

LAW OFFICE OF
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Gail S. Miller
Of Counsel

FAXCIMILE COVER PAGE

DATE: June 2, 2009

TO: JEFFREY SILVER
Senior Administrative Law Judge
Safety Hearing Bureau
518-473-8505

FROM: Adam D. White, Esq.

RE: Motor Vehicle Accident Date: 8/5/08
Decedent from MV Accident: Rasha Shamoon
Accident Location: Delancey and Bowery Street, NY,
Operator of Vehicle #1: Abraham Solander
Operator's MV Id Number: 958 107 752
Case No. 32-764155

REMARKS:

() PLEASE CALL UPON RECEIPT
THIS TRANSMISSION CONSISTS OF 6 Pages (INCLUDING THIS PAGE)

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Gail S. Miller
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June 1, 2009

VIA FACSIMILE ONLY: 518-473-8505

Jeffrey Silver
Senior Administrative Law Judge
Safety Hearing Bureau
NYS Department of Motor Vehicles
6 Empire State Plaza, Room #312
Albany, New York 12228

Re:	Motor Vehicle Accident Date:	8/5/08
	Decedent from MV Accident:	Rasha Shamoon
	Accident Location:	Delancey and Bowery Street, NY, NY
	Operator of Vehicle #1:	Abraham Solander
	Operator's MV Id Number:	958 107 752
	<u>Case No. 32-764155</u>	

Dear Judge Silver:

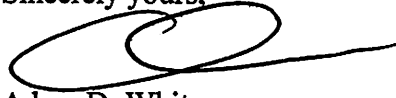
I previously sent your office a letter of representation of the family of Rasha Shamoon, a young woman who was killed in the above referenced accident. Despite my letter of representation being sent on October 15, 2008 (a copy of which is annexed), apparently a decision was reached by your office not to conduct a hearing on or about December 22, 2008 (copy of Safety Hearing Bureau annexed).

The Shamoon family is confused and deeply dismayed that your office did not see fit to conduct a hearing in this matter especially considering that the driver of the vehicle that struck and killed their daughter/sister (Rasha) was 21 years old at the time of the accident and apparently had 5 moving violation convictions within a very short period of time before the accident including two (2) excessive speeding tickets and three (3) others that have the appearance of being reduced from more significant offenses.

On behalf of the Administrators for the Estate of Rasha Shamoon, I respectfully request that your office reconsider the decision it reached on December 22, 2008 and conduct a hearing on this accident.

Thank you for your attention.

Sincerely yours,

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a horizontal line extending to the right.

Adam D. White

Enc.

cc: Adel Shamoon
Samira Shamoon

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NEW YORK, NEW YORK 10007

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Gail S. Miller
Of Counsel

4/29/09 - (518) 474-

(Peggy)

5/4/09

5/21/09 - follow up

1509
L/m
Joseph

October 15, 2008

VIA CERTIFIED MAIL:7007 2560 0001 8507 2062

RETURN RECEIPT REQUESTED

Safety Hearing Bureau
NYS Department of Motor Vehicles
6 Empire State Plaza, Room #312
Albany, New York 12228

Cc# 327641 55

Re: Motor Vehicle Accident Date: 8/5/08
Decedent from MV Accident: Rasha Shamoon
Accident Location: Delancey and Bowery Street, NY, NY
Operator of Vehicle #1: Abraham Solander
Operator's MV Id Number: 958 107 752

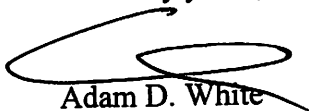
Dear Sir or Madam:

I represent Dr. and Mrs. Adel Shamoon, the parents of Rasha Shamoon (deceased) and the administrators for the Estate of Rasha Shamoon. Ms. Shamoon was killed as a result of an accident involving her and a motor vehicle driven by Abraham Solander on August 5, 2008 at the above location. I am enclosing a copy of the police report and Letters of Administration.

The Shamoon family is interested in receiving notification of the date, time and location of any hearing scheduled by the NYS Department of Motor Vehicles concerning the subject accident.

On behalf of the family, would you please notify my office of the date, time and location of any such hearing(s). Thank you for your attention.

Sincerely yours,


Adam D. White

Enc.

STATE OF NEW YORK - DEPARTMENT OF MOTOR VEHICLES

6 Empire State Plaza, Albany, New York 12228

Division of Safety and Business Hearings, Room 312 Tel: (518-474-1509) Fax: (518-473-8505)

December 22, 2008

Abraham J. Soldaner
1554 East 26th Street
Brooklyn, NY 11229

CASE #: 32-764155
Fatal Accident: 08/05/2008

Dear Sir:

A review of the above referenced fatal accident has been completed. On the basis of that review, the department has decided that a hearing in this matter is not warranted. Accordingly, this case is now closed.

Safety Hearing Bureau



**STATE OF NEW YORK
DEPARTMENT OF MOTOR VEHICLES
6 EMPIRE STATE PLAZA
ALBANY, NY 12228**

DAVID J. SWARTS
Commissioner

NEAL W. SCHOEN
Deputy Commissioner
and Counsel

JEFFREY I. SILVER
Senior Administrative Law Judge

June 17, 2009

Adam D. White, Esq.
The Transportation Building
225 Broadway, Suite 2000
New York, NY 10007

Re: Case No. 32-764155
Fatal Accident 8/5/08

Dear Mr. White:

This is in reply to your letter of June 1, 2009.

I'd like to explain why the department has decided not to conduct a hearing in the above case.

The purpose of a fatal accident hearing is to determine how the accident happened and to take any appropriate remedial action that may be warranted. If there is evidence of fault on the part of a surviving driver involving the Vehicle and Traffic Law, action against the license, operating privilege or vehicle registration can be ordered.

As you probably know, in the past, the department held a hearing whenever a fatal accident occurred. Increasing numbers of fatal accidents led to a restriction of the hearing process to those accidents where, after a threshold inquiry, there was at least some evidence of a Vehicle and Traffic Law violation or gross negligence on the part of a surviving driver. So as to conserve hearing resources, all fatal accident cases are screened by a highway safety analyst. His recommendation as to whether or not to conduct a hearing is reviewed by me as the senior administrative law judge responsible for this program area.

I recall reviewing and agreeing with the recommendation not to hold a hearing in this case. Upon receipt of your letter, I took another careful look at the file. According to the police accident report, this tragic accident was attributed to bicyclist error/confusion and disregard of a traffic control.

As I am certain you also know, when we do hold hearings, the role of the estate of the deceased is that of observer and the hearing is not a substitute for an examination before trial. It appears that you are pursuing a civil lawsuit and you will have all the discovery procedures available in that forum.

I regret that I am unable to grant your request to hold a hearing; however I trust that this letter will explain the policy involved.

On behalf of Commissioner Swarts, please extend our sincerest condolences to Ms. Shamon's family.

Sincerely yours,

A handwritten signature in blue ink that reads "Jeffrey I. Silver". The signature is written in a cursive style with a large initial "J" and "S".

JEFFREY I. SILVER

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