

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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Jun 16 2023

APPEAL FROM GREENWOOD COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Frank Addy, Circuit Court Judge

Supreme Court Case No. 2022-000740  
Appellate Case No. 2019-000637

Tony Young,.....Petitioner,

v.

Greenwood County Detention Center and the Greenwood County Sheriff's  
Office, Defendants,

Of Which the Greenwood County Sheriff's Office is.....Respondent.

APPENDIX – VOLUME I

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY  
Court of Common Pleas

The Honorable Frank Addy, Circuit Court Judge

**RECEIVED**

**May 26 2020**

**SC Court of Appeals**

Appellate Case No. 2019-000637

Tony Young,..... Appellant,

v.

Greenwood County Detention Center and the Greenwood County Sheriff's  
Office, Defendants,

Of Which The Greenwood County Sheriff's Office is,..... Respondent.

RECORD ON APPEAL - VOLUME I

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AO 450 (SCD 04/2010) Judgment in a Civil Action

UNITED STATES DISTRICT COURT
for the
District of South Carolina

Tony Young
Plaintiff
v.
Greenwood County Detention Center; Greenwood
County Sheriff's Office
Defendant

)
)
)
)
)

Civil Action No. 8:13-cv-2185-MGL

JUDGMENT IN A CIVIL ACTION

The court has ordered that (check one):

[ ] the plaintiff (name) recover from the defendant (name) the amount of dollars (\$),
which includes prejudgment interest at the rate of %, plus postjudgment interest at the rate of %, along with
costs.

[ ] the plaintiff recover nothing, the action be dismissed on the merits, and the defendant (name)
recover costs from the plaintiff (name).

[x] other: Defendants motion for summary judgment as to Plaintiffs claims under 42 U.S.C. § 1983 is granted.

The district court declines to exercise supplemental jurisdiction over the plaintiff's state law claims and
instead remands the case to the Greenwood County Court of Common Pleas.

This action was (check one):

[ ] tried by a jury, the Honorable presiding, and the jury has rendered a verdict.

[ ] tried by the Honorable presiding, without a jury and the above decision was reached.

[x] decided by the Honorable Mary G. Lewis on the record.

Date: January 5, 2015

CLERK OF COURT

s/Kathy Rich, deputy clerk

Signature of Clerk or Deputy Clerk

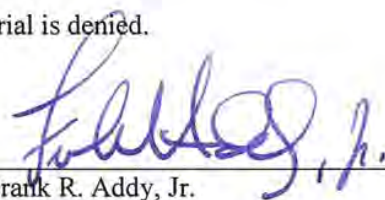
STATE OF SOUTH CAROLINA	)	THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENWOOD	)	CASE NO. 2016-CP-24-00157
	)	
	)	
TONY YOUNG,	)	
Plaintiff,	)	
	)	
vs.	)	
	)	ORDER DENYING MOTION FOR NEW
GREENWOOD COUNTY DETENTION	)	TRIAL
CENTER AND THE GREENWOOD	)	
COUNTY SHERRIFF'S OFFICE,	)	
Defendants.	)	
	)	

**THIS MATTER COMES BEFORE THE COURT** on Plaintiffs' post-trial motion, dated October 5, 2018, seeking a new trial absolute or a judgment notwithstanding the verdict. Having considered the argument of counsel for Plaintiff and reviewed the applicable law, the Court finds that the rulings at trial were correct and, even if erroneous, not so substantial as to have affected the outcome.

This matter was tried before a jury, and a verdict in favor of the Defendants was rendered by the jury on September 27, 2018. The Plaintiff and the Defendants presented conflicting evidence on the issue of gross negligence, and the jury simply found that the Plaintiff had not met his burden of proving the Defendant acted negligently in providing medical care to the Plaintiff. In light of the contested nature of the testimony and out of due respect and deference to the findings of the trier of fact, the court declines to grant the Plaintiff's motion for a new trial.

