

RECEIVED

Apr 14 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean Hoefer Toal, Circuit Court Judge

Appellate Case No. 2023-000060
Trial Court Case No. 2021-CP-40-03672

Bill R. Sharpe and Angela Sharpe, ... Respondents.

v.

Rocky Rutherford, Legacy Equipment, Inc., and G.A. West and
Company, Inc., ... Appellants,

RECORD ON APPEAL

Everett A. Kendall, Esquire (S.C. Bar No. 8450)
Phillip Florence, Jr. (S.C. Bar No. 6721)
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
Attorneys for Appellants

Gary W. Popwell, Jr. (S.C. Bar No. 7947)
Attorneys Lee, Eadon, Isgett, Popwell
and Owens, P.A.
P.O. Box 1505
Columbia, SC 29202
(803) 799-9811
Attorney for Respondents

INDEX

Circuit Court’s Form 4 Order filed December 9, 2022.....	1
Circuit Court’s Order filed January 10, 2023	4
Summons and Complaint.....	6
Defendants’ Answer.....	10
Plaintiffs’ Motion for Summary Judgment	15
Plaintiffs’ Memorandum in Support of an Order Granting Summary Judgment with Exhibits	16
Defendants’ Memorandum in Opposition to Plaintiffs’ Motion for Summary Judgment	28
Defendants’ Motion to Reconsider and Memorandum of Law in Support	33
Plaintiffs’ Reply to Defendants’ Motion to Reconsider and Memorandum of Law.....	40
Transcript of November 29, 2022 Motion Hearing	45
Deposition of Billy Sharpe.....	60
Deposition of Rocky Rutherford.....	229

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Richland
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP4003672

Billy R Sharpe et al
PLAINTIFF(S)

Rocky Rutherford et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

The Motion for Summary Judgment (filed 6/28/22) heard on November 29, 2022 is GRANTED as to the issue of liability alone.

The Motion to Compel (filed 2/21/22) is GRANTED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/08/2022 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Richland Common Pleas

Case Caption: Billy R Sharpe , plaintiff, et al vs Rocky Rutherford , defendant, et al
Case Number: 2021CP4003672
Type: Order/Electronic Form 4

So Ordered

Jean H. Toal

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

BILL R. SHARPE and ANGELA SHARPE,
Plaintiffs,

v.

ROCKY RUTHERFORD, LEGACY
EQUIPMENT, INC., and G.A. WEST AND
COMPANY, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

C.A. No. 2021-CP-40-03672

**ORDER DENYING DEFENDANTS
MOTION TO RECONSIDER**

Defendants Rocky Rutherford, Legacy Equipment, Inc., and G.A. West and Company, Inc. have moved this Court to reconsider its December 9, 2022 Form 4 Order granting Plaintiff's Motion for Summary Judgment.

This Court DENIES the Motion to Reconsider.

IT IS SO ORDERED.

[JUDGE'S ELECTRONIC SIGNATURE FOLLOWS]



Richland Common Pleas

Case Caption: Billy R Sharpe , plaintiff, et al vs Rocky Rutherford , defendant, et al
Case Number: 2021CP4003672
Type: Order/Other

So Ordered

Jean H. Toal

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

BILLY R. SHARPE and ANGELA SHARPE

Plaintiffs,

-VS-

ROCKY RUTHERFORD, LEGACY
EQUIPMENT, INC., and G.A.WEST AND
COMPANY, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO.:

S U M M O N S
(JURY TRIAL DEMANDED)

TO: THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action of which a copy is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscribers at their office, 1314 Lincoln Street, Columbia, South Carolina, within thirty (30) days after the service thereof, exclusive of the date of such service and if you fail to answer, appear, or defend, judgment by default will be rendered against you for the relief demanded in the Complaint.

s/Gary W. Popwell, Jr.

GARY W. POPWELL, JR.

Attorney for Plaintiffs

S.C. Bar No.: 07947

ATTORNEYS LEE, EADON, ISGETT,
POPWELL AND OWENS, P.A.

Post Office Box 1505

Columbia, South Carolina 29202

Phone: (803) 799-9811

Columbia, South Carolina

July 23, 2021.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

BILLY R. SHARPE and ANGELA SHARPE

Plaintiffs,

-vs-

ROCKY RUTHERFORD, LEGACY
EQUIPMENT, INC., and G.A.WEST AND
COMPANY, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO.:

COMPLAINT
(JURY TRIAL DEMANDED)

Plaintiffs would respectfully show:

1. Plaintiffs are residents of the County of Lexington, State of South Carolina and are husband and wife.
2. Defendant, Rocky Rutherford, is a resident of the City of Monroeville, State of Alabama.
3. Defendants, Legacy Equipment, Inc., and G.A. West and Company, Inc. are corporations organized and existing under the laws of one of the States of the United States and maintain agents and servants in the State of Alabama, do business in the State of Alabama, and own real property in the State of Alabama for the purpose of carrying on their business.
4. On or about May 2, 2019, the Plaintiff, Billy R. Sharpe, was driving north on Bluff Road in Richland County, South Carolina. Defendant Rocky Rutherford, while acting as agent, servant and employee of Defendants Legacy Equipment, Inc. and/or G.A. West and Company, Inc., was driving a tractor trailer south on Bluff Road in Richland County, South Carolina. Defendant Rutherford turned left into the path of Plaintiff Billy R. Sharpe, causing a tremendous collision with the vehicle driven by the Plaintiff Billy R. Sharpe.

5. As a result, Plaintiff Billy R. Sharpe suffered serious and permanent injury to his head, body and limbs, specifically his shoulders and back, which has caused, and will in the future cause, Plaintiff to undergo serious and substantial medical treatment, and has caused, and will in the future cause, Plaintiff to incur serious and substantial medical expenses, and has caused permanent impairment of his health and bodily efficiency, and has caused him pain, suffering, mental anguish, emotional distress, and lost money in the nature of wages and earnings.

6. As a further result, Plaintiff Angela Sharpe's husband was injured, which has deprived her of the care, comfort, support, companionship, economic assistance, and other damages consistent with loss of consortium due to the injuries and damages suffered by the Plaintiff Billy R. Sharpe in the accident in question.

7. The Defendant Rutherford, at all times material this action, and acting within the course and scope of his employment with the Defendants Legacy Equipment, Inc. and/or G.A. Wet and Company, Inc., was negligent, careless, reckless, grossly negligent, willful and wanton at the time and place aforementioned in the following particulars:

- a. In failing to maintain a proper lookout;
- b. In failing to maintain proper control of the vehicle;
- c. In driving too fast for conditions;
- d. In failing to adequately apply the brakes, if any he had;
- e. In failing to yield the right-of-way;
- f. In turning improperly; and
- g. In such other and further particulars as may be shown at trial.

All of which were the direct and proximate cause of the injuries and damages suffered by Plaintiffs, said acts being in violation of the Statutes and Common Law of the State of South Carolina.

8. Plaintiffs are informed and believe that Plaintiffs are entitled to judgment in this matter as set out below.

WHEREFORE, Plaintiffs pray for judgment for actual and punitive damages in amounts determined by a jury, for the costs of this action, and for such other and further relief as the Court may deem just and proper.

s/Gary W. Popwell, Jr.

GARY W. POPWELL, JR.

Attorney for Plaintiffs

S.C. Bar No.: 07947

ATTORNEYS LEE, EADON, ISGETT,
POPWELL AND OWENS, P.A.

Post Office Box 1505

Columbia, South Carolina 29202

Phone: (803) 799-9811

Columbia, South Carolina

July 23, 2021.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CIVIL ACTION NO: 2021-CP-40-03672

Billy R. Sharpe and Angela Sharpe,

Plaintiff,

vs.

**DEFENDANTS' ANSWER TO PLAINTIFFS'
COMPLAINT**

Rocky Rutherford, Legacy Equipment, Inc. and
G.A. West and Company, Inc.,

Defendants.

(Jury Trial Demanded)

**TO: GARY W. POPWELL, JR., ESQUIRE, ATTORNEYS FOR PLAINTIFFS, AND TO
THE PLAINTIFFS ABOVE-NAMED:**

The Defendants, Rocky Rutherford, Legacy Equipment, Inc. and G.A. West and Company, Inc., by and through their undersigned counsel and responding to the Complaint of the Plaintiffs, answer as follows:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint not hereinafter specifically admitted or qualified is hereby denied.

2. Upon information and belief, the Defendants admit the allegations of Paragraphs 1, 2 and 3 of the Complaint.

3. In response to Paragraph 4 of the Complaint, Defendants admit only that Plaintiffs and Defendant, Rocky Rutherford, were involved in a collision in or around Bluff Road in Richland County, South Carolina on or about May 2, 2019. As to the remaining allegations of Paragraph 4 of the Complaint, Defendants deny same.

4. Defendants deny Paragraphs 5, 6, 7 and 8 of the Complaint.

FOR A SECOND DEFENSE

5. The Complaint fails to state facts sufficient to constitute a cause of action and, therefore, should be dismissed.

FOR A THIRD DEFENSE

6. The Defendants would show, upon information and belief, that the injuries sustained by the Plaintiffs were the result of the sole negligence of the Plaintiffs and therefore, the Plaintiffs cannot recover any sum whatsoever from the Defendants.

FOR A FOURTH DEFENSE

7. The Defendants would show, upon information and belief, that any injuries or damages sustained by the Plaintiffs were due to the negligent, careless, reckless and grossly negligent acts or omissions which combined and concurred with any negligence on the part of the Defendants, which is specifically denied, to produce such injuries or damages, if any, and without which such injuries or damages would not have occurred; such negligent, careless, reckless and grossly negligent acts or omissions on the part of the Plaintiff, Billy R. Sharpe being more particularly set forth as follows:

- a. in failing to keep a proper lookout;
- b. in failing to yield the right of way;
- c. in failing to act as a reasonable and prudent person would have acted under the same or similar circumstances;
- d. in other ways and particulars which may be shown through discovery and trial;

all of which were the direct and proximate cause of any injuries or damages sustained by the Plaintiffs and the Defendants plead such negligence, carelessness, recklessness and gross negligence on the part of the Plaintiffs and would ask that this court compare the negligence of the

Plaintiffs and the Defendants and if it is determined that the Plaintiffs' negligence, carelessness, recklessness and gross negligence was greater than the negligence, carelessness, recklessness and gross negligence of the Defendants, which is specifically denied, then the Plaintiffs should be totally barred from recovery and if it is determined that the Plaintiffs' negligence, carelessness, recklessness and gross negligence is equal to or less than the negligence of the Defendants, then the amount of recovery available to the Plaintiffs should be reduced by the percentage of the Plaintiffs' own negligence, carelessness, recklessness and gross negligence.

FOR A FIFTH DEFENSE

8. The Defendants would show, upon information and belief, that the Plaintiffs' claim for punitive damages violates the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments to the Constitution of the United States of America in that it violates the double jeopardy clause in that the Defendants could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is being violated because the Defendants can be compelled to give testimony against Defendants' self in a penalty situation such as punitive damages; the assessment of punitive damages by a burden of proof less than beyond a reasonable doubt is violative of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; Plaintiffs' claim for punitive damages violates the Defendants' right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills this Defendants' exercise of that right; the Plaintiffs' claim for punitive damages violates the Eighth Amendment's guarantee that excessive fines shall not be imposed, the Plaintiffs' claim for punitive damages violates both the due process and equal protection clauses of the Fourteenth Amendment in that the standard for awarding punitive

damages is unduly vague and, therefore, violates both procedural and substantive due process safeguards; therefore, the Plaintiffs' claim for punitive damages should be dismissed.

FOR A SIXTH DEFENSE

9. Pursuant to S.C. Code Ann. § 15-32-520, any proceeding to determine punitive damages should be bifurcated from any trial to determine liability and compensatory damages.

FOR A SEVENTH DEFENSE

10. Any award of punitive damages should not exceed the greater of three (3) times the amount of compensatory damages as provided for in S.C. Code Ann. § 15-32-530.

FOR AN EIGHTH DEFENSE

11. Defendants would show, upon information and belief, that any injuries or damages sustained by the Plaintiffs, which are specifically denied, were the result of the acts or omissions of others not in the employ or control of Defendants and, therefore, the Plaintiffs cannot recover from Defendants in any sum whatsoever.

FOR A NINTH DEFENSE

12. Defendants would show, upon information and belief, that Defendant, Rocky Rutherford, was placed in a sudden emergency situation and the accident was unavoidable. Therefore, Defendants plead the defense of sudden emergency and unavoidable accident as complete defenses to the Plaintiffs' claims.

WHEREFORE, having fully answered, the Defendants pray that the Plaintiffs' Complaint be dismissed with costs and grant them relief in the amount requested or as this Court may deem just and proper.

The Defendants demand a jury trial.

This the 3rd day of September 2021, in Columbia, South Carolina.

MURPHY & GRANTLAND, P.A.

s/Phillip Florence, Jr.

Everett A. Kendall (S.C. Bar No. 8450)

Phillip Florence, Jr. (S.C. Bar No. 6721)

PO Box 6648

Columbia, SC 29260

Phone: 803-782-4100

Fax: 803-782-4140

rkendall@murphygrantland.com

pflorence@murphygrantland.com

Attorneys for the Defendants

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

BILLY R. SHARPE and ANGELA SHARPE

Plaintiffs,

-vs-

ROCKY RUTHERFORD, LEGACY
EQUIPMENT, INC., and G.A.WEST AND
COMPANY, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2021-CP-40-03672

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR SUMMARY JUDGMENT**

TO: PHILLIP FLORENCE, JR., ESQUIRE, ATTORNEY FOR THE DEFENDANTS:

PLEASE TAKE NOTICE that the Plaintiffs shall move, on the tenth (10th) day after service of this Notice of Motion and Motion upon you, or as soon thereafter as counsel may be heard, for an Order granting Plaintiffs summary judgment on the issue of liability. This Motion is made pursuant to Rule 56 of the South Carolina Rules of Civil Procedure and applicable statutory and case law. The Plaintiffs request summary judgment on the issue of liability alone and that damages be determined by a jury.

s/Gary W. Popwell, Jr.

GARY W. POPWELL, JR.

Attorney for Plaintiffs

S.C. Bar No.: 7947

ATTORNEYS LEE, EADON, ISGETT,
POPWELL AND OWENS, P.A.

Post Office Box 1505

Columbia, South Carolina 29202

Phone: (803) 799-9811

Columbia, South Carolina

June 28, 2022.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

BILLY R. SHARPE and ANGELA SHARPE

Plaintiffs,

-vs-

ROCKY RUTHERFORD, LEGACY
EQUIPMENT, INC., and G.A. WEST AND
COMPANY, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2021-CP-40-03672

**PLAINTIFFS' MEMORANDUM
IN SUPPORT OF AN ORDER
GRANTING SUMMARY JUDGMENT**

FACTS

This case involves an accident which happened at the intersection of Bluff Road and South Beltline Boulevard on May 2, 2019. The Defendant Rocky Rutherford was driving for a large trucking company called Legacy Equipment, Inc. and G.A. West and Company, Inc. His was one of a fleet of trucks Legacy Equipment had sent to Columbia to pick up crane parts and bring them back to Alabama where the company is based and where Mr. Rutherford resides. (See Depo. of Rocky Rutherford, pp. 15-17). After loading his trailer with crane parts from the Maxim Crane yard, these trucks were headed back to the Petro Truck Stop at the intersection of Bluff Road and South Beltline Boulevard. (Depo of Rocky Rutherford, pp. 9-10). Mr. Rutherford was in the left turn only lane of Bluff Road and intended to turn his tractor trailer loaded with crane parts left at the intersection of Bluff Road and South Beltline Boulevard to go to the Petro Truck Stop. The left turn lane is controlled by left turn arrows which are red, solid yellow and flashing yellow. He pulled up on a flashing yellow arrow and claims that he waited for traffic to clear when "... out of nowhere, Mr. Sharpe came. By the time I seen him, there was nowhere I could go". (Depo of Rocky Rutherford, p. 10). Photographs of the intersection reveal

that the intersection is controlled by a traffic signal for the left turn only lane which has a red arrow up top, a yellow arrow in the middle for one second, and a yellow flashing arrow on the bottom. It is accompanied by a sign which clearly states "LEFT TURN YIELD ON FLASHING YELLOW" arrow (symbol). (See photographs of intersection, Plaintiffs Exhibits A-D). The accuracy of these photographs is verified by the Affidavit of David M. Dial, the photographer. (Plaintiff's Exhibit E). Mr. Rutherford was under an absolute duty to yield the right-of-way. S.C. Code Ann. § 56-5-2320 (1976 as amended).

Plaintiff Billy Sharpe testified states that he was proceeding north bound on Bluff Road having gotten onto Bluff Road off of Interstate 77. He was in one of the lanes to go straight as he approached the intersection. All of a sudden, the tractor trailer driven by Mr. Rutherford turned left in front of him. (Depo. of Billy Sharpe, p. 75). His speed was 35-40 miles per hour. The speed limit on that stretch of Bluff Road is 40 miles per hour. (Depo. of Billy Sharpe, p. 77). His speed was no more than 35-40 miles per hour. (Depo. of Billy Sharpe, p. 85). He was close enough to the intersection at the time Mr. Rutherford began turning that he did not have time to hit his brakes. (Depo. of Billy Sharpe, p. 85, lines 13-17).

Thus, it is uncontested that an 18 wheeler driven by a truck driver from Alabama turned left under a flashing yellow arrow at an intersection in which he was under an absolute duty to yield the right-of-way to oncoming traffic and was struck by a pickup truck traveling between 35-40 miles per hour. There was tremendous damage to the Plaintiff's car. (See Plaintiff's Exhibit F).

SUMMARY JUDGMENT STANDARD

A summary judgment is appropriate when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. See Rule 56(c), S.C.R.C.P.; *Osborne v. Adams*, 346 S.C. 4, 550 S.E.2d 319 (2001). The party seeking summary judgment

bears the initial burden of demonstrating the absence of a genuine issue of material fact for trial. Rule 56 mandates the entry of summary judgment after adequate time for discovery against a party who fails to make a showing sufficient to establish the existence of an element essential to the party's case and on which that party will bear the burden of proof at trial. See *Carolina Alliance for Fair Employment v. SC Department of Labor, Licensing and Regulation*, 337 S.C. 476, 523 S.E.2d 795 (C.T. App. 1999).

In considering whether a summary judgment is appropriate, the court must construe all ambiguities, conclusions and inferences arising from the evidence against the moving party. *City of Columbia v. Town of Irmo*, 316 S.C. 193, 447 S.E.2d 855 (1994). "For purposes of summary judgment, an issue is 'material' if the facts alleged are such as to constitute a legal defense, or are of such a nature as to affect the result of the action." *Nelson v. Piggly Wiggly Center, Inc.*, 390 S.C. 382, 701 S.E.2d 776 (C.T. App. 2010). A party cannot create a genuine issue of fact through mere speculation. *Hoard v. Roper Hospital, Inc.*, 387 S.C. 539, 694 S.E.2d 1 (2010). Importantly, the nonmoving party may not rest on the allegations of their pleading without more to overcome a motion, but must demonstrate by other evidence that a genuine issue of material fact exists. See *Klippel v. Mid Carolina Oil, Inc.*, 303 S.C. 127, 399 S.E.2d 163 (C.T. App. 1990); *Dyer v. Moss*, 284 S.C. 208, 325 S.E.2d 69 (C.T. App 1995).

ARGUMENT

It is uncontested that the Plaintiff had the right-of-way at the time of this accident as he was proceeding through the intersection of Bluff Road and South Beltline Boulevard. The Defendant driver for the Defendant trucking company admitted that the Plaintiff had the right-of-way at the time of the accident. (Depo. of Rutherford, p. 12). The Defendant Rutherford testified he did not have any estimate as to the Plaintiff's speed and had no way of determining Plaintiff's speed except "He shook me pretty hard". (Depo. of Rutherford, p. 11). The only thing

Mr. Rutherford could think of as to how the Plaintiff did anything to cause the accident in any way was "Traveling way too fast", but he admittedly did not know how fast he was going. (Depo. of Rutherford, p. 12).

Given the state of this evidence, the Plaintiff is entitled to summary judgment as a matter of law.

It has long been the law of South Carolina that vehicles with the right-of-way cannot be held contributorily negligent as a matter of law due solely to excessive speed. The case of *Horton v. Greyhound Corp.* is directly on point. See *Horton v. Greyhound Corp.*, 241 S.C. 430, 128 S.E.2d 776 (1962). In *Horton*, a pickup truck crossed the center line and was struck by a Greyhound bus coming in the oncoming lane. The South Carolina Supreme Court held "It is abundantly clear that the primary efficient cause of the collision was the unlawful act of the truck driver in turning his north bound vehicle into the south bound lane of travel, which was occupied by the approaching bus. It is equally clear that the only evidence of a negligent and unlawful act by the bus driver relates to excessive speed, which could not have resulted in harm to Scott if the truck had remained in its proper lane of travel. The concurrence of excessive speed with this primary, efficient cause of the collision does not impose liability on the defendant unless without it the collision would not have occurred." *Horton, supra* at 439.

"That speed was a contributing factor in placing the bus at a particular location on the highway when the emergency arose is without legal significance, because the defendant had a legal right to occupy that portion of the highway." *Horton, supra* at 439.

This is the exact situation we have in the instant case. This principle has been repeated over and over in the South Carolina case law. "The Defendants' whole defense is based on the contention that the Plaintiff was traveling at an excessive rate of speed and that such was a proximate concurring cause of the collision. It is fundamental that before the negligence of a

plaintiff will defeat recovery, it must be made to appear that such negligence contributed to the injury as a proximate cause. It is without legal significance that speed was a contributing factor in placing the pickup truck at a particular location on Hudson Road when the emergency arose, because the plaintiff had the legal right to occupy that portion of the street.” *Odom v. Steigerwald*, 260 S.C. 422, at 426, 427, 196 S.E.2d 635 (1973). In *Odom*, the South Carolina Supreme Court held that it was improper not to direct a verdict for the plaintiff on the issue of liability when the evidence was that the plaintiff had pulled from a stop sign in the path of the plaintiff and the only evidence offered against the plaintiff alleging contributory negligence was “excessive speed”. The South Carolina Supreme Court held that it was improper not to direct a verdict for the plaintiff holding “Assuming, without so deciding, that the plaintiff was driving at an excessive rate of speed and was negligent, we think as a matter of law that such was not a contributing proximate cause. The real cause, the more immediate and efficient cause, was the improper driving conduct of young Steigerwald. “By driving his car directly into the path of plaintiff’s vehicle when plaintiff was obviously so close to the intersection, young Steigerwald created a trap from which plaintiff could not escape.” *Odom*, at 428.

Thus, even assuming there was evidence that the Plaintiff Billy Sharpe was driving at an excessive speed, under South Carolina law he had a right to be where he was, and the proximate and efficient cause of this accident is the failure of Rocky Rutherford to yield the right-of-way.

The Defendants’ attempt to bootstrap a “last clear chance” defense onto a clear cut “failure to yield” car wreck case. The Defendants’ citation of *Spahn v. Town of Port Royal*, 330 S.C. 168, 499 S.E.2d 205 (S.C. 1998) is completely irrelevant and inappropriate to the instant case. In *Spahn*, a pedestrian was attempting to move a John boat out of the middle of the road when a police car came down the road and struck the boat which the plaintiff was attempting to move from the road. That is completely different from the facts at hand. Additionally, the

Defendants have not pled last clear chance as a defense or as a specification of negligence. Finally, last clear chance is a doctrine used by plaintiffs not defendants.

The instant case is a clear cut failure to yield case in which the Defendant had an absolute duty to yield the right-of-way when turning left in this intersection. The line of cases holding that the concurrence of excessive speed, even if shown, is irrelevant to the issue of proximate cause is clear. See *Horton, Odom, and Miller v. FerrellGas LP, Inc. and Kenneth W. Ellis*, 392 S.C. 295, 709 S.E.2d 616 (2011), and the cases cited therein. Additionally, there is actually no evidence that the Plaintiff Billy Sharpe was driving at an excessive speed at the time of this accident as the only evidence as to speed is Mr. Sharpe's testimony that he was going 35-40 miles per hour, which was within the speed limit on that stretch of Bluff Road.

Therefore, the Plaintiff is entitled to summary judgment as a matter of law and the Plaintiff respectfully requests that an order granting summary judgment be issued by this Honorable Court.

s/Gary W. Popwell, Jr.
GARY W. POPWELL, JR.
Attorney for Plaintiffs
S.C. Bar No.: 7947

ATTORNEYS LEE, EADON, ISGETT,
POPWELL AND OWENS, P.A.
Post Office Box 1505
Columbia, South Carolina 29202
Phone: (803) 799-9811

Columbia, South Carolina

November 10, 2022.





PLAINTIFF'S
EXHIBIT
B
tabbies



PLAINTIFF'S
EXHIBIT
D





OF SOUTH CAROLINA

COUNTY OF RICHLAND

BILLY R. SHARPE and ANGELA SHARPE

Plaintiffs,

-vs-

ROCKY RUTHERFORD, LEGACY
EQUIPMENT, INC., and G.A. WEST AND
COMPANY, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2021-CP-40-03672

AFFIDAVIT OF DAVID DIAL

NOW COMES affiant, David M. Dial who first being duly sworn, deposes and states the following:

On August 24, 2022, I went to the intersection of Bluff Road and South Beltline Boulevard in Columbia, South Carolina. I photographed the traffic light controlling Bluff Road southbound traffic for drivers attempting to turn left onto South Beltline Boulevard. I photographed the light at each sequence to show the traffic signals facing traffic on Bluff Road headed south seeking to turn left onto South Beltline Boulevard. I then gave the photographs to Gary W. Popwell, Jr., Esquire, for use in this case.

FURTHER AFFIANT SAYETH NOT.

Aug 31, 2021
Date

David M. Dial
DAVID M. DIAL

SWORN TO and subscribed before me this
31 day of August, 2022.

[Signature]
Notary Public for South Carolina
My Commission Expires: 9 August 2023



DefendantsProduction_00079

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CIVIL ACTION NO: 2021-CP-40-03672

Billy R. Sharpe and Angela Sharpe,

Plaintiff,

vs.

Rocky Rutherford, Legacy Equipment, Inc. and
G.A. West and Company, Inc.,

Defendants.

**DEFENDANTS' MEMORANDUM IN
OPPOSITION TO PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

Defendants, through their undersigned counsel, file this Memorandum in Opposition to Plaintiffs' Motion for Summary Judgment.

BACKGROUND

This case arises out of a motor vehicle accident involving a tractor trailer operated by Defendant Rocky Rutherford ("Rutherford") and a vehicle operated by Plaintiff Billy R. Sharpe ("Sharpe") on or about May 2, 2019, on Bluff Road in Richland County, South Carolina. At the time of the collision, Defendant Rutherford was making a left turn on a blinking yellow traffic light across Bluff Road onto South Beltline Boulevard when Sharpe travelling through the same intersection and collided with the right side of Rutherford's tractor trailer.

Plaintiffs brought this action against Defendants alleging causes of action for negligence in so many particulars including failing to maintain proper lookout, failing to maintain proper control of vehicle, driving too fast for conditions, failing to yield the right of way, and turning improperly. Plaintiffs' complaint also asserts a loss consortium claim asserted by Plaintiff Angela Sharpe. Defendants' Answer denies the allegations in the complaint and further affirmatively asserts defenses for comparative fault alleging that Plaintiff Billy R. Sharpe was negligent in so

many particulars including failing to keep a proper lookout and failing to yield the right of way which proximately caused the accident.

Plaintiffs now move for summary judgment solely on the issues of liability.

LEGAL STANDARD

“Summary judgment is appropriate only if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” *Cunningham ex. rel. Grice v. Helping Hands, Inc.*, 352 S.C. 485, 491, 575 S.E.2d 549, 552 (2003); Rule 56(c), SCRCP. When considering a motion for summary judgment, the court views the evidence and all inferences that can be reasonably drawn therefrom in the light most favorable to the non-moving party. *Id.* “[I]f the evidence as a whole is susceptible of more than one reasonable inference, a jury issue is created and the motion should be denied.” *Parrish v. Allison*, 376 S.C. 308, 319, 656 S.E.2d 382, 388 (Ct. App. 2007).

“[I]n cases applying the preponderance of evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment.” *Hancock v. Mid-South Mgmt. Co.*, 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009) (emphasis added). Because it is a drastic remedy, summary judgment should be cautiously invoked so no person will be improperly deprived of a trial of the disputed factual issues. *Etheredge v. Richland Sch. Dist. I*, 330 S.C. 447, 499 S.E.2d 238 (Ct. App. 1998).

“Whether a duty exists in a negligence action is a question of law to be determined by the court.” *Nelson v. Piggly Wiggly Cent., Inc.*, 390 S.C. 382, 388, 701 S.E.2d 776, 779 (Ct. App. 2010) (citing *Doe v. Greenville County Sch. Dist.*, 375 S.C. 63, 72, 651 S.E.2d 305, 309 (2007)). Furthermore, since it is a drastic remedy, summary judgment should be cautiously invoked to

ensure that a litigant is not improperly deprived of a trial on disputed factual issues. *Baughman v. Am. Tel. and Tel. Co.*, 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991).

ARGUMENT

This is a case in which both Sharpe and Rutherford assert that the other was negligent and caused the accident. Sharpe testified that he was travelling on Bluff Road in the far-right lane when, as he was entering the intersection travelling at 40 mph, he saw Rutherford's tractor trailer completely stopped in the left turning lane on Bluff Road of the opposite lane of travel. (Sharpe Depo. pg 80). Sharpe further testified that as he entered the intersection, Rutherford was able to accelerate his fully loaded tractor trailer from a standing stop across at least two lanes of travel in front of Sharpe's vehicle to cause the accident. (Sharpe Depo. pgg 80-82). Defendants contend that this description of the accident by Sharpe is physically impossible because it presumes that a fully loaded tractor trailer could travel that great of a distance in such a short time period.

Rutherford's deposition testimony describes a completely different scenario. Rutherford testified that he was stopped in the left-hand turn lane on Bluff Road to make a left turn onto South Beltline Boulevard. Rutherford had a blinking yellow light to turn left and waited for traffic to pass to make sure the way was clear for him to proceed through the intersection. (Rutherford Depo. pgg. 10-12). In the process of making his left turn, Rutherford saw Sharpe's vehicle approaching in the oncoming lane. *Id.* Rutherford testified that he believes Sharpe caused the accident and was travelling way to fast. *Id.* Sharpe's vehicle collided with the right passenger side of his tractor trailer. *Id.*; (Sharpe Depo. pgg 82-83). Consistent with his Answer to the Complaint, Rutherford denies that he was at fault for the accident and asserts that Sharpe should have kept a proper lookout, seen his tractor trailer making the turn at the intersection in time to avoid the collision.

While South Carolina no longer recognizes the doctrine of last clear chance and has subsumed the same in the doctrine of comparative negligence, the doctrine of last clear chance remains a factor in comparing parties' fault to be determined by a jury. *Spahn v. Town of Port Royal* 330 S.C. 168, 499 S.E.2d 205 (S.C. 1998). In *Spahn*, The South Carolina Supreme Court held that the elements of the doctrine of last clear chance could be charged to the jury in weighing the parties' fault in a comparative negligence case. "We find such an instruction proper in an appropriate case." *Spahn* 330 S.C. 168, 174, *Accord Eaton v. McLain*, 891 S.W.2d 587, 591-92 (Tenn.1994) (finding it appropriate to give jury guidance as to their consideration of factors of last clear chance; although doctrine no longer independent, it is still relevant to jury's consideration). The South Carolina Supreme Court in *Spahn* further held that the following jury charge, as suggested by Professors Hubbard and Felix¹, was appropriate in the context of a comparative negligence case:

In determining the relative percentages of negligence for the plaintiff and the defendant, you should consider, as a factor relevant to the defendant's share of negligence, whether the plaintiff was in peril and unable to extricate himself from the peril. If the plaintiff was in peril, you should also consider whether the defendant was aware of that peril and if he was, whether the defendant could have then avoided the injury to the plaintiff if the defendant had used due care at that point.

Defendants assert that such a charge would be appropriate in this case where comparative fault has been asserted as an affirmative defense by the Defendants.

¹ See Hubbard and Felix, Comparative Negligence in South Carolina: Implementing *Nelson v. Concrete Supply Co.*, 43 S.C.L.R. 273, 325 (1992).

CONCLUSION

For these reasons, Defendants respectfully request that Plaintiffs' Motion for Summary Judgment be denied.

MURPHY & GRANTLAND, P.A.

s/Phillip Florence, Jr.

Everett A. Kendall (S.C. Bar No. 8450)

Phillip Florence, Jr. (S.C. Bar No. 6721)

PO Box 6648

Columbia, SC 29260

Phone: 803-782-4100

Fax: 803-782-4140

rkendall@murphygrantland.com

pflorence@murphygrantland.com

Attorneys for the Defendants

November 2, 2022

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CIVIL ACTION NO: 2021-CP-40-03672

Bill R. Sharpe and Angela Sharpe,

Plaintiffs,

v.

**DEFENDANTS’
MOTION TO RECONSIDER AND
MEMORANDUM OF LAW IN
SUPPORT**

Rocky Rutherford, Legacy Equipment, Inc.,
and G.A. West and Company, Inc.,

Defendants.

Defendants, by and through their undersigned counsel, hereby move for reconsideration of the Court’s December 9, 2022 Form 4 Order granting Plaintiff’s Motion for Summary Judgment on the issue of liability alone and submit this Memorandum of Law in support of their Motion to Reconsider.

SUMMARY

This action arises out of a May 2, 2019 auto accident involving vehicles operated by Plaintiff Bill Sharpe and Defendant Rocky Rutherford. The Plaintiffs allege that Defendant Rutherford caused the accident. The Defendants allege that Plaintiff Bill Sharpe caused the accident. Based on Defendant Rocky Rutherford’s deposition testimony, there is at least a scintilla of evidence that Mr. Sharpe was excessively speeding and that his speeding was a causative factor of the accident. There is also at least a scintilla of evidence that Mr. Sharpe failed to keep a proper lookout and such failure was a causative factor for the accident. Therefore, summary judgment in favor of Plaintiffs on the issue of liability was improper, and such grant of summary judgment should be reversed.

STANDARD OF REVIEW

Pursuant to Rule 54(b) of the South Carolina Rules of Civil Procedure, any order that does not end the action “is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.” Rule 54(b), SCRCP. “[A] party usually is allowed to ask the court to reconsider its decision even if it means rehashing all or part of an argument previously presented. There is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument. It is inherently unfair to disallow such an opportunity.” *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 21-22, 602 S.E.2d 772, 778-79 (2004) (citations omitted).

“[I]n cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment.” *Hancock v. Mid-South Mgmt. Co.*, 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009); *Turner v. Milliman*, 392 S.C. 116, 122, 708 S.E.2d 766, 769 (2011) (same); *Zurich Am. Ins. Co. v. Tolbert*, 387 S.C. 280, 283, 692 S.E.2d 523, 524 (2010) (“Summary judgment should be denied where the non-moving party submits a mere scintilla of evidence.”). ““When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party.”” *Turner*, 392 S.C. at 122, 708 S.E.2d at 769 (quoting *Fleming v. Rose*, 350 S.C. 488, 493–94, 567 S.E.2d 857, 860 (2002)).

ARGUMENT

At the time of the collision, Rutherford was making a left turn on a blinking yellow traffic light across Bluff Road onto South Beltline Boulevard when Billy Sharpe traveled through the same intersection and collided with the passenger side of Rutherford’s tractor trailer. On

November 2, 2022, the Defendants filed Defendant Rutherford's deposition transcript with the Court. In his deposition, Defendant Rutherford testified that the road was clear when he began his left turn and while he was turning "out of nowhere Mr. Sharpe came." (Dep. of Rocky Rutherford 10:13-21). Defendant Rutherford also testified that Mr. Sharpe did not slow down before hitting him. (*Id.*). He testified that Sharpe caused the accident by "[t]raveling way too fast" and that Sharpe's speed "had to have been pretty extensive." (*Id.* at 11:10-14; 12:5-7).

Viewing the evidence and all reasonable inferences in the light most favorable to the nonmoving party, as the Court is required to do, Sharpe was excessively speeding at the time of the accident. He was speeding enough to not even be visible on the straight roadway when Defendant Rutherford began his turn and to then slam into the right front passenger side of Rutherford's vehicle before Rutherford had even crossed two of the four lanes required to complete the turn. *See* (Dep. of Rocky Rutherford 11:8-9).

