancée, told police that Daniel was given the Scion with dealer plates on the condition that no one else be allowed to drive it unless it was an official test drive. She never drove the Scion and it was unlikely that Daniel would have let anyone else drive it under normal circumstances. During his interview (State's Exhibit EE) the respondent told detectives 70 times in one form or another that he was not the driver of the Scion. The respondent remained steadfast in his position that he was not the driver.

The respondent remembered details of the evening prior to the crash, including exactly what time they arrived at the Sky Lounge (58 seconds before the first pitch); where they sat, what they ate and drank, and what time they left (after MVP trophy awarded). He offered to take a lie detector test and encouraged the detectives to check the steering wheel for fingerprints. His statement of how he reached over to take Daniel Rodriguez's pulse is consistent with him being in the driver's seat and Daniel Rodriguez being in the back.

Counsel again noted that the State's expert who was to prepare a report prior to the criminal trial in this matter, Chip Johnson, came to the conclusion that the respondent was not the driver.

### **State's Rebuttal:**

Lt. Fisher confirmed that Chip Johnson was an expert witness / accident reconstructionist from CrashLabs, Inc., who was to be a witness for the State; however he came to the conclusion that the respondent was not the driver.

Lt. Fisher testified regarding the circumstances of a meeting with Mr. Johnson prior to the scheduled trial. Mr. Johnson gave his opinion at the outset (respondent was not the driver) and gave little information thereafter. He did not write a report nor did he review all of the evidence before coming to his opinion.

Regarding the shoes, their position in the vehicle is inconclusive as they could have been moved. Motor vehicle - pedestrian collisions where one typically sees the phenomenon of one getting knocked out of their shoes are different. The Camel cigarettes found in the vehicle are not significant as the car was Mr. Rodriguez's vehicle so it is not surprising that his personal effects would be found within.

Lt. Fisher maintained that it was more of a side than a rear impact, and opined that the photographs do not support the respondent's theory of more of a rear impact based on the damage. The center console was broken and moved in the direction of the front seat, but was not in the front seat. The injury to the respondent's right thigh was consistent with the damaged center console.

Lt. Fisher was unable to fully explain how Daniel Rodriguez ended up in the back behind the driver's seat, but said it was possible he was repositioned by people attempting to render assistance.

### **Re-cross:**

Mr. Johnson was supposed to be a State's expert but he disagreed with the State's theory regarding who was the driver. He did not go to the scene or look at the vehicle before coming to his conclusion. The shoes belonging to Daniel Rodriguez were photographed inside the vehicle at the scene the night of the crash. It is highly unlikely someone moved the respondent prior to police arrival.

### **Respondent's rebuttal:**

Mr. Schack's opinion is that the photographic evidence (Figures 16 and 17 in his report) makes it readily apparent that the impact was a diagonal force, neither directly sideways nor directly back to front. Figure 17 shows a degree of forward intrusion and the angle of impact. The evidence is that Daniel Rodriguez ended up in the back seat as a result of being thrown back by an angular collision.

**Re-Cross:**

Mr. Schack reviewed all of the available evidence to form his opinion. He did a physical exam of the vehicle to the extent he was able (he was not allowed to check the door's operation). He considered the DNA results although they are not included in his report. He reviewed the autopsy of Dr. Andrew. He reviewed the "D-Ring" theory and evidence and disagreed with the State's conclusion. Regarding the alleged airbag pattern injury to Daniel Rodriguez, he did not have sufficient information to form a definitive opinion. He considered the respondent's inconsistent statements regarding how he got out of the car.

In conclusion, Mr. Schack stated that when all of the evidence is viewed in concert, it supports only one conclusion -- that the respondent was not the driver.