**THEREFORE**, Plaintiffs' motion for a new trial is denied.

**IT IS SO ORDERED.**



Frank R. Addy, Jr.  
Circuit Court Judge  
Eighth Judicial Circuit

March 22, 2019  
Greenwood, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENWOOD )  
 )  
 TONY YOUNG )  
 )  
 Plaintiff(s) )  
 )  
 vs. )  
 )  
 GREENWOOD COUNTY DETENTION CENTER )  
 AND THE GREENWOOD COUNTY SHERIFF'S )  
 OFFICE )

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2013-CP - 24- 00655

FILED COURT OF COMMON PLEAS  
 8TH JUDICIAL CIRCUIT  
 GREENVILLE, S.C.  
 2013 JUN 11 AM 9:24

Defendant(s) )

(Please Print)  
 Submitted By: JOSH HAWKINS  
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SC Bar #: 78470  
 Telephone #: 864-421-0036  
 Fax #: 864-421-9060  
 Other:  
 E-mail: josh@upstatetriallawyers.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- |   |  |  |   |
|---|--|--|---|
| <p><b>Contracts</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Constructions (100)</li> <li><input type="checkbox"/> Debt Collection (110)</li> <li><input type="checkbox"/> Employment (120)</li> <li><input type="checkbox"/> General (130)</li> <li><input type="checkbox"/> Breach of Contract (140)</li> <li><input type="checkbox"/> Other (199)</li> </ul>  | <p><b>Torts - Professional Malpractice</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Dental Malpractice (200)</li> <li><input type="checkbox"/> Legal Malpractice (210)</li> <li><input type="checkbox"/> Medical Malpractice (220)</li> <li>Previous Notice of Intent Case #<br/>20__-CP-__-__</li> <li><input type="checkbox"/> Notice/ File Med Mal (230)</li> <li><input type="checkbox"/> Other (299)</li> </ul>  | <p><b>Torts - Personal Injury</b></p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Assault/Slander/Libel (300)</li> <li><input type="checkbox"/> Conversion (310)</li> <li><input type="checkbox"/> Motor Vehicle Accident (320)</li> <li><input type="checkbox"/> Premises Liability (330)</li> <li><input type="checkbox"/> Products Liability (340)</li> <li><input type="checkbox"/> Personal Injury (350)</li> <li><input type="checkbox"/> Wrongful Death (360)</li> <li><input type="checkbox"/> Other (399)</li> </ul> | <p><b>Real Property</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Claim &amp; Delivery (400)</li> <li><input type="checkbox"/> Condemnation (410)</li> <li><input type="checkbox"/> Foreclosure (420)</li> <li><input type="checkbox"/> Mechanic's Lien (430)</li> <li><input type="checkbox"/> Partition (440)</li> <li><input type="checkbox"/> Possession (450)</li> <li><input type="checkbox"/> Building Code Violation (460)</li> <li><input type="checkbox"/> Other (499)</li> </ul>   |
| <p><b>Inmate Petitions</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> PCR (500)</li> <li><input type="checkbox"/> Mandamus (520)</li> <li><input type="checkbox"/> Habeas Corpus (530)</li> <li><input type="checkbox"/> Other (599)</li> </ul>  | <p><b>Judgments/Settlements</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Death Settlement (700)</li> <li><input type="checkbox"/> Foreign Judgment (710)</li> <li><input type="checkbox"/> Magistrate's Judgment (720)</li> <li><input type="checkbox"/> Minor Settlement (730)</li> <li><input type="checkbox"/> Transcript Judgment (740)</li> <li><input type="checkbox"/> Lis Pendens (750)</li> <li><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)</li> <li><input type="checkbox"/> Other (799)</li> </ul> | <p><b>Administrative Law/Relief</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reinstate Driver's License (800)</li> <li><input type="checkbox"/> Judicial Review (810)</li> <li><input type="checkbox"/> Relief (820)</li> <li><input type="checkbox"/> Permanent Injunction (830)</li> <li><input type="checkbox"/> Forfeiture-Petition (840)</li> <li><input type="checkbox"/> Forfeiture--Consent Order (850)</li> <li><input type="checkbox"/> Other (899)</li> </ul>  | <p><b>Appeals</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Arbitration (900)</li> <li><input type="checkbox"/> Magistrate-Civil (910)</li> <li><input type="checkbox"/> Magistrate-Criminal (920)</li> <li><input type="checkbox"/> Municipal (930)</li> <li><input type="checkbox"/> Probate Court (940)</li> <li><input type="checkbox"/> SCDOT (950)</li> <li><input type="checkbox"/> Worker's Comp (960)</li> <li><input type="checkbox"/> Zoning Board (970)</li> <li><input type="checkbox"/> Public Service Commission (990)</li> <li><input type="checkbox"/> Employment Security Comm (991)</li> <li><input type="checkbox"/> Other (999)</li> </ul> |
| <p><b>Special/Complex /Other</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Environmental (600)</li> <li><input type="checkbox"/> Automobile Arb. (610)</li> <li><input type="checkbox"/> Medical (620)</li> <li><input type="checkbox"/> Other (699)</li> <li><input type="checkbox"/> Pharmaceuticals (630)</li> <li><input type="checkbox"/> Unfair Trade Practices (640)</li> <li><input type="checkbox"/> Out-of State Depositions (650)</li> <li><input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)</li> <li><input type="checkbox"/> Sexual Predator (510)</li> </ul> |  |  |   |