Based on Mr. Rutherford's testimony that the roadway was clear when he began his turn, there is also a reasonable inference Mr. Sharpe had the entire length of the visible Bluff roadway from the I-77 ramp to see Mr. Rutherford turning but failed to keep a proper lookout. Defendant Rutherford pled Mr. Sharpe's failure to keep a proper lookout as a defense in his Answer. (Def.s' Answer ¶ 7). Even a party who "had the right of way...owe[s] a duty of due care to maintain a proper lookout under all of the circumstances." *Blanding v. Hammell*, 267 S.C. 352, 357, 228 S.E.2d 271, 273 (1976).

In a similar case, *Clark v. Cantrell*, "[a]s Anderson turned left across a four-lane road into a gas station's service area, Cantrell, who was traveling in her car from the opposite direction, hit the rear passenger side of" Anderson's vehicle. 332 S.C. 433, 439, 504 S.E.2d 605, 608 (Ct. App. 1998), *aff'd as modified on other grounds*, 339 S.C. 369, 529 S.E.2d 528 (2000). Despite Cantrell

having the right of way, the jury found Cantrell eighty-four percent (84%) at fault for the accident because she was excessively speeding. *Id.* at 438–39, 504 S.E.2d at 608. Cantrell challenged the denial of her directed verdict and JNOV motions. She argued that “she was entitled to a directed verdict or JNOV because her speed was not the proximate cause of the accident.” *Id.* at 443, 504 S.E.2d at 611. The court disagreed and stated that only in “rare cases” involving “entry of a vehicle from a servient roadway onto the main highway in such an abrupt fashion that an accident could not have been avoided, notwithstanding the excessive speed of the oncoming vehicle,” is the question of whether speed contributed to the accident not for the jury. *Id.* at 444, 504 S.E.2d at 611. “[I]n most automobile accident cases, speed creates imponderable issues of time and distance which must be resolved by the jury.” *Id.* (citations omitted) (italics emphasis in orig.).

This is not one of those “rare cases.” Rutherford was not entering “from a servient roadway onto the main highway.” *See id.* He was already in the turn lane on Bluff Road before the accident, a clear indication to drivers paying attention that he intended to turn across the intersection. (Dep. of Rocky Rutherford 10:5-17). Consequently, this is a case where “*speed created imponderable issues of time and distance which must be resolved by the jury.*” *See id.* (emphasis in orig.). As such, this case should not have been decided on summary judgment.

Moreover, according to the South Carolina Supreme Court, the doctrine of “last clear chance has been subsumed by adoption of comparative negligence such that it remains a factor for the jury's consideration in comparing the parties' fault....” *Spahn v. Town of Port Royal*, 330 S.C. 168, 173, 499 S.E.2d 205, 208 (1998). It is properly stated as a jury instruction as follows:

In determining the relative percentages of negligence for the plaintiff and the defendant, you should consider, as a factor relevant to the [plaintiff]'s share of negligence, whether the [defendant] was in peril and unable to extricate himself from the peril. If the [defendant] was in peril, you should also consider whether the [plaintiff] was aware of that peril and if he was, whether the [plaintiff] could have

then avoided the injury to the [defendant] if the [plaintiff] had used due care at that point.

Id. at 174, 499 S.E.2d at 208. Here, Defendant Rutherford testified that he began his left turn when the road was clear. He testified that Sharpe came “out of nowhere,” was traveling way too fast, and did not slow down before hitting him. Thus, the jury should have been able to compare the parties’ fault under the last clear chance factor. There was at least a scintilla of evidence that Plaintiff Sharpe could have avoided the accident had he used due care.

The *Horton v. Greyhound Corp.*, 241 S.C. 430, 128 S.E.2d 776 (1962) line of cases Plaintiffs rely upon in their Memorandum apply only in narrow circumstances that are not at issue here. *See* (Pl.’s Mot. for Summ. J. Mem., pp. 4-6). As the Court of Appeals in *Davis v. Tripp* explained:

The *Horton* court found excessive speed was the only evidence of the bus driver's negligence, and concluded such evidence,

although sufficient to support an inference of concurrent negligence by the defendant, is insufficient to support a reasonable inference that without such negligence the collision would not have occurred. Our conclusion does not and need not rest on a certainty that, if the bus had been operated at a reasonable speed, the collision would have happened anyway. It does rest on the absence of evidence sufficient to raise a reasonable inference that it would not have occurred but for the negligence of the bus driver, which amounts to a failure of proof of an essential element of plaintiff's cause of action.

Id. at 441, 128 S.E.2d at 782. The cases that have relied on *Horton* in order to find a party's negligence was not a concurring cause of the collision have similarly found speed to be the only evidence of such party's negligence. *Odom v. Steigerwald*, 260 S.C. 422, 196 S.E.2d 635 (1973); *Kennedy v. Carter*, 249 S.C. 168, 153 S.E.2d 312 (1967); *Guyton v. Guyton*, 244 S.C. 357, 137 S.E.2d 273 (1964); *Alston v. Blue Ridge Transfer Co.*, 308 S.C. 292, 417 S.E.2d 631 (Ct.App.1992); *see also Gunnels v. Roach*, 243 S.C. 248, 133 S.E.2d 757 (1963) (the collision could not have been avoided even if the defendant had seen the plaintiff at the instant he became visible).

These principles, however, do not apply when there is evidence of additional negligence or that speed was a causative factor. In such cases, the court cannot, as a matter of law, find no liability. *See Tubbs by Duren v. Bowie*, 308 S.C. 155,

417 S.E.2d 550 (1992) (where there was evidence that the speeding defendant failed to take appropriate evasive action, liability was an issue for the jury); *Wilson v. Marshall*, 260 S.C. 271, 195 S.E.2d 610 (1973) (although decedent was clearly negligent in failing to yield the right of way, plaintiff's failure to keep a proper lookout and driving at a reduced speed inferred plaintiff's negligence was a contributing proximate cause of the collision); *Roumillat v. Keller*, 252 S.C. 512, 167 S.E.2d 425 (1969) (the nature of the impact could lead the jury to conclude that, if not for defendant's excessive speed, his auto could have been controlled as to avoid the collision); *Clark v. Cantrell*, 332 S.C. 433, 504 S.E.2d 605 (Ct.App.1998) (evidence of defendant's excessive speed and recklessness supported the jury's finding that her speed contributed to the accident); see also *Player v. Thompson*, 259 S.C. 600, 193 S.E.2d 531 (1972) (where there was additional evidence of negligence, dog running out in front of car could not be held as a matter of law to be the sole proximate cause of the collision).

338 S.C. 226, 235–36, 525 S.E.2d 528, 532–33 (Ct. App. 1999) (emphasis added). Based on Defendant Rutherford's testimony, there are reasonable inferences that Sharpe's speed was a causative factor and that Sharpe was also negligent in failing to maintain a proper lookout. Consequently, the *Horton* principle is inapplicable. This case is much more similar to *Cantrell* where the court submitted the liability issues to the jury and held it could not rule on them as a matter of law.

CONCLUSION

For the above-stated reasons, Defendants respectfully request that the Court grant their Motion to Reconsider and reverse its grant of summary judgment in favor of Plaintiffs as to liability. There was at least a scintilla of evidence that Mr. Sharpe was excessively speeding at the time of the accident and that his speed was a causative factor for the accident. Additionally, there was at least a scintilla of evidence that Mr. Sharpe failed to keep a proper lookout and that this was also a causative factor for the accident. Therefore, summary judgment in favor of the Plaintiffs on the issue of liability was not proper.

MURPHY & GRANTLAND, P.A.

s/Phillip Florence, Jr.

Everett A. Kendall, Esquire (S.C. Bar No. 8450)

Phillip Florence, Jr. (S.C. Bar No. 6721)

PO Box 6648

Columbia, SC 29260

(803) 782-4100

Attorneys for the Defendants

Columbia, South Carolina
December 19, 2022

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

BILLY R. SHARPE and ANGELA SHARPE

Plaintiffs,

-vs-

ROCKY RUTHERFORD, LEGACY
EQUIPMENT, INC., and G.A.WEST AND
COMPANY, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS

DOCKET NO.: 2021-CP-40-03672

**PLAINTIFFS' REPLY TO DEFENDANTS'
MOTION TO RECONSIDER AND
MEMORANDUM OF LAW**

The Court's Order granting Summary Judgment to the Plaintiffs on the issue of liability alone is fully supported by the evidence admitted at the hearing on Plaintiff's Motion for Summary Judgment and the Court's Order should not be altered or amended.

STANDARD OF REVIEW

A party cannot create a genuine issue of fact through mere speculation. *Hoard v. Roper Hospital, Inc.*, 387 S.C. 539, 694 S.E.2d 1 (2010). The nonmoving party may not rest on the allegations of their pleading without more to overcome a motion, but must demonstrate by other evidence that a genuine issue of material fact exists. See *Klippel v. Mid Carolina Oil, Inc.*, 303 S.C. 127, 399 S.E.2d 163 (C.T. App. 1990).

ARGUMENT

The Defendants basically rehash the argument they made at the hearing concerning this Motion. However, they cite several cases which do not support their contentions, but bolster and support the Court's prior ruling granting the Plaintiffs' Summary Judgment on the issue of liability.

The Defendants still have presented absolutely no fact or evidence which supports their

contention that the Plaintiff was traveling at an excessive rate of speed which was a proximate cause of this accident. The Defendant driver, Rocky Rutherford, stated very clearly in his deposition that the Plaintiff had the right-of-way at the time of the accident. (Depo. of Rutherford, p. 12, lines 1-4). Mr. Rutherford testified he does not know how fast the Plaintiff was going at the time of the accident. (Depo. of Rutherford, p. 12, lines 8-10). Mr. Rutherford testified he has no estimate as to the Plaintiff's speed at the time of the accident. (Depo. of Rutherford, p. 11, lines 10-14).

The Defendant Rocky Rutherford's own testimony is that he turned an 18 wheeler hauling a crane in front of the Plaintiff when facing a flashing yellow arrow and a sign that said "Left turn yield on flashing (yellow arrow)". (Depo. of Rutherford, p. 10, lines 13-21). His duty to yield the right-of-way was mandatory under South Carolina law. See §56-5-2320, S.C. Code Ann. (1976, as amended).

The Plaintiff clearly testified that he was proceeding straight down Bluff in one of the lanes to go straight as he approached the intersection. All of a sudden, the tractor trailer driven by Mr. Rutherford turned left in front of him. (Depo. of Sharpe, p. 67, line 25 – p. 68, line 14).

The Plaintiff testified he was going 35-40 miles per hour as he approached the intersection and the speed limit on that stretch of Bluff Road is 40 miles per hour. (Depo. of Sharpe, p. 77, lines 5-10). He testified again that he was traveling no more than 35-40 miles per hour. (Depo. of Sharpe, p. 85, lines 6-7). He testified he knew he was going to hit the tractor trailer driven by Mr. Rutherford and there was nothing he could do about it and that he did not have time to hit the brakes. (Depo. of Sharpe, p. 85, line 10; p. 86, line 2).

Thus, the only evidence in the record is that the Defendant who was driving an 18 wheeler hauling a crane, turned left in front of the Plaintiff even though he had the flashing yellow arrow and a sign warning him to yield the right-of-way to oncoming traffic. The

Defendant does not know the speed of the Plaintiff except to say it was “too fast”. The Plaintiff unequivocally states he was driving 35-40 miles per hour in a 40 mile per hour speed zone.

Under the aforementioned evidence, the Order of the Court granting Plaintiff Summary Judgment is completely justified.

The cases cited by the Defendant in their Motion to Reconsider actually support the Plaintiff in this regard. The Defendants cite *Blanding v. Hammell*, 267 S.C. 352, 228 S.E.2d 271 (1976); *Clark v. Cantrell*, 332 S.C. 433, 504 S.E.2d 605 (Ct. App. 1998) 339 S.C. 369, 529 S.E.2d 528 (2000) and *Tubbs by Duren v. Bowie*, 308 S.C. 155, 417 S.E.2d 550 (1992). In two of those cases (*Cantrell and Tubbs*), there was an abundance of evidence that the vehicle with the right-of-way was traveling at a grossly excessive speed which was the proximate cause of the accident.

In *Cantrell*, the Plaintiff Clark’s vehicle made a left hand turn into a service station in front of the vehicle being driven by Cantrell. One independent witness who Cantrell passed immediately prior to the accident estimated her speed at 75-80 miles per hour in a 35 mile per hour zone. Another independent eyewitness estimated Cantrell’s speed at 75-100 miles per hour just before the accident. The trooper who investigated the accident and performed an accident reconstruction put her speed between 67-71 miles per hour when she first applied her brakes. Cantrell’s own accident reconstruction report estimated her speed at 57 miles per hour at the time of the accident. Thus all of the witnesses, including Cantrell’s own expert, placed her as exceeding the posted speed limit of 35 miles per hour by anywhere from 22 miles per hour to 65 miles per hour. Given that evidence, of course the issue of Cantrell’s negligence was submitted to the jury. That is not the case here.

In *Tubbs*, a passenger sued her driver when she struck a dump truck which entered the freeway in front of her some 350 feet away. The court noted that there was evidence that the

driver was “traveling at a high and excessive speed, failed to take appropriate action upon seeing the Glasscock truck entering the highway at a distance of some 350 feet.” *Tubbs*, supra at 157. Clearly that is not the case here.

In *Blanding*, which is cited by Defendants, the Supreme Court ruled that even though there was some evidence that the defendant was traveling at slightly above the posted speed limit, as a matter of law it was not a contributing factor to the accident when the plaintiff’s decedent stopped and then proceeded across a four lane highway from a private drive. The court noted that even though the Defendant may have been speeding, it was not so excessive so as to proximately cause the accident and ruled that a directed verdict for the Defendant was appropriate pursuant to *Odom v. Steigerwald*, 260 S.C. 422, 196 S.E.2d 635 (1973), *Horton v. Greyhound Corp.*, 241 S.C. 430, 128 S.E.2d 776 (1962), and *Kennedy v. Carter*, 249 S.C. 168, 153 S.E.2d 312 (1967). The continued validity of these cases was reiterated by our Supreme Court in *Miller v. FerrellGas L.P., Inc.*, 392 S.C. 295, 709 S.E.2d 616 (2011).

Additionally, *Blanding* states that the directed verdict on behalf of the Defendant was appropriate even though the plaintiff had alleged failure to keep a proper lookout. In *Blanding*, the court stated “[a]n automobile may not be controlled by brakes or steering so as to avoid a hazard which becomes apparent for only a split second before the point of impact is reached. While more than a split second elapsed between the time the defendant looked into his mirror to change lanes until he observed the Warren car in the road, it was not enough time to give rise to an inference of improper lookout.” *Blanding*, at 358. Here there is no evidence whatsoever of excessive speed or that the Plaintiff ever took his eyes off the road.

CONCLUSION

The Defendants focused repeatedly on the allegations of their pleadings as if that is evidence which justifies denial of the Plaintiffs’ Motion for Summary Judgment. That is not

evidence. Those are just the bare allegations of their Answer. The Defendant driver clearly stated that he did not know Mr. Sharpe's speed prior to the accident and had no estimate as to Mr. Sharpe's speed prior to the accident. A conclusory statement that he was going "too fast" is just that. A conclusory statement of no evidentiary value. Mr. Sharpe testified he was going anywhere from 5 miles below the speed limit to the speed limit (35-40 miles per hour). This is uncontested by the evidence. Unlike the evidence presented in the cases cited by the Defendant, there is absolutely no evidence in this case that the Plaintiff was exceeding the speed limit at all.

Therefore, the Order of the Court granting the Plaintiff Summary Judgment on the issue of liability alone should not be altered or amended.

Respectfully submitted,

s/Gary W. Popwell, Jr.

GARY W. POPWELL, JR.

Attorney for Plaintiffs

S.C. Bar No.: 7947

ATTORNEYS LEE, EADON, ISGETT,
POPWELL AND OWENS, P.A.

Post Office Box 1505

Columbia, South Carolina 29202

Phone: (803) 799-9811

Columbia, South Carolina

December 21, 2022.

State of South Carolina

Court of Common Pleas

County of Richland

Billy R. Sharpe)
)
 Plaintiff,)
 v.)
)
 Rocky Rutherford, et al.)
)
 Defendant.)

Transcript of Record
2021-CP-40-03672

November 29, 2022
Columbia, South Carolina

B E F O R E:

The Honorable Chief Justice Jean Toal, Judge.

A P P E A R A N C E S:

Gary Walton Popwell, Jr., Esquire
Attorney for the Plaintiff

Phillip Florence, Jr., Esquire
Virginia Patterson Bozeman, Esquire
Thomas Jonathan Clark, Esquire
Attorneys for the Defendants

Bethanie K. Creppon
Circuit Court Reporter

	I N D E X	
1		<u>WITNESS</u>
2		<u>PAGE</u>
3		
4		
5		
6		
7	(No Witnesses.)	
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	E X H I B I T S			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
3				
4				
5				
6				
7		(No Exhibits.)		
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 P R O C E E D I N G S

2 * * *

3 THE COURT: First case for this afternoon is
4 number 10 on the roster. It's in the case of
5 Billy R. Sharpe, plaintiff, against Rocky
6 Rutherford, defendant. It's a motion for summary
7 judgment by the plaintiff.

8 Plaintiff is represented by Gary Popwell; the
9 defendant is represented by Ms. Bozeman and
10 Mr. Clark and Mr. Florence.

11 Counsel?

12 MR. POPWELL: Yes, Your Honor. Gary Popwell
13 here for the plaintiff. And Phil is right there and
14 Ms. Bozeman is right here.

15 MS. BOZEMAN: Good morning, Your Honor. As
16 Mr. Popwell stated --

17 THE COURT: Yeah. Y'all get settled and catch
18 your breath, and then we'll get started.

19 It's Plaintiff's motion. Everybody be seated.
20 Mr. Popwell, it's your motion. You may proceed.

21 MR. POPWELL: Thank you, Your Honor. May it
22 please the Court?

23 This is a motion for summary judgment on the
24 issue of liability only. Chief Justice Toal, this
25 case involves an accident that happened at the

1 intersection of Bluff Road and South Beltline
2 Boulevard here in Columbia. The plaintiff is Billy
3 Sharpe. He was born and raised in Richland County.
4 He was driving his work truck -- his employer's work
5 truck north on Bluff Road, going to proceed straight
6 through the intersection with South Beltline.

7 The defendant, Rocky Rutherford, was driving an
8 18-wheeler, hauling crane parts. They had loaded
9 them up and he was going to haul them back to
10 Alabama. And his was one of the fleeter trucks that
11 had been sent up there by his employer, one of the
12 other defendants, which is Legacy Company GA West
13 Equipment, Inc.

14 He was on Bluff Road headed south and wanted to
15 turn left onto Beltline Boulevard at the
16 intersection of Bluff Road and South Beltline
17 Boulevard. He's testified in his deposition, pages
18 9 and 10, he was in the left-turn-only lane headed
19 south on Bluff Road. That is controlled by a series
20 of turn -- left-turn arrows; one at the top which is
21 red means no turn; one flashing -- one solid one in
22 the middle means it's fixing to turn back red; and
23 one flashing yellow at the bottom. I don't know if
24 you've seen our memo, Judge, but we've submitted
25 photos with our memo that shows these arrows at the

1 intersection.

2 He has testified he had the flashing yellow
3 arrow at the intersection; he thought the traffic
4 had cleared, and he turned left when Mr. Sharpe,
5 quote, came out of nowhere and he'd -- that's his
6 deposition, page 10.

7 Mr. Sharpe's testified in his deposition he was
8 proceeding straight through the intersection when
9 Mr. Rutherford turned the 18-wheeler right in front
10 of him; turned left right in front of him; that's
11 Mr. Sharpe's deposition, page 75. He states he was
12 going 35 or 40 miles per hour, and the speed limit
13 on Bluff Road in that area is 40.

14 He said he did not have time to hit the brakes,
15 take any evasive action; he was right in front of
16 him, and he hit him. It was a terrible collision,
17 as you can see by the last photograph we submitted
18 with the statutory memo.

19 Mr. Rutherford, the defendant, says he did not
20 have any estimate as to Mr. Sharpe's speed, he just
21 knows he was traveling way too fast and he hit him
22 hard and it shook his truck.

23 It's long been the case in the state of South
24 Carolina, Your Honor, that the vehicle at the
25 right-of-way cannot be held to be contributorily

1 negligent due solely to excessive speed, from
2 Horton v. Greyhound involved in crossing the center
3 line to Odom v. Steigerwald involving going from a
4 stop sign all the way up to -- the most recent case
5 citing those two is Miller vs. FerrellGas LP and
6 Ellis.

7 They all -- and Miller cites Horton and Odom
8 approving it -- involved the parties that failed to
9 yield the right-of-way can't escape liability by --
10 due solely to claim the excessive speed on the part
11 of the plaintiff. This was true even under
12 contributory negligence, under Odom and Horton, and
13 all the defendant had to show was one percent
14 negligence to seek recovery.

15 But the court has said that it's a matter of
16 proximate cause. So even if the defendant is
17 speeding, speeding is irrelevant, unless they can
18 show that the actions would not have happened but
19 for the speed.

20 The defendant, Mr. Rutherford, had an absolute
21 duty to yield the right-of-way, Your Honor, through
22 the traffic signals which clearly state: Flashing
23 yellow light, yield the right-of-way. You'll see
24 that in the photographs, Your Honor. He also had an
25 absolute duty to yield the right-of-way under

1 56-5-2320, which is left-turn statute.

2 Therefore, the plaintiff is entitled to summary
3 judgment on the issue of liability, Your Honor. And
4 it would be inviting speculation to hold otherwise,
5 because there is zero evidence that the plaintiff
6 was speeding. But even if he was speeding, that is
7 not a concurring proximate cause under Horton or
8 Odom.

9 The photos make it crystal clear, Your Honor.
10 I have a color copy, if you want to see them now;
11 otherwise, colored copies are attached to our memo.

12 The plaintiff's medical bills are over
13 \$250,000. There's a lot for us to argue about at
14 trial, but the defendant shouldn't be allowed to
15 direct an artificial or SATs issue of liability
16 where one doesn't exist in this case when the case
17 law is clear.

18 THE COURT: I have photos of the intersection.
19 I'm not finding the photos of the -- is that what
20 you wanted, was photos of the intersection?

21 MR. POPWELL: Yes, Judge, attached to our memo.
22 The last photo was, I think, a photo of Mr. Sharpe's
23 car.

24 THE COURT: Yeah. That one is not coming up.
25 If you've got it, let me see it.

1 MR. POPWELL: I do.

2 THE COURT: Wait a minute. I got it. The red
3 car?

4 MR. POPWELL: Yes. That's his red -- the
5 employer's red pickup truck.

6 THE COURT: And this is your client's car?

7 MR. POPWELL: Yes, Your Honor.

8 THE COURT: All right.

9 MR. POPWELL: And the affidavit of the
10 photographer is in there as well.

11 THE COURT: Yeah. We've got it. We've got it.
12 All right. Counsel?

13 MR. FLORENCE: Your Honor, may it please the
14 Court? My name is Phillip Florence. I'm with the
15 law firm of Murphy and Grantland here in town. I
16 represent the defendants; Rocky Rutherford, who was
17 the driver, Legacy Equipment Incorporated, and GA
18 West & Company, Incorporated who are the corporate
19 defendants who employed Mr. Rutherford at the time
20 of the accident.

21 Judge, just to go back over some of the
22 facts -- Mr. Popwell did talk about the facts -- but
23 I wanted to go back over a few of the other ones
24 that I think were left out. Mr. Rutherford was
25 working at the time, driving an 18-wheeler, pulling

1 part of a crane from a construction site. And he
2 pulled up to the intersection of Bluff Road and
3 Beltline and was attempting to make a left on a
4 yellow left-turn signal.

5 As he stopped and made sure the traffic was
6 clear from the oncoming lanes at that intersection,
7 he proceeded to make a left and made it some ways
8 through the intersection before he testified that he
9 looked to his right and saw the plaintiff traveling
10 at a high rate of speed. And he collided with
11 the -- the plaintiff collided with the broadside of
12 the -- Mr. Rutherford's passenger's side of the
13 truck, passenger door trailer area. So the truck
14 had made it all the way across the plaintiff's lane
15 of travel at the time of the collision.

16 Judge, now, we have answered the complaint in
17 our answer. We clearly alleged that the plaintiff
18 failed to yield and also failed to keep a proper
19 lookout, and also failed to act as a reasonable and
20 prudent person would do under the circumstances. So
21 while I appreciate Mr. Popwell's argument about the
22 speed, that is not the only allegation that we're
23 claiming.

24 This is a pretty clear comparative fault case.
25 We've alleged comparative fault in our answer. And

1 the standard to meet summary judgment and get this
2 case to trial was a mere scintilla of evidence. We
3 believe that, based upon Mr. Rutherford's deposition
4 testimony about how this accident happened and the
5 fact that the plaintiff actually ran into
6 Mr. Rutherford's truck, the side of his truck, not
7 the other way around, is clearly evidence, at least
8 a mere scintilla of evidence, to get it past summary
9 judgment on this case.

10 And again, Judge, both parties are saying that
11 the other should have looked out and failed to avoid
12 the accident. That's what this case is about. So
13 this is not a summary judgment case. We are not
14 only on the jury trial roster, the discovery is not
15 over. We're continuing discovery as we speak. In
16 fact, I believe there is a motion to compel pending
17 before Your Honor today to address discovery issues.
18 So discovery is ongoing at this point.

19 So we'd ask the Court, based upon that and the
20 facts of the case that have been developed so far,
21 to deny Plaintiff's summary judgment motion. Thank
22 you, Your Honor.

23 THE COURT: All right, sir.

24 In reply, Mr. Popwell?

25 MR. POPWELL: Very briefly, Your Honor.

1 Mr. Rutherford had an absolute duty to yield
2 the right-of-way, pursuant to the sign which clearly
3 states: Left turn yield on flashing yellow arrow,
4 which he testified he had. And pursuant to the
5 left-turn statute, which I earlier cited, Mr. Sharpe
6 had the right-of-way. It was no statutory
7 interdiction on any -- no statutory limitation on
8 him.

9 He's testified that, all of a sudden, the
10 fellow turns left in front of him, and he didn't
11 even have time to hit his brake. They produced no
12 evidence of any skid marks. They can't say what
13 Mr. Sharpe's speed was. He stated that he doesn't
14 have a duty to drive as well as Cale Yarbrough or
15 the late Dale Earnhardt and go up on the shoulder to
16 miss somebody that's turning left and not yielding
17 the right-of-way.

18 Horton and Odom are crystal clear. It's been
19 the law here 60 years. Judge, you can't create a
20 fake issue or artificial issue of liability when
21 Mr. Rutherford has clearly breached the statute and
22 the traffic control device that controls this
23 intersection.

24 So if it's possible to get summary judgment on
25 a wreck case, we should get it here pursuant to

1 Horton and Odom. Thank you.

2 THE COURT: Mr. Popwell, as I understand, your
3 argument is that the opposing driver admits, and
4 Mr. Florence states in his argument, that Rutherford
5 was driving an 18-wheeler with a crane attached to
6 it and he initiated a left turn on a yellow signal,
7 a flashing yellow signal. And your contention is
8 that he didn't have the right to initiate a turn on
9 a yellow signal if there was any possibility of
10 something coming to meet him.

11 MR. POPWELL: That is correct, Your Honor. And
12 he could not do that until he could do so safely.
13 He had to yield to oncoming -- and that's what the
14 sign says at the intersection.

15 THE COURT: If there was ever a close wreck
16 case -- and I've been doing this for 55 years --
17 this is probably it, because it's not just that the
18 light is flashing yellow and it's not just that the
19 truck is initiating a turn on a yellow flashing
20 light, it's that the truck has got attached -- it's
21 a big truck and it has attached to it a crane
22 assembly, which increases the total length that must
23 pass through the intersection safely by a
24 considerable amount.

25 And, based on that, considering all the facts

1 in the light most favorable to the non-moving party,
2 which is Defendant, I am going to grant the summary
3 judgment.

4 MR. POPWELL: Thank you, Your Honor.

5 -- END OF TRANSCRIPT OF RECORD --

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Richland County, South Carolina, on the 29th of November, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

December 5, 2022

*s/Bethanie K. Creppon*Bethanie K. Creppon
Circuit Court Reporter



1226 Pickens Street
Columbia, South Carolina 29201
info@garberreporting.com
Telephone: (803) 256-4500 | Fax (803) 256-1999

BILLY R. SHARPE

March 21, 2022

Billy R. Sharpe and Angela Sharpe

VS

Rocky Rutherford, et. al.

2021-CP-40-03672

REPORTER: Jennifer Nottle

1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
2 COUNTY OF RICHLAND) CASE NO.: 2021-CP-40-03672
3

4 Billy R. Sharpe and Angela)

5 Sharpe,)

6 Plaintiffs,) Deposition of:

7 vs.) Billy R. Sharpe

8 Rocky Rutherford, Legacy) Monday, March 21, 2022

9 Equipment, Inc. and G.A. West) 10:02 a.m. - 12:35 p.m.

10 and Company, Inc.,)

11 _____)
12
13

14 Deposition on oral examination of Billy R. Sharpe,
15 reported by Jennifer Nottle, Court Reporter and Notary
16 Public in and for the State of South Carolina; pursuant to
17 Rule 30 of the South Carolina Rules of Civil Procedure;
18 said deposition was taken at the law offices of Lee, Eadon,
19 Isgett, Popwell & Owens, P.A., on Monday, the 21st day of
20 March, 2022.
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

Representing the Plaintiffs:

GARY W. POPWELL, JR., ESQUIRE
Lee, Eadon, Isgett, Popwell & Owens, P.A.
1314 Lincoln Street, Suite 1
Columbia, South Carolina 29201

Representing the Defendants:

PHILLIP FLORENCE, JR., ESQUIRE
Murphy & Grantland, P.A.
4406-B Forest Drive
Columbia, South Carolina 29206

Via Zoom:

RANSOME HARE, ESQUIRE
McDowell, Knight, Roedder & Sledge
11 North Water Street, 13th Floor
Battle House Tower
Mobile, Alabama 36602

Representing UIM Carrier Liberty Mutual:

VIRGINIA P. BOZEMAN, ESQUIRE
Turner, Padget, Graham & Laney, P.A.
1901 Main Street, 17th Floor

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Columbia, South Carolina 29201

Representing UIM Carrier Frankenmuth Insurance:

JOHN ELLIOTT ROGERS, II, ESQUIRE

The Ward Law Firm, P.A.

Post Office Box 5663

Spartanburg, South Carolina 29304

Also present:

Angela Sharpe, Plaintiff

1	CONTENTS:	
2	(Deposition of Billy R. Sharpe)	
3		PAGE:
4	Examination by Mr. Florence.....	6
5	Examination by Ms. Bozeman.....	122
6	Examination by Mr. Rogers.....	128
7	Certification of Reporter.....	145

8

9

* * * * *

10

EXHIBITS

11

EXHIBIT INDEX:

PAGE:

12

(Copies of exhibits attached.)

13

Defendant's Exhibit No. 1 (1 page).....117

14

- Photo

15

Defendant's Exhibit No. 2 (1 page).....117

16

- Photo

17

Defendant's Exhibit No. 3 (1 page).....98

18

- Photo

19

Defendant's Exhibit No. 4 (1 page).....98

20

- Photo

21

Defendant's Exhibit No. 5 (1 page).....98

22

- Photo

23

24

25

* * * * *

Court Reporter's Legend:

dashes [--] Intentional or purposeful interruption

[ph] Denotes phonetically written

[sic] Written as said

This deposition is taken in accordance with the
South Carolina Rules of Civil Procedure.

It is agreed and stipulated by the deponent and
respective counsel that the reading and signing of the
deposition by the deponent is expressly waived.

1 WHEREUPON:

2 BILLY R. SHARPE, being duly sworn and cautioned
3 to speak the truth, the whole truth and nothing but the
4 truth, testifies as follows:

5 MR. SHARPE - EXAMINATION BY MR. FLORENCE:

6 Q. Mr. Sharpe, good morning. My name is Phillip
7 Florence. I represent Rocky Rutherford and
8 Legacy Equipment and G.A. West and Company in a
9 lawsuit that you have brought arising out of an
10 accident that occurred in May 2nd, 2019; is that
11 correct?

12 A. Yes, sir.

13 Q. All right. And is that the correct date of the
14 accident?

15 A. May the 2nd, 2019, yes, sir.

16 Q. Okay. Do you remember the accident?

17 A. Uh-huh.

18 Q. Okay. Let me go over some basic rules. Have you
19 ever given a deposition before?

20 A. Once.

21 Q. Okay. Just to go over some rules with you.
22 Obviously, we've got a court reporter here.
23 She's taking everything down that we say, and
24 then she's going to type everything up in a nice,
25 neat little transcript for us to read back later.

1 And it helps if your answers are verbal answers
2 as opposed to -- sometimes I'll nod my head and
3 say, uh-huh, huh-uh, that kind of thing --

4 A. I've got you.

5 Q. If you wouldn't mind answering verbally yes, no
6 or whatever your explanation is. Just do that
7 verbally so she can take it down, okay?

8 A. I'll do my best.

9 Q. All right. And I'm not here to trick you or
10 anything. I'm going to ask you questions about
11 your background, who you are, where you're from.
12 And I'm going to ask you about the accident, and
13 I'm going to ask you about your injuries and
14 treatment, okay?

15 A. Yes, sir.

16 Q. That's why we're here today. And so, if I ask
17 you a question that you don't understand for some
18 reason, which happens a lot, feel free to stop me
19 and say, I don't understand that question, and
20 I'll try to help you understand the question,
21 okay?

22 A. Uh-huh.

23 Q. All right. And also, I don't anticipate being
24 too long for your deposition. This is not a
25 marathon.

1 A. Okay.

2 Q. If you need to take a break for any reason,
3 bathroom, get something to drink, anything like
4 that, let me know. We'll take a break.

5 A. Yes, sir.

6 Q. However long you need. I will say that if we do
7 take a break, I would ask that you not ask any
8 questions or talk to your attorney about your
9 deposition testimony or the case, okay, or else I
10 may be able to ask questions about that, okay?

11 A. Yes.

12 Q. All right. And are you able to -- are you under
13 any medication or any drugs or anything that
14 would prevent you from answering my questions
15 here today?

16 A. No, sir.

17 Q. Okay. And you know that you are under oath,
18 sworn to tell the truth here today, correct?

19 A. Sure, yes, sir.

20 Q. All right. Sir, could you state your full name
21 for the record, please?

22 A. Billy Ray Sharpe.

23 Q. All right. Mr. Sharpe, where do you currently
24 reside?

25 A. At 257 Par Court, Gaston, South Carolina.

- 1 **Q. Gaston?**
- 2 A. Gaston, G-A-S-T-O-N.
- 3 **Q. How long have you lived there?**
- 4 A. Since 1985.
- 5 **Q. Okay. Where did you live before that?**
- 6 A. Huh ...
- 7 **Q. If you can remember.**
- 8 A. I can't recall.
- 9 **Q. Okay.**
- 10 A. It might take me a while to figure that one out.
- 11 **Q. Where are you from?**
- 12 A. Columbia.
- 13 **Q. Okay. Were you born and raised in Columbia?**
- 14 A. Yes, I have, all my life.
- 15 **Q. Okay. Where did you go to school?**
- 16 A. I went to Brockman Elementary, Dentsville Middle
- 17 School, Keenan High School.
- 18 **Q. And what year did you graduate from high school?**
- 19 A. I did not.
- 20 **Q. Okay.**
- 21 A. I finished ninth grade, tenth grade.
- 22 **Q. Okay. And then what did you do after high**
- 23 **school?**
- 24 A. I roofed for ten years, and then I went to work
- 25 for South Carolina National Bank, control center.

