

1 turn to go home. That's -- if that's correct.

2 Q: But you -- you can't tell us if you did
3 that on this day though, can you?

4 MR. STEPHENSON: Asked and answered, Your
5 Honor.

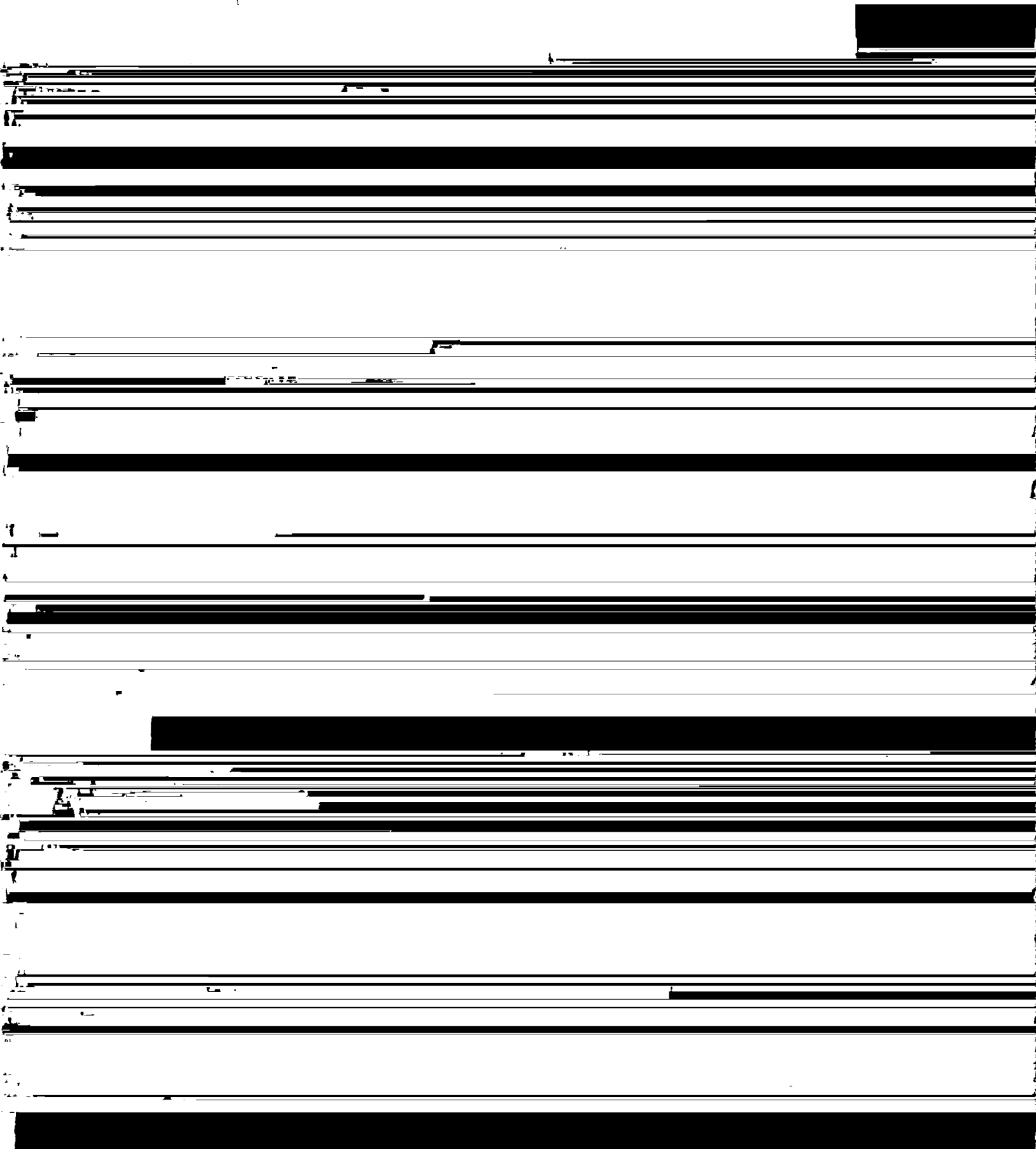
6 THE COURT: Well, can you answer that, sir?
7

1 Your Honor.

2 THE COURT: Are you gonna have a Motion Mr.
3 Stephenson?

4 MR. STEPHENSON: I -- I'm gonna let this go to
5 the jury, Your Honor.

6 THE COURT: Well, as I said before I'm glad I'm



1

Members of the jury on each of your chairs are

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1 from any statement that I may make during the course of
2 these instructions or that Counsel may make in argument
3 you must rely on your own memory.

4 During the course of trial it's been my duty to

5 of matters of law such as objections

1 from any conduct or (unintelligible) of mine that I favor
2 one party or another or that I believe or disbelieve the
3 testimony of any witness. You, not I, are the sole
4 judges of believability of witnesses and the weight of
5 the evidence. You must not be influenced in any way by
6 my conduct during the course of the trial.

7 Now the party who asserts a claim or
8 affirmative defense has the burden of proving it by what
9 we call the preponderance of the evidence. In order to
10 prove something by preponderance of the evidence a party
11 must prove that it is more likely so than not so. In
12 other words, a preponderance of the evidence means such
13 evidence which when considered and compared with the
14 evidence opposed to it has more convincing force and

1 court Sections 1 and 2. Those concern the allegations by

1 differed from statements made by the witness on any
2 previous occasion.

3 You need not believe any witness even though
4 the testimony is uncontradicted. You may believe all,
5 part or none of the testimony of any witness.