Submitting Party Signature:

*Joshua J. Hawkins*

Date:

7/9/13

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

**FOR MANDATED ADR COUNTIES ONLY**

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

**You are required to take the following action(s):**

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

) IN THE COURT OF COMMON PLEAS  
) EIGHTH JUDICIAL CIRCUIT  
)  
) CASE NO. 2013-CP-24-

Tony Young,

Plaintiff,

**SUMMONS**

vs.

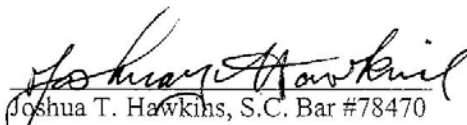
Greenwood County Detention Center and the  
Greenwood County Sheriff's Office,

Defendants.

---

YOU ARE HEREBY SUMMONED and required to answer the complaint in this action, copy of which is hereby served upon you, and to serve a copy of your answer to the said complaint on the subscribers at their office, 1225 South Church, Greenville, South Carolina, 29604, within thirty (30) days after service thereof exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the complaint.

MOONEYHAM BERRY, LLC

  
Joshua T. Hawkins, S.C. Bar #78470  
Post Office Box 1225  
Greenville, South Carolina 29604  
(864) 421-0036 fax. (864) 421-9060  
*Attorneys for the Plaintiff*

7/9, 2013  
Greenville, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

) IN THE COURT OF COMMON PLEAS  
) EIGHTH JUDICIAL CIRCUIT  
)

Tony Young,

) CASE NO. 2013-CP-24- 00655  
)

Plaintiff,

) **COMPLAINT**  
) **(Jury Trial Requested)**  
)

vs.

Greenwood County Detention Center and the  
Greenwood County Sheriff's Office,

)  
)  
)

Defendants.

)  
)  
)

FILED COURT OF COMMON PLEAS  
8TH JUDICIAL CIRCUIT  
GREENWOOD COUNTY, S.C.  
2013 JUN 11 AM 9:24

COMES NOW, the plaintiff, alleging and complaining of the defendants as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Tony Young is an inmate housed at Walden Correctional Institution. During the most substantial portion of the facts set forth herein, Mr. Young was housed at Greenwood County Detention Center in Greenwood, South Carolina.
2. The Greenwood County Detention Center is a correctional facility operated by and located in Greenwood County, South Carolina.
3. The Greenwood County Sheriff's Office is a department of the County of Greenwood existing pursuant to the laws of South Carolina for the purpose of law enforcement.
4. Venue and jurisdiction are proper for the foregoing reasons.