- 1 Q. Okay. So you went to work after --
- 2 A. Pretty much.
- 3 Q. -- you left high school?
- 4 A. Uh-huh.
- 5 Q. Okay. And we'll get into that, but a little more
- 6 about your background. Are you married?
- 7 A. Yes.
- 8 Q. And what is your wife's name?
- 9 A. Angela.
- 10 Q. Okay. And how long have you been married to
- 11 Angela?
- 12 A. Thirty-one years.
- 13 Q. That was a test. You passed it. And how many
- 14 times have you been married?
- 15 A. Three.
- 16 Q. Okay. And what were the dates of your previous
- 17 marriages, if you can even remember?
- 18 A. Probably somewhere -- 1979 was probably my first
- 19 marriage.
- 20 Q. Okay.
- 21 A. The month I can't give you.
- 22 Q. Okay. So '79 is when you first got married?
- 23 A. Yeah, I believe so.
- 24 Q. Okay. And who was that marriage to?
- 25 A. Her name was Angela Cecil, okay, but that was her

1 maiden name.

2 **Q. Okay. And then do you know about how long you**
3 **were married to Ms. Cecil?**

4 A. Five years. Don't hold me to the dates, okay --

5 **Q. No, that's fine.**

6 A. -- because I could be off on that. There's was
7 two marriages before this -- finally the right
8 lady came into my life.

9 **Q. Sure, yeah. I understand. So about five years.**
10 **Did you have any children with Ms. Cecil?**

11 A. No.

12 **Q. Okay. And then -- and who was your second wife?**

13 A. Patricia Garerro.

14 **Q. Okay. How long were you married to Ms. Garerro?**

15 A. Five years. I'm thinking my dates are off a
16 couple of years. I might have been 17 when I got
17 married to the first one.

18 **Q. Okay. Did you have any kids with Ms. Garerro?**

19 A. No.

20 **Q. Okay. And then who was your third wife?**

21 A. Angela.

22 **Q. Angela Sharpe?**

23 A. Tedder.

24 **Q. Or is this another Angela?**

25 A. No. Angela was a good name.

1 Q. Okay. So you've been married three times?

2 A. Yeah, this will be -- you know, my previous --
3 marriage I'm in now is my third marriage.

4 Q. I got you. Okay. And that one's lasted 31
5 years?

6 A. Yes.

7 Q. All right. Any children with Angela --

8 A. Yes.

9 Q. -- your current wife?

10 A. Yes.

11 Q. Okay. And how many?

12 A. Two.

13 Q. All right. And what are their ages?

14 A. Twenty-nine and 31.

15 Q. Okay. What are their names?

16 A. Cayce Sharpe and then Carrie Sharpe. You know, I
17 had a step-son. I don't know if that counts in
18 your questioning, but, you know.

19 Q. Yes.

20 A. So his name is Dana Merrit.

21 Q. Okay. And who is his mother?

22 A. Angela.

23 Q. Your current wife?

24 A. Yes.

25 Q. Okay. And so what do your children, including

- 1 **your stepson -- what do they all do?**
- 2 A. Well, my step-son's deceased. Carrie is in
3 nursing school and Cayce has full-time job with
4 DuraClean.
- 5 **Q. And where do they live?**
- 6 A. All of them live in Columbia.
- 7 **Q. Okay. Do you have any relatives that live in**
8 **Columbia or Richland County?**
- 9 A. Yeah, I have a sister and a brother right now.
- 10 **Q. All right. What are their last names of all the**
11 **relatives you have in Richland County?**
- 12 A. Bonnie Adams and Michael Sharpe.
- 13 **Q. Okay. So Adams?**
- 14 A. Uh-huh.
- 15 **Q. Sharpe, obviously. Any other last names of**
16 **relatives in Richland County?**
- 17 A. I probably do, but I don't know them.
- 18 **Q. Okay. Do you have a large family?**
- 19 A. I did, but they've all kind of passed away and
20 went on to sleep and meet the Lord.
- 21 **Q. All right. What is your date of birth?**
- 22 A. 1/21/60.
- 23 **Q. So that makes you how old?**
- 24 A. Sixty-two.
- 25 **Q. Sixty-two, all right. So after high school, you**

1 **said you just went to work?**

2 A. Yeah, I was kind of forced into that, but, yeah.

3 **Q. What do you mean by that?**

4 A. Well, you know, my mother had passed, and my
5 daddy had passed, and it was kind of left up to
6 me to take care of myself, so ...

7 **Q. Okay. And so by way of work, if you could just**
8 **from high school up until currently, sort of walk**
9 **me through that.**

10 A. Well, that's going to be kind of --

11 **Q. As much as you can recall.**

12 A. -- it's a long time, you know. You know, I
13 worked as a roofer for ten years, and --

14 **Q. What company did you work for?**

15 A. It was -- I think the company's name was -- it
16 was a gentleman's name by Larry Dennis. I think
17 there's still in existence maybe. Dennis Roofing
18 maybe -- maybe is their name now. I mean, I was,
19 you know, 18, 19 years old.

20 **Q. Okay. Did that for ten years. And while you**
21 **were working as a roofer for those ten years, did**
22 **you have any on-the-job accidents or injuries?**

23 A. No.

24 **Q. Okay. And then after that, what did you do?**

25 A. You know, I'm going to try to give you the best

1 answers I can on that, you know --

2 **Q. Okay.**

3 A. -- I'm not sure that I'm going to be in line with
4 it, because I just don't remember all of that,
5 but I know at 19 -- maybe it was 19 I went to
6 work with South Carolina National Bank as a
7 sorter operator at the time.

8 **Q. A what?**

9 A. A sorter operator is what the title was. This
10 was back when they processed the checks and
11 everybody got their statements back.

12 **Q. Yeah.**

13 A. So, you know, I worked in the control center
14 where we, you know, pretty much ran the checks
15 through the sorters.

16 **Q. An office job?**

17 A. Yes.

18 **Q. Okay. How long did you do that?**

19 A. I did that almost ten years.

20 **Q. Okay. Did you have any on-the-job injuries while**
21 **you worked there?**

22 A. No.

23 **Q. Okay. All right. And then what did you do?**

24 A. I went to work for a company called D&P Services,
25 which kind of -- that job is actually the job I

1 was in at the time of the accident, okay. Just
2 the company had changed names over the years.
3 People had bought out and made mergers, things of
4 that nature.

5 **Q. Uh-huh.**

6 A. So from there on until May the 2nd I worked for
7 basically D&P Services.

8 **Q. Okay. And what did you do for D&P Services?**

9 A. I was a maintenance technician. I did a little
10 of everything.

11 **Q. And was this a technician for -- is this a**
12 **commercial technician or -- I mean, what did you**
13 **work on? You were a technician for what?**

14 A. We maintained all the convenience stores, you
15 know, chains of convenience stores like -- at the
16 time it was Gulf and then BPs and Circle Ks, you
17 know, Corner Pantries through the State of South
18 Carolina and Georgia.

19 **Q. Okay. So personally your job was to go out to**
20 **these locations --**

21 A. Uh-huh.

22 **Q. -- and --**

23 A. Yes.

24 **Q. -- and do maintenance on those locations?**

25 A. Right.

1 **Q. And what types of maintenance would you do?**

2 A. Oh, I did anything from HVAC to -- I worked on
3 safes. I worked on fountain machines. I worked
4 on coffee makers. I worked on bathrooms. I
5 worked on carpentry. I did anything they needed
6 done.

7 **Q. Roofs?**

8 A. I never did no roofing work --

9 **Q. Yeah.**

10 A. -- but, you know, we were on -- I was on roofs a
11 lot.

12 **Q. Okay. All right. Well, HVACs and all that?**

13 A. Yeah, right.

14 **Q. Okay. All right. And you did that same job up**
15 **until the time of the accident?**

16 A. Yes, I did.

17 **Q. Okay. And what was your title when you started?**
18 **Did it ever change?**

19 A. No.

20 **Q. Okay.**

21 A. Not really.

22 **Q. So what was your title?**

23 A. Head technician maybe.

24 **Q. Head technician. When you went out to sites, did**
25 **you have a team, or was it just you?**

1 A. I'd say 85 percent of the time it was just me.

2 **Q. Okay. And so give me an idea of what a week**
3 **looked like for you, how many hours, how many**
4 **locations?**

5 A. I could go 50, average a 50-hour week. I could
6 be in Columbia, and I could be in Savannah,
7 Georgia, and I could be back in Columbia in that
8 same day.

9 **Q. Okay.**

10 A. You know, I just did a lot of traveling, a lot of
11 putting out fires for this company, little jobs,
12 little issues, things of that nature. It could
13 be anything. You know, like I said earlier,
14 anything. That had to -- I could not seem to put
15 to sleep, they'd send me to try to take care of
16 it for them.

17 **Q. And did you have a particular reason that you**
18 **worked for an area that you worked?**

19 A. Say that again now.

20 **Q. Yeah. What area -- I'm trying to figure out what**
21 **area you were assigned to.**

22 A. There was no specific area, no, no. I mean --

23 **Q. Okay.**

24 A. -- my company had a contract with these oil
25 companies or chains of stores, and wherever they

1 had a store we would go.

2 **Q. How far would you travel, or do you remember**
3 **traveling?**

4 A. Oh, I could travel to, like I said, to Savannah
5 and back.

6 **Q. Okay. Were you mainly in the southeast region**
7 **area or --**

8 A. Well, we would go up north. I mean, we would go
9 the other side of Charlotte, Greensboro.

10 **Q. Okay. All right.**

11 A. Did a lot of work up in the Charlotte area, the
12 outside Charlotte area, then very little in
13 Greensboro, but there was a lot, you know, of
14 times when we were in Greensboro.

15 **Q. Okay. Who were your supervisors while you were**
16 **there?**

17 A. You know, I wouldn't say that we had a
18 supervisor. It was just the owner of the
19 company. It was a small business company. It
20 was -- you know, just -- I thin

21 **Q. Okay, like when I left that company it was seven**
22 **of us maybe on the road. And usually the -- you**
23 **know, there was two owners in the time that I was**
24 **there. One was Perry Gillespie, and I think I**
25 **worked for him about 15 years, and then a guy**

1 named Bert Kemper bought the company from him, as
2 Perry got old enough to retire. So, you know, I
3 just took my orders from them.

4 **Q.** Bert, what was his last name?

5 A. Kemper.

6 **Q.** Kemper. And so who was the last owner of the
7 company?

8 A. Bert Kemper.

9 **Q.** Okay. Do you know if he's still the owner?

10 A. Yes, he is.

11 **Q.** Do you keep in touch with him?

12 A. We speak very rarely, but, yeah, a little bit.

13 **Q.** Okay. All right. Any other jobs that you had
14 during that time frame that you can remember?

15 A. No, not that I can remember.

16 **Q.** Give me an idea of your compensation was while
17 you were at D&P.

18 A. Yearly or weekly or what?

19 **Q.** Sure, annually. Were you a salaried employee?

20 A. Yeah. They were paying me \$1,200 a week.

21 **Q.** Twelve hundred dollars a week?

22 A. Yes, sir.

23 **Q.** Okay.

24 A. Maybe a little over, just a little over 1,200 a
25 week.

1 Q. And so you worked for them how long? You worked
2 for D&P Services how long?

3 A. Thirty-three, 34 years.

4 Q. And did your regular pay ever change over that
5 time?

6 A. Sure, yeah. I started out at \$8 an hour, and I
7 worked -- you know, sure, I mean, it graduated as
8 the time went by.

9 Q. Okay. And during the time that you worked for
10 D&P Services, did you ever have any on-the-job
11 injuries?

12 A. I think I got a piece of metal shaving in my eye
13 once.

14 Q. When was that?

15 A. When?

16 Q. Yes, sir.

17 A. That was probably in the late '90s, I'm guessing.
18 I can't remember.

19 Q. And that's the only on-the-job injury you can
20 remember?

21 A. Yes.

22 Q. All right.

23 A. It was just a flake -- a piece of metal got in my
24 eye from drilling through a piece of steel, and,
25 you know, actually I was out of town when that

1 happened, and didn't even know it had happened.
2 And then on the home my eye started bothering me.

3 **Q. Did you file a workers' comp claim for that**
4 **injury?**

5 A. No, we did not.

6 **Q. Okay. Any other injuries that you had on the job**
7 **that you did not file a workers' comp claim for?**

8 A. None that I can recall or ever remember having
9 any other injury at all, other than that.

10 **Q. How many times did you file a workers' comp claim**
11 **while you were working with D&P? Do you remember**
12 **any?**

13 A. Just the once, and that was the May 2nd, 2019.

14 **Q. Okay. From this accident?**

15 A. Right.

16 **Q. Okay.**

17 A. That's the only workmen's comp I've ever been
18 involved in.

19 **Q. Who is your primary care physician?**

20 A. Dr. Fisher.

21 **Q. John Fisher?**

22 A. Yes.

23 **Q. Who is he with?**

24 A. Lexington Family Medical.

25 **Q. Okay. And how long has he been your primary care**

1 **physician?**

2 A. I've been there a while. Let's see. Probably 20
3 years, I'm guessing. I could be wrong about
4 those times --

5 **Q. Sure.**

6 A. -- you know, but I'd say 15, 20 years.

7 **Q. Okay. All right. And what types of things has**
8 **Dr. Fisher treated you for, before this accident?**

9 A. Cholesterol, blood pressure.

10 **Q. Have you been diagnosed with any sort of diseases**
11 **related to those --**

12 A. No.

13 **Q. -- high blood pressure or anything?**

14 A. Just high blood pressure and cholesterol.

15 **Q. Okay. And what about medications? Were you on**
16 **any medications?**

17 A. Yeah, I was on blood pressure medication and
18 cholesterol medication.

19 **Q. Okay. Ever been prescribed any pain medications**
20 **before this accident?**

21 A. You know, they might have gave me some -- you
22 know, I had -- through him, no.

23 **Q. Well, through anybody? I mean --**

24 A. Yeah, you know, I had surgery, carpal tunnel, you
25 know. Any time I had any kind of surgery,

1 they'd, you know, give you, you know, pain
2 medication to go home with.

3 **Q. Okay. Well, what types of pain medications do**
4 **you remember being prescribed before this**
5 **accident?**

6 A. You know, if it was -- it was something I never
7 really used or took, but they would give it to
8 us. And I don't really know. Maybe it was
9 Norco. I'm not sure. I'm not very educated when
10 it comes to medications.

11 **Q. Sure.**

12 A. I don't take them.

13 **Q. All right. And we'll get into your prior medical**
14 **history in a little bit, but I want to finish up**
15 **with your background. Are you a member of any**
16 **social clubs or churches, locally? Do you go to**
17 **any churches?**

18 A. Yeah, I'm a member of Fish Hatchery Church of
19 God.

20 **Q. Okay. All right. Are you a member of any social**
21 **clubs?**

22 A. No.

23 **Q. Memberships or anything like that?**

24 A. No, sir, none.

25 **Q. And I ask this of everybody. Do you have any**

1 sort of criminal record where you've been
2 arrested or --

3 A. No record.

4 Q. -- been in jail?

5 A. No.

6 Q. Okay. Any treatment from any psychiatrists or
7 psychologists before this accident?

8 A. No.

9 Q. What about after this accident?

10 A. No.

11 Q. Okay. Have you ever been treated for any alcohol
12 or drug abuse?

13 A. No.

14 Q. Okay. Other than this case, have you ever filed
15 a personal injury lawsuit?

16 A. I have not.

17 Q. Okay. Before this accident, had you ever been
18 involved in any other motor vehicle accidents?

19 A. I wrecked a motorcycle one time, but it had a
20 flat tire. I mean, that was back when I was 16
21 or 17 years old --

22 Q. Okay.

23 A. -- but as far as any accidents that I can ever
24 recall, no, sir, I haven't.

25 Q. You said you recall wrecking a motorcycle?

1 A. Yeah, I had a flat tire once on a motorcycle,
2 and, you know, laid it down because it went flat
3 on the front, but that -- I was in a subdivision
4 area, you would call it, and was not going very
5 fast. So it wasn't really anything really
6 involved in it besides a little skin tore off my
7 leg, you know.

8 **Q. Yeah. And my next question was did you receive**
9 **any injuries from that accident?**

10 A. Nah, just -- no serious injuries. I mean, like I
11 said, I skinned the top layer off my leg.

12 **Q. All right. And so besides the motorcycle**
13 **accident way back when --**

14 A. Yeah, way back.

15 **Q. -- this is the only other motor vehicle accident**
16 **you've been in?**

17 A. That's correct.

18 **Q. And so what about after this accident, have you**
19 **been in any motor vehicle accidents after this**
20 **accident?**

21 A. No, I haven't.

22 **Q. Okay. All right. Just briefly, what injuries**
23 **are you claiming you sustained from this**
24 **accident?**

25 A. Shoulder, neck --

- 1 **Q. Which shoulder?**
- 2 A. Right shoulder, left shoulder.
- 3 **Q. Both shoulders?**
- 4 A. Yeah, I've had problems with both my shoulders
5 and both my arms.
- 6 **Q. Okay. So your right and left shoulder and arms?**
- 7 A. Uh-huh.
- 8 **Q. Did you say your neck?**
- 9 A. Yes.
- 10 **Q. Okay. Anything else?**
- 11 A. I've had headaches, you know. I don't sleep. I
12 don't walk good. I've just had a lot of issues
13 ever since the accident, but --
- 14 **Q. What about your back?**
- 15 A. Yeah, I'm having back pain in my lower back.
- 16 **Q. All right. So I've got right and left shoulder
17 and arms, your neck, your lower back and
18 headaches --**
- 19 A. Yeah.
- 20 **Q. -- and you're having sleeping issues?**
- 21 A. Oh, yeah, yeah, for sure.
- 22 **Q. Anything else you can think of?**
- 23 A. No, sir, not that I can think of.
- 24 **Q. Okay. As far as your right and left shoulder,
25 had you had any problems whatsoever with your**

1 **right or left shoulder before this accident?**

2 A. Yes, yeah.

3 **Q. Explain those to me.**

4 A. Well, right before the accident in March of that
5 same year I fell off a little four-foot ladder
6 and dislocated my right shoulder. The left
7 shoulder had a bicep tendon tear loose, and it
8 was re-anchored.

9 **Q. Let's talk about the left shoulder. When did**
10 **that happen?**

11 A. Maybe, I'm not sure of the date, 2014, 2015,
12 2013, somewhere in that area.

13 **Q. Okay. So about five or six years before this**
14 **accident?**

15 A. Yeah.

16 **Q. Okay.**

17 A. Maybe. It might have been longer than that,
18 okay?

19 **Q. Okay, no --**

20 A. I mean -- it could have been seven years, but I
21 think it was somewhere in that time.

22 **Q. Sure. And so how did you sustain that injury?**

23 A. I don't know. I don't really know.

24 **Q. You don't remember, or you just -- it just --**

25 A. I have no idea how I got that -- that happened.

1 I just know that my shoulder started hurting me
2 really bad and --

3 **Q. Okay.**

4 A. -- and I finally went to see someone about it,
5 and they thought it was, I think, rotator cuff.
6 Dr. Lee actually did the surgery. He went in to
7 do rotator cuff repair, but when he went in he
8 found the bicep tendon had tore loose and had
9 kind of wrapped up behind the back of my
10 shoulder, and he just was nice enough to re-
11 anchor it.

12 **Q. And did you tell the doctor it just started**
13 **hurting all of a sudden?**

14 A. Yeah, it just got to where it was bothering me
15 pretty bad at night, and, you know, it was just
16 out of the blue. So, yeah, I just explained that
17 to him, so he kind of -- I think we might have
18 done an MRI. I can't remember.

19 **Q. Okay. All right. But eventually you had surgery**
20 **on that --**

21 A. Oh, yes.

22 **Q. -- left shoulder, correct?**

23 A. Uh-huh.

24 **Q. All right. And was the surgery on the left**
25 **shoulder successful?**

1 A. Oh, very, very.

2 **Q. Okay. And what do you mean by that?**

3 A. The pain went away and I never had no more
4 problems, none at all. I mean, I was back to
5 normal.

6 **Q. Do you remember when you had that surgery?**

7 A. I think it was 2014. That's all I can come up
8 with. I don't know what month or anything like
9 that.

10 **Q. All right. And then you said you injured your**
11 **right shoulder. Was it the same year as the car**
12 **accident?**

13 A. Yeah, it was March 19th, 2019, I fell off that
14 ladder, which was just a few months before this
15 accident.

16 **Q. Okay. Explain to me how that happened. What**
17 **were you doing?**

18 A. I was helping a friend put a refrigeration system
19 in a walk-in freezer. And I was up on four foot
20 ladder doing some braising on some lines. And
21 the ladder fell out from underneath me and I fell
22 off the top of it and landed on my hip.

23 **Q. So this was not on the job?**

24 A. No, no, no, no.

25 **Q. You were not working at the time?**

1 A. No.

2 **Q. And you were helping a friend do what?**

3 A. Install a walk-in freezer.

4 **Q. Is he a good friend?**

5 A. Yeah, yeah --

6 **Q. Okay.**

7 A. -- yeah, he's a good friend.

8 **Q. All right.**

9 A. Still is.

10 **Q. Okay, good. Where did this happen?**

11 A. It was -- he had a place of business that he was

12 opening called Tiffany's Bakery.

13 **Q. On Two Notch?**

14 A. Yeah.

15 **Q. That's the new location?**

16 A. Yeah, the new location.

17 **Q. Okay.**

18 A. When he moved from the old one there I was

19 helping him get that kind of up on line.

20 **Q. Sure, I know where that is. What's his name?**

21 A. Jim.

22 **Q. Jim, what's his last name? I can't -- I know who**

23 **you're talking about, but --**

24 A. You know, that's a good question. I've always

25 thought it was Jim Tiffany's, but I could be

1 wrong about that. I don't know.

2 **Q. Okay. All right.**

3 A. I've just called him Jim all my life. I don't
4 know.

5 **Q. And so he owns Tiffany's or what?**

6 A. Yes.

7 **Q. Okay. And so you were helping him put in a walk-
8 in freezer --**

9 A. Uh-huh.

10 **Q. -- at the time?**

11 A. Right.

12 **Q. And which required you to use some steps?**

13 A. A ladder.

14 **Q. A ladder?**

15 A. Yeah.

16 **Q. And tell me what you remember happening.**

17 A. I just remember being up on that ladder and
18 soldering the lines inside this freezer. And I
19 fell off the ladder some way, somehow, and the
20 ladder kicked out from under me, and I went down.

21 **Q. Did anybody see that happen?**

22 A. Yeah, I had another friend in there with me. I
23 don't know if he actually saw me, but he was in
24 the area. I would say -- you know, I guess he
25 did -- probably saw something of it.

1 **Q. Okay. All right. I just didn't know if you were**
2 **with anybody at the time.**

3 A. Oh, no, there was him and then there was another
4 gentleman in there doing some work for Jim on the
5 actual walls, so he was in there also. I don't
6 recall his name though.

7 **Q. Okay. And do you remember how you fell?**

8 A. I just fell.

9 **Q. I mean, did the ladder move or --**

10 A. Yeah, I believe the ladder did move. The leg
11 kicked out from underneath it. It was a little
12 A-frame four foot, and I would step on it, and it
13 kicked out, and I went down.

14 **Q. How did you go down?**

15 A. Well, you know, I had torches in my hand, so
16 they're 2,000 degrees, so I guess I was conscious
17 not to let go of them. It was a very tight area,
18 so I just went down and kind of landed, I think,
19 sort of like this (gesturing).

20 **Q. You're indicating on your left elbow area?**

21 A. Yeah, pretty much right elbow.

22 **Q. I mean, right elbow, yeah. And so did you feel**
23 **pain immediately, or what did you feel?**

24 A. Yeah, I felt a little pain immediately, but not
25 real bad. But when I got ready to get up, I

- 1 realized I was hurt.
- 2 **Q. And how did you realize you were hurt?**
- 3 A. I couldn't get up.
- 4 **Q. You could not get up?**
- 5 A. I could not get up.
- 6 **Q. Why couldn't you get up?**
- 7 A. Too much pain.
- 8 **Q. Yeah.**
- 9 A. Every time I tried to move.
- 10 **Q. Yeah. Where was the pain?**
- 11 A. In the shoulder and the arm, mainly right through
- 12 here (indicating).
- 13 **Q. Okay. Did you feel like something was broken?**
- 14 A. I don't know if I felt like it was broken, but I
- 15 knew I was hurt, okay.
- 16 **Q. Right, right, yeah.**
- 17 A. So, you know, naturally the instinct was, yeah, I
- 18 broke something.
- 19 **Q. And so did you go to the hospital right away?**
- 20 A. Oh, yeah, yeah, I was taken to the hospital.
- 21 **Q. And who took you?**
- 22 A. Ambulance.
- 23 **Q. Oh, they called the ambulance?**
- 24 A. Yeah.
- 25 **Q. Okay.**

1 A. That was something Jim did, I think, just out of
2 -- out of just goodness and kindness and to make
3 sure I wasn't hurt worse than anybody really
4 knew.

5 **Q. And which hospital did they take you to?**

6 A. Prisma, I believe. I believe.

7 **Q. What did they do for you there? Did they give**
8 **you an MRI, x-rays?**

9 A. You know, I hope it was Prisma. I've been to so
10 many hospitals lately, but I think it was. It
11 was Prisma. I believe it was. Don't hold me to
12 that one, all right. They did x-rays and told me
13 I had dislocated my shoulder.

14 **Q. Dislocated your right shoulder?**

15 A. Uh-huh.

16 **Q. And what did they say they were going to do for**
17 **it?**

18 A. Put it back in the socket.

19 **Q. Prisma Health Richland Hospital?**

20 A. Was that it?

21 **Q. That's what my records reflect.**

22 A. Yeah, I think it was there, because I felt like I
23 had been there. When I went back -- I think I
24 went back there, too, after the accident.

25 **Q. Do you remember seeing Dr. David Ford there? Do**

1 **you remember?**

2 A. I would remember the guys -- I saw two doctors
3 there, and one left. Names, I'm not good on
4 them. I'm just not good on names, I'm sorry, but
5 I just remember faces if they were good. And
6 they were really concerned and great human beings
7 to be under the hands of, you know, at the time.
8 And they took care of my problem.

9 **Q. And so you said they were going to put it back**
10 **into --**

11 A. Yes, sir.

12 **Q. And so was it out?**

13 A. Yeah, it has dislocated it.

14 **Q. Okay. And what else did they do for you?**

15 A. Just sent me home, wrapped it up and told me they
16 would recommend that I go see an orthopaedic.

17 **Q. Did they take any x-rays?**

18 A. Yes, sir.

19 **Q. What did they tell you the x-rays showed of your**
20 **right shoulder?**

21 A. That is was definitely dislocated, no breaks,
22 just dislocated.

23 **Q. Okay. Did they indicate to you that there were**
24 **any sort of -- any tears of anything in your**
25 **shoulder?**

1 A. No, sir.

2 Q. Okay. Other than your right shoulder, did you
3 receive any other injuries from that fall?

4 A. As far as sustained injuries, no, but I think I
5 did hit my head when I fell.

6 Q. Why do you think that?

7 A. I just remember the slamming of it, you know, a
8 little bit.

9 Q. Okay. So you think you hit your head. Did you
10 have any neck or back pain associated with the
11 fall?

12 A. No, sir.

13 Q. Okay. So they relocated it.

14 A. Yeah.

15 Q. And put it back in at the hospital. And did they
16 give you a sling or anything else --

17 A. Yeah, they wrapped it up.

18 Q. Wrapped it up. And then how long did it take for
19 you to recover from that?

20 A. It was on a Saturday. I was back at work Monday.

21 Q. Okay.

22 A. I mean, you know, I was still hurting. I was
23 still -- I was able to go back to work.

24 Q. And was it -- because the accident happened in
25 May, so a month and a half, a couple months

1 **later, you were in this car accident. How was**
2 **your right shoulder at the time of the accident?**

3 A. It was pretty good. I mean, I wasn't 100
4 percent, but it was pretty good. I was doing --
5 you know, I was back at work doing a full-time
6 job by myself. I was, you know, toting ladders,
7 things of that nature.

8 **Q. You still had pain in your right shoulder?**

9 A. A little bit. Yeah, I was having a little bit of
10 pain every once in a while.

11 **Q. Okay. Were you taking any pain medications at**
12 **the time --**

13 A. No, sir.

14 **Q. -- for it?**

15 A. Huh-uh.

16 **Q. All right. And as far as pains go, at the time**
17 **of the accident, did you have any -- other than**
18 **your right shoulder, did you have any pains**
19 **anywhere else in your neck or back that you were**
20 **getting treated for or just felt at the time?**

21 A. No, no, no.

22 **Q. So at the time of the accident, your neck was**
23 **fine?**

24 A. Uh-huh.

25 **Q. Your back was fine?**

- 1 A. Uh-huh.
- 2 **Q. But you had a little pain in your right shoulder;**
3 **is that right?**
- 4 A. Yeah.
- 5 **Q. And what about pain in your left shoulder?**
- 6 A. None.
- 7 **Q. Okay. All right. Can you recall -- so do you**
8 **remember any other falls besides that one before**
9 **this accident?**
- 10 A. No, that was it.
- 11 **Q. All right.**
- 12 A. You don't forget them when you dislocate your
13 shoulder.
- 14 **Q. Do you recall suffering a fall back in November**
15 **of 2017 where you hit your head pretty bad?**
- 16 A. 2017, huh? No, I can't recall it.
- 17 **Q. My notes indicate you hit the back of your head**
18 **on a concrete floor. Neck pain also occurred and**
19 **some --**
- 20 A. Oh, yeah, yeah, now I do recall that. Yeah, now
21 I do recall. When you said the back of the head,
22 yeah, I recall that.
- 23 **Q. Okay.**
- 24 A. That was also inside of a cooler.
- 25 **Q. Okay.**

1 A. Yeah.

2 **Q. Not the same friend?**

3 A. No, this was -- you know, I want to say -- you
4 know, I can't -- Mr. Florence, I can't remember
5 if I was on the job or not, but it was at one of
6 the stores that we were doing work at --

7 **Q. Uh-huh. That was an on-the-job accident?**

8 A. I think it might have been on the job or --
9 accident.

10 **Q. Okay.**

11 A. Can I kind of go off into that a little bit?

12 **Q. Sure.**

13 A. What my employer, Bert, would allow us to do
14 sometimes, we would close up a store or
15 something, and that was in Ridgeland, I believe.
16 When they got ready to tear a store down and
17 rebuild it, they would give me the option
18 sometimes to go in there and take that cooler out
19 and keep it, you know, for use somewhere else --

20 **Q. Yeah.**

21 A. -- personal use. And I think we might have been
22 down there at that time taking out the
23 evaporators before they knocked that store down.
24 And what had happened is there was some plastic
25 sleeves they used on the cooler shelves on the

1 floor, real slick. And when I walked in there I
2 stepped on one, and it was like hitting ice or
3 something, and I went down and hit the back of my
4 head.

5 **Q. Okay.**

6 A. You're right about that, and I forgot about that.

7 **Q. No, that's fine. And I think Dr. John Fisher**
8 **treated you for that?**

9 A. Yeah, he probably did.

10 **Q. Okay. When --**

11 A. I think I went there just to make sure everything
12 was good.

13 **Q. I mean, did you claim it as an on-the-job injury,**
14 **or did you just --**

15 A. No, I did not. No, that was all through my
16 personal insurance.

17 **Q. Okay. So you went to Dr. Fisher just to get**
18 **checked out --**

19 A. Yeah, to make sure I didn't have a --

20 **Q. -- and you told him what --**

21 A. -- you know, a bleeding -- I think somebody told
22 I could be bleeding, you know. Somebody put some
23 fear in me, okay.

24 **Q. All right. Did you go to see Dr. Fisher the same**
25 **day it happened?**

1 A. No.

2 **Q. Or like --**

3 A. No.

4 **Q. Okay. And what do you remember telling Dr.**
5 **Fisher about, you know, where you felt pain and**
6 **where you --**

7 A. I just explained to him, I think, what had
8 happened, and, you know, like I said, I could
9 hardly even recall that. But I think I just
10 explained to him what had happened, and I'd fell
11 and hit the back of my head. And I think what
12 had happened is he explained to me the time that
13 had elapsed since it had happened, if I had done
14 anything that I was worried about, it would have
15 already showed up. So I don't even think we did
16 any x-rays or -- we might have done an x-ray.
17 Might have done an x-ray, okay.

18 **Q. All right.**

19 A. Probably did do an x-ray. I can't really
20 remember that. I think we might have.

21 **Q. Sure.**

22 A. And then that was it.

23 **Q. Okay. Well, so there was no internal damage to**
24 **your head --**

25 A. No.

1 Q. -- found or anything like that?

2 A. No.

3 Q. Okay.

4 A. None that I can recall, no.

5 Q. Do you think you suffered a concussion from that
6 fall?

7 A. Do I think I did?

8 Q. Yes.

9 A. No, I don't.

10 Q. Okay. Do you think you hurt your neck from that
11 accident?

12 A. No, I don't.

13 Q. Okay. And it looks like you -- it looks like --
14 do you recall receiving any trigger-point
15 injections in your neck or back before this
16 accident?

17 A. No.

18 Q. Not before?

19 A. Huh-uh, I don't recall it, no.

20 Q. Okay. But after the accident you're saying. You
21 look like you're thinking, but --

22 A. Well, the reason I'm thinking is because I
23 totally forgot about the fall in 2017 that you
24 brought up, so, you know, I want to be as honest
25 I can on this, but --

1 Q. Well, if you don't --

2 A. -- I never even knew what a trigger point was
3 until this accident, so I don't think I've ever
4 had one.

5 Q. Okay. All right. Yeah, and I'm just asking you
6 what you remember. What about x-rays or MRIs or
7 any sort of scans on your neck or back before
8 this accident? Do you remember having anything
9 like that?

10 A. I don't remember no MRIs or scans.

11 Q. Okay. Before this accident, do you recall ever
12 being diagnosed with degenerative disc disease or
13 arthritis?

14 A. Yeah, I believe I was by Dr. Fisher.

15 Q. You were what?

16 A. I was told that I had degenerative disc.

17 Q. Okay. Before this accident?

18 A. Yes.

19 Q. Okay. And so how did that come up?

20 A. Pain. So I've had some pain in my shoulder or
21 something, and I went to Dr. Fisher, and he x-
22 rayed it.

23 Q. Okay. And so you think Dr. Fisher is the one who
24 told you you've got a degenerative condition?

25 A. Yeah, I'm almost sure he was, yeah.

1 **Q. Okay. Well, what did that mean to you?**

2 A. I had no idea what that meant, to be honest with
3 you. And I don't really know how I ever really
4 found out what degenerative meant, but I think it
5 was always determined in my personal thought that
6 -- just getting old.

7 **Q. All right. And did Dr. Fisher say anything or**
8 **any other doctor say anything specific about**
9 **arthritis for you?**

10 A. Not that I can recall.

11 **Q. All right. And you mentioned earlier that you**
12 **had some issues with your hand or fingers before**
13 **this accident?**

14 A. Yeah, that I had carpal tunnel.

15 **Q. Okay. And so when did that come about?**

16 A. When?

17 **Q. Yes.**

18 A. I don't know. It kind of bothered me, I guess.
19 I can't remember the years, but I'm going to
20 guess the years on this, okay. I was having some
21 problems with my left thumb hurting me a lot, and
22 I had noticed it in my job that I was not able to
23 use it as I had been able to. Or if I did all
24 day long, it would start hurting me. Maybe 2010,
25 2011. I went that for a couple or three years

1 before I finally figured I'd go see if I could
2 get out of that discomfort, and I saw Dr. Fulton.
3 And, you know, Dr. Fulton I actually saw twice.
4 Dr. Fulton told me I had carpal tunnel.

5 **Q. Okay.**

6 A. And I had no idea what that was, okay.

7 **Q. And you're indicating in your left thumb or left**
8 **hand?**

9 A. Yes, I was having a lot of pain in the palm of
10 the hand and the thumb area.

11 **Q. Okay. And what was the treatment for that?**

12 A. They did surgery on it, and I guess somehow or
13 another it gave me some more room for the path of
14 nerves.

15 **Q. Do you remember when that surgery was?**

16 A. I do not. Maybe 2011, 2012, something like that.
17 I'm guessing on that, okay.

18 **Q. All right. And before this accident, had you**
19 **ever been seen or treated by an orthopaedist?**

20 A. I can't say whether I had or not, because when
21 you brought it up it made it realize I'd seen Dr.
22 Fulton twice, okay. To me I think he is an
23 orthopaedic.