**EXHIBITS RECEIVED AT HEARING:**

**State's Exhibits: see:**

- **List of State's Exhibits 1 - 12, 13 A - Z, AA - SS, 14 - 18, (attached).**

**Respondent's Exhibits: see:**

- **DEFENDANT'S EXHIBIT LIST A - Z, AA (attached).**

**FINDINGS OF FACT:**

1. On 10/29/07 at approximately 12:26 a.m. the respondent and Daniel Rodriguez (D.O.B. 9/13/80) were the only two occupants of a 2007 Toyota Scion on Thornton Road in Nashua when the vehicle left the roadway and struck a series of trees.
2. Daniel Rodriguez died as a result of injuries sustained in the crash.
3. Excessive speed was a contributing factor in the crash.
4. Operator impairment by alcohol was a factor in the crash.
5. Respondent's blood alcohol level was measured at .14 BAC.
6. The Scion was traveling from 59 - 70 MPH in this 30 MPH zone.
7. The Scion left the road rotating counterclockwise and struck a small tree with its right front fender.

8. The Scion continued to rotate and struck a second tree with the passenger side front door.
9. The Scion struck a larger tree which impact caused the death of Daniel Rodriguez.
10. The vehicle struck the third tree with the right rear quarter of the vehicle.
11. The force of the final collision caused massive damage to the Scion and forced the right rear quarter of the vehicle into the passenger area.
12. Initial witnesses observed Daniel Rodriguez inside the vehicle with his torso behind the driver's seat and his feet across the center console.
13. Daniel Rodriguez's injuries included multiple broken ribs on his right side, consistent with the damage documented from the second collision.
14. Daniel Rodriguez's injuries included a bruise to his right shoulder consistent with striking the passenger side D-Ring seatbelt anchor.
15. Daniel Rodriguez had a patterned abrasion to his neck consistent with the passenger side airbag.
16. Daniel Rodriguez was the source of blood on the passenger side headrest.
17. Daniel Rodriguez was the source of blood on the passenger seat.
18. The respondent was the likely source of DNA found on the steering wheel.
19. The respondent told officers at the scene that he exited the vehicle through the passenger side door.
20. The damage to the Scion was such that it would have been impossible to exit through the passenger side door.
21. The respondent told EMT Justin Hart that he "climbed over his friend" to get out of the car.
22. The respondent told investigators that Daniel Rodriguez was in the driver's seat after the crash when he checked for a pulse.
23. The respondent told investigators he did not recall how he got out of the car.
24. The respondent recalled other details about the night of the crash.

25. Dr. Andrew, Chief Medical Examiner, concluded that Daniel Rodriguez sustained his injuries as an unrestrained passenger.
26. The respondent told detectives 70 times in an interview after the crash that he was not the driver.
27. Respondent's fingerprints were not found on the rearview mirror.
28. Respondents' fingerprints were not found on the steering wheel.
29. DNA from a Red Sox cap found wedged between passenger side headrest and B-Pillar came from the respondent.
30. DNA from the driver's seat came from Daniel Rodriguez.
31. Daniel Rodriguez's shoes were found in the front of the car with one in the front driver's foot well area.
32. Robert E. Belliveau, M.D., after reviewing the evidence / crash reports, concluded that there was "absolutely no way that Daniel Rodriguez was the passenger."
33. A potential State's expert witness, Chip Johnson, disagreed with the State's conclusion that the respondent was the driver.
34. Mr. Johnson did not write a report documenting the reasons for his opinion or what evidence he reviewed.
35. Mr. Johnson did not view the vehicle or the crash scene.
36. Respondent offered to take a lie detector test to show he was not the driver.
37. Respondent encouraged the police to check the steering wheel for his fingerprints.

### **DISCUSSION:**

This case presents the difficult task of determining the driver in the fatal crash that killed Daniel Rodriguez. Both sides have presented a number of compelling facts and circumstances that would seem to weigh heavily in favor of their position. Both experts exhibited a high degree of professionalism and are clearly sincere in their beliefs regarding the identity of the driver. However, only one of the two men could have been driving, and I find that the State has met its burden of showing by a preponderance of the evidence that the respondent was

the driver.