**FACTUAL BACKGROUND**

5. The plaintiff was placed in Greenwood County Detention Center on August 16, 2011 for Felony Driving Under the Influence after being involved in an automobile accident on August 10, 2011.
6. Due to the serious injuries the plaintiff suffered as a result of the collision on August 10, 2011, the plaintiff was hospitalized at Greenville Memorial Hospital, where he remained for the following 6 days.
7. On August 16, 2011 officers from the Greenwood County Sheriff's Office traveled to Greenville Memorial Hospital for the purpose of taking the plaintiff into custody and transporting him to Greenwood County Detention Center.

8. The plaintiff's injuries included fractured vertebrae in his neck and back, pelvis fractures, broken ribs, fingers, and wrist, a bruised lung and spleen, two teeth being knocked out and a substantial rash.
9. Upon the officers' arrival at Greenville Memorial Hospital, the plaintiff's doctor urged the officers not to remove the plaintiff from the hospital since the plaintiff was still in need of extensive medical care. The plaintiff's son, Tony Young, Jr. and Samantha Porter were with the plaintiff during the time described, and witnessed the interaction between officers and Mr. Young's attending physician.
10. The officers ignored the doctor's pleas and removed the plaintiff from the hospital's care and transported him to Greenwood County Detention Center.
11. Upon the plaintiff's arrival at Greenwood County Detention Center, the plaintiff was ordered to strip naked and shower in the presence of the attending guards when he could barely stand due to his injuries.
12. The plaintiff was also ordered to remove the brace from his neck in order to be photographed. The plaintiff informed the facility personnel that doctors had specifically instructed him not to remove his brace for any reason; however, the attending guards disregarded the plaintiff's protests and pleas and forced him to remove his brace.
13. The plaintiff was then placed in a cell and left to suffer without any medication to alleviate the intense pain associated with his extensive injuries.
14. Despite his requests and pleas for medication and medical attention, the plaintiff was denied medical care.
15. Eventually, about 3 or 4 days after being placed in his cell with no pain medication, the plaintiff's ex-wife called and the facility finally provided non-prescription pain medicine to the plaintiff.
16. After a significant time had passed with no medical attention or any necessary pain medication, the plaintiff was finally able to get out of his bunk.
17. During the time the plaintiff was immobile, and following when he regained *some* mobility without medical treatment, the plaintiff consistently informed facility personnel that doctors had determined that the plaintiff needed physical therapy to properly recover.

18. At some point, facility personnel used steroids to treat the plaintiff, and the plaintiff attempted to inform the personnel that he did not need steroids, and that he desperately needed something to alleviate his intense pain.
19. Facility personnel responded by telling the plaintiff that his need for physical therapy was “not [their] problem” and that the plaintiff would have to pay for physical therapy, which was determined to be necessary by the plaintiff’s physician.
20. The plaintiff has received no physical therapy, which was deemed necessary by his physician.
21. The plaintiff continues to suffer from severe neck pain and daily headaches, as the Greenwood County Detention Center and its facility personnel refused, and continued to refuse, to address the plaintiff’s ongoing pain, need for medical attention and physical therapy for the duration of his detention at the facility.
22. Upon information and belief, the defendants’ gross negligence, intentional acts, reckless acts and omissions exacerbated, intensified and worsened the plaintiff’s injuries, directly and proximately causing him to suffer damages.
23. Upon information and belief, during all times described herein, after the plaintiff was taken into custody at Greenville Memorial Hospital, all government employees and those acting at the direction of government employees who apprehended, transported, treated and otherwise interacted with the plaintiff acted under the color of law by and through governmental agencies.

**FOR A FIRST CAUSE OF ACTION**

**(Violation of the U.S. CONST, amend IV & 42 U.S.C. §1983, and  
The South Carolina Constitution, Art. I, §10)**

24. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.
25. Pursuant to U.S. CONST. amend IV, the plaintiff has the right to be secure in his person against unreasonable searches and seizures.
26. Pursuant to U.S. CONST. amend XIV, U.S. CONST. amend IV is applicable to the conduct of state and municipal law enforcement personnel and employees of detention centers.