24 **Q. Well, hadn't you seen Dr. Lozanne before this**
25 **accident?**

1 A. No.

2 **Q. You've never seen Dr. Lozanne before this**
3 **incident?**

4 A. No, never met him until this accident.

5 **Q. Okay.**

6 A. But he's not an orthopaedic, is he?

7 **Q. No, you're right, but I was just --**

8 A. I think Dr. Lee was an orthopaedic.

9 **Q. All right.**

10 A. The guy that did the bicep tendon. Now I could
11 be wrong about that, too. I don't know. I just
12 know that I went to the doctors I needed to go
13 see with the problem I had. As far as their
14 titles --

15 **Q. What about Dr. James McFadden?**

16 A. The only time I met McFadden was when I fell off
17 the ladder. You know, I had had an appointment
18 with him to further examine the shoulder from the
19 dislocation. I think what -- actually I had an
20 appointment maybe a week or maybe it could have
21 been a few days with McFadden right before the
22 accident.

23 **Q. All right. So you saw Dr. McFadden for treatment**
24 **for your left --**

25 A. Right shoulder.

1 Q. -- it was your right shoulder.

2 A. After, you know, when I fell off the ladder.

3 Q. Okay. Which happened in a month and a half or
4 two months before this motor vehicle accident?

5 A. Pretty much.

6 Q. And so I guess my question is were you continuing
7 to treat for that with Dr. McFadden when this
8 accident happened?

9 A. I don't -- you know, I was still under his care.
10 I think I had done an MRI at his request, and I
11 was going back to see what his results were going
12 to be.

13 Q. Okay.

14 A. But that's about it.

15 Q. But you hadn't done that before this accident?

16 A. Yes, yeah, yes.

17 Q. You did the MRI before this accident on your
18 right shoulder, correct?

19 A. I believe so.

20 Q. All right. But you hadn't gone back to see Dr.
21 McFadden about the results?

22 A. For the follow-up, for the results, right.

23 Q. Okay. And then the accident happened?

24 A. Right.

25 Q. Okay.

1 A. Yeah, it was a bad time in my life, but, yeah, it
2 was. I think I can remember going back to see
3 him, and he couldn't believe that I had already
4 had another accident, you know.

5 **Q. So before this accident, had any doctor that you**
6 **had seen indicated to you that you might need**
7 **surgery on your shoulders, your neck or your**
8 **back? Do you understand my question?**

9 A. I think I do. I mean, I was convinced I wasn't
10 going to have no surgery on this shoulder, but
11 like I said, I was still waiting to see what
12 McFadden had to tell me. So that was the -- at
13 the point of the accident, I had no intent that I
14 was going to have surgery on my right shoulder --

15 **Q. Okay.**

16 A. -- but, who knows, I don't know what he was going
17 to tell me.

18 **Q. And then you had another MRI after this accident**
19 **on your right shoulder, correct?**

20 A. Yes, I did.

21 **Q. Did any of the doctors tell you that there was**
22 **any change or difference between the MRI on your**
23 **right shoulder before this accident and the MRI**
24 **on your right shoulder after the accident?**

25 A. Yeah, Dr. McFadden did.

1 **Q. What did he say?**

2 A. He told me that I -- excuse me if I can't say
3 this word right, okay, but --

4 **Q. Okay.**

5 A. -- exacerbated it maybe is the way he --

6 **Q. Exacerbated?**

7 A. Exacerbated it, maybe that's the way, yeah -- the
8 injury.

9 **Q. So Dr. McFadden said that the --**

10 A. And I knew that because I was in such pain, and I
11 couldn't move my arm.

12 **Q. Okay.**

13 A. But I knew I'd done more -- I knew something had
14 happened after the accident that it caused that
15 to be a lot more, and then I think what I was
16 explaining, it had done some more damage. I
17 think I even -- I want to say they used the term
18 that I broke my collarbone or clavicle, maybe is
19 the word, and that's pretty much what I remember
20 him telling me. And that they were probably
21 going to have to go in there and do some repair
22 work on it.

23 **Q. You mean, surgery?**

24 A. Uh-huh.

25 **Q. All right. And you mentioned that you also claim**

1 **that you injured your left shoulder in this**
2 **accident. Can you tell me about that?**

3 A. I just know that I was having a lot of pain after
4 the accident in my left shoulder blade area, and
5 my left arm was asleep and numb all the time, and
6 I couldn't hardly use it. That's how I knew
7 something had happened to the left arm, and I
8 took that to -- I don't know if you want to call
9 her case worker or case nurse with workmen's comp
10 that I was having that issue a lot with my left
11 arm and I'd like to have it looked at. The main
12 reason I wanted to talk and have someone take a
13 look at me is the headaches I was having. I'd
14 never had any headaches in my life. I just
15 didn't have headaches. And I was having severe
16 headaches right after that, and so I brought that
17 to their attention and I wanted to see someone
18 about it if they thought that would be okay to
19 do, and she -- she said, yeah, we think we could
20 do that, so --

21 **Q. All right.**

22 A. -- and they set me up with a caseworker and sent
23 me down through the chains. You know, I don't if
24 -- y'all know more about workman comp than I do,
25 but it was a pain in the ass. Excuse my

1 language, but it was, and they drug me for six
2 months through a pain management therapy system
3 that did no good for me.

4 **Q. All right. Just to go back, as far as your left**
5 **shoulder goes, when do you recall first**
6 **complaining about that after the accident?**

7 A. Within four or five days, three days.

8 **Q. Okay.**

9 A. The following -- I think it was the following
10 Monday or Tuesday I had made that phone call,
11 because my left arm and shoulder and my headaches
12 and the neck pain was bothering me so bad.

13 **Q. Okay. And as far as the headaches go, do you**
14 **recall having headaches after you fell back in**
15 **2017 and hit the back of your head?**

16 A. No, I never had them. I never had them.

17 **Q. Never had any medications for headaches or been**
18 **treated for headaches?**

19 A. No, sir, none.

20 **Q. Until after this accident --**

21 A. Yeah.

22 **Q. -- is that correct?**

23 A. Yeah. They -- yeah, for sure.

24 **Q. All right. And you said you also are claiming**
25 **that you injured your neck and your lower back in**

1 **this accident?**

2 A. Yeah. I'm claiming that everything that's
3 happened that's on me right now probably did stem
4 from the accident, yes, sir.

5 **Q. All right. When did you first complain about**
6 **your neck and lower back after the accident?**

7 A. I don't think I ever complained about the lower
8 back. The pain was so great in the neck and the
9 shoulder and arm. I did that right away.

10 **Q. Okay. All right. What treatment have you**
11 **received for your neck and your lower back after**
12 **the accident?**

13 A. I've had injections, muscle relaxers. So I've
14 had medication. So I've had therapy. I've had
15 surgery.

16 **Q. And what surgery are you referring to?**

17 A. They fused 4 and 5 -- no, they fused 5 and 6 and
18 6 and 7, and then --

19 **Q. In your neck?**

20 A. Yes, sir. And then back in -- just last October
21 they went back in and done 4 and 5.

22 **Q. All right. So after this motor vehicle accident**
23 **tell me what surgeries you've had.**

24 A. After the accident?

25 **Q. Yeah.**

- 1 A. I've had two neck surgeries and two shoulder
2 surgeries and maybe another one coming.
- 3 **Q. Two neck surgeries --**
- 4 A. Uh-huh.
- 5 **Q. -- and two right shoulder surgeries?**
- 6 A. Uh-huh.
- 7 **Q. And you said another one coming?**
- 8 A. Maybe, I don't know yet. I've got to wait it
9 out. I just did another couple MRIS, and me and
10 Dr. Lozanne have agreed to wait another five or
11 six months to see where I'm at.
- 12 **Q. All right. But you don't remember seeing Dr.**
13 **Lozanne before this accident?**
- 14 A. I never saw -- I never knew the man, no.
- 15 **Q. Okay. And you said you may need another surgery**
16 **on what?**
- 17 A. It could be my lower back.
- 18 **Q. On your lower back?**
- 19 A. Could be.
- 20 **Q. So are you --**
- 21 A. I'm not a doctor, so I can't -- I'm just telling
22 you what I feel like I was left with when I saw
23 him last week.
- 24 **Q. Saw who?**
- 25 A. Dr. Lozanne.

1 Q. Okay. And so you saw him last week, and what did
2 he tell you?

3 A. October the 19th, I think is when I saw him. I
4 mean, this month, March 19th.

5 Q. March 19th?

6 A. Uh-huh.

7 Q. Okay. What was the purpose of that visit?

8 A. I've lost my legs -- the use of my legs, you
9 know, and when he did the 4 and 5 I was falling
10 down a lot. I couldn't move, I couldn't walk. I
11 just got to where I couldn't use my hands and my
12 arms. I couldn't feel anything. And I went to
13 see him, and he told me I had an impingement on
14 my spinal cord, and he was real, real worried
15 that if I didn't get something done right away,
16 I'd be in a wheelchair. So then I couldn't walk,
17 I couldn't move, I couldn't stand up. I was
18 losing my balance, fell multiple times, and that
19 just come out of nowhere on me one day. I woke
20 up and couldn't get out of bed. I tried to fight
21 that off for a month or so, and I just got worse
22 and worse. So I went and saw him, and he did an
23 MRI. And then he gave me the information that I
24 had this impingement on my spinal cord at number
25 4 vertebra, and we needed to get you in there as

1 quick as we could. So he did, and that was in
2 October of last year, of 2021, I believe. I
3 think that's the year. And then -- five months
4 ago, six months ago. And I did a follow-up visit
5 and all that, and I got better as far as my
6 balance goes, but I never got -- I never got full
7 feeling in my feet or my legs. My arms were bad,
8 but that went away, but the hands, especially
9 this one have it, and -- but the main reason I
10 went back to see Dr. Lozanne is my legs are very
11 weak and fatigued all the time. And I wanted to
12 go see if there was anything I could do to get
13 that back, because I'm trying to get back on my
14 feet. So he did the MRI, you know,
15 claustrophobic, so that was a --

16 **Q. When did the issues with your legs and feet**
17 **start?**

18 A. Well, he did the surgery in October, so I'm going
19 to say probably in February of 2021.

20 **Q. February of 2021?**

21 A. I'm guessing at that, yeah, yeah.

22 **Q. Sometime in 2021?**

23 A. I could -- let's see. I had the surgery October
24 the 2nd --

25 **Q. Uh-huh.**

1 A. -- which that would have been 2021, right, last
2 October, so -- if I'm right on that. So, yeah, a
3 few months prior to the surgery I woke up one
4 morning, and I couldn't walk, I couldn't get out
5 of bed, I couldn't move, I couldn't stand up.

6 **Q. Okay. And you relate that to the motor vehicle**
7 **accident in 2019?**

8 A. Do I what now?

9 **Q. Are you alleging that --**

10 A. Oh, yeah, I definitely -- yeah, I'm alleging it
11 for sure that it had a lot to do with what's
12 going on with my legs and my hands and my arms.

13 **Q. Okay. And the surgery you had in October, last**
14 **October --**

15 A. Uh-huh.

16 **Q. -- what surgery? What was that surgery?**

17 A. He fused 4 -- he fused 4 and 5 together, so now I
18 have, 4, 5, 6, 7 fused together in my neck.

19 **Q. In your neck?**

20 A. Right.

21 **Q. Okay. All right.**

22 A. But, like I said, I've regained a lot from that
23 surgery that I had going on as far as the balance
24 and all that, but I have not gotten my legs back.
25 I can't -- I've just not, so, you know, I waited

1 it out, and I went back to see him. And, you
2 know, there's a lot of reasons -- I feel like it
3 all stems from the wreck, because I never had
4 these problems. But anyway, I went back to see
5 him after the MRI, and he told me that, you know,
6 I've got this -- he did another MRI on the lower
7 back, and he told me I had some issues down there
8 also. But then I also had another bulge going on
9 up here at number 3, but nothing that he thought
10 was putting any kind of pressure to stop the flow
11 of the spinal cord, but that maybe we should wait
12 five or six months and come back and see where
13 I'm at, considering the surgery was done in just
14 October, that we'd probably need to go a year or
15 so before we really felt where I was.

16 **Q. So how many surgeries total to your neck?**

17 A. Two.

18 **Q. Two. Two total surgeries to your right shoulder?**

19 A. Right.

20 **Q. And then you said one to your lower back?**

21 A. No, I haven't done nothing to my lower back.

22 **Q. Haven't done it?**

23 A. Yeah, I'm -- we're still in limbo on that one.

24 **Q. Okay. All right. Any other issues that you have**
25 **currently that --**

1 A. That I haven't told you about?

2 **Q. Yeah, that you think are related to the accident.**

3 A. I think everything I've got going on right now is
4 related from the accident, legs, feet, hands and
5 arms, okay. It just -- mainly my hands and my
6 legs. My legs and my feet, I'm not -- I don't --
7 I don't have them anymore, okay. They're gone.

8 **Q. Okay. All right. Let me ask you about this**
9 **accident and why we're here today. It happened**
10 **on May 2nd, right?**

11 A. Yeah.

12 **Q. May 2nd, 2019. Do you remember the time of day**
13 **that the accident happened?**

14 A. 3:00, 3:15.

15 **Q. And can you tell me what you did that day leading**
16 **up to the accident?**

17 A. I had put in a fountain machine earlier that day.

18 **Q. Where?**

19 A. It's on Augusta Road in a convenience store. We
20 call them mom and pop stores. It's right there
21 by the flea market. I think it was a Speedway.

22 **Q. And you put in a fountain there?**

23 A. I say I put it in. The machine was there. I re-
24 pulled all the syrup lines and CO2 lines and
25 drain lines to it and re-hooked everything up and

1 put everything back into sync. And, you know,
2 they had a lot of issues with their system, so I
3 just stripped everything and redid it.

4 **Q. All right. Now I'm not familiar with that**
5 **process --**

6 A. Right.

7 **Q. -- did that process require any heavy lifting or**
8 **movement of the actual machine directly?**

9 A. No, the machine was already there. I mean, I had
10 to pull it out from the wall, but, you know, to
11 get behind it, but, you know, the machine was
12 already set in its place. And then in the back
13 room there'll be a rack system that hooks to them
14 where they put the syrup boxes or five gallon
15 boxes. I had to move some of that around, which,
16 you know, a little heavy --

17 **Q. Yeah.**

18 A. -- and then pull a new set of lines, you know,
19 which is crawl up underneath the cabinet type
20 deal, go through the wall, you know, remove all
21 the old, put in the new, disconnect them and re-
22 hook them.

23 **Q. And how long of a process is that?**

24 A. I was probably on that job for -- oh, I don't
25 know, two and a half hours, three hours.

1 **Q. Three hours. And then what did you do after that**
2 **job?**

3 A. I think I had lunch, and then, you know, I can't
4 recall exactly what I did the whole day, but I
5 can tell you -- I think what had happened is I
6 had lunch, and then I went to another Speedway on
7 Lee Road in the northeast Columbia area --

8 **Q. Uh-huh.**

9 A. -- I think -- I'm not sure. I think I worked on
10 a faucet in a ladies restroom and also maybe
11 worked on a syrup head on one of their two
12 fountain machines.

13 **Q. Is there any documentation that you would have to**
14 **show what jobs you finish?**

15 A. I wouldn't have it, no, but there were
16 documentation on what I did do that day on work
17 orders that, you know -- that's basically -- they
18 would give me a blank work order with a problem
19 and a location. Then I would go and on that same
20 work order make my comments on what I did perform
21 and do. And then I would turn that in daily or
22 the following day, should I say. You know, on
23 the following morning we would turn them in and
24 then receive more work orders, so --

25 **Q. Okay.**

1 A. -- you know, I wouldn't have it. And whether Mr.
2 Kemper would have it now or not, I don't know.

3 **Q. So the vehicle you were driving at the time of**
4 **the accident, was that your personal vehicle?**

5 A. No, sir.

6 **Q. That was a work vehicle?**

7 A. Uh-huh.

8 **Q. Okay. So then tell me -- so when you left your**
9 **house in the morning, did you go to the office**
10 **and leave from there in a company truck?**

11 A. No, they would -- you know, I did work after
12 hours too, so I was always -- I was always had a
13 company vehicle sitting in front of me, you know,
14 in my yard. It was kind of part of my benefit,
15 you know.

16 **Q. Okay.**

17 A. It was just back and forth with it.

18 **Q. Yeah. So you would have driven to work in the**
19 **company car --**

20 A. Oh, yeah.

21 **Q. -- at home?**

22 A. Right, right.

23 **Q. And then you pick up your work orders from --**

24 A. Uh-huh.

25 **Q. -- your office?**

1 A. Well, we would turn in and speak about any issues
2 that didn't get completed the day before or
3 whatever needed to be dealt with on that day
4 before, and then would proceed on with the next
5 day, you know, that day's work.

6 **Q. And where was the office located?**

7 A. I think it's 1001 Holland Avenue, Cayce, South
8 Carolina.

9 **Q. Cayce, okay. How far was that from where you**
10 **lived at the time?**

11 A. Probably -- I'm guessing. I've never guessed the
12 mileage on it, probably eight miles, ten miles,
13 maybe ten miles.

14 **Q. Okay. And then so you remember getting the work**
15 **orders for the Speedways --**

16 A. Uh-huh.

17 **Q. -- that morning, and then going out and doing**
18 **those jobs?**

19 A. Uh-huh.

20 **Q. At the time of the accident, were you on your way**
21 **to another job, or were you --**

22 A. I was on my way to a supply house.

23 **Q. Why were you going to a supply house?**

24 A. To pick up some supplies that I needed back on my
25 truck, and, you know, Mr. Florence, I can only

1 recall -- I think that I knew -- it's been so
2 long -- I think I knew I had a following job the
3 following day that we had talked about that I
4 needed to pick up some material to do. I was
5 always trying to be prepared so I wouldn't have
6 to run around.

7 **Q. But you think you were finished with jobs for**
8 **that day?**

9 A. Oh, I don't know about that. Because I still was
10 going to have to call in and let him know the
11 status, you know, so probably why because it was
12 3:00. I'm sure I was going to get something
13 else.

14 **Q. Okay.**

15 A. Just -- it's just I never knew what he had come
16 in or the office had come in during that span,
17 you know. It just determined the draw of the
18 luck, you know, but usually, no, I wouldn't have
19 been going home.

20 **Q. Okay. So you recall you were on your way to the**
21 **supply house --**

22 A. Uh-huh.

23 **Q. -- to get supplies for your truck?**

24 A. Uh-huh.

25 **Q. Okay. And that's when the accident happened?**

1 A. Yes, sir.

2 **Q. All right. Where was the supply house?**

3 A. It was -- it's off Bluff Road. It's United
4 Refrigeration.

5 **Q. Okay.**

6 A. It's a little side road there. I can't tell you
7 the name of the road. I just kind of know where
8 the location's at.

9 **Q. And what type of vehicle were you driving?**

10 A. The company vehicle. It was a -- I think it's an
11 '05 2500 Chevrolet truck HD.

12 **Q. And was there anything in the bed of the truck?**

13 A. Yeah, I had all kind of stuff in the bed of the
14 truck.

15 **Q. Tools and --**

16 A. Yeah, I had tools. There was tool boxes on it.
17 I had ladders. I had Freon. I had, you know --
18 I had all kind of stuff on it.

19 **Q. Okay. Was it an open bed or a covered bed?**

20 A. It was open.

21 **Q. Open bed, okay. Was there anything blocking your
22 view through the rearview mirror?**

23 A. No.

24 **Q. Okay. And so from the time you left your last
25 job that day to the time of the accident, how**

1 **long of a time period was that?**

2 A. I don't know. I mean, from Lee Road to there --

3 **Q. Well, you went to lunch?**

4 A. No, I had already gone to lunch.

5 **Q. Yeah, you had gone to lunch.**

6 A. I'd gone to lunch and went to Lee Road from
7 Augusta Road.

8 **Q. Okay.**

9 A. If I recall right. I mean, that's been three
10 years ago, okay. I --

11 **Q. Okay.**

12 A. -- exactly what I did in between, I don't know.
13 I did a lot of moving around on my job, but I
14 believe I left after the -- revamping the
15 fountain machine over there on Augusta Road. I
16 went to lunch and then on my way to Lee Road.

17 **Q. Okay.**

18 A. Which is northeast, and then I left there going
19 to the supply house. It's on Bluff Road.

20 **Q. Okay. So the job right before the accident was**
21 **in the northeast --**

22 A. Yes, sir.

23 **Q. -- area, okay. So how long would you say you**
24 **were driving? I'm just trying to get an idea of**
25 **how long you were driving before this accident**

1 **happened.**

2 A. From Lee Road until the accident, or --

3 **Q. From the northeast job.**

4 A. I don't know. I guess that's probably 20
5 minutes, 20 minutes.

6 **Q. Okay. What route did you take to get to the**
7 **supply house?**

8 A. I left Lee Road, went down Clemson Road, got on
9 I-20, went down I-20, got on 77, went 77 to Bluff
10 Road.

11 **Q. Okay. All right. And I think where this**
12 **accident happened is right near the 77 -- where**
13 **77 --**

14 A. It's right off ramp of 77 onto Bluff Road and --

15 **Q. Okay.**

16 A. -- South Beltline, I believe is one of the roads
17 there on the intersection.

18 **Q. Okay. What was the weather like that day?**

19 A. It was a beautiful day.

20 **Q. Dry?**

21 A. Dry, pretty day.

22 **Q. Okay. And so tell me when you merged off of 77**
23 **onto Bluff Road tell me what happened, what you**
24 **remember happening.**

25 A. I was -- well, the first thing I had to do --

1 like I said, the intersection's right there. I
2 just -- I just looked up and I had a green light.
3 So I merged onto Bluff Road, and I noticed the
4 truck driver sitting there waiting to turn. To
5 me, making a left hand turn is what he was
6 waiting to do. And as I entered -- right as I
7 entered the intersection, I made eye contact with
8 everything, including him, and I noticed that he
9 had a cell phone in his right hand. And as soon
10 as I noticed it, he put it down and made the
11 turn. Well, there was no way I could do anything
12 but hit him, but -- and I knew that he had
13 realized it also because I can still see his face
14 going (makes sound), like oh, hell, you know.

15 **Q. All right. And this accident happened at the**
16 **intersection of Bluff Road and South Beltline**
17 **Boulevard, correct?**

18 A. I believe so.

19 **Q. All right. Is that the first intersection you**
20 **come to when you get on Bluff Road off of 77?**

21 A. Yeah, if you're going the way I'm going to, yeah.

22 **Q. Going the way you were going, and you were going**
23 **--**

24 A. Don't ask me north, south, east or west. I can't
25 answer that.

1 Q. I think the accident report says you were going
2 north.

3 A. I was headed toward the fairgrounds.

4 Q. Okay.

5 A. Okay, if that helps you any.

6 Q. And the truck driver you mentioned was headed in
7 the opposite lanes of travel towards you,
8 correct, and he was making a left turn?

9 A. Yeah, that's the way he was pointed, but, like I
10 said, he was sitting still.

11 Q. All right. Was he in a turning lane?

12 A. Yeah.

13 Q. All right. And so when you get on Bluff Road
14 right there off of 77, how many lanes are there
15 in your lane of travel?

16 A. It might be three.

17 Q. Okay.

18 A. I'm not sure. I think there's three. I think
19 there's a left-hand lane you can turn right there
20 at that red light --

21 Q. Right.

22 A. -- like where he's at on the opposite, and then I
23 think there's two lanes.

24 Q. Okay. Which lane were you in?

25 A. I was in the right lane.

1 **Q. So what does that mean? So you've got the left**
2 **turning lane --**

3 A. You've got the left turning lane, and then that
4 lane that you're coming off onto the exit ramp --

5 **Q. Uh-huh.**

6 A. -- I don't know if that lane -- I think that
7 might be a turning lane too or could not be. I
8 don't -- I'm not sure about that to the right --

9 **Q. Uh-huh.**

10 A. -- or either you can turn right or it runs out
11 after you get through the intersection maybe, and
12 then I think there was two lanes there after
13 that. So I merged off that over to the right
14 lane so I could go straight through the
15 intersection, because I was headed to go through
16 the intersection.

17 **Q. Okay. You were going straight through the**
18 **intersection?**

19 A. Right.

20 **Q. So were you in the lane closest to the middle of**
21 **the median part or the turning lanes of the**
22 **intersection, or were you in the lane to the**
23 **right of that?**

24 A. I wasn't nowhere near that. I was away from the
25 middle of the median, if there is a median there.

1 I think there is a median there. There would
2 have to be or some grass median.

3 Q. Yeah.

4 A. Yeah, I was away from that.

5 Q. Okay. So I'm trying to figure out how the truck
6 got into your lane.

7 A. His truck?

8 Q. Yes. So the way --

9 A. He was --

10 Q. -- the way you said that the accident happened
11 was, you were traveling in the right lane in your
12 direction, correct?

13 A. Yeah.

14 Q. All right. And the truck that you had the
15 accident with was in the left turning lane in the
16 oncoming lanes of travel, correct?

17 A. Uh-huh.

18 Q. So there was a lane to your left. As you were
19 traveling through the intersection, there was a
20 lane to your left, correct?

21 A. I believe there might be, yeah.

22 Q. Okay. So the truck would have had to have
23 crossed that lane in order to get into your lane
24 of travel; is that --

25 A. Maybe. I don't quite understand what you're

1 asking, but let me explain to you what I'm trying
2 to say, okay.

3 **Q. Okay.**

4 A. That's an intersection, so when I look at an
5 intersection, I don't even know that there's
6 lines in the middle of an intersection, but --

7 **Q. No, I mean, before you get to the intersection,**
8 **which --**

9 A. Well, I hit him pretty much --

10 **Q. -- lane of travel were you in?**

11 A. -- I hit him at the -- he pulled out in front of
12 me at the intersection, basically, as I entered
13 the intersection.

14 **Q. Right. And which lane were you traveling in at**
15 **the time that y'all collided?**

16 A. Right lane, right lane.

17 **Q. The right lane. So --**

18 A. It's like kind of going through a four-way stop
19 sign. You enter into the middle of the road
20 after you move, and as I was entering into that
21 intersection he made the turn in front of me, and
22 there was no way not to hit him.

23 **Q. Have you ever driven through that area? Are you**
24 **familiar with that area?**

25 A. Yeah, I've driven through that area.

- 1 Q. Okay. Let me show you what -- I printed out a --
2 I tried to print out a Google map of the overview
3 of the area.
- 4 A. I'm going to stand up with you, how about that?
- 5 Q. Let me turn it this way.
- 6 A. You show me where 77 is on your map, and I'll
7 tell you where I was.
- 8 Q. Okay. So this is South Beltline.
- 9 A. Yes, so I'm saying 77s over here somewhere.
- 10 Q. Okay. Do you recognize the area, the buildings?
- 11 A. Not too much.
- 12 Q. To orient yourself?
- 13 A. I don't recognize the buildings --
- 14 Q. Right, because this --
- 15 A. -- through the overhead view, no, I don't, but I
16 recognize this (indicating).
- 17 Q. Okay. So this is Bluff Road, correct?
- 18 A. Yes, sir.
- 19 Q. And you were on Bluff Road?
- 20 A. Uh-huh.
- 21 Q. All right. Let me -- all right. So let me show
22 you this picture, and if you want to take a
23 break, just stop me.
- 24 A. I don't know. It's just my neck bothers me so
25 much, bending over and sitting down and just

1 moving it, you know.

2 **Q. No problem.**

3 A. I'm stiff. Okay, go ahead. What you need?

4 **Q. All right. So let me show you some pictures I've**

5 **printed out here. This is from the truck**

6 **driver's view, going towards 77. Here's 77 back**

7 **here.**

8 A. He's over here though (indicating), right?

9 **Q. Yes. This is the left turning lane --**

10 A. Right. So he's sitting right here (indicating).

11 **Q. -- and 77s back here (indicating).**

12 A. Right.

13 **Q. So you're --**

14 A. -- coming off right here, yeah. All right, I'm

15 oriented.

16 **Q. All right. Now in this picture you can see 77.**

17 **It's a little closer picture back here, but**

18 **here's 77 right there merging onto Bluff Road.**

19 A. Right.

20 **Q. So you would have been coming this way**

21 **(indicating)?**

22 A. I was coming this way.

23 **Q. Correct. And so how many lanes do you see right**

24 **there?**

25 A. I see one, two, three.

1 Q. All right.
2 A. And then the turning lane.
3 Q. So that's the right turning lane?
4 A. No, I'd call that the left turning lane.
5 Q. No, I'm sorry. Left, you're right. This is the
6 lane that --
7 A. I'm merging off 77 right here (indicating), yeah.
8 Q. Right here (indicating). All right. Do you
9 remember moving over to the left one lane, or did
10 you stay in that lane?
11 A. I believe I moved over. I can't recall. I just
12 -- I really cannot recall that, but I believe I
13 moved over to this lane (indicating).
14 Q. All right. So you think you were in this lane
15 (indicating), you were headed in that direction?
16 A. Yes.
17 Q. Towards the intersection?
18 A. Yes.
19 Q. So there's a lane, straight lane to your left,
20 correct? And then there's a right -- or excuse
21 me, a left turning lane beyond that?
22 A. Right.
23 Q. All right. So two lanes. So in order for the
24 truck to have pulled into your lane of travel, he
25 would have had to at least cross this lane

1 **(indicating) of travel before getting into your**
2 **lane is what I'm saying.**

3 A. See, if you look at this picture, okay?

4 **Q. Yeah.**

5 A. Let me see if I can explain where I'm at on my
6 thought here. There's a median there, is there
7 not?

8 **Q. Yeah.**

9 A. The truck -- the truck makes the turn here
10 (indicating).

11 **Q. Correct.**

12 A. Okay. And I hit him somewhere right here
13 (indicating).

14 **Q. Okay.**

15 A. You follow me?

16 **Q. Yeah, I understand.**

17 A. So him to cross that lane -- if you want to say
18 he crossed that lane, well, if he did, he did it
19 while he was sitting in the middle of that
20 intersection.

21 **Q. Okay. No, I just want to know which lane you**
22 **were in when --**

23 A. Yeah. Well, I'm just trying to follow what
24 you're saying. You keep asking me if he crossed
25 this lane, but I -- that lane's not in that

1 intersection. I mean, the way I look at that,
2 okay -- maybe me and you see that different, but
3 my point is, is if he crossed it -- yeah, he
4 turned in front of it.

5 **Q. Okay. All right. So as you are approaching the**
6 **intersection, do you know how fast you were**
7 **going?**

8 A. Forty, 35, 40.

9 **Q. What's the speed limit on that road?**

10 A. Forty, I believe.

11 **Q. Okay. And when was the first time you saw the**
12 **color of the traffic light?**

13 A. As soon as I got into that lane, and I was headed
14 into the intersection. I mean, that picture
15 doesn't really justify the distance, but you can
16 pretty -- you know, I've got good eyesight, so --

17 **Q. Yeah, I'm just trying to figure how far back you**
18 **saw the traffic light.**

19 A. I don't know how far back it was. I don't know.
20 By feet, I don't know.

21 **Q. Okay. So it sounds like right when you got up to**
22 **the intersection you saw the traffic light.**

23 A. Well, I probably saw it a little bit before I got
24 to the intersection.

25 **Q. Okay.**

1 A. Because I would have been preparing to stop, you
2 know what I'm saying, like a normal driver would
3 do, right.

4 **Q. Okay.**

5 A. I mean, you approach an intersection, you're
6 honestly taking a look at the light, and I had a
7 green light.

8 **Q. All right. And that was my next question. When**
9 **you saw the light, what color was it?**

10 A. It was green.

11 **Q. Okay. Had it changed? By the time you got off**
12 **the highway onto Bluff Road, had that light**
13 **always been green, or had it changed from a**
14 **different color?**

15 A. From the time my vision was seeing that light, it
16 was green.

17 **Q. Okay.**

18 A. It had never changed.

19 **Q. Okay. And you proceeded through the**
20 **intersection, and you said that you saw the green**
21 **light and you saw the truck?**

22 A. Yeah.

23 **Q. And the truck driver?**

24 A. Yeah.

25 **Q. And you saw the truck driver holding a phone?**

1 A. I believe he was holding a phone.

2 **Q. Why do you believe that?**

3 A. Because he was -- he had it up to his ear, and he
4 was talking or something of that nature. And
5 then he moved it down, and when he did he just
6 reacted with a turn. And the reason -- I'm a
7 defensive driver. I don't let a light determine
8 my life, okay. So he looked like he was
9 surprised because he didn't take time to realize
10 after he had laid this phone down that he didn't
11 check to see if he had a clear direction to make
12 that move. And he looked at me when he did,
13 because I was right -- I mean, we're right there
14 looking at each other. Now he's looking at me,
15 and I'm looking at him because he's right in
16 front of me.

17 **Q. All right. When y'all were looking at each**
18 **other, where was the truck?**

19 A. It was turning in the middle of the intersection.

20 **Q. He had already started turning?**

21 A. Yeah.

22 **Q. Okay. So when you said you saw him, he had**
23 **something up to his ear, and he put it down, was**
24 **he moving at that time?**

25 A. No, not at that time.

1 Q. Okay. So he was still stopped at the
2 intersection?

3 A. Right.

4 Q. All right. Did he have any turn signal on that
5 you saw?

6 A. I can't recall.

7 Q. Okay. And so when you saw him with the -- looked
8 like a phone up to his ear and he put it down and
9 looked at you, before he started moving --

10 A. He didn't look at me then, okay.

11 Q. Okay. I'm sorry. I don't want to
12 mischaracterize your testimony.

13 A. Yeah, we had --

14 Q. You said you saw a phone up to his ear, and he
15 put it down. And at that time he was not moving,
16 correct?

17 A. Not at that split second, no.

18 Q. Where were you? How close are you to the
19 intersection at that time?

20 A. I'm right at the intersection. I'm right at the
21 -- if there was a walkway right there going
22 across or a line there, I'm right there.

23 Q. So you're right there at the intersection?

24 A. Yeah, at -- yeah, at 40 miles an hour, getting
25 ready to proceed through the intersection.

1 Q. And so did you see if the truck was pulling
2 anything? This is an 18-wheeler, right?

3 A. No, I didn't -- I couldn't see nothing but the
4 front of the truck at the time, I mean.

5 Q. Well, even after the accident. Have you seen
6 pictures of it?

7 A. Oh, yeah, he had a -- he was pulling a logging
8 trailer.

9 Q. Well, he's pulling a crane, right?

10 A. I don't recall seeing a crane.

11 Q. Okay. So your testimony is --

12 A. A crane? I don't recall seeing that.

13 Q. A crane.

14 A. Yeah.

15 Q. So your testimony is, at the time you got right
16 up on this intersection, you saw him with a phone
17 up to his ear. He put the phone down, and then
18 he started moving?

19 A. Right.

20 Q. And he moved an 18-wheeler quick enough over --
21 through the intersection into your lane of travel
22 and caused the collision in front of you?

23 A. Yeah.

24 Q. Okay.

25 A. When he made that turn, you know, he -- that's

1 when me and him made -- when he made the turn and
2 got that truck coming left --

3 **Q. Uh-huh.**

4 A. -- that's when we made contact with each other,
5 visually. That's when I could see him going
6 (makes sound).

7 **Q. All right.**

8 A. All right. And if I can recall right, he gunned
9 the truck or something of that nature to try to
10 get across that intersection before I get back
11 through there.

12 **Q. All right.**

13 A. To try to get out of my way, I guess is what he
14 was trying to do.

15 **Q. And tell me what part of your vehicle collided**
16 **with what part of the truck?**

17 A. The front of my truck hit the tail end of the
18 truck itself, and the front of the trailer that
19 he was toting.

20 **Q. Okay.**

21 A. You know where the fifth wheel hooks up, that's
22 kind of where I hit him at, I think. I believe
23 that. You know, after that, I'm going to be
24 honest with you, I was in a -- I was -- I don't -
25 - I can't recall at all well after that.

1 **Q. So you think you collided with the back transom**
2 **of the tractor?**

3 A. I think I hit more of the trailer than the actual
4 transom of the truck.

5 **Q. Okay. All right.**

6 A. I'm not sure about that. It might have been a
7 little of both, you know what I'm saying. It was
8 in that area. I don't -- I don't even recall
9 exactly what happened after that. You know, it's
10 just boom.