The most important evidence in reaching this conclusion was the nature of the injuries to Daniel Rodriguez. I find the State's presentation credible and compelling in this regard, particularly the fractured ribs matching the impact to the passenger side door, the bruised shoulder matching the position of the passenger side D-Ring seatbelt anchor, and the patterned abrasion to the right shoulder of Daniel Rodriguez, matching the texture / pattern of the passenger side airbag.

Also significant were the respondent's varied and impossible explanations for how he got out of the car after the crash, and the position of Daniel Rodriguez when he did so. It is implausible that he would remember many details except how he got out of the car and where Daniel Rodriguez was when he got out. It is telling that the respondent changed his version of how he got out of the car when confronted with the impossibility of his earlier statements. Attributing the respondent's inconsistent statements to the shock of the crash and/or his intoxication does not ring true especially given his recall in other areas.

The location of Daniel Rodriguez's footwear, while probative, is ultimately not dispositive, as there are other explanations as to how footwear could end up in the driver's area aside from the respondent's theory that Daniel Rodriguez was knocked out of his shoes by the collision. He may or may not have been wearing the shoes prior to the crash, and they could have been moved after the crash or as a result of the violent impacts. The location of the Red Sox cap is likewise probative and carries greater weight than the shoe evidence, however it is not dispositive, for similar reasons.

Finally, I find it more likely the car had spun closer to 90 degrees than 180 degrees as it struck the large tree, and the resulting lateral force (right to left) was substantial. Additionally, Lt. Fisher's testimony regarding the lack of damage to the driver's side being consistent with the lack of serious injury suffered by the respondent and the serious damage to the passenger side being consistent with the crushing injuries (primarily to the right side) sustained by Daniel Rodriguez was credible and convincing.

#### **CONCLUSION OF LAW:**

I find that the State has met its burden of proof, by showing by a preponderance of the evidence that the respondent, Michael Gorsuch, was the operator of the 2007 Toyota Scion on 10/29/07 at approximately 12:26 a.m. when it left Thornton Road and struck a series of trees, which crash caused the death of Daniel Rodriguez, and that Michael Gorsuch did thereby by unlawful and reckless operation materially contribute to the death of Daniel Rodriguez. The specific conduct of respondent that led to the deadly crash was his driving at excessive speeds while highly impaired by alcohol.

**DISPOSITION:**

**Having found that the State has met its burden, the respondent's license / privilege to drive in New Hampshire is suspended indefinitely, effective 7/18/09. A dispositional hearing shall be scheduled at which statements from the victim's next of kin shall be considered along with the State's and respondent's recommendations/requests regarding an appropriate disposition.**

**RSA 263:76 APPEAL FROM SUSPENSION OR REVOCATION.**

Any person whose license has been suspended or revoked, except where such suspension or revocation is mandatory, or any person who has been denied a license, may petition, within 30 days thereafter, the superior court in the county where such person resides. The court, upon 14 days' written notice to the director, shall determine, after hearing, whether the decision of the director is unreasonable or unlawful. The burden of proof shall be upon the petitioner. All findings of the director upon all questions of fact properly before him shall be deemed prima facie lawful and reasonable. The decision appealed from shall not be set aside or vacated except for errors of law, unless the court is satisfied, by a clear preponderance of the evidence before it, that such order is unjust or unreasonable. The provision of RSA 263:56, IV shall apply in appeals concerning accidents involving motor vehicle fatalities.

**RSA 263:56, IV (excerpt)**

The decedent's next of kin or any seriously injured person, if aggrieved by the director's order, shall have standing under RSA 263:76 to file a petition of review in the superior court for review of the questions of law in the director's order. If an appeal is made under RSA 263:76 concerning an accident involving a motor vehicle fatality or serious injury, the decedent's next of kin or any seriously injured person shall be notified of the filing of the appeal and the date of the appeal hearing and shall have the right to make a written statement to the court at the time of the Hearing.

Dated: 7/17/09

-----  
Mark M. Seymour  
Hearings Examiner

cc: Trooper Bowman  
Atty. Levesque  
Timothy Bush, Esq. / Barbara and Hector Rodriguez