27. Pursuant to the S.C. CONST. art. I, §10, the plaintiff has the right to be secure in his person against unreasonable searches and seizures and unreasonable invasions of privacy.
28. The Greenwood County Sheriff's Office apprehended the plaintiff while he was severely injured, ignoring doctors' warnings that such apprehension could unnecessarily and seriously injure the plaintiff.
29. Government employees used unnecessary physical force with the plaintiff, seizing his person while being seriously injured with heightened susceptibility to transport injury and with a heightened risk of healing improperly without proper care, of which government employees deprived the plaintiff.
30. The Greenwood County employees' acts constituted an unreasonable seizure of the plaintiff's persons in violation of the U.C. CONST. amend IV, as well as a violation of the plaintiffs' right to be free from unreasonable invasions of privacy and personal security pursuant to S.C. CONST. art. I, §10.
31. As a direct and proximate result of defendants' conduct, by and through government employees, the plaintiff was deprived of his rights, privileges, and immunities secured by U. S. CONST. amend IV, and by S.C. CONST. art. I, §10.
32. The defendants used their position to inflict pain on the plaintiff and deprive him of necessary medical treatment, pain medication and physical therapy.
33. Acting under color of state law and in the course of conducting an unreasonable seizure of the plaintiff's person, the defendants acted with deliberate indifference to the plaintiff's constitutional rights.
34. No reasonable law enforcement officer or government employee could have believed that the defendants' actions comported with U.S. CONST. amend IV, or with S.C. CONST. art. I, §10, in light of the clearly established legal rules for police conduct.

**FOR A SECOND CAUSE OF ACTION**  
**(Wrongful Failure to Supervise Police Officer)**

35. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.
36. The Greenwood County Detention Center and the Greenwood County Sheriff's Office had a duty to supervise persons hired to serve as police officers, guards and other state employees that interacted with the plaintiff.

37. The defendant breached its duty in a grossly negligent and reckless manner to adequately supervise the state employees in the following particulars:
- a. in failing to ensure that state employees complied with policies and procedures regarding incidences such as the one which led to the events described herein;
  - b. in failing to ensure that officers and employees complied with employment policies and procedures regarding arrest, detention of and interaction with persons such as the plaintiff;
  - c. in failing to reprimand or terminate the employment of pertinent officers and employees when the defendants learned of various acts of excessive force, seizure and other acts perpetrated by state employees prior to the date described herein, and in condoning such behavior;
  - d. in failing to warn the plaintiff and others of the state employees' dangerous propensities toward others;
  - e. in failing to investigate the conduct of the state employees toward the plaintiff; and,
  - f. in other such particulars as the evidence may show.
38. As a direct and proximate result of the reckless and grossly negligent acts and omissions of the defendant, the plaintiff suffered the injuries and damages set forth above.


**FOR A THIRD CAUSE OF ACTION**  
**(Common Law Liability for Gross Negligence & Recklessness)**

39. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.
40. The defendants had a duty to exercise due care, defined to mean the care which a person of ordinary reason and prudence would exercise in the circumstances described herein.
41. The defendants had a duty to exercise that degree of knowledge, skill, and care by and through its government employees, required of such officers and employees, which is ordinarily possessed and exercised by those in their special line of work.
42. The defendants owed a duty to the plaintiff to:
- a. avoid assaulting the plaintiff;
  - b. avoid battering the plaintiff;

- c. avoid placing the plaintiff under arrest and seizing his person unnecessary without proper cause or justification while the plaintiff was hospitalized;
  - d. avoid handling the plaintiff in an unreasonably rough manner, prematurely and abruptly ending his medical care; and
  - e. other duties as will be shown through discovery.
43. The defendants breached their duty in a reckless and grossly negligent manner in several ways, including the following particulars:
- a. by failing to ensure that government employees complied with all applicable policies and procedures;
  - b. by failing to follow up on complaints made by other persons about government employees prior to the pertinent officers' and employees' tortious actions described herein;
  - c. by failing to adequately investigate government employees' conduct prior to their tortious actions described herein;
  - d. by failing to properly monitor the plaintiff's condition and administer appropriate medication and medical care.
  - e. by authorizing, adopting, and ratifying, the conduct of government employees toward the plaintiff; and
  - f. in other such particulars as the evidence may show.
56. As a direct and proximate result of the grossly negligent and reckless acts and omissions of the defendants, the plaintiff sustained the injuries and damages set forth above.