11 **Q. So the truck then would have made -- at the least**
12 **the tractor of the truck would have made it**
13 **across into your lane of travel before you**
14 **collided with the back trailer? Do you see what**
15 **I'm asking?**

16 A. No.

17 **Q. Well, you said you hit the trailer more so than**
18 **the tractor; is that what you just testified to?**

19 A. No, I'm testifying that I can't really recall if
20 I hit more of the trailer or the transom, as you
21 called it -- I call it a fifth wheel of the truck
22 -- or if I hit both. I can't really recall. I
23 just know it was in that vicinity of the vehicle.

24 **Q. But it wasn't the front of the truck?**

25 A. No.

1 Q. You don't believe you collided with the very
2 front of the truck, the front right of that
3 truck?

4 A. Of his truck?

5 Q. Yes.

6 A. I don't believe so, no, sir.

7 Q. Okay. You think you collided with further back
8 towards the back end of his tractor trailer --

9 A. Yeah.

10 Q. -- and maybe even hit the trailer --

11 A. Yeah.

12 Q. -- is that right?

13 A. Yeah, somewhere in there probably. I never saw
14 it after that. I never even really saw it after
15 that.

16 Q. All right.

17 A. But he was -- you know, there's no way I could
18 have hit the front of him, because he was already
19 parallel. You know, he'd already made a 90
20 degree.

21 Q. Yeah, from where he was stopped?

22 A. Right.

23 Q. And then but you -- before he even moved, you
24 were at the very -- you were into the
25 intersection?

1 A. I was at the entrance of the intersection.

2 **Q. Okay.**

3 A. Maybe not dead in it, going -- I hadn't got in
4 the middle of it, but I was at the point of
5 entering it.

6 **Q. Right. And you were traveling 40 miles an hour?**

7 A. I don't -- yeah, 35, 40 miles an hour.

8 **Q. Okay. And what do you remember about the**
9 **collision, if anything?**

10 A. I remember knowing that I'm going to hit this.
11 There's nothing I can do, and that was all I
12 remember. I hit him.

13 **Q. Do you remember trying to stop or put on the**
14 **brakes?**

15 A. My instinct would have been to try to put my foot
16 on the brake. Do I believe I ever had the time
17 to do that, no, sir, I don't think I did.

18 **Q. Okay.**

19 A. My foot might have made it going toward the
20 direction, but -- of the brake pedal, but I never
21 had time to -- it was that quick. I had no other
22 option but to hit that guy. And you need to
23 know, you know -- I know -- y'all all need to
24 know. I drove many, many years of my life, and
25 I'm a defensive driver, so I do anything I can to

1 not -- especially not to hit a semi truck. There
2 was no action to do.

3 **Q. Have you seen the accident report in this case?**

4 A. Huh-uh. I never spoke with the highway patrolman
5 on scene or anything of that nature. He came to
6 the hospital, but that's as much as I ever got
7 out of that accident.

8 **Q. Let me show you a copy of the accident report.**
9 **Have you ever seen that?**

10 A. Huh-uh. Well, I saw it earlier this morning.

11 **Q. Okay. And you see the diagram down in the lower**
12 **left of the document?**

13 A. This one, yeah.

14 **Q. Yeah.**

15 A. I'm following along looking at that, yeah.

16 **Q. Yeah, and it shows -- it actually numbers the**
17 **vehicles. I think your vehicle is number 1?**

18 A. Probably 2.

19 **Q. Yes, correct. Your vehicle is number 2.**

20 A. Yeah. Well, I can tell you right now that that's
21 incorrect, isn't it?

22 **Q. All right. Tell me what's incorrect about that**
23 **diagram.**

24 A. I feel like they've got me in the wrong lane.

25 **Q. They've got you in the wrong lane?**

1 A. Yeah.

2 **Q. Which lane should you be in lane?**

3 A. I'm in this -- I was in this lane (indicating).

4 **Q. And you're pointing to the --**

5 A. Right lane. I'm pointing --

6 **Q. -- right lane?**

7 A. -- to this lane (indicating). It looks like

8 they've got me in this lane (indicating). Am I

9 correct?

10 **Q. You are correct. And you say --**

11 A. Well, that's not correct.

12 **Q. That's wrong?**

13 A. Oh, 100 percent.

14 **Q. Okay. And this was --**

15 A. And also -- also, I didn't hit him there.

16 **Q. Where did you hit him?**

17 A. Somewhere over here, where this -- the end of

18 this line is.

19 **Q. In your lane?**

20 A. Yeah.

21 **Q. Yeah.**

22 A. He was sideways.

23 **Q. Okay.**

24 A. You know what I'm trying to say. He had made an

25 L. That's not correct, and I wasn't in that

1 lane.

2 **Q. So that diagram is incorrect?**

3 A. Yeah, I don't know where he got that input.

4 **Q. Okay.**

5 A. I was never asked anything of that.

6 **Q. Now you'll note that this diagram talks about a**
7 **third vehicle.**

8 A. Yeah, that's another one I'm not aware of at all.

9 **Q. Not aware of the third vehicle?**

10 A. No.

11 **Q. Okay. You're not aware of your car after hitting**
12 **the truck going over to hit another vehicle?**

13 A. Yeah. I don't see how that's possible. I mean,
14 if you could tell me how I -- I don't recall any
15 of that, but my logic tells me sitting here if I
16 hit his trailer, I'm stopped. How did I get over
17 there, you know?

18 **Q. Oh, now that not what I --**

19 A. I'd have had to have been a magic man to go
20 through that damn truck and hit that guy.

21 **Q. Well, obviously I wasn't there --**

22 A. Yeah, and --

23 **Q. -- and that's why I'm asking you.**

24 A. -- yeah, I don't see -- that's the first I've
25 heard of that is today that there was another

1 vehicle involved in it.

2 **Q. Okay.**

3 A. Up until today, I never knew that.

4 **Q. All right. And that's why I was asking you which**
5 **lane that you believe you were traveling in**
6 **because of this accident report.**

7 A. Yeah. Well, I'm 99 percent sure I was right
8 here. And I'm 120 percent sure I wasn't in that
9 lane.

10 **Q. Okay. And tell me what you remember -- once the**
11 **collision happened, what do you remember**
12 **happening after that point?**

13 A. Everything going blank, blurred, hurt, shocked,
14 stunned, smoke, loud noises.

15 **Q. Did your airbags go off?**

16 A. Yeah. Never had them go off before in my life,
17 so do I recall them going off? I don't. So I
18 guess that's where the smoke was coming from that
19 I've been educated since then, but at that moment
20 I thought I was -- the truck was on fire.

21 **Q. Was anybody riding with you?**

22 A. No, sir.

23 **Q. You were by yourself?**

24 A. Uh-huh.

25 **Q. Does that truck -- I know sometimes maintenance**

1 **vehicles have surveillance videos in them --**
2 A. They have what?
3 **Q. Surveillance video cameras in them.**
4 A. Yeah, yes, sir.
5 **Q. Did your particular vehicle have any cameras in**
6 **it?**
7 A. No, no.
8 **Q. Okay. And so everything -- I mean, what do you**
9 **personally remember after the collision? What's**
10 **the first thing you remember?**
11 A. The first thing I remember is him coming up to my
12 window, which was up and hollering at me, "are
13 you okay."
14 **Q. You're talking about the driver of the truck?**
15 A. Right.
16 **Q. Okay.**
17 A. I guess he was.
18 **Q. What did he look like?**
19 A. I don't know. You know I think he was -- I want
20 to say -- you know, if I had to guess, and it
21 would be a total guess, a blonded (ph) hair,
22 maybe a little curly blond headed man. I'm not
23 sure.
24 **Q. Okay. A curly blond headed man came up to your**
25 **window --**

1 A. Yeah, don't hold me to that.

2 **Q. -- and asked if you were okay?**

3 A. Yeah. He said, are you okay, and he was in a --
4 I could tell he was in -- maybe a little -- I
5 would say maybe I could categorize it as a panic
6 mode. You know, like he was like he was, you
7 know -- you know, like he had made a mistake or
8 something, and he wanted to know if it had killed
9 me. That's kind of the vibe I got, you know,
10 from what I can remember, because for a minute I
11 thought I was dead. I didn't know what the hell
12 was going on. I mean, I was stunned. I had
13 never been hit like that before.

14 **Q. Did you respond to the man? I mean, when he**
15 **asked you?**

16 A. I told him -- I think I told him, "no, I'm not
17 okay."

18 **Q. Okay.**

19 A. I think that's exactly what I said to him, "no,
20 I'm not okay."

21 **Q. Okay. How were you feeling at that point in**
22 **time?**

23 A. I was in bad shape. I was feeling a lot of pain
24 in my head, and my right shoulder was hurting me,
25 but the main thing is I couldn't get my vision

1 back. My head was hurting me, and the vision was
2 gone, and the smoke and stuff. And there was
3 noise going on in the truck. I don't know what
4 that noise was, but it was all on me, and I was
5 kind of in a panic mode.

6 **Q. Okay.**

7 A. And I couldn't get out. I couldn't get out. The
8 door wouldn't open.

9 **Q. Well, I was going to ask you. Did you try to get**
10 **out of the --**

11 A. Yeah, I did. I couldn't get out, and then I
12 eventually did get out of that truck, but I
13 wasn't able -- I fell to the ground, and I
14 remember the asphalt being so hot. I couldn't
15 stay on it, so I go back in the truck.

16 **Q. You got back in your truck?**

17 A. I got up. You know, I mean, I never made it far
18 from the side of the truck, but I got out and put
19 my feet on the ground and tried to stand up and
20 went down. And I lay there, sitting, hurting,
21 and then my butt for some reason -- you only just
22 have to go with what I'm going to tell you. My
23 left cheek of my butt was killing me. It was
24 hurting me so bad, and I had to get up off of it.
25 And so I used the door to bring myself back up,

1 and the door was open because -- and I remember
2 getting back in the seat of the truck to set off
3 that -- try to get off my -- my rear end was
4 killing me.

5 **Q. Did you have your cell phone with you?**

6 A. Did I have my cell phone with me?

7 **Q. Correct.**

8 A. Yeah.

9 **Q. And is that how you communicated with your**
10 **office, from the cell phone?**

11 A. Uh-huh.

12 **Q. All right. I mean, in other words, they didn't**
13 **have two-way radio or anything like that that you**
14 **used?**

15 A. Huh-uh.

16 **Q. Okay. And were you on the phone before the**
17 **collision?**

18 A. Huh-uh.

19 **Q. You weren't using the phone at the time?**

20 A. Huh-uh.

21 **Q. That's a no? I'm sorry.**

22 A. I'm sorry. I just remember what you said. No, I
23 wasn't using a cell phone.

24 **Q. Okay. All right. And what was your cell phone**
25 **number at the time?**

1 A. 803-608-2058.

2 Q. And is that still your cell phone number?

3 A. Yes, it is.

4 Q. All right. Who's your carrier?

5 A. Verizon.

6 Q. Was Verizon your carrier at the time of the

7 accident?

8 A. Yes, sir.

9 Q. All right.

10 A. I think. I don't pay the bill.

11 Q. Okay. All right. Was there anything that could

12 have distracted you from seeing this truck?

13 A. Nothing.

14 Q. Okay. You weren't messing around in the truck,

15 looking for something, were you?

16 A. No, sir.

17 Q. You weren't eating in the car or anything like

18 that?

19 A. (Shakes head.)

20 Q. That's a no?

21 A. That's a no.

22 Q. Okay.

23 A. I'm a defensive driver. I tell all my children

24 and my grandchildren as I teach them, a vehicle

25 is like a loaded shotgun with your finger on the

1 trigger. I've been raised that way. I was
2 taught to drive that way. I drove a lot in my
3 lifetime. I always wanted to go home every day
4 of my life. I knew the option -- the opportunity
5 of me ever being in a wreck was high because of
6 the time I stayed in a vehicle. So I was very
7 conscious of what way I drove.

8 **Q. And you have a South Carolina driver's license?**

9 A. Yes, I do.

10 **Q. Could you possibly give me the number?**

11 A. Yes, I could.

12 **Q. Okay.**

13 A. 803 -- it's 00803 -- it's in the car.

14 **Q. Okay. Well, we can get that.**

15 A. I usually -- I know it by heart, but see, ever
16 since the accident I forgot. I can't keep up
17 with --

18 MR. POPWELL: It's on the accident report.

19 A. 803773 --

20 **Q. All right. We can get that number. And so, are**
21 **there any traffic violations on your driving**
22 **report?**

23 A. When you ask that, how far do you want to go back
24 on that?

25 **Q. As far back as you can remember.**

1 A. I mean, an accident report's cleaned every ten
2 years if you don't have an accident, right, or a
3 ticket, so --

4 **Q. So in the last ten years, what's on your driving**
5 **record?**

6 A. I don't think there's a ticket on it. And if
7 there is, it might be a speeding ticket, a two
8 point ticket maybe, maybe.

9 **Q. You don't have any DUIs on there or anything?**

10 A. Oh, no, I don't drink. I don't do drugs, don't
11 drink alcohol.

12 **Q. All right. So you said after the accident, you**
13 **got out of the car, fell down and got back into**
14 **the truck, correct?**

15 A. Uh-huh.

16 **Q. Yes?**

17 A. Yeah. There was a gentleman there now that I
18 recall. There was somebody there.

19 **Q. Okay.**

20 A. Somebody came up besides -- some innocent
21 bystander came up to me, and I remember him
22 helping me get up now that I'm thinking about
23 that. He helped me get up.

24 **Q. Back into the truck?**

25 A. Huh?

1 **Q. Was that before you got back into the truck or**
2 **after?**

3 A. You know, he came before I got out the truck.

4 **Q. Okay. And this is a different person than you**
5 **saw the first time?**

6 A. Yes. You know, this was some innocent person
7 trying -- he was just there as a concerned
8 bystander to help me, I guess.

9 **Q. Okay. And did you talk to him about what**
10 **happened --**

11 A. Huh-uh.

12 **Q. -- or he was just helping you?**

13 A. Huh-uh. I think he made the comment not to get
14 out of the truck. That's about the only
15 conversation we had, and I think I recall telling
16 him, I've got to get out of this truck. It's on
17 fire. And I got out and fell straight down. I
18 don't think I was there long, Mr. Florence, a
19 couple of seconds maybe. I don't know.

20 **Q. Uh-huh.**

21 A. And I remember telling him I had to get, because
22 my butt was -- my shoulder. The left cheek of my
23 butt was killing me, and I believe he helped me
24 get back up and get into the seat of the truck so
25 I could get some kind of comfort.

1 **Q. These are already marked, but let me show you**
2 **Exhibits 3, 4 and 5.**

3 (Defendant's Exhibit Number 3 was marked for
4 identification purposes - (1 page) Photo.)

5 (Defendant's Exhibit Number 4 was marked for
6 identification purposes - (1 page) Photo.)

7 (Defendant's Exhibit Number 5 was marked for
8 identification purposes - (1 page) Photo.)

9 A. I loved that truck.

10 **Q. Do you recognize what's in those pictures?**

11 A. Yeah, it was my truck.

12 **Q. That was the truck you were driving on the day of**
13 **the accident?**

14 A. Yes, it was.

15 **Q. Do those pictures, Exhibits 3, 4 and 5 show the**
16 **damage that was done to your vehicle on that day?**

17 A. As far as I know. I never really got a good look
18 at it besides what you're showing me in the
19 pictures.

20 **Q. Yeah. And those photographs are not pictures of**
21 **the entire truck; do you agree with me on that?**

22 A. Yeah.

23 **Q. All right. But do those pictures show damage**
24 **that was done from this collision?**

25 A. Yes, sir.

1 Q. All right. And that's the truck you were driving
2 on the day of the accident?

3 A. Yes, sir.

4 Q. All right. And so what -- do you remember other
5 than the two people that came up to you, helped
6 you -- you got back in the truck. Did you get
7 back out at some point?

8 A. I don't remember after that. I was in -- it just
9 seemed like everything kept getting worse on me
10 after that, physically. But I think the only
11 time I got out of it was maybe when the -- I
12 don't know if you call them ambulance drivers,
13 whatever you call them -- when they got me out of
14 that truck. They put me on a stretcher.

15 Q. All right. And did you have your cell phone on
16 you, or did you --

17 A. No, I don't have it on me.

18 Q. Okay. Where was your cell phone at the time of
19 the accident?

20 A. It was probably in the passenger seat. That's
21 usually where I would lay it.

22 Q. Okay. Were you able to retrieve that cell phone
23 after the accident?

24 A. I think I might have. I don't recall.

25 Q. Okay. Did you make any --

1 A. I still have the same cell phone, so I guess I
2 did maybe. I don't know, or maybe it was given
3 to me. I don't remember how I got my cell phone
4 back.

5 **Q. Did you call 911?**

6 A. No.

7 **Q. Did you call anybody at the scene of the**
8 **collision?**

9 A. I called my wife when I was in the ambulance, I
10 think.

11 **Q. When you were in the ambulance, okay.**

12 A. Wait a minute.

13 **Q. Uh-huh.**

14 A. I think I might have called Bert.

15 **Q. That's the owner?**

16 A. Yeah. I think I did. I called him, told him I
17 had been in an accident, and, you know, I think
18 he asked me where I was at. So I guess I used my
19 cell phone while I was sitting there waiting.

20 **Q. And you called the owner of your company before**
21 **you got into the ambulance?**

22 A. Yeah.

23 **Q. And before you called your wife?**

24 A. Yeah.

25 **Q. All right. Did you call anybody else besides the**

1 owner and your wife?

2 A. Not that I can recall.

3 Q. Do you know who called 911?

4 A. No, sir.

5 Q. Okay. Other than the two gentlemen you spoke
6 about earlier, was there any other witnesses to
7 the accident or any other people that you spoke
8 with?

9 A. If there was, I don't know.

10 Q. Okay. Did you talk to the police officer?

11 A. You know, Mr. Florence, I think -- I think I
12 might have -- I can't recall if I did or --

13 Q. Okay.

14 A. -- I think maybe. I don't know. I don't
15 remember that.

16 Q. That's fine, that's fine.

17 A. You know, I want to say I never spoke to him
18 until he came to the hospital.

19 Q. You do remember talking to the police officer at
20 the hospital?

21 A. Barely, yeah.

22 Q. Okay. And do you remember what you told the
23 police officer?

24 A. Exact, no, I don't remember.

25 Q. Okay. All right. What did they do for you at

1 **the hospital?**

2 A. They sedated me really bad because I was in such
3 pain.

4 **Q. Okay.**

5 A. I believe.

6 **Q. All right. Did they take x-rays and scans?**

7 A. Yeah. I remember them doing some scans and
8 telling me I had some bleeding on my brain, and
9 they were going to monitor me for eight hours and
10 that I would probably be staying there at the
11 hospital.

12 **Q. Did you have any -- I know you felt pain, but did**
13 **you have any cuts and abrasions anywhere?**

14 A. I don't think so.

15 **Q. Okay.**

16 A. I don't believe so.

17 **Q. All right. How long did you stay in the**
18 **hospital?**

19 A. I think until the following morning.

20 **Q. Overnight?**

21 A. Yeah.

22 **Q. And --**

23 A. I think I went home the next morning.

24 **Q. Okay. And did your wife come to the hospital?**

25 A. Uh-huh.

1 **Q. Did the owner of the company come to the hospital**
2 **to see you?**

3 A. Not that I recall.

4 **Q. All right.**

5 A. But I was -- like I said, I was in -- I was in
6 another world, I believe. You know, they were
7 doing all -- I don't remember who came to the
8 hospital. I know my wife was there.

9 **Q. And when they released you, what did they tell**
10 **you? Did they tell you you needed to follow up?**
11 **Did they release you with pain medications?**

12 A. You know, I don't know what all they told me, to
13 be honest with you. I think they told me I
14 needed -- that I already had an appointment with
15 an orthopaedic, so they didn't need to follow up
16 on making one of them, I think concerning my
17 shoulder.

18 **Q. Okay. And that was with Dr. --**

19 A. McFadden.

20 **Q. -- McFadden, Dr. James McFadden?**

21 A. Yeah, I already had an appointment with them,
22 like I told you earlier --

23 **Q. Yeah.**

24 A. -- maybe it was the following Monday, if I recall
25 right.

1 Q. Okay. And so you were going to see Dr. McFadden
2 anyway?

3 A. To see what the results were of that MRI from the
4 fall off the ladder.

5 Q. Okay. And then that's when you told Dr. McFadden
6 about the accident and --

7 A. He knew about it?

8 Q. Huh?

9 A. He already knew about it.

10 Q. Okay. How did he know about it?

11 A. I don't know. Maybe the hospital sent records to
12 him, because they were going to make the
13 appointment for me, I think, but, yeah, he
14 already knew about it, because the first thing he
15 said --

16 Q. Okay.

17 A. -- when he walked in there, gosh, you're here
18 again, and you done got hurt again or -- it's not
19 your month or something. I don't recall word for
20 word what he said, but I do recall him giving me
21 the impression he already knew about it.

22 Q. And, you know, when you fell off that ladder and
23 you hurt your right shoulder about a month or so
24 before this accident, were you told that you tore
25 your rotator cuff? I know you said it was

1 **dislocated but --**

2 A. I wasn't told. No one had told me I tore it. We
3 were waiting for the MRI, I believe, to see what
4 kind of damage might have been done to it.

5 **Q. Okay.**

6 A. I think that's the way it went.

7 **Q. All right.**

8 A. I remember telling McFadden the first time I saw
9 him -- he told me, I think -- he said usually a
10 man of your age dislocates his shoulder probably
11 will have to have surgery. And I told him I
12 would rebuke that in the name of Jesus. I said
13 this man right here -- I'll be -- he said -- I'll
14 be back 100 percent. And he looked at me, and he
15 said, you know, I can just tell by your character
16 you're probably right. He said, but let's do the
17 MRI.

18 **Q. And this is before the accident you're talking**
19 **about?**

20 A. Yeah.

21 **Q. All right. So before the accident, Dr. McFadden**
22 **told you that a man of your age with a dislocated**
23 **shoulder normally needs surgery?**

24 A. Would probably end up having surgery, like that,
25 not need it, but would probably end up having

1 surgery.

2 **Q. All right. He said that before this accident?**

3 A. And I just -- right.

4 **Q. All right. But did you indicate to him that you**
5 **didn't think you were going to need surgery?**

6 A. Well, I -- very strongly I indicated that to him.

7 **Q. Okay.**

8 A. Because I was moving, I was going, I was
9 functioning. I was coming back. I was working,
10 man.

11 **Q. Okay.**

12 A. Full time, toting a ladder, you understand, a 40-
13 foot ladder. I felt like if it was tore up to
14 the point it needed surgery, I couldn't do that.
15 I was using my hands. I was doing everything,
16 you know.

17 **Q. All right. And so tell me about the treatment**
18 **you received after this accident for your**
19 **injuries.**

20 A. I went through six months of pain management.

21 **Q. For what?**

22 A. Headaches, mainly headaches and left arm problem,
23 numbness, tingling, burning, hurting shoulder. I
24 mean, just everything radiating from the head
25 down to the hand was what they were treating me

1 for. And the right shoulder was, I think, still
2 in limbo with McFadden. Now what it was is
3 workmen comp -- we needed workmen's comp
4 approval, and they drug that out.

5 **Q. Approval for what?**

6 A. For any kind of work that needed to be done on
7 this shoulder.

8 **Q. The right shoulder?**

9 A. Right. And I think -- I can't recall, but I
10 think maybe they wanted me to go down some
11 avenues of therapy, and I could be wrong about
12 that. I don't -- I went through so many
13 different things through that time span.

14 **Q. So are you saying you did not receive treatment**
15 **on your right shoulder after this accident until**
16 **--**

17 A. No, I went and saw McFadden. I went and saw
18 McFadden for the follow-up and for the reference
19 that the hospital gave me on the shoulder, okay.

20 **Q. Uh-huh.**

21 A. And then we needed approval. McFadden needed
22 approval, I believe is the way it worked, through
23 workmen's comp, to do another MRI, and we got
24 that --

25 **Q. All right.**

1 A. -- approval. And then it seemed like every time
2 something had to be done, it was a month, a month
3 and a half before I could get another appointment
4 with that physician to do the follow-up on
5 whatever he had requested. And during that time
6 they assigned a case worker, a nurse case worker
7 is what they called him, who would make
8 appointments and make sure I was there and go
9 with me to wherever I needed to be. And for some
10 reason they took me down the -- something I'd
11 never done in my life, a pain management control
12 system of some sort. I don't remember who they -
13 - Dr. Talbert, I believe was his name.

14 **Q. How long after the accident did you have your**
15 **first surgery?**

16 A. I want to say it was -- I'm guessing at this,
17 okay, because I can't keep up with my dates on
18 this --

19 **Q. Sure.**

20 A. -- all right, but I'm going to say it was June or
21 maybe July. Maybe it was June or July of that
22 same year, 2019.

23 **Q. Okay. And that surgery was to --**

24 A. The right shoulder.

25 **Q. The right shoulder. And what was the surgery**

1 **for?**

2 A. Yeah, that's what it was. It was to repair the
3 rotator cuff and to the fracture or the break
4 from the wreck, to deal with that clavicle or
5 whatever they call that bone going across the top
6 of your shoulder. They were going to go in and
7 see what they needed to do with that while they
8 were in there. So they took care of repairing
9 the shoulder.

10 **Q. So that surgery to your right shoulder was to**
11 **repair the rotator cuff tear?**

12 A. And the clavicle bone.

13 **Q. And the clavicle bone. What was wrong with the**
14 **clavicle bone?**

15 A. It was broke, I believe.

16 **Q. Okay.**

17 A. I know they took an inch of it off, okay. It was
18 separated. I broke the end of it from the wreck.

19 **Q. Okay. All right. And was that surgery**
20 **successful?**

21 A. As far as I was concerned, no, it wasn't. I was
22 still having a lot of trouble with it.

23 **Q. What kind of trouble --**

24 A. And McFadden told me that -- the pain. I
25 couldn't use it, hurt, couldn't sleep on it,

1 couldn't use it. And he told me that, "you can
2 move your arm. You'll probably always hurt." I
3 said, "well, that's why I came to you, to stop me
4 from hurting." He said, "no, I'm trying to give
5 you your arm back to where you can get it up over
6 your head." Well, I said, "I can't get it up
7 over my head." And the pain is unbearable. And
8 so I asked for someone to take another look at my
9 shoulder, and they granted me that.

10 **Q. And have you done that?**

11 A. Yeah, Dr. DaSilva looked at it, and he looked at
12 the MRI and said that he needed to go in there
13 and -- I done forgot -- I don't know the
14 terminology that he used. He saw something he
15 didn't like. I think it was a bicep tendon. He
16 didn't like the way it looked and how -- where it
17 anchors to the ball or somehow or another it
18 anchors underneath the ball that goes into the
19 shoulder or something he was telling me and that
20 it was out of alignment, and that was probably
21 what was causing all this pain that I was having
22 in that right shoulder. And he would go in there
23 and cut that bicep tendon loose, and he would
24 give me -- he called it the Popeye look, which I
25 never knew about that. But I understood what

1 that is now, but I didn't then. And so before
2 the surgery I called and spoke with his office,
3 because I didn't want that look that it was going
4 leave in this arm if there was not -- because I
5 knew that in the past someone had anchored this
6 one. Why can't you reanchor that, you know, and
7 he said he didn't do that kind of stuff. And I
8 accepted that and was going to go ahead and let
9 him cut that bicep tendon loose to get rid of
10 that pain if that would do it. And so he
11 scheduled surgery.

12 **Q. And you had that done?**

13 A. Well, when I came out of surgery, he -- I was
14 explained that the bicep tendon was fine. He
15 left it alone and just did some filing or
16 grinding on that part of the bone that was left
17 on the clavicle and cleaned up the shoulder, I
18 think, is the words he used. What that meant, I
19 don't know.

20 **Q. Okay. So the bicep tendon was fine. He didn't -**
21 -

22 A. From what he said after he went in and saw it --

23 **Q. All right.**

24 A. -- with whatever, you know.

25 **Q. And so after Dr. DeSilva did his surgery, did**

1 **that help?**

2 A. It did help. It did help.

3 **Q. Okay. And those are the two surgeries you had on**
4 **your right shoulder?**

5 A. Yes.

6 **Q. When was the surgery that Dr. DaSilva did; do you**
7 **remember?**

8 A. Some time in 2019, December maybe. Maybe
9 December. I think it might have been like -- it
10 might have been like December the 2nd or
11 something like that. I think they were trying to
12 get -- I was trying to get it done before
13 Christmas or something of that nature so I could
14 maybe get back on my feet, I believe, if I recall
15 right. Somewhere the first of December of 2019.

16 **Q. So both of your right shoulder surgeries were in**
17 **2019?**

18 A. I believe that's correct.

19 **Q. Okay. And then you said you had a couple**
20 **surgeries on your neck.**

21 A. Yeah.

22 **Q. Tell me how that came about.**

23 A. Well, they never got rid of my headaches or the
24 pain or the burning, which I'm having right now.
25 So I'm going to get up here in a minute, guys.

1 I'm going to have to.

2 **Q. Yeah, no problem.**

3 A. We can talk while I stand, because I feel a lot -
4 - a little better standing up. I could never get
5 rid of my headaches or the pain in my shoulder
6 and my neck. So after pain management was put
7 through, those doctors, after they saw the MRI of
8 the neck -- they finally ordered an MRI after
9 two injections and a bunch of medication. She
10 said you need to see a surgeon, and we're going
11 to recommend that through your workmen comp. So
12 that's how that all came about, and eventually I
13 was set up to see Dr. Lozanne, and he looked at
14 the MRI and come in and told me, here's your
15 problem. We need to go in here and fuse this
16 together.

17 **Q. Okay. In your neck?**

18 A. Right.

19 **Q. Okay. And so why were there two surgeries?**

20 A. Because after that happened and he did that
21 surgery -- I don't know how long had spanned
22 since then, maybe eight months, seven months.
23 I'm guessing. I told you earlier I couldn't get
24 out of bed one morning. And I couldn't -- so I
25 tried to get through that for about a month or

1 so, two months, and -- because, you know, I had
2 lost my job, had lost insurance. I had lost
3 workmen's comp. I was out from under workmen's
4 comp. All that had happened, and now that it was
5 a money issue and an insurance issue on trying to
6 deal with what was going on. And I knew
7 financially I was in a situation if I could not
8 go through the expense of it, financially I was
9 in burden not to be able to do it. And so I was
10 trying to -- hoping that, you know, it would go
11 away, you know. God would heal it, and it would
12 go away. So after a couple months I got worse.
13 I was falling down, couldn't stand up, couldn't
14 move, couldn't walk, couldn't feel nothing in my
15 hands. My arms were asleep all the time. My
16 legs didn't even feel like they were on my body.
17 I felt like I'd run 1,000 miles. My feet were
18 numb. I finally went and saw Dr. Lozanne,
19 because I had a lot of faith in the man, to see
20 if something had happened in that surgery. And
21 that's when he ordered an MRI.

22 **Q. So the first surgery that Dr. Lozanne did to your**
23 **neck, did that help you, initially?**

24 **A. Never got rid of the headaches. Got rid of some**
25 **of the pain in the lower shoulder, I always felt**

1 like it was. The burning, tearing, the tingling
2 in the left arm, none of that ever went away.

3 **Q. So was the first neck surgery a success to you or**
4 **not?**

5 A. If you're asking me would I do it again, I would
6 say, yes. I would say it was to some of a
7 success.

8 **Q. Okay. And what about the second neck surgery?**
9 **Did that help?**

10 A. Yeah, it improved my balance, but -- and it's
11 moderate -- it took some of the severeness of the
12 other issues that I'm having away, but not all of
13 it, not enough to put me back where I want to be.

14 **Q. And what issues are still lingering that you're**
15 **dealing with?**

16 A. My legs are my main problem, guys. I can't stand
17 up on them and move, hardly walk with them. I
18 can't get down. I can't get up. My feet are
19 numb. They feel like they've been shot up with
20 Novocain all the time. My right hand, I have no
21 feeling in my fingers. I can't do anything
22 strategically with my hands. I do a lot now with
23 this arm and this hand more than I do this, and
24 I'm right handed. Headache, I can't get rid of
25 my damn headaches. I can't sleep. My shoulder

1 right here (indicating), it's on fire right now.
2 It's like somebody's in there with hot coals,
3 okay. I can't get rid of it. I can't do
4 nothing.

5 **Q. Okay. And so you've talked to the doctors -- as**
6 **far as additional surgeries, you've talked to the**
7 **doctors about possibly surgeries to your lower**
8 **back?**

9 A. Yes.

10 **Q. What about surgeries to any other part of your**
11 **body?**

12 A. No.

13 **Q. You don't have a surgery scheduled?**

14 A. No, we're not even close to doing that. I'm
15 going to be honest with y'all. I'm tired of
16 being cut on.

17 **Q. I'm sorry?**

18 A. I'm tired of being cut on. I'm tired of man-made
19 objects going in my body. I'm tired of the
20 fusions in my neck. You know, I can hardly move
21 my neck, man. I mean, I can't hardly turn. I
22 can't -- I can't lay down with it. I'm stiff.

23 **Q. I think your attorney sent us a picture --**
24 **actually a couple of pictures. Let me hand you**
25 **what's been marked as Exhibits 1 and 2. Do you**

1 **recognize what's in those pictures?**

2 (Defendant's Exhibit Number 1 was marked for
3 identification purposes - (1 page) Photo.)

4 (Defendant's Exhibit Number 2 was marked for
5 identification purposes - (1 page) Photo.)

6 A. Yeah, I sure do.

7 **Q. What are those pictures of?**

8 A. That's me and my right shoulder after the surgery
9 that one of those two doctors did. I think
10 that's McFadden's work. I'm sure it is with all
11 the stitches. DaSilva didn't have to do that
12 many holes. He went back in one or two of the
13 holes that were already there to do what he did.

14 **Q. Okay. So Exhibits 1 and 2 are pictures of your**
15 **right shoulder after one of the surgeries?**

16 A. Uh-huh.

17 **Q. Do you know who took those pictures?**

18 A. I think -- I don't -- maybe -- I don't -- we
19 might have. I don't know.

20 **Q. Okay. And what do those pictures show? I mean,**
21 **what --**

22 A. It shows where somebody went in there and put a
23 bunch of little holes in me, and I guess used
24 some procedure to repair my shoulder, rotator
25 cuff and the work on that --if I'm not mistaken,

1 McFadden removed a half an inch or inch of that
2 clavicle bone, because it broke off at the end
3 and never did put scar tissue in between it. So
4 he just took it out.

5 **Q. All right.**

6 A. I think he did. Maybe DaSilva took it out. One
7 of them took it out.

8 **Q. Okay. Do you have any pictures of any other**
9 **injuries that you had in this case?**

10 A. Just the fusions.

11 **Q. You have pictures of those?**

12 A. I have -- I have some, yeah, somewhere.

13 **Q. All right. So if you wouldn't mind, any other**
14 **pictures you have, you know, the parts of your**
15 **body that were cut on, just give them to your**
16 **attorney. I don't think I've seen any other ones**
17 **than those two.**

18 A. They probably have them.

19 **Q. Okay. All right.**

20 A. Because that last surgery he did in October, he
21 fused 4 or 5. I think we sent that to Teresa, I
22 believe.

23 MR. POPWELL: Those are radiographs. I think we sent
24 them to you.

25 MR. FLORENCE: Yeah, the radiographs. I'm talking

1 about just --

2 A. Oh, I'm sorry. That's the only pictures I have
3 then, and, you know, I think that last surgery
4 they took half of one of my discs out.

5 **Q. Uh-huh.**

6 A. And put some sort of device to fuse that to 5.

7 **Q. Okay. What is your -- have the doctors told you**
8 **what your prognosis is for the future?**

9 A. The shoulder's the best it'll ever be. Lozanne
10 is waiting six months to tell me if there's any
11 more that can be done, or all has been done, and
12 there's some terminology he used for that, but I
13 don't recall it. But only we needed to wait
14 another six months to give it almost a year
15 before he could say, you know, this is where
16 you're at. I know the state has granted me
17 disability. I was not able to go back to work.
18 So --

19 **Q. Have you not worked since the day of the**
20 **accident?**

21 A. That's correct.

22 **Q. Okay.**

23 A. I don't like that.

24 **Q. And I understand that. And tell me, is that**
25 **because of the injuries you sustained in the car**

1 **accident?**

2 A. Oh, for sure, for sure.

3 **Q. Okay. Has any physician or anybody else**
4 **specifically told you that you are not able to**
5 **work at all because of these injuries?**

6 A. I've never asked that question, I don't guess is
7 what I would say. I know I was given a rating
8 through workmen's comp through the doctors they
9 sent me to. And they put me at a certain
10 percentage, you know. I think it was 30 percent
11 or something of that.