6 Now, negligence is doing something that a
7 person using reasonable care would not do or not doing
8 something that a person using reasonable care would do.

9 Reasonable care means that caution, attention
10 or skill a reasonable person would use under similar
11 circumstances.

_____ In order for the Plaintiff to recover damages

[Redacted]

...therefore.

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that is divided into two or more clearly marked lanes for

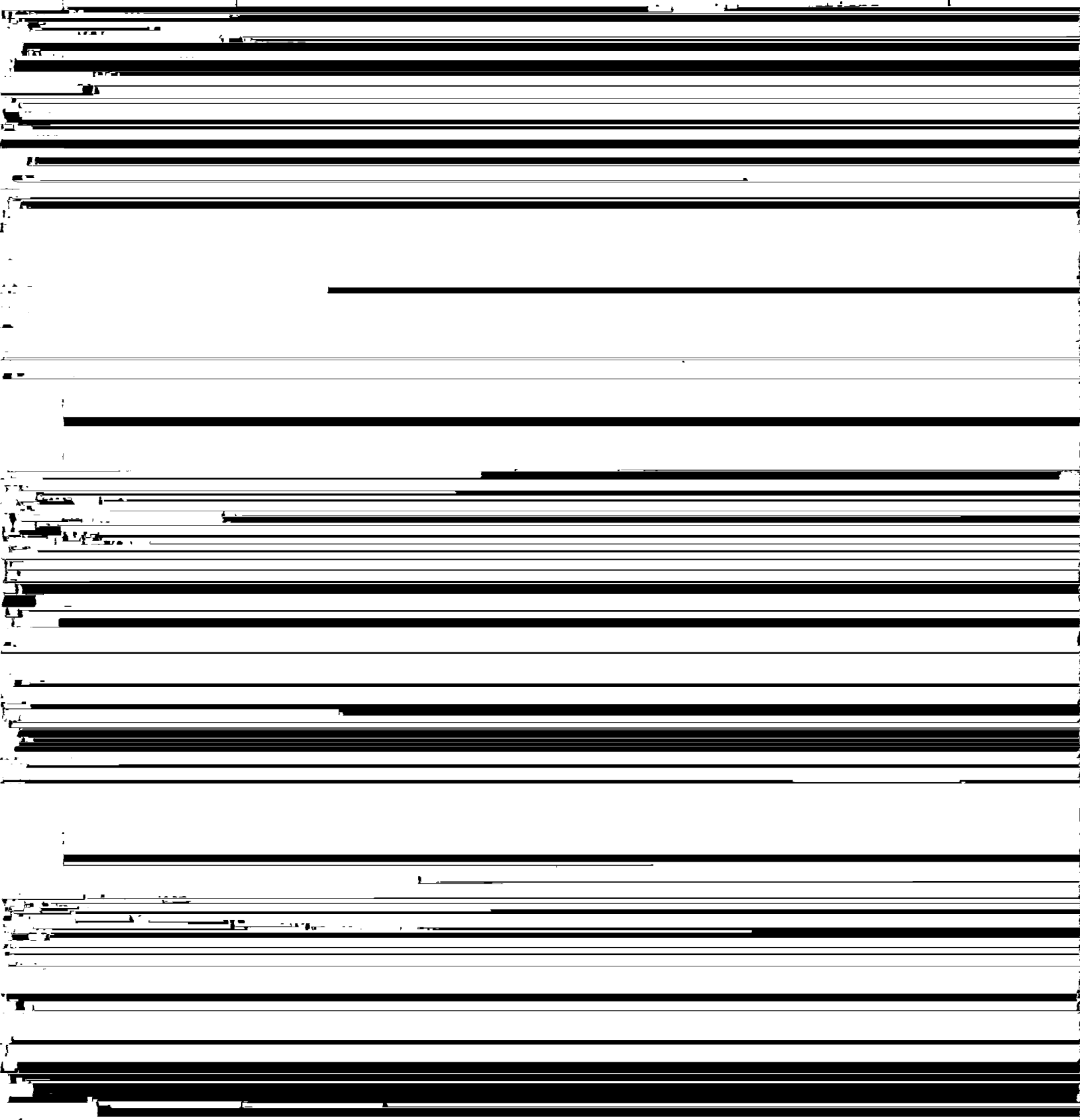


1 otherwise established under the subtitle are maximum
2 speed limits. A person may not drive a vehicle on a
3 highway at a speed that exceeds these limits except as
4 otherwise provided in the section the maximum speed
5 limits are 50 miles and hour on undivided highways in
6 other locations.

7 Now a Plaintiff cannot recover if the
8 Plaintiff's negligence is a cause of the injury. The
9 Plaintiff has the burden of proving by preponderance of
10 the evidence that the Plaintiff's negligent was the cause
11 of the Plaintiff's injury.

12 An employer or a principle is responsible for
13 injuries or damages caused to others by acts of employees
14 or agents if the acts causing the injuries or damages
15 were within the scope of employment. The Defendant's are
16 -- the Defendant's suit as employer to employee.

17 Now in this case we have the Defendant who is
18 Mr. -- Danny Quade but he's technically not a Defendant.
19 But it has been stipulated that he was an employee of
20



1 THE COURT: Defense.

2 MR. STEPHENSON: (Inaudible.)

3 (Counsel returns to trial tables.)

4 Okay, members of the jury, when I gave you the
5 instruction on contributory negligence which is also
6 covered in the written instructions, it's the Defendant