WHEREFORE, the plaintiff demands a jury trial and judgment against the defendants for actual and punitive damages to be determined by the Court as will fully compensate the plaintiff for his damages, for the costs of this action, for reasonable attorney fees pursuant to 42 U.S.C. §1988 and any other applicable authority herein cited or otherwise, and for such other relief as this Court deems just and equitable.

MOONEYHAM BERRY, LLC

  
Joshua T. Hawkins, S.C. Bar #78470  
Post Office Box 1225  
Greenville, South Carolina 29604  
(864) 421-0036 fax. (864) 421-9060  
*Attorneys for the Plaintiff*

7/9, 2013  
Greenville, South Carolina

UNITED STATES DISTRICT COURT  
STATE OF SOUTH CAROLINA

Tony Young, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Greenwood County Detention Center )  
 and the Greenwood County Sheriff's )  
 Office, )  
 )  
 Defendants. )

---

**DEFENDANTS' ANSWER TO  
PLAINTIFF'S COMPLAINT**

Civil Action Number:

***[Jury Trial Requested]***

Defendants, by way of Answer to the Plaintiff's Complaint, would respectfully show unto the Court as follows:

**FOR A FIRST DEFENSE**

1. That except as is admitted, modified, or explained herein, each and every allegation of the Plaintiff's Complaint is denied and strict proof thereof is demanded.

2. That as to the allegations of paragraph one (1) of the Plaintiff's Complaint, it is admitted, upon information and belief, that the plaintiff is an inmate with the South Carolina Department of Corrections. That it is further admitted, upon information and belief, that prior to his current incarceration at the South Carolina Department of Corrections, the plaintiff was detained at the Greenwood County Detention Center. That except as is expressly admitted, modified, or explained herein, the allegations of paragraph one (1) of the Plaintiff's Complaint are denied and strict proof thereof is demanded.

3. That as to the allegations of paragraph two (2) of the Plaintiff's Complaint, it is admitted that Greenwood County Detention Center is a local detention facility located in

Greenwood County, South Carolina. That it is denied the County of Greenwood operates the Greenwood County Detention Center, and strict proof thereof is demanded.

4. That as to the allegations of paragraph three (3) of the Plaintiff's Complaint, it is denied Greenwood County Sheriff's Office is a county department, and it is denied the Greenwood County Sheriff's Office is an entity for the purposes of suit. It is further denied that Greenwood County Detention Center and Greenwood County Sheriff's Office are proper defendants to the within action.

5. That as to the allegations of paragraph four (4) of the Plaintiff's Complaint, based on the allegations of the Plaintiff's Complaint, including alleged civil rights violations, venue and jurisdiction the United States District Court, rather than the Court of Common Pleas for Greenwood County, South Carolina would be the proper venue and jurisdiction most properly is within the United State District Court.

6. That as to the allegations of paragraph five (5) of the Plaintiff's Complaint, it is admitted, upon information and belief that the plaintiff, Tony Young, was booked into Greenwood County Detention Center on or about August 16, on a charge of Felony DUI and on a bench warrant for open container.

7. That as to the allegations of paragraph six (6) of the Plaintiff's Complaint, the defendants are without sufficient information at this time with which to admit same; therefore, said allegations are denied as framed and strict proof thereof is demanded.

8. That as to the allegations of paragraph seven (7) of the plaintiff's Complaint, the defendants are without sufficient information with which to admit or deny same; therefore, said allegations are denied as framed and strict proof thereof is demanded.