12 **Q. And I know your old job is pretty much a physical**
13 **job; would you agree with that?**

14 A. Oh, it's definitely physical.

15 **Q. Okay. Are there any jobs that are not as**
16 **physical or not physical at all that you could**
17 **possibly do?**

18 A. No, I've never known nothing else, you know. I'm
19 not computer literate. I didn't graduate. Self
20 taught, self survival, you understand?

21 **Q. Okay.**

22 A. I'm not ashamed of it, but just the way it ended
23 up. It's where I'm at.

24 **Q. Okay.**

25 A. So I took my job serious, and I did it very well.

1 I loved my job, and I know the company that I
2 worked for appreciated what I could do, and I
3 pride myself on that.

4 **Q. Okay. Can you drive a car?**

5 A. Not for long, but I can drive.

6 **Q. You can drive?**

7 A. Yeah.

8 **Q. Do you drive?**

9 A. A little bit.

10 **Q. Well, tell me how you drive, short trips or --**

11 A. The grocery store or cross town, brother's house.

12 **Q. Okay. And do you drive by yourself, or do you**
13 **drive with someone?**

14 A. Yeah, I can do that.

15 **Q. All right. How long can you drive?**

16 A. Without the shoulder starting to burn me and this
17 arm bothering me, for some reason I like to drive
18 with my left arm. And I think -- I believe that
19 might have been the arm that was on the steering
20 wheel. That's the only thing I relate to
21 whatever happened to this part of me.

22 **Q. Uh-huh.**

23 A. It was the impact to that, but 30 minutes or so
24 it starts burning like that coals that I've shown
25 you about that I'm having right now.

1 **Q. And I asked you about a South Carolina driver's**
2 **license. Do you have any other types of**
3 **licenses, driver's license or any other type?**

4 **A. Just South Carolina, you know. It's a Class --**
5 **well, whatever you call them. A motorcycle**
6 **combination.**

7 **Q. Have you ridden any motorcycles --**

8 **A. No.**

9 **Q. -- lately?**

10 **A. Our son was killed on one, so I've kind of got a**
11 **bad taste about motorcycles.**

12 **Q. I understand. Well, I think those are all the**
13 **questions I have. These other two attorneys may**
14 **have questions, but, thank you.**

15 **MR. SHARPE - EXAMINATION BY MS. BOZEMAN:**

16 **Q. Good morning. My name is Ginny Bozeman, and I**
17 **have been hired by Liberty Mutual, one of the UIM**
18 **carriers upon notice in this case. And I --**
19 **you've answered a lot of questions this morning,**
20 **so I don't have much, but I do have a few follow-**
21 **up questions. So if you could bear with me while**
22 **I look at my chicken scratch.**

23 **A. Yes, ma'am. While you do that, I'm just going to**
24 **stand up, okay? I'm not going nowhere.**

25 **Q. No, that's fine. And we can take a break --**

1 A. No, I'm good.

2 Q. -- if you need one.

3 A. I'm good.

4 Q. I'm happy to take a break.

5 (A short break was taken at this time.)

6 Q. Now that we're back on the record, I have just a
7 few questions for you. You mentioned the
8 possibility of having a lower back surgery. Do
9 you know what type of surgery?

10 A. I don't remember mentioning I had a lower back --
11 I have not a lower back. I'm having it looked at
12 right now, recently in the last couple of weeks.
13 But right now it's not on the table to be
14 scheduled to do so.

15 Q. Okay. And do you know what type of surgery is
16 being considered?

17 A. No, ma'am.

18 Q. And who is the physician that you were seeing for
19 your lower back?

20 A. Dr. Lozanne.

21 Q. Okay.

22 A. You know, what he's doing is he's trying to
23 evaluate if there's anything else wrong besides
24 what has gone on the neck or if what I've got
25 going on right now is stemming from the neck.

1 Q. Uh-huh.

2 A. Long term, we don't know whether it's going to be
3 that way forever or not, so we're on a waiting
4 period of about -- I think in six months I've got
5 another appointment with him to see where I'm at.

6 Q. Okay. And going back to the questions you were
7 asked about the day of the accident. You
8 mentioned a bystander speaking with you. Do you
9 remember his name?

10 A. No.

11 Q. Do you remember whether it was a male or a
12 female?

13 A. It was a male.

14 Q. Do you remember what he looked like?

15 A. No, ma'am.

16 Q. Okay. And you were asked a series of questions
17 earlier about your placement at the time of the
18 car accident as opposed to, you know, were you in
19 the left lane or the right lane, and you talked
20 about the driver of the truck being in the turn
21 lane. Do you remember seeing any other vehicles
22 in the road at the time?

23 A. Not that I can remember.

24 Q. Do you know how much time passed between the
25 moment you indicated -- did you testify earlier

1 that you and the driver of the truck looked at
2 one another prior to -- and you saw him on a --

3 A. I won't say that he was looking at me, but he was
4 looking dead at the vehicle that I was in going
5 in his direction. Let's put it like that. I was
6 looking at him because I could see his face
7 expression, you know.

8 Q. Okay. And from the time you looked at the driver
9 of the car from the time of collision, do you
10 know how much time passed?

11 A. No, it was so quick I don't even know if I could
12 put a time on it. It was that quick.

13 Q. Okay.

14 A. It's like we both knew what was going to happen.
15 That's about -- by the time we both realized it's
16 going to happen, it happened.

17 Q. And you may have already answered this. When you
18 pulled onto Bluff Road and you were approaching
19 the intersection, do you know was the light red
20 or green when you first pulled off of I-77?

21 A. The first eye contact that I ever had with the
22 light, whenever that was, it was green.

23 Q. Okay.

24 A. I had a green light the whole time that I was
25 looking at getting through that intersection,

1 that I had the right of way to get through it.
2 It was green.

3 **Q. Okay. And do you remember how you were**
4 **positioned in the car at the time of the**
5 **collision?**

6 A. Positioned?

7 **Q. Yes. You indicated right before we took a break**
8 **that you think your left arm might have hit on**
9 **the steering wheel. Do you remember --**

10 A. I think maybe I might have grabbed the steering
11 wheel like that (gesturing), bracing for the
12 impact. I'm guessing at that. I think that's
13 what happened.

14 **Q. Okay. And so you're indicating that you had two**
15 **hands on the steering wheel at the time?**

16 A. Uh-huh.

17 **Q. And if you are considering the steering wheel to**
18 **be a clock face, where would you left hand have been?**

19 A. Somewhere around 11:00 o'clock.

20 **Q. Okay. And where would your right hand have been?**

21 A. Somewhere around 4:00 o'clock.

22 **Q. Okay. Where would you have been -- do you know**
23 **where you were looking at the time of the**
24 **accident?**

25 A. What?

1 Q. Do you know where you were looking with your eyes
2 at the time of the accident?

3 A. Dead at the vehicle that I was getting ready to
4 hit.

5 Q. Okay. And so would that have been straight?

6 A. Yes, ma'am.

7 Q. And how close do you typically sit to the
8 steering wheel while you drive?

9 A. I sit back as far as the seat will go.

10 Q. Okay. And so is that how you were positioned the
11 day of the accident?

12 A. Uh-huh.

13 Q. Were you wearing your seatbelt at the time?

14 A. Yes, ma'am.

15 Q. Did you have the radio playing at the time of the
16 accident?

17 A. Never, never listen to a radio.

18 Q. Did you have any noise in your car at all at the
19 time?

20 A. None, none. Maybe a blur fan was on, maybe, you
21 know, maybe, maybe.

22 Q. Where was your cell phone at the time of the
23 accident?

24 A. I don't really recall. If I had to guess, it was
25 in the passenger seat. That's usually where I

1 left it when I drove down the road, just leave it
2 in the passenger seat.

3 Q. And this is an antiquated question, but did you
4 have a CB radio or any other form of
5 communication inside the car besides a cell
6 phone?

7 A. No, ma'am.

8 Q. That's all I have. Thank you.

9 A. Yes, ma'am.

10 MR. SHARPE - EXAMINATION BY MR. ROGERS:

11 Q. Just briefly. I'm John Rogers. I represent the
12 other UIM carrier involved in this lawsuit,
13 Frankenmuth Insurance Company, and the other
14 attorneys were very thorough. I have very little
15 to ask you. And I missed part of this testimony.
16 2017, did you say you had a fall in 2017?

17 A. Yes.

18 Q. Can you tell me about the details of that?

19 A. Yeah. We were in a store they were closing down
20 and getting ready to knock down and rebuild. And
21 we were disassembling some of the components in
22 the walk-in cooler, And I don't know, somehow or
23 another I walked into the cooler and on the floor
24 there was some debris and some plastic strips I
25 use in the shelving of coolers where they set the

1 drinks and beer cans, you know, just little
2 plastic strips. And I stepped on one of them,
3 and --

4 **Q. And what were your injuries?**

5 A. Hit the back of my head.

6 **Q. Did you get any medical treatment?**

7 A. I went and saw Dr. Fisher, my family physician a
8 few days later. Someone had put a little fear in
9 me about bleeding of the brain, that I could die
10 from it and you wouldn't know it, said I should
11 probably have that looked at. So that's the only
12 reason I went.

13 **Q. Okay. And then Dr. Lozanne -- am I saying that**
14 **right?**

15 A. Yes.

16 **Q. Both of his surgeries were neck fusion surgeries;**
17 **is that right?**

18 A. Yes.

19 **Q. And the first one, I missed the date on the first**
20 **one.**

21 A. I can't give it to you. I can give you close.

22 **Q. Oh, yes, sir, ballpark's fine.**

23 A. June or July 17. June or July. I'm going to say
24 the 17th for some reason. I don't know why. It
25 might have been the 25th. One of those days

1 stick out. I believe it'd be the year 2019.

2 **Q. Okay.**

3 A. Don't hold me to that. I'm not good on dates.

4 **Q. I got you. And the second one was the one in**
5 **2021 we talked about earlier?**

6 A. Yeah, October.

7 **Q. And as he's considering the lower back surgery,**
8 **did he say what progress he's looking for to**
9 **avoid the surgery or what signs or signals --**

10 A. Me and him -- not to interrupt you, but I
11 understand your question.

12 **Q. Go ahead.**

13 A. Me and him came to the agreement that we really
14 couldn't say what was going on with my legs and
15 my feet hands were from the lower back or from
16 the damage that was done to the spinal cord that
17 he had already repaired. So we would need to
18 probably go at an avenue of waiting another six
19 months to see if I get any improvement
20 considering it had only be a five month out of
21 the last surgery.

22 **Q. Okay.**

23 A. Which I was all in favor of that considering it
24 took me a year to get over -- to the point of
25 being able to use my shoulder. So I figure,

1 well, maybe it would take a year. So hopefully
2 in 12 months I'll lose some of the symptoms I
3 have today.

4 **Q. Okay. So he thinks your neck fusion surgery may**
5 **help your ongoing issues --**

6 A. It could be. Yeah, he -- he said word for word
7 that right now I can't say that what's going on
8 is not from the damage that was done to your neck
9 and whether you're at a status of all the
10 improvement you're going to receive of benefit is
11 there yet or not. He said, so let's wait six
12 months and come back and see where you're at.

13 **Q. And when's the last time you saw him?**

14 A. March 19th of 2022 or maybe it was March 9th, one
15 of those two days.

16 MRS. SHARPE: I can't help him?

17 MR. POPWELL: No.

18 A. It was in March, okay, guys, so they fit me in.
19 It might have been the 13th. Hell, I don't know,
20 guys. It was soon.

21 **Q. Okay. And that's the visit where you had the**
22 **conversation about the back surgery you're**
23 **telling me?**

24 A. Yeah.

25 **Q. Okay, got you. You said you had a work comp**

1 rating of 30 percent or so. What is that rating
2 to?

3 A. I think I got -- and don't hold me to this. I
4 think I got six percent on the shoulder, and
5 maybe it was more than -- and maybe 28 percent on
6 the neck.

7 Q. Okay. And right shoulder?

8 A. Yes, sir.

9 Q. Anything on the left shoulder?

10 A. None.

11 Q. Anything on any other body part? You had six
12 percent on the right shoulder and 28 percent on
13 the neck. Any other disability ratings or work
14 comp rating?

15 A. No, sir.

16 Q. Did you have an attorney who assisted you with
17 your disability claim?

18 A. No.

19 Q. And when were you approved for disability?

20 A. January of this year is when I got the -- I think
21 I received my first disability check.

22 Q. Did you get back pay for disability?

23 A. No, they did not.

24 Q. So you just started getting disability January
25 and then going forward?

1 A. Yeah. I felt like I should have got back pay,
2 you want the honest answer on that, but the State
3 seems to be like everybody else. They do all
4 they can to keep any dollar they don't have to
5 spend, but I wasn't going to fight them. I was
6 grateful that God granted me the disability, but
7 I thought I was entitled to it.

8 **Q. Did you settle your work comp claim?**

9 A. Did I what? Yeah, I did.

10 **Q. What was the total settlement amount for the work**
11 **comp claim?**

12 A. I think it 210,000.

13 **Q. When did you settle the comp claim?**

14 A. Ask my lawyer, because I can't recall. I'm bad
15 on dates, guys. I just can't remember nothing
16 since the accident. I don't know. It's been
17 eight months maybe. January, February of --

18 **Q. Last year?**

19 A. 2022.

20 **Q. So that would be this year?**

21 A. Yeah.

22 **Q. Okay. So --**

23 A. No, that ain't right, is it? So it's like I
24 said, maybe it was 2020. I don't know, guys.
25 You'll have to ask them. I just don't know.

1 Q. How much in weekly wages were you getting paid by
2 work comp when they were paying out on wages?

3 A. They were sending me eight, 816 a week.

4 Q. And from when to when did you get paid 816 a
5 week?

6 A. It started shortly after the accident, within, I
7 guess -- I don't know, maybe three weeks. I got
8 it up to three weeks after the settlement.

9 Q. And the settlement was somewhere around eight
10 months ago approximately?

11 A. I think, and it could have been longer. I can't
12 -- I don't know. I just don't know.

13 Q. And how much are you getting in disability
14 income?

15 A. Right now they're sending me \$2,400 a month. No.
16 I guess, I'm -- maybe I'm wrong about that. I
17 don't know.

18 Q. Do you have any other sources of income other
19 than disability income at this time?

20 A. None.

21 Q. Did your same attorney that represents you in
22 this case also represented you in the work comp
23 case?

24 A. The same company --

25 Q. The same attorney --

1 A. No.

2 Q. -- representing you in this case represent you in
3 the work comp case?

4 A. No.

5 Q. What was the name of the attorney who represented
6 you in the comp case?

7 A. Chris Isgett.

8 MR. POPWELL: The same firm.

9 MR. ROGERS: Just a different lawyer.

10 MR. POPWELL: Yeah.

11 Q. Did you have any work comp hearings that you had
12 to go testify at?

13 A. I had a Zoom.

14 Q. When was your work comp Zoom hearing?

15 A. I don't know.

16 Q. Did the work comp presiding officer or judge
17 question you at that hearing?

18 A. As far as I'm concerned, it was the same thing
19 that's happening here, maybe a deposition.

20 MR. POPWELL: It was a deposition. There hasn't been
21 any hearing.

22 Q. Okay. It seems similar.

23 A. Yeah, it does. I mean, it's all new to me. I've
24 never been here.

25 Q. And did the workers comp insurance pay all your

1 **surgery bills?**

2 A. Yes.

3 **Q. Did they pay all your medical bills?**

4 A. Yes.

5 **Q. Do you have any outstanding unpaid medical bills?**

6 A. Let me back up on the last question. Just so I'm
7 maybe under the right understanding. While I was
8 under their care, they paid all my medical bills,
9 but after the settlement, you know -- I don't
10 know if that makes a difference. You know, I
11 fell like what I just had done still -- you know,
12 is from the accident, so that one I paid for.

13 **Q. So the last neck surgery you paid for yourself?**

14 A. Yes.

15 **Q. Work comp had no involvement on --**

16 A. No, we had already settled with them.

17 **Q. How long did you settle the work comp case before**
18 **your last neck surgery?**

19 A. It was within the same year is all I can answer.

20 **Q. Was it within a couple of months?**

21 A. No, it was probably more like -- I'm guessing --
22 six or seven months.

23 **Q. Were you considering that neck surgery at the**
24 **time of your work comp settlement?**

25 A. No, I didn't have the problem.

1 Q. So the problem that you got the second neck
2 surgery for, you did not have at the time you
3 settled your --

4 A. No. Believe it or not --

5 Q. -- I've got to finish the question, I'm sorry,
6 for her sake, because she's got to write it down.

7 A. I understand.

8 Q. So at the time you settled your work comp case,
9 you did not have the medical issues that
10 necessitated your second neck fusion surgery,
11 correct?

12 A. I wouldn't say that's totally correct. I made it
13 clear to them at the settlement I still had
14 problems. And I knew there was something still
15 wrong with me, but I didn't know at the time the
16 severity of it until after the settlement. And
17 then I woke up worse than I was at the time I
18 made that statement to them.

19 Q. And so what problems were you having at that work
20 comp settlement?

21 MR. POPWELL: We're not going rehash everything he's
22 just been through, all this stuff, right? I
23 mean, go back through all of it?

24 MR. ROGERS: No, sir, I'm not.

25 Q. I'm asking him, at the time he settled his work

1 **comp case what medical issues that led to the**
2 **second neck fusion surgery were you having at**
3 **that time.**

4 A. I'm still having numbness in the hands and
5 headaches and the -- the burning and tearing in
6 the shoulder.

7 **Q. And when you said the shoulder, are you talking**
8 **about your right shoulder or left shoulder?**

9 A. Left, my left.

10 **Q. Okay.**

11 A. It's never gone away. They never addressed it.
12 They never really wanted to hear about it.

13 **Q. And so those problems got worse after your work**
14 **comp settlement?**

15 A. Yeah, they did, but, you know, they -- well,
16 let's say I got more complicated problems added
17 to those, which were the lower legs and feet.

18 **Q. That's what started after your comp settlement --**

19 A. Primarily.

20 **Q. -- your leg and feet problems?**

21 A. Yeah, my legs. I couldn't walk. I was falling
22 down, no balance.

23 **Q. Have you been hurt by any falls you've had with**
24 **your legs giving out?**

25 A. No.

1 **Q. How many times have you fallen due to your legs**
2 **giving out?**

3 A. Seven, eight times before I got my balance back.

4 **Q. When is the last time you fell?**

5 A. I don't know. It was weeks before the surgery of
6 October or so. I'm going to say somewhere in
7 November of 2021.

8 **Q. Okay. So since the second neck fusion surgery**
9 **you're not having the leg and feet problems?**

10 A. Oh, I'm still having the problems. I'm just -- I
11 got -- I don't have the balance problem.

12 **Q. Okay. So it doesn't cause you to fall, but**
13 **you're still having some --**

14 A. Yeah, right. I'm able to -- right, exactly. I
15 had no balance. I couldn't stay up, but, yeah,
16 that surgery did improve some of the symptoms.

17 **Q. When you say you're having ongoing shoulder**
18 **problems today, is it just your left shoulder?**

19 A. Yeah, pretty much, yeah.

20 **Q. And that's the one they've never done anything**
21 **for?**

22 A. No, they didn't want to hear about it, guys.

23 **Q. Who doesn't want to hear about it?**

24 A. Workmen comp didn't want to hear about it, I
25 guess. I mean, I wanted them to look at it, and

1 they said Dr. DaSilva would look at it. And he
2 took his arm and lifted my hand up and said, oh,
3 there's nothing wrong with it, bye.

4 **Q. So Dr. DaSilva looked at your left shoulder and**
5 **said you did not have a problem with it?**

6 A. Right. He physically looked at it. I mean, he
7 never done any MRIs or --

8 **Q. Is there --**

9 A. -- any scans or anything like that, you know. So
10 I don't feel like he had enough information to
11 deal with it.

12 **Q. Is there anything that's important about your**
13 **injuries of the accident that we haven't talked**
14 **about at your deposition today?**

15 A. Say that one more time.

16 **Q. Is there anything else important about the**
17 **accident or your injuries as a result of the**
18 **accident that we have not talked about today?**

19 A. Well, you know, partially. The most important
20 things that I have that involved the accident
21 that maybe we haven't talked about, and I want to
22 make sure everybody has got on this table is the
23 discomfort that I have in my neck and my
24 headaches and my left shoulder burning never goes
25 away. It has not gone away since the accident,

1 and as far as I'm concerned will never go away.
2 And I would do -- I would like for everybody to
3 understand that, you know. They just never
4 addressed that properly, and I resent that.

5 **Q. Are you claiming any type of emotional or mental**
6 **health damages related to the accident?**

7 A. Claiming it?

8 **Q. Yes, sir.**

9 A. Legally I'm not claiming it, but if your want my
10 honest opinion, yeah, I definitely have emotional
11 problems about it.

12 MR. POPWELL: Well, I mean, I just object to the form
13 of the question to the extent he's a layman, and
14 we have included a claim for emotional distress
15 and mental anguish in this lawsuit. That's
16 certainly a part of this lawsuit.

17 MR. ROGERS: So the objection would be the form. That
18 would be a speaking objection.

19 **Q. Have you seen a psychiatrist or any mental health**
20 **professionals related to any psychological or**
21 **mental health problems you're claiming as a**
22 **result of this accident?**

23 A. No, I'm not, have not.

24 **Q. Have you taken any medications for any mental**
25 **health problems or psychological problems you're**

1 **claiming as a result of this accident?**

2 A. No, I have not.

3 **Q. Can you describe any mental health or**
4 **psychological problems you're claiming as a**
5 **result of the accident?**

6 A. Describe? I'll try. I'm not who I was before
7 it. I'm not the man I was. I can't be that man
8 again. I've tried. As far as standing up and
9 supporting my family and taking care of them, I'm
10 not that person. I don't feel like I'm doing
11 near the job that I was doing or ever will be
12 able to do -- emotionally, it's changed my
13 attitude and my mental emotions. I've lost a lot
14 of joy over it. If it wasn't for the Lord Jesus
15 Christ, I don't know how I would have walked
16 today. As far as my emotional feelings, okay,
17 well, I keep going forward because I'm grateful
18 to be here. Secondly, I look at the long term of
19 what my plan was for retirement. It was snatched
20 away after that accident, whether it was not
21 intent -- I know it wasn't, but it happened, and
22 so my future of what I thought I'd go to as a
23 retirement was taken away from me. So that
24 bothers me a lot because I don't know how I'm
25 going to -- you know, finish the golden years I

1 would say. Do you understand what I'm saying?
2 So, you know, that affects me emotionally,
3 though. Sitting around the house, not being able
4 to do the things that need to be done, because
5 I've got to ask somebody else to do it. I don't
6 like that at all. That eats on me pretty bad. I
7 don't like the fact that I don't get up and go to
8 work every day. I worked all my life, took care
9 of myself. So it eats on my soul and my brain
10 and my heart that I can't be what I was. And
11 then when I go out and I can't walk or do
12 anything. I'm feeling the fatigue or the hurt or
13 the stress or the sleep that I don't get. It
14 emotionally eats on me bad.

15 **Q. Had you contemplated retirement before the**
16 **accident?**

17 A. No, I never was going to retire. I never wanted
18 to retire. I never wanted to quit work. I
19 always felt that if you quit work, you were going
20 to die. I wanted to work until God wouldn't let
21 me move.

22 **Q. No further questions. Thank you for your time,**
23 **and I wish you the best.**

24 A. Appreciate it.

25 (There being nothing further, the deposition concluded at

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

12:35 p.m.)

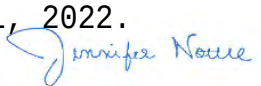
1 CERTIFICATE OF REPORTER

2 I, JENNIFER NOTTLE, COURT REPORTER AND NOTARY PUBLIC
3 IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY
4 CERTIFY THAT I REPORTED THE DEPOSITION OF BILLY R. SHARPE,
5 ON MONDAY, THE 21ST DAY OF MARCH, 2022, THAT THE WITNESS
6 WAS FIRST DULY SWORN BY ME AND THAT THE FOREGOING 144 PAGES
7 CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF MY STENOMASK
8 REPORT OF SAID DEPOSITION.

9 I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR
10 COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE
11 PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY
12 INTERESTED IN SAID CAUSE.

13 I FURTHER CERTIFY THAT THE ORIGINAL OF SAID TRANSCRIPT
14 WAS THEREAFTER SEALED BY ME AND DELIVERED TO PHILLIP
15 FLORENCE, JR., MURPHY & GRANTLAND, P.A., 4406-B FOREST
16 DRIVE, COLUMBIA, SOUTH CAROLINA, WHO WILL RETAIN THIS
17 SEALED ORIGINAL TRANSCRIPT AND SHALL BE RESPONSIBLE FOR
18 FILING SAME WITH THE COURT PRIOR TO TRIAL OR ANY HEARING
19 WHICH MIGHT RESULT IN A FINAL ORDER ON ANY ISSUE.

20 IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS
21 7TH DAY OF APRIL, 2022.

22 
23 _____
24 JENNIFER NOTTLE, COURT REPORTER

25 MY COMMISSION EXPIRES JULY 11, 2023

Garber Reporting
info@garberreporting.com

73:9 74:11	16:1 17:15	26:19	amount	108:1
79	22:14 23:8,20	action	133:10	approved
10:22	24:5 25:7,9,17	86:2	anchor	132:19
	26:9,13,15,18,	actual	29:11	approximately
8	20,24 27:13	33:5 60:8 83:3	anchored	134:10
	28:1,4,14 30:12,	Adams	111:5	area
803	15 35:24 37:24	13:12,13	anchors	18:18,20,21,22
95:13	38:1,2,17,22	added	110:17,18	19:7,11,12 26:4
803-608-2058	39:9 40:7,9	138:16	Angela	28:12 32:24
94:1	43:11,16,20	additional	10:9,11,25	33:17,20 46:10
803773	44:3,8,11,17	116:6	11:21,22,24,25	51:4 61:7 66:23
95:19	45:13 46:18,25	addressed	12:7,22	72:23,24,25
816	47:4,22 48:4,8,	138:11 141:4	anguish	73:3,10 83:8
134:3,4	15,17,23 49:4,5,	affects	141:15	arising
85	13,18,23,24	143:2	annually	6:9
18:1	50:14 51:2,4	age	20:19	arm
	52:6,20 53:1,4,	105:10,22	answering	34:11 50:11
9	6,12,22,24	ages	7:5 8:14	51:5,7,11 52:11
	54:13 57:7 59:2,	12:13	answers	53:9 106:22
90	4,9,13,16 62:4	agree	7:1 15:1	110:2,5 111:4
84:19	63:20 64:25	98:21 120:13	anticipate	115:2,23
90s	65:25 66:20,25	agreed	7:23	121:17,18,19
21:17	67:2,12 68:15	54:10	antiquated	126:8 140:2
911	69:1 71:10,15	agreement	128:3	arms
100:5 101:3	81:5 86:3,7,8	130:13	anymore	27:5,6,17 55:12
99	89:6 94:7 95:16,	ahead	59:7	56:7 57:12 59:5
89:7	18 96:1,2,12	74:3 111:8	appointment	114:15
9th	98:13 99:2,19,	130:12	47:17,20	arrested
131:14	23 100:17 101:7	ain't	103:14,21	25:2
	104:6,24	133:23	104:13 108:3	arthritis
A	105:18,21	airbags	124:5	44:13 45:9
	106:2,18 107:15	89:15	appointments	ashamed
A-FRAME	108:14 119:20	alcohol	108:8	120:22
33:12	120:1 124:7,18	25:11 96:11	appreciated	asleep
abrasions	126:24 127:2,	alignment	121:2	51:5 114:15
102:13	11,16,23 133:16	110:20	approach	asphalt
abuse	134:6 136:12	alleging	78:5	92:14
25:12	140:13,17,18,	57:9,10	approaching	ass
accepted	20,25 141:6,22	ambulance	77:5 125:18	51:25
111:8	142:1,5,20	34:22,23 99:12	approval	assigned
accident	143:16	100:9,11,21	107:4,5,21,22	18:21 108:6
6:10,14,16 7:12	accidents			
	14:22 25:18,23			

assisted 132:16	13 57:24 58:1,4, 7,12,20,21 60:1, 12 62:17 63:24 74:6,11,17 77:17,19 82:10 83:1,14 84:7,8 92:1,15,16,25 93:2 95:23,25 96:13,24 97:1, 24 99:6,7 100:4 105:14 106:9 110:5 112:14 115:13 116:8 117:12 119:17 123:6,8,10,11, 19 124:6 127:9 129:5 130:7,15 131:12,22 132:22 133:1 136:6 137:23 139:3	9:25 15:6 Barely 101:21 basic 6:18 basically 16:7 61:17 72:12 bathroom 8:3 bathrooms 17:4 bear 122:21 beautiful 67:19 bed 55:20 57:5 65:12,13,19,21 113:24 beer 129:1 beings 36:6 Beltline 67:16 68:16 73:8 bending 73:25 benefit 62:14 131:10 Bert 20:1,4,8 40:13 100:14 bicep 28:7 29:8 47:10 110:15,23 111:9,14,20 bill 94:10 bills	136:1,3,5,8 Billy 8:22 birth 13:21 bit 20:12 24:14 37:8 38:9 40:11 77:23 121:9 blade 51:4 blank 61:18 89:13 bleeding 41:21,22 102:8 129:9 blocking 65:21 blond 90:22,24 blonded 90:21 blood 23:9,13,14,17 blue 29:16 Bluff 65:3 66:19 67:9, 14,23 68:3,16, 20 69:13 73:17, 19 74:18 78:12 125:18 blur 127:20 blurred 89:13 body 114:16 116:11, 19 118:15 132:11 bone	109:5,12,13,14 111:16 118:2 Bonnie 13:12 boom 83:10 born 9:13 bothered 45:18 bothering 22:2 29:14 52:12 121:17 bothers 73:24 142:24 bought 16:3 20:1 Boulevard 68:17 boxes 60:14,15 65:16 Bozeman 122:15,16 BPS 16:16 bracing 126:11 brain 102:8 129:9 143:9 braising 30:20 brake 85:16,20 brakes 85:14 break 8:2,4,7 73:23 109:3 122:25 123:4,5 126:7 breaks
attentive 51:17 attitude 142:13 attorney 8:8 116:23 118:16 132:16 134:21,25 135:5 attorneys 122:13 128:14 Augusta 59:19 66:7,15 avenue 63:7 130:18 avenues 107:11 average 18:5 avoid 130:9 aware 88:8,9,11	background 7:11 10:6 24:15 bad 29:2,15 33:25 39:15 49:1 52:12 56:7 91:23 92:24 102:2 122:11 133:14 143:6,14 Bakery 31:12 balance 55:18 56:6 57:23 115:10 138:22 139:3, 11,15 ball 110:17,18 ballpark's 129:22 Bank			
B				
back 6:25 15:10,11 18:7 19:5 25:20 26:13,14 27:14, 15,17 29:9 30:4 35:18,23,24 36:9 37:10,15, 20,23 38:5,19, 25 39:14,17,21 41:3 42:11 43:15 44:7 48:11,20 49:2,8 52:4,14,15,25 53:6,8,11,20,21 54:17,18 56:10,				

36:21	96:21 97:8	134:11 142:7	categorize	92:23 97:22
briefly	124:8	143:10,11	91:5	Chevrolet
26:22 128:11		car	caused	65:11
bring	C	30:11 38:1	50:14 81:22	chicken
92:25	cabinet	62:19 88:11	causing	122:22
Brockman	60:19	94:17 95:13	110:21	children
9:16	call	96:13 119:25	Cayce	11:10 12:7,25
broke	26:4 51:8 52:10	121:4 124:18	12:16 13:3 63:7,9	94:23
34:18 50:18	59:20 64:10	125:9 126:4	CB	cholesterol
109:15,18 118:2	75:4 83:21	127:18 128:5	128:4	23:9,14,18
broken	99:12,13 100:5,7,25 109:5	care	Cecil	Chris
34:13,14	122:5	14:6 18:15	10:25 11:3,10	135:7
brother	called	22:19,25 36:8	cell	Christ
13:9	15:24 31:12	48:9 109:8	68:9 93:5,6,10,23,24 94:2	142:15
brother's	32:3 34:23	136:8 142:9	99:15,18,22	Christmas
121:11	83:21 100:9,14,16,20,23 101:3	143:8	100:1,3,19	112:13
brought	108:7 110:24	Carolina	127:22 128:5	Church
6:9 43:24 46:21	111:2	8:25 9:25 15:6	center	24:18
51:16	cameras	16:18 63:8 95:8	9:25 15:13	churches
buildings	90:3,5	122:1,4	chains	24:16,17
73:10,13	cans	carpal	16:15 18:25	Circle
bulge	129:1	23:24 45:14	51:23	16:16
58:8	can't	46:4	change	claim
bunch	9:8 10:21 21:18	carpentry	17:18 21:4	22:3,7,10 41:13
113:9 117:23	29:18 31:22	17:5	49:22	50:25 132:17
burden	39:16 40:4	Carrie	changed	133:8,11,13
114:9	42:19 45:19	12:16 13:2	16:2 78:11,13,18 142:12	141:14
burn	46:20 50:2	carrier	character	claiming
121:16	54:21 57:25	94:4,6 128:12	105:15	26:23 52:24
burning	61:3 65:6 68:24	carriers	Charlotte	53:2 141:5,7,9,21 142:1,4
106:23 112:24	75:11 80:6	122:18	19:9,11,12	Class
115:1 121:24	82:25 83:19,22	case	check	122:4
138:5 140:24	95:16 101:12	8:9 25:14 51:9	79:11 132:21	claustrophobic
business	107:9 108:17	86:3 108:6	checked	56:15
19:19 31:11	110:6 111:6	118:9 122:18	41:18	clavicle
butt	115:16,18,21,24,25 116:3,21,22 129:21	134:22,23	checks	50:18 109:4,12,13,14 111:17
92:21,23 97:22,23	131:7,16	135:2,3,6	15:10,14	118:2
bye	133:14,15	136:17 137:8	cheek	cleaned
140:3		138:1		96:1 111:17
bystander		caseworker		
		51:22		

clear 79:11 137:13	122:6	complained 53:7	16:14,15 59:19	counts 12:17
Clemson 67:8	comfort 97:25	complaining 52:6	conversation 97:15 131:22	County 13:8,11,16
clock 126:18	comment 97:13	completed 63:2	convinced 49:9	couple 11:16 37:25
close 40:14 80:18 116:14 127:7 129:21	comments 61:20	complicated 138:16	cooler 39:24 40:18,25 128:22,23	45:25 54:9 97:19 112:19 114:12 116:24 123:12 136:20
closer 74:17	commercial 16:12	components 128:21	coolers 128:25	court 6:22 8:25
closest 70:20	communicated 93:9	computer 120:19	copy 86:8	covered 65:19
closing 128:19	communication 128:5	concerned 36:6 97:7 109:21 135:18 141:1	cord 55:14,24 58:11 130:16	crane 81:9,10,12,13
clubs 24:16,21	comp 22:3,7,10,17 51:9,24 107:3, 23 113:11 114:3,4 120:8 131:25 132:14 133:8,11,13 134:2,22 135:3, 6,11,14,16,25 136:15,17,24 137:8,20 138:1, 14,18 139:24	concluded 143:25	Corner 16:17	crawl 60:19
CO2 59:24	companies 18:25	concrete 39:18	correct 6:11,13 8:18 26:17 29:22 48:18 49:19 52:22 68:17 69:8 71:12,16, 20 73:17 74:23 75:20 76:11 80:16 86:19 87:9,10,11,25 93:7 96:14 112:18 119:21 137:11,12	criminal 25:1
coals 116:2 121:24	company 6:8 14:14 15:24 16:2 18:11,24 19:19,21 20:1,7 62:10,13,19 65:10 100:20 103:1 121:1 128:13 134:24	concussion 43:5	conscious 33:16 95:7	cross 75:25 76:17 121:11
coffee 17:4	company's 14:15	condition 44:24	considered 123:16	crossed 71:23 76:18,24 77:3
collarbone 50:18	compensation 20:16	contact 68:7 82:4 125:21	couldn't 34:3,6 49:3 50:11 51:6 55:10,11,12,16, 17,20 57:4,5 81:3 91:25 92:7, 11,14 106:14 109:25 110:1 113:23,24 114:13,14 130:14 138:21 139:15	cuff 29:5,7 104:25 109:3,11 117:25
collided 72:15 82:15 83:1,14 84:1,7	complain 53:5	contemplated 143:15		curly 90:22,24
collision 81:22 85:9 89:11 90:9 93:17 98:24 100:8 125:9 126:5		continuing 48:6		current 12:9,23
color 77:12 78:9,14		contract 18:24		cut 110:23 111:9 116:16,18 118:15
Columbia 9:12,13 13:6,8 18:6,7 61:7		control 9:25 15:13 108:11		cuts 102:13
combination		convenience		