9. That as to the allegations of paragraph eight (8) of the Plaintiff's Complaint, the defendants are without sufficient information at this time within which to admit or deny same; therefore, said allegations are denied as framed and strict proof thereof is demanded.

10. That as to the allegations of paragraph nine (9) of the Plaintiff's Complaint, said allegations are denied as framed and strict proof thereof is demanded.

11. That as to the allegations of paragraph ten (10) of the Plaintiff's Complaint, said allegations are denied as framed and strict proof thereof is demanded.

12. That as to the allegations of paragraph eleven (11) of the Plaintiff's Complaint, said allegations are denied as framed and strict proof thereof is demanded.

13. That as to the allegations of paragraph twelve (12) of the Plaintiff's Complaint, said allegations are denied as framed and strict proof thereof is demanded.

14. That as to the allegations of paragraph thirteen (13) of the Plaintiff's Complaint, said allegations are denied as framed and strict proof thereof is demanded.

15. That as to the allegations of paragraph fourteen (14) of the Plaintiff's Complaint, said allegations are denied as framed and strict proof thereof is demanded.

16. That as to the allegations of paragraph fifteen (15) of the Plaintiff's Complaint, said allegations are denied as framed and strict proof thereof is demanded.

17. That as to the allegations of paragraph sixteen (16) of the Plaintiff's Complaint, said allegations are denied as framed and strict proof thereof is demanded.

18. That as to the allegations of paragraph seventeen (17) of the Plaintiff's Complaint, said allegations are denied as framed and strict proof thereof is demanded.

19. That as to the allegations of paragraph eighteen (18) of the Plaintiff's Complaint, the defendants are without sufficient information at this time with which to admit or deny same; therefore, said allegations are denied as framed and strict proof thereof is demanded.

20. That as to the allegations of paragraph nineteen (19) of the Plaintiff's Complaint, the defendants are without sufficient information at this time with which to admit or deny same; therefore, said allegations are denied and strict proof thereof is demanded.

21. That as to the allegations of paragraph twenty (20) of the Plaintiff's Complaint, the defendants are without sufficient information at this time with which to admit or deny same; therefore, said allegations are denied and strict proof thereof is demanded.

22. That as to the allegations of paragraph twenty-one (21) of the Plaintiff's Complaint, said allegations are denied as framed and strict proof thereof is demanded.

23. That as to the allegations of paragraph twenty-two (22) of the Plaintiff's Complaint, said allegations are denied and strict proof thereof is demanded.

24. That as to the allegations of paragraph twenty-three (23) of the Plaintiff's Complaint, strict proof thereof is demanded.

25. That as to the allegations of the plaintiff's first cause of action, consisting of paragraphs twenty-four (24) through thirty-four (34) of the Plaintiff's Complaint and alleging claims for constitutional violations, the defendants incorporate by reference their responses to the allegations of paragraphs one (1) through twenty-three (23) of the Plaintiff's Complaint, and except as is expressly admitted, modified, or explained herein, said

allegations are denied and strict proof thereof is demanded.

26. That further in response to the allegations of paragraphs twenty-four (24) through thirty-four (34) of the Plaintiff's Complaint, it is denied the defendants committed any act(s) and/or omission(s) which would rise to the level of a constitutional violation.

27. That as to the allegations of the plaintiff's second cause of action, consisting of paragraphs thirty-five (35) through thirty-eight (38) of the Plaintiff's Complaint and alleging claims for wrongful failure to supervise police officer[s], the defendants incorporate by reference their responses to the allegations of paragraphs one (1) through thirty-four (34) of the Plaintiff's Complaint, and except as is expressly admitted, modified, or explained herein, said allegations are denied and strict proof thereof is demanded.

28. That further in response to the allegations of paragraphs thirty-five (35) through thirty-eight (38) of the Plaintiff's Complaint, it is denied the defendants breached any duty of care owed to the plaintiff and strict proof thereof is demanded.