D	99:2 119:19 124:7 127:11 143:8	6:19 7:24 8:9 135:19,20 140:14 143:25	disability 119:17 132:13, 17,19,21,22,24 133:6 134:13,19	119:7 120:8
D&p 15:24 16:7,8 20:17 21:2,10 22:11	days 47:21 52:7 129:8,25 131:15	describe 142:3,6	disassembling 128:21	document 86:12
daddy 14:5	day's 63:5	Desilva 111:25	disc 44:12,16	documentation 61:13,16
daily 61:21	dead 85:3 91:11 125:4 127:3	details 128:18	discomfort 46:2 140:23	doesn't 77:15 139:12,23
damage 42:23 50:16 98:16,23 105:4 130:16 131:8	deal 60:20 109:4 114:6 140:11	determine 79:7	disconnect 60:21	dollar 133:4
damages 141:6	dealing 115:15	determined 45:5 64:17	discs 119:4	dollars 20:21
damn 88:20 115:25	dealt 63:3	device 119:6	disease 44:12	don't 7:17,19,23 11:4 12:17 13:17 15:4 24:8,12 27:11,12 28:23, 24 30:8 32:1,3, 23 33:5 34:14 35:11 39:12 42:15 43:9,12, 19 44:1,3,10 45:3,18 47:11 48:9 49:16 51:8, 23 53:7 54:8,12 59:6,7 60:24 62:2 64:9 66:2, 12 67:4 68:24 70:6,8 71:25 72:5 73:13,15, 24 77:19,20 79:7 80:11 81:10,12 82:24 83:8 84:1,6 85:7,17 88:3,13, 14,24 89:17 90:19 91:1 92:3 94:10 96:2,6,9, 10 97:18,19 99:8,12,17,24 100:2,3 101:9, 14,24 102:14,16 103:7,12
Dana 12:20	debris 128:24	diagnosed 23:10 44:12	diseases 23:10	
Dasilva 110:11 112:6 117:11 118:6 140:1,4	deceased 13:2	diagram 86:11,23 88:2,6	dislocate 39:12	
date 6:13 13:21 28:11 129:19	December 112:8,9,10,15	didn't 22:1 33:1 41:19 51:15 55:15 63:2 79:9,10 80:10 81:3 87:15 91:11 93:12 103:15 106:5 110:15,16 111:1,3,7,20 114:16 117:11 120:19 136:25 137:15 139:22, 24	dislocated 28:6 35:13,14 36:13,21,22 105:1,22	
dates 10:16 11:4,15 108:17 130:3 133:15	defendant's 98:3,5,7 117:2,4	die 129:9 143:20	dislocates 105:10	
David 35:25	defensive 79:7 85:25 94:23	difference 49:22 136:10	dislocation 47:19	
day 18:8 41:25 45:24 55:19 59:12,15,17 61:4,16,22 63:2, 3,5 64:3,8 65:25 67:18,19,21 95:3 98:12,16	degenerative 44:12,16,24 45:4	direction 71:12 75:15 79:11 85:20 125:5	distance 77:15	
	degree 84:20	directly 60:8	distracted 94:12	
	degrees 33:16		distress 141:14	
	Dennis 14:16,17		doctor 29:12 45:8 49:5 54:21	
	Dentsville 9:16		doctors 36:2 47:12 49:21 113:7 116:5,7 117:9	
	deposition			

104:11,19 107:12 108:12 110:13 111:19 113:21 116:13 117:18,19 118:16 119:13, 23 120:6 122:20 123:10 124:2 125:11 127:24 128:22 129:24 130:3 131:19 132:3 133:4,16, 24,25 134:7,12, 17 135:15 136:9 139:5,11 140:10 142:10,15,24 143:5,7,13 door 92:8,25 93:1 drain 59:25 draw 64:17 drilling 21:24 drink 8:3 96:10,11 drinks 129:1 drive 95:2 121:4,5,6, 8,10,12,13,15, 17 127:8 driven 62:18 72:23,25 driver 68:4 69:6 78:2, 23,25 79:7 85:25 90:14 94:23 124:20 125:1,8	drivers 99:12 driver's 74:6 95:8 122:1, 3 driving 62:3 65:9 66:24, 25 95:21 96:4 98:12 99:1 drove 85:24 95:2,7 128:1 drug 25:12 52:1 107:4 drugs 8:13 96:10 Dry 67:20,21 due 139:1 DUIS 96:9 Duraclean 13:4 E ear 79:3,23 80:8,14 81:17 earlier 18:13 45:11 59:17 86:10 101:6 103:22 113:23 124:17, 25 130:5 east 68:24 eating 94:17	eats 143:6,9,14 educated 24:9 89:19 elapsed 42:13 elbow 33:20,21,22 Elementary 9:16 emotional 141:5,10,14 142:16 emotionally 142:12 143:2,14 emotions 142:13 employee 20:19 employer 40:13 end 82:17 84:8 87:17 93:3 105:24,25 109:18 118:2 ended 120:22 enter 72:19 entered 68:6,7 72:12 entering 72:20 85:5 entire 98:21 entitled 133:7 entrance 85:1 Equipment	6:8 evaluate 123:23 evaporators 40:23 eventually 29:19 92:12 113:12 exacerbated 50:5,6,7 Exact 101:24 EXAMINATIO N 6:5 122:15 128:10 examine 47:18 excuse 50:2 51:25 75:20 Exhibit 98:3,5,7 117:2,4 Exhibits 98:2,15 116:25 117:14 existence 14:17 exit 70:4 expense 114:8 explain 28:3 30:16 72:1 76:5 explained 29:16 42:7,10, 12 111:14 explaining 50:16 explanation	7:6 expression 125:7 extent 141:13 eye 21:12,24 22:2 68:7 125:21 eyes 127:1 eyesight 77:16 F face 68:13 125:6 126:18 faces 36:5 fact 143:7 fairgrounds 69:3 faith 114:19 fall 37:3,11 39:14 43:6,23 104:4 128:16 139:12 fallen 139:1 falling 55:9 114:13 138:21 falls 39:8 138:23 familiar 60:4 72:24 family 13:18 22:24 129:7 142:9
--	--	--	---	---

fan 127:20	97:17 104:22 136:11 139:4	finished 9:21 64:7	foot 30:19 33:12 85:15,19 106:13	65:17
fast 26:5 77:6	felt 33:24 34:14 35:22 38:20 42:5 58:15 102:12 106:13 114:17,25 133:1 143:19	fire 89:20 97:17 116:1	forced 14:2	friend 30:18 31:2,4,7 32:22 40:2
fatigue 143:12		fires 18:11	Ford 35:25	front 26:3 62:13 72:11,21 77:4 79:16 81:4,22 82:17,18 83:24 84:2,18
fatigued 56:11		firm 135:8	forever 124:3	full 8:20 56:6 106:12
faucet 61:10	female 124:12	Fish 24:18	forget 39:12	full-time 13:3 38:5
favor 130:23	fight 55:20 133:5	Fisher 22:20,21 23:8 41:7,17,24 42:5 44:14,21,23 45:7 129:7	forgot 41:6 43:23 95:16 110:13	Fulton 46:2,3,4,22
fear 41:23 129:8	figure 9:10 18:20 71:5 77:17 130:25	fit 131:18	form 128:4 141:12,17	functioning 106:9
February 56:19,20 133:17	figured 46:1	flake 21:23	Forty 77:8,10	fuse 113:15 119:6
feel 7:18 33:22,23 34:13 54:22 55:12 58:2 86:24 113:3 114:14,16 115:19 140:10 142:10	file 22:3,7,10	flat 25:20 26:1,2	forward 132:25 142:17	fused 53:17 57:17,18 118:21
feeling 56:7 91:21,23 115:21 143:12	filed 25:14	flea 59:21	found 29:8 43:1 45:4	fusion 129:16 131:4 137:10 138:2 139:8
feelings 142:16	filing 111:15	floor 39:18 41:1 128:23	fountain 17:3 59:17,22 61:12 66:15	fusions 116:20 118:10
feet 56:7,14,16 59:4, 6 77:20 92:19 112:14 114:17 115:18 130:15 138:17,20 139:9	finally 11:7 29:4 46:1 113:8 114:18	Florence 6:5,7 40:4 63:25 97:18 101:11 118:25	four-foot 28:5	future 119:8 142:22
fell 28:5 30:13,21 32:19 33:7,8 37:5 42:10 47:16 48:2 52:14 55:18 92:13 96:13	financially 114:7,8	flow 58:10	four-way 72:18	
	fine 11:5 38:23,25 41:7 101:16 111:14,20 122:25 129:22	follow 76:15,23 103:10,15	fracture 109:3	G
	finger 94:25	follow- 122:20	frame 20:14	
	fingers 45:12 115:21	follow-up 48:22 56:4 107:18 108:4	Frankenmuth 128:13	G-A-S-T-O-N 9:2
	finish 24:14 61:14 137:5 142:25		free 7:18	G.A. 6:8
			freezer 30:19 31:3 32:8, 18	gallon 60:14
			Freon	

Garerro 11:13,14,18	77:16 98:17 122:16 123:1,3 130:3	32:24 33:16 45:18,20 46:12 48:6 67:4 82:13 89:18 90:17,20, 21 97:8 100:1, 18 117:23 120:6 127:24 134:7,16 139:25	46:8,10 68:5,9 106:25 115:20, 23 116:24 126:20 140:2	140:13,21
Gaston 8:25 9:1,2	goodness 35:2	guessed 63:11	handed 115:24	HD 65:11
gave 23:21 46:13 55:23 107:19	Google 73:2	guessing 21:17 23:3 46:17 56:21 63:11 108:16 113:23 126:12 136:21	hands 36:7 55:11 56:8 57:12 59:4,5 106:15 114:15 115:22 126:15 130:15 138:4	head 7:2 17:23,24 37:5,9 39:15,17, 21 41:4 42:11, 24 52:15 61:11 91:24 92:1 94:19 106:24 110:6,7 129:5
gentleman 33:4 96:17	gosh 104:17	Gulf 16:16	happen 28:10 31:10 32:21 125:14,16	Headache 115:24
gentleman's 14:16	grabbed 126:10	gunned 82:8	happened 22:1 28:25 30:16 37:24 40:24 41:25 42:8,10,12,13 48:3,8,23 50:14 51:7 53:3 59:9, 13 61:5 64:25 67:1,12,23 68:15 71:10 83:9 89:11 97:10 113:20 114:4,20 121:21 125:16 126:13 142:21	headaches 27:11,18 51:13, 14,15,16 52:11, 13,14,17,18 106:22 112:23 113:5 114:24 115:25 138:5 140:24
gentlemen 101:5	grade 9:21	guy 19:25 47:10 85:22 88:20		headed 69:3,6 70:15 75:15 77:13 90:22,24
Georgia 16:18 18:7	graduate 9:18 120:19	guys 36:2 112:25 115:16 131:18, 20 133:15,24 139:22		heal 114:11
gesturing 33:19 126:11	graduated 21:7			health 35:19 141:6,19, 21,25 142:3
Gillespie 19:24	grandchildren 94:24	H	happening 32:16 67:24 89:12 135:19	hear 138:12 139:22, 23,24
Ginny 122:16	granted 110:9 119:16 133:6		happy 123:4	heard 88:25
give 10:21 14:25 18:2 20:16 24:1, 7 35:7 37:16 40:17 61:18 95:10 110:4,24 118:15 119:14 129:21	grass 71:2		hasn't 135:20	hearing 135:14,17,21
giving 104:20 138:24 139:2	grateful 133:6 142:17		Hatchery 24:18	hearings 135:11
God 24:19 114:11 133:6 143:20	great 36:6 53:8		haven't 25:24 26:21 58:21,22 59:1	heart 95:15 143:10
golden 142:25	green 68:2 78:7,10,13, 16,20 125:20, 22,24 126:2			
good 6:6 11:25 27:12 31:4,7,10,24 36:3,4,5 38:3,4 41:12 52:3	Greensboro 19:9,13,14	hadn't 46:24 48:15,20 85:3		
	grinding 111:16	hair 90:21		
	grocery 121:11	half 37:25 48:3 60:25 108:3 118:1 119:4		
	ground 92:13,19	hand 33:15 45:12		
	guess			

heavy 60:7,16	83:3,17,20,22 84:10,18 85:10, 12,22 86:1	101:18,20 102:1,11,18,24 103:1,8 104:11	I	incorrect 86:21,22 88:2
hell 68:14 91:11 131:19	87:15,16 88:12, 16,20 91:13 126:8 127:4 129:5	107:19 hospitals 35:10	I-20 67:9 I-77 125:20	indicating 33:20 34:12 46:7 73:16 74:8, 10,11,21 75:7,8, 13,15 76:1,10, 13 87:3,7,8 116:1 126:14
helped 96:23 97:23 99:5	hitting 41:2 88:11	hot 92:14 116:2	ice 41:2	information 55:23 140:10
helping 30:18 31:2,19 32:7 96:22 97:12	hold 11:4 35:11 91:1 130:3 132:3	hour 21:6 80:24 85:6, 7	idea 18:2 20:16 28:25 45:2 46:6 66:24	initially 114:23
helps 7:1 69:5	holding 78:25 79:1	hours 18:3 60:25 61:1 62:12 102:9	identification 98:4,6,8 117:3,5	injections 43:15 53:13 113:9
here's 74:6,18 113:14	holes 117:12,13,23	house 62:9 63:22,23 64:21 65:2 66:19 67:7 121:11 143:3	immediately 33:23,24	injured 30:10 51:1 52:25
he'd 84:19	Holland 63:7	huh-uh 7:3 38:15 43:19 86:4,10 93:15, 18,20 97:11,13	impact 121:23 126:12	injuries 7:13 14:22 15:20 21:11 22:6 26:9,10,22 37:3,4 106:19 118:9 119:25 120:5 129:4 140:13,17
he's 20:9 31:7 47:6 69:22 74:8,10 79:14,15 81:9 123:22 130:7,8 137:21 141:13	hollering 90:12	human 36:6	impingement 55:13,24	injury 21:19 22:4,9 25:15 28:22 41:13 50:8
high 9:17,18,22 10:3 13:25 14:8 23:13,14 95:5	home 22:2 24:2 36:15 62:21 64:19 95:3 102:23	hundred 20:21	important 140:12,16,19	innocent 96:20 97:6
highway 78:12 86:4	honest 43:24 45:2 82:24 103:13 116:15 133:2 141:10	hurt 34:1,2,15 35:3 43:10 89:13 104:18,23 109:25 110:2 138:23 143:12	impression 104:21	input 88:3
hip 30:22	honestly 78:6	hurting 29:1,13 37:22 45:21,24 91:24 92:1,20,24 106:23 110:4	improve 139:16	inside 32:18 39:24 128:5
hired 122:17	hook 60:22	human 36:6	improved 115:10	Install 31:3
history 24:14	hooks 60:13 82:21	hundred 20:21	improvement 130:19 131:10	instinct 34:17 85:15
hit 37:5,9 39:15,17 41:3 42:11 52:15 68:12 72:9,11,22 76:12 82:17,22	hope 35:9	hurting 29:1,13 37:22 45:21,24 91:24 92:1,20,24 106:23 110:4	inch 109:17 118:1	
	hoping 114:10	HVAC 17:2	incident 47:3	
	hospital 34:19,20 35:5, 19 37:15 86:6	HVACS 17:12	included 141:14	
			including 12:25 68:8	
			income 134:14,18,19	

insurance 41:16 114:2,5 128:13 135:25	it'd 130:1	60:4 61:9 63:11 64:12 66:24 68:21 69:18 70:8 71:5 72:1 73:4,9 74:3,14 75:5,7 76:2,5,23 77:17 78:2 79:6, 15 80:11,20,22 82:23 83:6,7,15, 19 85:10,25 86:15 87:3,5,24 88:8,16,23 89:7, 8 90:22 91:16, 20 92:22 93:21, 22 94:23 96:22 108:16,20 110:4 112:24,25 113:1,23 115:12,24 116:14,15,17, 18,19,22 117:10,25 118:25 119:2 120:18,22,23 121:25 122:23, 24 123:1,3,4,11 124:5 126:12 128:11 129:23 130:3 133:14 134:16 135:18 136:6,21 137:5, 24,25 138:4 139:6,10,14 141:1,9,23 142:6,7,9,10,17, 24 143:1,12	59:3 63:11 72:25 74:4 77:16 88:24 89:19 95:1 97:16 118:16 120:6,18 121:24 122:10 123:24 124:4 135:23 137:5 142:8,13 143:5	128:11
intent 49:13 142:21	it'll 119:9			joy 142:14
internal 42:23	it's 14:12 59:19,20 63:7 64:1,15 65:3,6,10 66:19 67:14 72:18 73:24 74:17 83:9 95:13,18 97:16 104:18 115:10 116:1,2 120:14,23 122:4 123:13 124:2 125:14,15 133:16,23 135:23 138:11 142:12			judge 135:16
interrupt 130:10				July 108:21 129:23
intersection 67:17 68:7,16, 19 70:11,15,16, 18,22 71:19 72:4,5,6,7,12, 13,21 75:17 76:20 77:1,6,14, 22,24 78:5,20 79:19 80:2,19, 20,23,25 81:16, 21 82:10 84:25 85:1 125:19,25	I'd 18:1 23:6 42:10 46:1,21 50:13 51:11,13 55:16 66:6 75:4 88:19 108:10 114:17 142:22			June 108:20,21 129:23
intersection's 68:1	I'll 7:2,8,20 73:6 105:13 131:2 142:6		J	justify 77:15
involved 22:18 25:18 26:6 89:1 128:12 140:20	I'm 7:9,10,12,13 11:15 12:3 14:25 15:3 18:20 21:17 23:3 24:9,18 27:15 28:11 36:3,4 43:22 44:5,25 45:19 46:17 53:2 54:11,21 56:13, 18,21 57:2,10 58:13,23 59:6		jail 25:4	K
involvement 136:15			James 47:15 103:20	Keenan 9:17
Isgett 135:7			January 132:20,24 133:17	Kemper 20:1,5,6,8 62:2
isn't 86:21			Jesus 105:12 142:14	kicked 32:20 33:11,13
issue 51:10 114:5			Jim 31:21,22,25 32:3 33:4 35:1	kids 11:18
issues 18:12 27:12,20 45:12 56:16 58:7,24 60:2 63:1 115:12,14 131:5 137:9 138:1			job 13:3 15:16,25 16:19 17:14 22:6 30:23 38:6 40:5,8 45:22 60:24 61:2 63:21 64:2 65:25 66:13,20 67:3 114:2 120:12,13,25 121:1 142:11	killed 91:8 122:10
			jobs 18:11 20:13 61:14 63:18 64:7 120:15	killing 92:23 93:4 97:23
			John 22:21 41:7	kind 7:3 13:19 14:2, 5,10 15:25 23:25 29:9,17 31:19 33:18 40:11 45:18 58:10 62:14 65:7,13,18 72:18 82:22 91:9 92:5 97:25 105:4 107:6 109:23 111:7 122:10

kindness 35:2	14,20,22 71:6, 11,15,18,20,23 72:10,14,16,17 74:9 75:2,3,4,6, 9,10,13,14,19, 21,24,25 76:2, 17,18,21,25 77:13 81:21 83:13 86:24,25 87:2,3,5,6,7,8, 19 88:1 89:5,9 124:19,21	leading 59:15	57:12,24 59:4,6 114:16 115:16 130:14 138:17, 21,24 139:1	lingering 115:14
knew 34:15 35:4 44:2 50:10,13 51:6 54:14 64:1,2,15 68:12 89:3 95:4 104:7,9,14,21 110:25 111:5 114:6 125:14 137:14		leave 62:10 111:4 128:1	let's 23:2 28:9 56:23 105:16 125:5 131:11 138:16	listen 127:17
knock 128:20		led 138:1	Lexington 22:24	literate 120:19
knocked 40:23	lanes 69:7,14,23 70:12,21 71:16 74:23 75:23	Lee 29:6 47:8 61:7 66:2,6,16 67:2,8	Liberty 122:17	live 9:5 13:5,6,7
knowing 85:10	lane's 76:25	left 10:3 14:5 19:21 27:2,6,16,24 28:1,6,9 29:22, 24 33:20 36:3 39:5 45:21 46:7 47:24 51:1,4,5, 7,10 52:4,11 54:22 62:8 65:24 66:14,18 67:8 68:5 69:8 70:1,3 71:15,18, 20 74:9 75:4,5, 9,19,21 82:2 86:12 92:23 97:22 106:22 111:15,16 115:2 121:18 124:19 126:8,18 128:1 132:9 138:8,9 139:18 140:4,24	license 95:8 122:2,3	lived 9:3 63:10
Ks 16:16	language 52:1		licenses 122:3	loaded 94:25
L	large 13:18		life 9:14 11:8 32:3 49:1 51:14 79:8 85:24 89:16 95:4 108:11 143:8	locally 24:16
ladder 28:5 30:14,20, 21 32:13,14,17, 19,20 33:9,10 47:17 48:2 104:4,22 106:12,13	Larry 14:16		lifetime 95:3	located 63:6
ladders 38:6 65:17	lasted 12:4		lifted 140:2	location 31:15,16 61:19
ladies 61:10	late 21:17		lifting 60:7	locations 16:20,24 18:4
lady 11:8	lawsuit 6:9 25:15 128:12 141:15, 16	left-hand 69:19	light 68:2 69:20 77:12,18,22 78:6,7,9,12,15, 21 79:7 125:19, 22,24	location's 65:8
laid 26:2 79:10	lawyer 133:14 135:9	leg 26:7,11 33:10 138:20 139:9	limbo 58:23 107:2	logging 81:7
landed 30:22 33:18	lay 92:20 99:21 116:22	Legacy 6:8	limit 77:9	logic 88:15
lane 69:11,15,19,24, 25 70:2,3,4,6,7,	layer 26:11	Legally 141:9	lines 30:20 32:18 59:24,25 60:18 72:6	long 7:24 8:6 9:3 10:10 11:2,14 14:12 15:18 21:1,2 22:25 37:18 45:24 60:23 64:2 66:1, 23,25 97:18 102:17 108:14 113:21 121:5,15 124:2 136:17 142:18
	layman 141:13	legs 55:8 56:7,10,16		longer 28:17 134:11
				looked 18:3 51:11 68:2

79:8,12 80:7,9 105:14 110:11, 16 113:13 123:11 124:14 125:1,8 129:11 140:4,6 loose 28:7 29:8 110:23 111:9 Lord 13:20 142:14 lose 131:2 losing 55:18 lost 55:8 114:2 142:13 lot 7:18 17:11 18:10 19:11,13 27:12 45:21 46:9 50:15 51:3, 10 55:10 57:11, 22 58:2 60:2 66:13 91:23 95:2 109:22 113:3 114:19 115:22 122:19 142:13,24 loud 89:14 loved 98:9 121:1 lower 27:15,17 52:25 53:6,7,11 54:17, 18 58:6,20,21 86:11 114:25 116:7 123:8,10, 11,19 130:7,15 138:17	Lozanne 46:24 47:2 54:10,13,25 56:10 113:13 114:18,22 119:9 123:20 129:13 luck 64:18 lunch 61:3,6 66:3,4,5, 6,16 M machine 59:17,23 60:8,9, 11 66:15 machines 17:3 61:12 made 16:3 46:21 52:10 68:7,10 72:21 81:25 82:1,4 83:11,12 84:19 85:19 87:24 91:7 92:17 97:13 137:12,18 magic 88:19 maiden 11:1 main 51:11 56:9 91:25 115:16 maintained 16:14 maintenance 16:9,24 17:1 89:25 make 35:2 41:11,19	61:20 79:11 99:25 104:12 108:7,8 140:22 makers 17:4 makes 13:23 68:14 76:9 82:6 136:10 making 68:5 69:8 103:16 male 124:11,13 man 54:14 88:19 90:22,24 91:14 105:10,13,22 106:10 114:19 116:21 142:7 man-made 116:18 management 52:2 106:20 108:41 113:6 map 73:2,6 marathon 7:25 March 28:4 30:13 55:4, 5 131:14,18 marked 98:1,3,5,7 116:25 117:2,4 market 59:21 marriage 10:19,24 12:3 marriages 10:17 11:7	married 10:6,10,14,22 11:3,14,17 12:1 material 64:4 ma'am 122:23 123:17 124:15 127:6,14 128:7,9 Mcfadden 47:15,16,21,23 48:7,21 49:12, 25 50:9 103:19, 20 104:1,5 105:8,21 107:2, 17,18,21 109:24 118:1 Mcfadden's 117:10 meant 45:2,4 111:18 median 70:21,25 71:1,2 76:6 medical 22:24 24:13 129:6 136:3,5,8 137:9 138:1 medication 8:13 23:17,18 24:2 53:14 113:9 medications 23:15,16,19 24:3,10 38:11 52:17 103:11 141:24 meet 13:20 member 24:15,18,20	Memberships 24:23 mental 141:5,15,19,21, 24 142:3,13 mentioned 45:11 50:25 69:6 123:7 124:8 mentioning 123:10 merged 67:22 68:3 70:13 mergers 16:3 merging 74:18 75:7 Merrit 12:20 messing 94:14 met 47:4,16 metal 21:12,23 Michael 13:12 middle 9:16 70:20,25 72:6,19 76:19 79:19 85:4 mileage 63:12 miles 63:12,13 80:24 85:6,7 114:17 mind 7:5 118:13 minute 91:10 100:12
--	--	--	---	---

112:25	133:17 134:10	107:23 110:12	112:20 113:6,8,	note
minutes	136:20,22	113:7,8,14	17 114:23	88:6
67:5 121:23	morning	114:21	115:3,8 116:20,	notes
mirror	6:6 57:4 61:23	MRIS	21 123:24,25	39:17
65:22	62:9 63:17	44:6,10 54:9	129:16 131:4,8	notice
mischaracterize	86:10 102:19,23	140:7	132:6,13	122:18
80:12	113:24 122:16,	multiple	136:13,18,23	noticed
missed	19	55:18	137:1,10 138:2	45:22 68:3,8,10
128:15 129:19	mother	muscle	139:8 140:23	November
mistake	12:21 14:4	53:13	needed	39:14 139:7
91:7	motor	Mutual	17:5 47:12	Novocain
mistaken	25:18 26:15,19	122:17	55:25 63:3,24	115:20
117:25	48:4 53:22 57:6		64:4 103:10,14	numb
mode	motorcycle	N	106:14 107:3,6,	51:5 114:18
91:6 92:5	25:19,25 26:1,		21 108:9 109:7	115:19
moderate	12 122:5	Nah	110:12 119:13	number
115:11	motorcycles	26:10	nerves	55:24 58:9
mom	122:7,11	named	46:14	86:17,19 93:25
59:20	move	20:1...	nice	94:2 95:10,20
moment	33:9,10 34:9	names	6:24 29:10	98:3,5,7 117:2,4
89:19 124:25	50:11 55:10,17	12:15 13:10,15	night	numbers
Monday	57:5 60:15	16:2 36:3,4	29:15	86:16
37:20 52:10	72:20 79:12	National	ninth	numbness
103:24	110:2 114:14	9:25 15:6	9:21	106:23 138:4
money	115:17 116:20	naturally	nod	nurse
114:5	143:21	34:17	7:2	51:9 108:6
monitor	moved	nature	noise	nursing
102:9	31:18 75:11,13	16:4 18:12 38:7	92:3,4 127:18	13:3
month	79:5 81:20	79:4 82:9 86:5	noises	
10:21 30:8	84:23	112:13	89:14	O
37:25 48:3 55:4,	movement	neat	Norco	oath
21 104:19,23	60:8	6:25	24:9	8:17
108:2 113:25	moving	necessitated	normal	object
130:20 134:15	66:13 74:1 75:9	137:10	30:5 78:2	141:12
months	79:24 80:9,15	neck	north	objection
30:14 37:25	81:18 106:8	26:25 27:8,17	19:8 68:24 69:2	141:17,18
48:4 52:2 54:11	MRI	37:10 38:19,22	northeast	objects
56:3,4 57:3	29:18 35:8	39:18 43:10,15	61:7 66:18,21	116:19
58:12 106:20	48:10,17 49:18,	44:7 49:7 52:12,	67:3	occurred
113:22 114:1,12	22,23 55:23	25 53:6,8,11,19	Notch	6:10 39:18
119:10,14 124:4	56:14 58:5,6	54:1,3 57:18,19	31:13	
130:19 131:2,12	104:3 105:3,17	58:16 73:24		

October 53:20 55:3 56:2, 18,23 57:2,13, 14 58:14 118:20 130:6 139:6 office 15:16 62:9,25 63:6 64:16 93:10 111:2 officer 101:10,19,23 135:16 oil 18:24 on-the-job 14:22 15:20 21:10,19 40:7 41:13 oncoming 71:16 one's 12:4 ongoing 131:5 139:17 open 65:19,20,21 92:8 93:1 opening 31:12 operator 15:7,9 opinion 141:10 opportunity 95:4 opposed 7:2 124:18 opposite 69:7,22 option 40:17 85:22 95:4	order 61:18,20 71:23 75:23 ordered 113:8 114:21 orders 20:3 61:17,24 62:23 63:15 orient 73:12 oriented 74:15 orthopaedic 36:16 46:23 47:6,8 103:15 orthopaedist 46:19 outstanding 136:5 overhead 73:15 Overnight 102:20 overview 73:2 owner 19:18 20:6,9 100:15,20 101:1 103:1 owners 19:23 owns 32:5 o'clock 126:19,21 P p.m. 144:1 paid 134:1,4 136:8,	12,13 pain 23:19 24:1,3 27:15 30:3 33:23,24 34:7, 10 37:10 38:8, 10,11 39:2,5,18 42:5 44:20 46:9 50:10 51:3,25 52:2,12 53:8 91:23 102:3,12 103:11 106:20 108:11 109:24 110:7,21 111:10 112:24 113:5,6 114:25 pains 38:16,18 palm 46:9 panic 91:5 92:5 Pantries 16:17 Par 8:25 parallel 84:19 part 62:14 70:21 82:15,16 111:16 116:10 121:21 128:15 132:11 141:16 partially 140:19 parts 118:14 passed 10:13 13:19 14:4,5 124:24 125:10	passenger 99:20 127:25 128:2 past 111:5 path 46:13 Patricia 11:13 patrolman 86:4 pay 21:4 94:10 132:22 133:1 135:25 136:3 paying 20:20 134:2 pedal 85:20 people 16:3 99:5 101:7 percent 18:1 38:4 87:13 89:7,8 105:14 120:10 132:1,4, 5,12 percentage 120:10 perform 61:20 period 66:1 124:4 Perry 19:24 20:2 person 97:4,6 142:10 personal 25:15 40:21 41:16 45:5 62:4 personally 16:19 90:9	ph 90:21 Phillip 6:6 phone 52:10 68:9 78:25 79:1,10 80:8,14 81:16, 17 93:5,6,10,16, 19,23,24 94:2 99:15,18,22 100:1,3,19 127:22 128:6 Photo 98:4,6,8 117:3,5 photographs 98:20 physical 120:12,14,16 physically 99:10 140:6 physician 22:19 23:1 108:4 120:3 123:18 129:7 pick 62:23 63:24 64:4 picture 73:22 74:16,17 76:3 77:14 116:23 pictures 74:4 81:6 98:10, 15,19,20,23 116:24 117:1,7, 14,17,20 118:8, 11,14 119:2 piece 21:12,23,24 place 31:11 60:12
---	---	--	--	--

placement 124:17	23:19 24:4	45:21 58:4	purposes 98:4,6,8 117:3,5	
plan 142:19	presiding 135:16	137:14,19	put 18:14 30:18	R
plastic 40:24 128:24	pressure 23:9,13,14,17	138:13,16,20	32:7 35:18 36:9	rack 60:13
129:2	58:10	139:9,10,18	37:15 41:22	radiating 106:24
playing 127:15	pretty 10:2 15:14	141:11,21,25	59:17,22,23	radio 93:13 127:15,17
point 44:2 49:13 77:3	29:15 33:21	142:4	60:1,14,21	128:4
85:4 89:12	38:3,4 39:15	procedure 117:24	68:10 79:23	radiographs 118:23,25
91:21 96:8 99:7	48:5 50:19	proceed 63:4 80:25	80:8,15 81:17	raised 9:13 95:1
106:14 130:24	67:21 72:9	proceeded 78:19	85:13,15 92:18	ramp 67:14 70:4
pointed 69:9	77:16 120:12	process 60:5,7,23	99:14 113:6	ran 15:14
pointing 87:4,5	139:19 143:6	processed 15:10	115:13 117:22	rarely 20:12
police 101:10,19,23	prevent 8:14	professionals 141:20	118:3 119:6	rating 120:7 132:1,14
pop 59:20	previous 10:16 12:2	prognosis 119:8	120:9 125:5,12	ratings 132:13
Popeye 110:24	pride 121:3	progress 130:8	129:8	Ray 8:22
POPWELL 95:18 118:23	Primarily 138:19	properly 141:4	putting 18:11 58:10	rayed 44:22
131:17 135:8,	primary 22:19,25	psychiatrist 141:19	Q	re- 29:10 59:23
10,20 137:21	print 73:2	psychiatrists 25:6	question 7:17,19,20 26:8	60:21
141:12	printed 73:1 74:5	psychological 141:20,25 142:4	31:24 48:6 49:8	re-anchored 28:8
positioned 126:4,6 127:10	prior 24:13 57:3	psychologists 25:7	78:8 120:6	re-hooked 59:25
possibility 123:8	125:2	pull 60:10,18	128:3 130:11	reacted 79:6
possibly 95:10 116:7	Prisma 35:6,9,11,19	pulled 59:24 72:11	135:17 136:6	read 6:25
120:17	problem 36:8 47:13	75:24 125:18,20	137:5 141:13	ready 33:25 40:16
prepared 64:5	61:18 74:2	pulling 81:1,7,9	questioning 12:18	
preparing 78:1	106:22 113:2,15	purpose 55:7	questions 7:10 8:8,10,14	
prescribed	115:16 136:25		122:13,14,19,21	
	137:1 139:11		123:7 124:6,16	
	140:5		143:22	
	problems 27:4,25 30:4		quick 56:1 81:20	
			85:21 125:11,12	
			quit 143:18,19	

80:25 127:3 128:20 real 33:25 41:1 55:14 realize 34:2 46:21 79:9 realized 34:1 68:13 125:15 reanchor 111:6 rear 93:3 rearview 65:22 reason 7:18 8:2 18:17 43:22 51:12 56:9 79:6 92:21 108:10 121:17 129:12,24 reasons 58:2 rebuild 40:17 128:20 rebuke 105:12 recall 9:8 14:11 22:8 25:24,25 33:6 39:7,14,16,20, 21,22 42:9 43:4, 14,19 44:11 45:10 52:5,14 61:4 64:1,20 66:9 75:11,12 80:6 81:10,12 82:8,25 83:8,19, 22 88:14 89:17 96:18 97:15 99:24 101:2,12	103:3,24 104:19,20 107:9 112:14 119:13 127:24 133:14 receive 26:8 37:3 61:24 107:14 131:10 received 53:11 106:18 132:21 receiving 43:14 recently 123:12 recognize 73:10,13,16 98:10 117:1 recommend 36:16 113:11 record 8:21 25:1,3 96:5 123:6 records 35:21 104:11 recover 37:19 red 69:20 125:19 redid 60:3 reference 107:18 referring 53:16 reflect 35:21 refrigeration 30:18 65:4 regained 57:22 region	19:6 regular 21:4 rehash 137:21 relate 57:6 121:20 related 23:11 59:2,4 141:6,20 relatives 13:7,11,16 relaxers 53:13 release 103:11 released 103:9 relocated 37:13 remember 6:16 9:7 10:17 15:4 19:2 20:14, 15 21:18,20 22:8,11 24:4 28:24 29:18 30:6 32:16,17 33:7 35:25 36:1, 2,5 37:7 39:8 40:4 42:4,20 44:6,8,10 45:19 46:15 49:2 50:19 54:12 59:12 63:14 67:24 75:9 85:8, 10,12,13 89:10, 11 90:9,10,11 91:10 92:14 93:1,22 95:25 96:21 97:21 99:4,8 100:3 101:15,19,22,24	102:7 103:7 105:8 108:12 112:7 123:10 124:9,11,14,21, 23 126:3,9 133:15 remove 60:20 removed 118:1 repair 29:7 50:21 109:2,11 117:24 repaired 130:17 repairing 109:8 report 69:1 86:3,8 89:6 95:18,22 reporter 6:22 report's 96:1 represent 6:7 128:11 135:2 represented 134:22 135:5 representing 135:2 represents 134:21 request 48:10 requested 108:5 require 60:7 required 32:12	resent 141:4 reside 8:24 respond 91:14 restroom 61:10 result 140:17 141:22 142:1,5 results 48:11,21,22 104:3 retire 20:2 143:17,18 retirement 142:19,23 143:15 retrieve 99:22 revamping 66:14 Richland 13:8,11,16 35:19 rid 111:9 112:23 113:5 114:24 115:24 116:3 ridden 122:7 Ridgeland 40:15 riding 89:21 road 19:22 59:19 61:7 65:3,6,7 66:2,6,7,15,16, 19 67:2,8,10,14, 23 68:3,16,20
---	--	--	--	---

69:13 72:19 73:17,19 74:18 77:9 78:12 124:22 125:18 128:1 roads 67:16 Rocky 6:7 Rogers 128:10,11 135:9 137:24 141:17 roofed 9:24 roofer 14:13,21 roofing 14:17 17:8 roofs 17:7,10 room 46:13 60:13 rotator 29:5,7 104:25 109:3,11 117:24 route 67:6 rules 6:18,21 run 64:6 114:17 runs 70:10 Rutherford 6:7	salaried 20:19 Saturday 37:20 Savannah 18:6 19:4 scans 44:7,10 102:6,7 140:9 scar 118:3 scene 86:5 100:7 scheduled 111:11 116:13 123:14 school 9:15,17,18,23 10:3 13:3,25 14:8 scratch 122:22 seat 93:2 97:24 99:20 127:9,25 128:2 seatbelt 127:13 seconds 97:19 sedated 102:2 semi 86:1 send 18:15 sending 134:3,15 separated 109:18 series	124:16 Services 15:24 16:7,8 21:2,10 set 51:22 60:12,18 93:2 113:13 128:25 settle 133:8,13 136:17 settled 136:16 137:3,8, 25 settlement 133:10 134:8,9 136:9,24 137:13,16,20 138:14,18 severe 51:15 severeness 115:11 severity 137:16 shakes 94:19 shape 91:23 Sharpe 6:5,6 8:22,23 11:22 12:16 13:12,15 122:15 128:10 131:16 shaving 21:12 shelves 40:25 shelving 128:25 she's 6:23,24 137:6	shocked 89:13 short 121:10 123:5 shortly 134:6 shot 115:19 shotgun 94:25 shoulder 26:25 27:1,2,6, 16,24 28:1,6,7,9 29:1,10,22,25 30:11 34:11 35:13,14 36:20, 25 37:2 38:2,8, 18 39:2,5,13 44:20 47:18,25 48:1,18 49:10, 14,19,23,24 51:1,4 52:5,11 53:9 54:1,5 58:18 91:24 97:22 103:17 104:23 105:10, 23 106:23 107:1,7,8,15,19 108:24,25 109:6,9,10 110:9,19,22 111:17 112:4,16 113:5 114:25 115:25 117:8, 15,24 121:16 130:25 132:4,7, 9,12 138:6,7,8 139:17,18 140:4,24 shoulders 27:3,4 49:7 shoulder's	119:9 show 61:14 73:1,6,21 74:4 86:8 98:1, 15,23 117:20 showed 36:19 42:15 showing 98:18 shown 121:24 shows 86:16 117:22 side 19:9 65:6 92:18 sideways 87:22 sign 72:19 signal 80:4 signals 130:9 signs 130:9 similar 135:22 sir 6:12,15 7:15 8:5,16,19,20 20:22 21:16 24:24 25:24 27:23 36:11,18 37:1,12 38:13 52:19 53:4,20 62:5 65:1 66:22 73:18 84:6 85:17 89:22 90:4 94:8,16 98:25 99:3 101:4 129:22 132:8,15 137:24
S				
safes 17:3 sake 137:6				

141:8	social	speaking	starts	stick
sister	24:16,20	124:8 141:18	121:24	130:1
13:9	socket	specific	state	stiff
sit	35:18	18:22 45:8	8:20 16:17	74:3 116:22
127:7,9	soldering	specifically	119:16 133:2	stitches
sites	32:18	120:4	statement	117:11
17:24	somebody's	speed	137:18	stop
sitting	116:2	77:9	statements	7:18 58:10
62:13 68:4	son	speeding	15:11	72:18 73:23
69:10 73:25	122:10	96:7	status	78:1 85:13
74:10 76:19	sort	Speedway	64:11 131:9	110:3
88:15 92:20	14:8 23:10 25:1	59:21 61:6	stay	stopped
100:19 143:3	33:19 36:24	Speedways	75:10 92:15	80:1 84:21
situation	44:7 108:12	63:15	102:17 139:15	88:16
114:7	119:6	spend	stayed	store
Sixty-two	sorter	133:5	95:6	19:1 40:14,16,
13:24,25	15:7,9	spinal	staying	23 59:19 121:11
skin	sorters	55:14,24 58:11	102:10	128:19
26:6	15:15	130:16	steel	stores
skinned	soul	split	21:24	16:14,15 18:25
26:11	143:9	80:17	steering	40:6 59:20
slamming	sound	spoke	121:19 126:9,	straight
37:7	68:14 82:6	86:4 101:5,7,17	10,15,17 127:8	70:14,17 75:19
sleep	sounds	111:2	stem	97:17 127:5
13:20 18:15	77:21	stand	53:3	strategically
27:11 109:25	sources	55:17 57:5 73:4	stemming	115:22
115:25 143:13	134:18	92:19 113:3	123:25	stress
sleeping	south	114:13 115:16	stems	143:13
27:20	8:25 9:25 15:6	122:24	58:3	stretcher
sleeves	16:17 63:7	standing	step	99:14
40:25	67:16 68:16,24	113:4 142:8	33:12	stripped
slick	73:8 95:8 122:1,	start	step-son	60:3
41:1	4	45:24 56:17	12:17	strips
sling	southeast	started	step-son's	128:24 129:2
37:16	19:6	17:17 21:6 22:2	13:2	strongly
small	span	29:1,12 79:20	stepped	106:6
19:19	64:16 107:13	80:9 81:18	41:2 129:2	stuff
smoke	spanned	132:24 134:6	steps	65:13,18 92:2
89:14,18 92:2	113:21	138:18	32:12	111:7 137:22
snatched	speak	starting	stepson	stunned
142:19	20:12 63:1	121:16	13:1	89:14 91:12

subdivision 26:3	109:10,19 111:2,11,13,25	taking 6:23 38:11 40:22 78:6 142:9	telling 42:4 50:20 54:21 97:15,21 102:8 105:8 110:19 131:23	56:3 61:17 64:25 66:9 67:4 69:9 72:4 75:3 81:25 82:4,5,21 86:6,20 87:11, 12,25 88:8,13, 23,24 89:4,18 91:9,19 93:21 94:20,21 97:14 99:1,20 100:15 101:16 104:5 105:6 109:2 110:3 112:18 113:12 114:21 117:8,10 119:2, 21 121:20 122:25 125:15 126:12 127:25 128:8 129:11 131:21 135:19 137:12 138:18 139:20 140:12 141:15
success 115:3,7	112:6 113:21 114:20,22	Talbert 108:13	tells 88:15	therapy 52:2 53:14 107:11
successful 29:25 109:20	115:3,8 116:13 117:8 118:20 119:3 123:8,9, 15 130:7,9,21 131:4,22 136:1, 13,18,23 137:2, 10 138:2 139:5, 8,16	talk 8:8 28:9 51:12 97:9 101:10 113:3	ten 9:24 14:13,20, 21 15:19 63:12, 13 96:1,4	there'll 60:13
sudden 29:13	surprised 79:9	talked 64:3 116:5,6 124:19 130:5 140:13,18,21	tendon 28:7 29:8 47:10 110:15,23 111:9,14,20	there's 11:6 14:17 58:2 69:18,19,23 72:5 75:19,20 76:6 84:17 85:11 96:6 119:10,12 123:23 140:3
suffered 43:5	surveillance 90:1,3	talking 31:23 79:4 90:14 101:19 105:18 118:25 138:7	tenth 9:21	they'd 18:15 24:1
suffering 39:14	survival 120:20	talks 88:6	Teresa 118:21	they're 33:16 59:7 134:15
supervisor 19:18	sustain 28:22	taste 122:11	term 50:17 124:2 142:18	they've
supervisors 19:15	sustained 26:23 37:4 119:25	taught 95:2 120:20	terminology 110:14 119:12	
supplies 63:24 64:23	sworn 8:18	teach 94:24	test 10:13	
supply 63:22,23 64:21 65:2 66:19 67:7	symptoms 131:2 139:16	team 17:25	testified 83:18	
supporting 142:9	sync 60:1	tear 28:7 40:16 109:11	testify 124:25 135:12	
surgeon 113:10	syrup 59:24 60:14 61:11	tearing 115:1 138:5	testifying 83:19	
surgeries 53:23 54:1,2,3,5 58:16,18 112:3, 16,20 113:19 116:6,7,10 117:15 129:16	system 30:18 52:2 60:2, 13 108:12	tears 36:24	testimony 8:9 80:12 81:11, 15 128:15	
surgery 23:24,25 29:6, 19,24 30:6 46:12,15 49:7, 10,14 50:23 53:15,16 54:15 56:18,23 57:3, 13,16,23 58:13 105:11,23,24 106:1,5,14 108:15,23,25	T	technician 16:9,11,12,13 17:23,24	that's 7:16 11:5 14:10 21:19 22:17 26:17 30:7 31:15,24 35:21 41:7 48:14 50:7, 19 51:6 53:2,3	
	table 123:13 140:22	Tedder 11:23		
	tail 82:17			

13:19 86:24,25 87:8 115:19 139:20 thin 19:20 thing 7:3 67:25 90:10, 11 91:25 104:14 121:20 135:18 things 16:3 18:12 23:7 38:7 107:13 140:20 143:4 thinking 11:15 43:21,22 96:22 thinks 131:4 Thirty-one 10:12 Thirty-three 21:3 thought 29:5 31:25 45:5 51:18 58:9 76:6 89:20 91:11 133:7 142:22 thumb 45:21 46:7,10 ticket 96:3,6,7,8 Tiffany's 31:12,25 32:5 tight 33:17 time 14:12 15:7 16:1, 16 17:15 18:1 19:23 20:14 21:5,8,9 23:25 25:19 28:21 30:25 32:10	33:2 34:9 36:7 38:2,12,16,20, 22 40:22 42:12 47:16 49:1 51:5 56:11 59:12 62:3 63:10,20 65:24,25 66:1 72:15 77:11 78:11,15 79:9, 24,25 80:15,19 81:4,15 85:16, 21 91:22 93:19, 25 94:6 95:6 97:5 99:11,18 105:8 106:12 107:13 108:1,5 112:8 114:15 115:20 123:5 124:17,22,24 125:8,9,10,12, 15,24 126:4,15, 23 127:2,13,15, 19,22 131:13 134:19 136:24 137:2,8,15,17, 25 138:3 139:4 140:15 143:22 times 10:14 12:1 19:14 22:10 23:4 55:18 139:1,3 tingling 106:23 115:1 tire 25:20 26:1 tired 116:15,18,19 tissue 118:3 title 15:9 17:17,22	titles 47:14 today 7:16 8:15,18 59:9 88:25 89:3 131:3 139:18 140:14,18 142:16 told 35:12 36:15 41:20,21 44:16, 24 46:4 50:2 55:13 58:5,7 59:1 91:16 100:16 101:22 103:12,13,22 104:5,24 105:2, 9,11,22 109:24 110:1 113:14,23 119:7 120:4 tool 65:16 tools 65:15,16 top 26:11 30:22 109:5 torches 33:15 tore 26:6 29:8 104:24 105:2 106:13 total 58:16,18 90:21 133:10 totally 43:23 137:12 toting 38:6 82:19 106:12	touch 20:11 town 21:25 121:11 tractor 83:2,12,18 84:8 traffic 77:12,18,22 95:21 trailer 81:8 82:18 83:3, 14,17,20 84:8, 10 88:16 transcript 6:25 transom 83:1,4,20 travel 19:2,4 69:7,15 71:16,24 72:10 75:24 76:1 81:21 83:13 traveling 18:10 19:3 71:11,19 72:14 85:6 89:5 treat 48:7 treated 23:8 25:11 38:20 41:8 46:19 52:18 treating 106:25 treatment 7:14 25:6 46:11 47:23 53:10 106:17 107:14 129:6 trick 7:9	trigger 44:2 95:1 trigger-point 43:14 trips 121:10 trouble 109:22,23 truck 62:10 63:25 64:23 65:11,12, 14 68:4 69:6 71:5,7,14,22 74:5 75:24 76:9 78:21,23,25 79:18 81:1,4 82:2,9,16,17,18 83:4,11,12,21, 24 84:2,3,4 86:1 88:12,20 89:20, 25 90:14 92:3, 12,15,16,18 93:2 94:12,14 96:14,24 97:1,3, 14,16,24 98:9, 11,12,21 99:1,6, 14 124:20 125:1 truth 8:18 Tuesday 52:10 tunnel 23:24 45:14 46:4 turn 61:21,23 63:1 68:4,5,11 69:8, 19 70:10 72:21 73:5 76:9 79:6 80:4 81:25 82:1 116:21 124:20
---	--	---	---	--

turned 77:4	124:1 126:16 127:12	verbal 7:1	100:19 105:3 119:10 124:3 130:18	week 18:2,5 20:20,21, 25 47:20 54:23 55:1 134:3,5
turning 69:11 70:2,3,7, 21 71:15 74:9 75:2,3,4,21 79:19,20	UIM 122:17 128:12	verbally 7:5,7	walk 14:8 27:12 55:10,16 57:4 114:14 115:17 138:21 143:11	weekly 20:18 134:1
Twelve 20:21	unbearable 110:7	Verizon 94:5,6		weeks 123:12 134:7,8 139:5
Twenty-nine 12:14	underneath 30:21 33:11 60:19 110:18	vertebra 55:25	walk- 32:7	weren't 93:19 94:14,17
two-way 93:13	understand 7:17,19,20 11:9 49:8 71:25 76:16 106:12 119:24 120:20 122:12 130:11 137:7 141:3 143:1	vibe 91:9	walk-in 30:19 31:3 128:22	west 6:8 68:24
type 6:24 60:19 65:9 122:3 123:9,15 141:5	understanding 136:7	vicinity 83:23	walked 41:1 104:17 128:23 142:15	we'd 58:14
types 17:1 23:7 24:3 122:2	understood 110:25	video 90:3	walkway 80:21	we'll 8:4 10:5 24:13
typically 127:7	United 65:3	view 65:22 73:15 74:6 ^{www}	wall 60:10,20	we're 7:16 58:23 59:9 79:13 113:10 116:14 123:6 124:3 137:21
U	unpaid 136:5	violations 95:21	walls 33:5	we've 6:22
uh-huh 6:17 7:3,22 10:4 13:14 16:5,21 27:7 29:23 32:9 35:15 38:24 39:1 40:7 50:24 54:4,6 55:6 56:25 57:15 61:8 62:7,24 63:16,19 64:22, 24 70:5,9 71:17 73:20 82:3 89:24 93:11 96:15 97:20 100:13 102:25 107:20 117:16 119:5 121:22	V	vision 78:15 91:25 92:1	wanted 51:12,17 56:11 91:8 95:3 107:10 138:12 139:25 143:17, 18,20	whatsoever 27:25
	vehicle 25:18 26:15,19 48:4 53:22 57:6 62:3,4,6,13 65:9,10 82:15 83:23 86:17,19 88:7,9,12 89:1 90:5 94:24 95:6 98:16 125:4 127:3	visit 55:7 56:4 131:21	wasn't 26:5 35:3 38:3 49:9 70:24 83:24 87:25 88:21 89:8 92:13 93:23 105:2 109:21 133:5 142:14,21	what's 31:20,22 57:11 77:9 86:22 90:9 96:4 98:10 116:25 117:1 131:7
	vehicles 86:17 90:1 124:21	visually 82:5	W	wheel 82:21 83:21 121:20 126:9, 11,15,17 127:8
		wages 134:1,2	weak 56:11	wheelchair 55:16
		wait 54:8,10 58:11 100:12 119:13 131:11	wearing 127:13	when's 131:13
		waited 57:25	weather 67:18	Who's 94:4
		waiting 49:11 68:4,6		

wife 11:12,20 12:9, 23 100:9,23 101:1 102:24 103:8	16:6 17:2,3,4,5 18:18 19:25 21:1,7,9 61:9,11 107:22 119:19 121:2 143:8	wrecked 25:19 wrecking 25:25 write 137:6 wrong 23:3 32:1 47:11 86:24,25 87:12 107:11 109:13 123:23 134:16 137:15 140:3	19:25 21:3 23:3, 6 25:21 28:13, 20 45:19,20,25 66:10 85:24 96:2,4 142:25
wife's 10:8	worker 51:9 108:6		you'll 88:6 110:2 133:25
window 90:12,25	workers 22:3,7,10 135:25		you're 7:11 27:20 31:23 33:20 41:6 43:20,21 46:7 47:7 68:21 70:4 71:25 74:13 75:5 76:24 78:5 80:23 87:4 88:11 90:14 98:18 104:17 105:16,18 115:5,14 119:16 126:14 131:9, 10,12,22 139:9, 13,17 141:21,25 142:4
witnesses 101:6	working 14:21 22:11 30:25 106:9		
woke 55:19 57:3 137:17	workman 51:24	X	
won't 125:3	workmen 107:3 113:11 139:24	x- 44:21	
word 50:3,19 104:19, 20 131:6	workmen's 22:17 51:9 107:3,23 114:3 120:8	x-ray 42:16,17,19 x-rays 35:8,12 36:17, 19 42:16 44:6 102:6	
words 93:12 111:18	world 103:6	Y	
work 9:24 10:1 14:1, 7,14 15:6,24 16:13 17:8 19:11 33:4 37:20,23 38:5 40:6 50:22 61:16,18,20,24 62:6,11,18,23 63:5,14 107:6 117:10,25 119:17 120:5 131:25 132:13 133:8,10 134:2, 22 135:3,11,14, 16 136:15,17,24 137:8,19,25 138:13 143:8, 18,19,20	worried 42:14 55:14 worse 35:3 55:21,22 99:9 114:12 137:17 138:13 wouldn't 7:5 19:17 61:15 62:1 64:5,18 92:8 118:13 129:10 137:12 143:20 wrapped 29:9 36:15 37:17,18 wreck 58:3 95:5 109:4, 18	yard 62:14 year 9:18 28:5 30:11 56:2,3 58:14 108:22 119:14 130:1,24 131:1 132:20 133:18, 20 136:19 Yearly 20:18 years 9:24 10:12 11:4, 9,15,16 12:5 14:13,19,20,21 15:19 16:2	you've 12:1 25:1 26:16 44:24 47:2 53:23 70:1,3 116:5,6 122:19 138:23 y'all 51:24 72:15 79:17 85:23 116:15
worked 14:13 15:13,21			Z
			Zoom 135:13,14

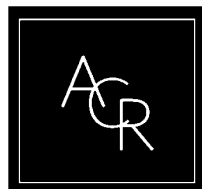
BILLY R. SHARPE and ANGELA SHARPE

VS

ROCKY RUTHERFORD, et al.

ROCKY RUTHERFORD

May 10, 2022



ALABAMA
COURT REPORTING®

www.alabamareporting.com * 877.478.3376

1 IN THE COURT OF COMMON PLEAS IN AND FOR
2 RICHLAND COUNTY, SOUTH CAROLINA
3
4 CIVIL ACTION NUMBER
5 2021-CP-40-03672
6
7 BILLY R. SHARPE and ANGELA SHARPE,
8 Plaintiff(s),
9 vs.
10 ROCKY RUTHERFORD, et al.,
11 Defendant(s).

CERTIFIED COPY

12
13 DEPOSITION TESTIMONY OF:
14 ROCKY RUTHERFORD
15 May 10, 2022
16 10:00 a.m.

17
18 The deposition of ROCKY RUTHERFORD was
19 taken before David L. Miller, CCR, RPR, RMR, on May
20 10, 2022, by Gary w. Popwell, Jr., commencing at
21 approximately 10:00 a.m. at McDowell, Knight,
22 Roedder & Sledge, Mobile, Alabama pursuant to the
23 stipulations set forth herein.



ALABAMA
COURT REPORTING

1 S T I P U L A T I O N

2

3 IT IS STIPULATED AND AGREED by and
4 between the parties through their respective
5 counsel that the deposition of ROCKY RUTHERFORD,
6 may be taken before David L. Miller, CCR, RPR, RMR
7 and Notary Public, State at Large, at the offices
8 of McDowell, Knight, Roedder & Sledge, Mobile,
9 Alabama, on May 10, 2022, commencing at
10 approximately 10:00 a.m.

11 IT IS FURTHER STIPULATED AND AGREED that
12 the signature to and the reading of the deposition
13 by the witness is waived, the deposition to have
14 the same force and effect as if full compliance had
15 been had with all laws and rules of Court relating
16 to the taking of depositions.

17 IT IS FURTHER STIPULATED AND AGREED that
18 it shall not be necessary for any objections to be
19 made by counsel to any questions, except as to form
20 or leading questions, and that counsel for the
21 parties may make objections and assign grounds at
22 the time of trial or at the time said deposition is
23 offered in evidence, or prior thereto.



ALABAMA
COURT REPORTING

A P P E A R A N C E S

FOR THE PLAINTIFF(S):

LEE, EADON, ISGETT, POPWELL

and OWENS, P.A.

Gary W. Popwell, Jr. (Virtual)

1314 Lincoln Street

Columbia, South Carolina 29202

FOR THE DEFENDANT, ROCKY RUTHERFORD AND G.A. WEST:

MCDOWELL, KNIGHT, ROEDDER & SLEDGE

W. Craig Hamilton

11 North Water Street

13th Floor

Mobile, Alabama 36602

MURPHY & GRANTLAND

Phillip Florence, Jr.

4406-B Forest Drive

Columbia, South Carolina 29206



ALABAMA
COURT REPORTING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

A P P E A R A N C E S

FOR THE UIM, FRANKENMUTH INSURANCE:

THE WARD LAW FIRM

John Rogers

233 South Pine Street

Spartanburg, South Carolina 29302

FOR THE UIM, LIBERTY MUTUAL:

TURNER, PADGET, GRAHAM & LANEY

Adrian Peguese (Virtual)

Virginia P. Bozeman (Virtual)

1901 Main Street

7th Floor

Columbia, South Carolina 29201

ALSO PRESENT:

Rex Parnell



ALABAMA
COURT REPORTING

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

I N D E X

EXAMINATION INDEX	PAGE NO.
Mr. Popwell	6
Certificate	19

(NO EXHIBITS MARKED)



ALABAMA
COURT REPORTING

1 I, David L. Miller, a Certified Court
2 Reporter and a Notary Public for the State of
3 Alabama at Large, acting as Commissioner, certify
4 that on this date, pursuant to the South Carolina
5 Rules of Civil Procedure, and the foregoing
6 stipulation of counsel, there came before me at the
7 offices of McDowell, Knight, Roedder & Sledge,
8 Mobile, Alabama, commencing at approximately
9 10:00 a.m. on May 10, 2022, ROCKY RUTHERFORD,
10 witness in the above cause, for oral examination,
11 whereupon the following proceedings were had:

12
13 ROCKY RUTHERFORD,
14 having been first duly sworn, was examined and
15 testified as follows:

16
17 EXAMINATION BY MR. POWELL:

18 Q. Mr. Rutherford, my name is Gary
19 Popwell. I represent Billy Sharpe as result of
20 this accident y'all were in back in May of 2019.

21 I'm here to take your deposition
22 today just to find out a little bit about you and
23 how this accident happened, all right, sir?



1 A. Okay.

2 Q. I'm not trying to trick you or
3 mislead you. So if you don't understand one of my
4 questions, please tell me you don't understand it
5 and I will try to rephrase it so that you do
6 understand it, all right?

7 A. Okay.

8 Q. If you go ahead and answer one of my
9 questions without telling me you don't understand
10 it or you are unclear, I'm just going to assume
11 that you understood it, okay?

12 A. Okay.

13 Q. This isn't a marathon or endurance
14 test. So if you want to take a break at any time
15 let me know, but I tend to be very quick on these,
16 okay?

17 A. Okay.

18 Q. What is your date of birth, Mr.
19 Rutherford?

20 A. 11/4/1979.

21 Q. Mr. Rutherford, do you remember this
22 accident that happened back on May the 2nd of 2019
23 in Columbia, South Carolina?



1 A. Yes, sir.

2 Q. All right. My information is it
3 happened about three o'clock in the afternoon or
4 thereabouts.

5 Does that sound about right?

6 A. I would say it was closer to between
7 four and five.

8 Q. Between four and five?

9 A. Yes, sir.

10 Q. All right. Where were you working
11 at that time?

12 A. I had been right up the street at
13 Maxim's Crane Yard about a mile up from where the
14 accident happened.

15 Q. Well, what I mean is who was your
16 employer at the time?

17 A. Legacy Equipment.

18 Q. All right. How long have you worked
19 for Legacy Equipment?

20 A. Legacy -- I hired in in -- I've
21 worked for G. A. West on and off since '08. I
22 can't remember the exact date that I moved over to
23 Legacy Equipment.



1 Q. All right. But on the date of this
2 accident you were working for Legacy Equipment?

3 A. Yes, sir.

4 Q. And you were on the job at the time
5 the accident took place?

6 A. Yes, sir.

7 Q. All right. And you say that you had
8 just been up the street somewhere before the
9 accident happened?

10 A. Maxim's Crane Yard.

11 Q. And why were you up at Maxim's Crane
12 Yard?

13 A. Loading crane parts to bring back to
14 Alabama.

15 Q. When had you gotten to Columbia that
16 day?

17 A. I got to Columbia the day before and
18 stayed in that same truck stop. And I went to
19 Maxim's yard the morning of the accident and worked
20 in Maxim's yard all day.

21 Q. All right, sir. And where were you
22 headed at the time the accident took place?

23 A. To the Petro Truck Stop to the left



1 of where the accident took place.

2 Q. All right, sir. That would have
3 been your -- so it would have been to your left?

4 A. Yes, sir.

5 Q. All right. And what road were you
6 on at the time that the accident happened?

7 A. I was -- I took off in the turning
8 lane. I don't remember the road numbers. I know
9 that 77 was in front of me and the truck stop was
10 to the left. I was in the turning lane.

11 Q. Is that a left turn only lane?

12 A. Yes, sir.

13 Q. Tell me how the accident happened.

14 A. I pulled up in the left turn only
15 lane under a flashing yellow arrow. When traffic
16 cleared I started to make my turn, and out of
17 nowhere Mr. Sharpe came.

18 By the time I seen him there was
19 nowhere I could go. He never -- I'm assuming never
20 slowed down. He hit me, and that's how it
21 happened.

22 Q. All right, sir. So you were making
23 your turn on a flashing yellow arrow; is that what



1 you're telling me?

2 A. Yes.

3 Q. And Mr. Sharpe was headed towards
4 you -- coming towards you; is that right?

5 A. Yes, sir.

6 Q. And what part of your truck hit what
7 part of his vehicle?

8 A. He hit the front tire and the front
9 bumper on the passenger side.

10 Q. Do you have any estimate as to his
11 speed at the time of the accident?

12 A. I did not have a radar and no way of
13 determining except for the fact that it had to have
14 been pretty extensive. He shook me pretty hard.

15 Q. What lane was he in?

16 A. I don't remember.

17 Q. All right. Were you on the phone at
18 the time the accident took place?

19 A. No, sir.

20 Q. Had you been on the phone at any
21 time in the last five minutes before the accident
22 took place?

23 A. No, sir.



1 **Q. Mr. Sharpe had the right-of-way at**
2 **the time this accident took place?**

3 MR. FLORENCE: Object to the form.

4 **A. I guess so.**

5 **Q. All right. Can you think of**
6 **anything that he did to cause the accident?**

7 **A. Traveling way too fast.**

8 **Q. Okay. But you don't know how fast**
9 **he was going?**

10 **A. No, sir.**

11 **Q. All right. What happened to Mr.**
12 **Sharpe's vehicle after the collision occurred?**

13 **A. It was picked up by a tow truck.**

14 **Q. I mean, did it stay right there on**
15 **Bluff Road or did it go off the road or -- or do**
16 **you know?**

17 **A. No. He stayed right there. When I**
18 **got out and saw it he was right next to the truck.**

19 **Q. Did you ever talk to Mr. Sharpe at**
20 **the scene?**

21 **A. Yes, sir.**

22 **Q. What did you say to him?**

23 **A. When I got out -- when he got out --**



1 I got out first and walked around there and asked
2 him was he okay. And he got out of the truck and
3 his response was, "Hell, no."

4 But he was up walking and talking,
5 so that answered the -- I mean, he got out of the
6 truck on his own. That's all I ever said to him.

7 Q. All right. And can you think of
8 anything else that you might have said to him or he
9 might have said to you?

10 A. No, sir.

11 Q. I reckon the police came to the
12 scene, didn't they?

13 A. Yes, sir.

14 Q. Was it a highway patrolman or do you
15 remember?

16 A. The State Troopers responded to the
17 scene first, yes, sir.

18 Q. And did you talk to one of the State
19 Troopers at the scene?

20 A. Yes, sir.

21 Q. Were you issued a citation or a
22 traffic ticket of any type at the scene?

23 A. Not by the State Troopers, no.



1 **Q. Were you issued a traffic citation**
2 **or a ticket by any other policeman at the scene?**

3 A. The city cop of Columbia.

4 **Q. And what did he give you a ticket**
5 **for?**

6 A. Failure -- failure to yield the
7 right-of-way on a left-hand turn.

8 **Q. What was the outcome of that traffic**
9 **ticket?**

10 A. It was nolle processed.

11 **Q. Okay. Did you go to court on it?**

12 A. No, sir. I hired a lawyer and I did
13 not have to attend court.

14 **Q. Okay. You had your CDL at the time**
15 **of the accident --**

16 A. Yes, sir.

17 **Q. -- Mr. Rutherford?**

18 A. Yes, sir.

19 **Q. How long have you had your CDL?**

20 A. I got it in 2004 or '5, if I'm not
21 mistaken.

22 **Q. Were there any other vehicles**
23 **involved in this accident other than you and Mr.**



1 **Sharpe?**

2 A. Yes, sir.

3 **Q. What other vehicle was involved?**

4 A. It was a small, white SUV. I don't
5 know the people or their name or none of that.

6 **Q. How was it involved?**

7 A. When he hit me he pushed me into
8 that vehicle, which was trying to come out of that
9 driveway of the truck stop.

10 **Q. Was your truck driveable after the**
11 **accident?**

12 A. No, sir.

13 **Q. Was it towed or what happened to it?**

14 A. They wanted me to get it out of the
15 road. They were going to get a tow truck, but I
16 had six other trucks with me.

17 I got them to drop their trailers
18 inside the truck stop. They brought two trucks out
19 there; one to pull my truck out from under the
20 trailer and one to hook to the trailer and move it.

21 **Q. Had you ever been through that**
22 **intersection before --**

23 A. No.



1 Q. -- Mr. Rutherford?

2 A. No, sir, not coming from that
3 direction.

4 Q. What is the name of this truck stop
5 that you were trying to get into?

6 A. I believe it was a Petro.

7 Q. Is that the one that's got a Burger
8 King right there close to it?

9 A. I don't remember what it had in it.
10 Well, it had a -- a Quaker State or Steak --
11 something Steak House, I believe.

12 Q. Okay. What is your cell phone,
13 Mr. Rutherford?

14 A. Excuse me, sir. Do what?

15 Q. What is your cell phone number?

16 A. 251-402-4277.

17 Q. And who is your provider?

18 A. Verizon Wireless.

19 Q. Is that the same number and the same
20 provider that you had back at the time of this
21 accident?

22 A. Yes, sir.

23 Q. All right. Where are you originally



1 from, Mr. Rutherford?

2 A. Uriah, Alabama.

3 Q. Whereabouts is Uriah?

4 What part of the state is that?

5 A. South Alabama. About twenty miles
6 north of Atmore.

7 Q. Okay. Have you ever been through
8 Clanton, Alabama?

9 A. I have.

10 Q. Don't take offense to this next
11 question. Everybody gets asked this in a
12 deposition.

13 Have you ever been arrested and
14 convicted of any type of crime, other than a
15 traffic offense?

16 A. I have.

17 Q. When was that?

18 A. 2001. I was indicted in 2001 in
19 Federal Court. I pled guilty in 2002.

20 Q. Okay. That's a long time ago.

21 A. Yes, sir.

22 Q. What was that for?

23 A. Conspiracy to manufacture a Schedule



ALABAMA
COURT REPORTING

1 2 controlled substance.

2 Q. Nothing since then though?

3 A. No, sir.

4 Q. All right. Are you under any -- are
5 you taking any medication that would prevent you
6 from answering these questions fully today, Mr.
7 Rutherford?

8 A. No, sir.

9 MR. POPWELL: That's all I have.
10 Thank you, sir.

11 THE WITNESS: Thank you.

12 MR. FLORENCE: No questions.

13 MR. ROGERS: No questions.

14 MS. BOZEMAN: No questions.

15

16

17 (Deposition concluded at 10:15 AM)

18

19

20

21 FURTHER DEPONENT SAITH NOT

22

23



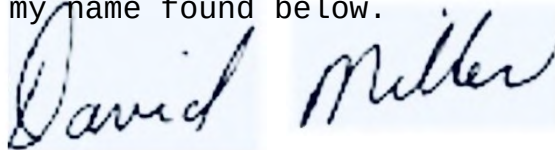
ALABAMA
COURT REPORTING

C E R T I F I C A T E

I hereby certify that the above and foregoing deposition of ROCKY RUTHERFORD was taken down by me in stenotype and the questions and answers thereto were transcribed by means of computer-aided transcription given by said witness upon said deposition.

I further certify that I am neither of counsel, nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.

I further certify that I am duly licensed by the Alabama and Georgia Board of Court Reporting as a Certified Court Reporter as evidenced by the numbers following my name found below.

A handwritten signature in cursive script that reads "David Miller". The signature is written in black ink on a light blue rectangular background.

DAVID L. MILLER, CCR, RPR, RMR

Alabama #347, Expires 9/30/2022

Georgia #6322-0018-0740-915, Expires 4/1/2023

Commissioner for the State of Alabama at Large.

My Commission Expires 1/10/2026



ALABAMA
COURT REPORTING

RECEIVED

Apr 14 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean Hoefer Toal, Circuit Court Judge

Appellate Case No. 2023-000060
Trial Court Case No. 2021-CP-40-03672

Bill R. Sharpe and Angela Sharpe, ... Respondents.

v.

Rocky Rutherford, Legacy Equipment, Inc., and G.A. West and
Company, Inc., ... Appellants,

CERTIFICATE

I, Phillip Florence, Jr., Esquire, attorney for Appellants, certify that the Record on Appeal complies with Rule 210(g) of the South Carolina Appellate Court Rules.

s/ Phillip Florence, Jr.

Phillip Florence, Jr. (S.C. Bar No. 6721)
Everett A. Kendall, Esquire (S.C. Bar No. 8450)
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260
(803) 782-4100
Attorneys for Appellants

April 14, 2023