29. That as to the allegations of the plaintiff's third cause of action, consisting of paragraphs thirty-nine (39) through the forty-fourth paragraph of the Plaintiff's Complaint [misnumbered as paragraph fifty-six], and alleging claims for common law liability for gross negligence and recklessness, the defendants incorporate by reference their responses to the allegations of paragraphs one (1) through thirty-eight (38) of the Plaintiff's Complaint, and except as is expressly admitted, modified, or explained herein, said allegations are denied and strict proof thereof is demanded.

30. That further in response to the allegations of paragraphs thirty-nine (39)

through the forty-fourth paragraph of the Plaintiff's Complaint [misnumbered as paragraph fifty-six], it is denied the defendants were negligent and/or grossly negligent in their care and/or treatment of the plaintiff. That further, it is denied the defendants breached any duty of care owed to the plaintiff.

31. That as to the plaintiff's prayer for relief, it is denied the plaintiff is entitled to the recovery requested therein.

32. That except as is expressly admitted, modified and/or explained herein, each and every allegation of the Plaintiff's Complaint is denied and strict proof thereof is demanded.

**FOR A SECOND DEFENSE**

33. That the allegations of the plaintiff's Complaint fail to state facts sufficient to constitute a cause of action against this defendant.

**FOR A THIRD DEFENSE**

34. That the allegations of the plaintiff's Complaint do not rise to the level of a constitutional deprivation.

**FOR A FOURTH DEFENSE**

35. That it is denied the defendants committed any act(s) and/or omission(s) which would give rise to a viable claim for violation of his civil rights and further, it is denied the defendants committed any act(s) and/or omission(s) which would give rise to any cognizable claim against the defendants.

**FOR A FIFTH DEFENSE**

36. That this defendant in no way committed any acts or omissions which would constitute deliberate indifference to a serious health care need of the plaintiff, and it is denied that the plaintiff has any basis of a constitutional claim against the defendants.

**FOR A SIXTH DEFENSE**

37. That it is denied the defendants and/or their agents in any way deviated from the applicable standard of care as relates to the plaintiff's medical condition.

**FOR A SEVENTH DEFENSE**

38. That it is denied that the defendants committed any act(s) and/or omission(s) which were the proximate cause any alleged damages and/or injuries to the plaintiff.

**FOR AN EIGHTH DEFENSE**

39. That at all times alleged in the Plaintiff's Complaint, the defendants acted in good faith and without ill will and/or malice toward the plaintiff. That accordingly, the defendants plead and assert good faith immunity as a complete and absolute defense and/or bar to the claims set forth in the Plaintiff's Complaint.

**FOR A NINTH DEFENSE**

40. That at all times alleged in the Plaintiff's Complaint, the defendants acted within the proper bounds of their discretion, and the defendants accordingly allege they are entitled to discretionary immunity.

**FOR A TENTH DEFENSE**

41. That to the extent the plaintiff failed to take reasonable measures for his own

health and safety, the comparative fault of the plaintiff is a bar to any alleged damages sought to be recovered by the plaintiff from the defendants. That the defendants plead the comparative fault of the plaintiff as a bar to any recovery by the plaintiff from the defendants and/or in mitigation of any damages sought to be recovered by the plaintiff from the defendants.

**FOR AN ELEVENTH DEFENSE**

42. That the defendants, upon information and belief, are subject to and entitled to the defenses and immunities as are set forth in the South Carolina Tort Claims Act as to certain allegations of the Plaintiff's Complaint. That to the extent allowed by law, the defendants assert the South Carolina Tort Claims act as a complete and absolute defense and bar to the allegations set forth in the Plaintiff's Complaint. That the defendants plead and assert all statutes of limitations, conditions of recovery, limitations of recovery, exclusions from liability, and caps and/or limitations on damages as are set forth in the South Carolina Tort Claims Act, specifically including, but without limitation, the provisions of S.C. Code Ann. § 15-78-60(4)(5)(25) as a bar and/or defense to the allegations of the Plaintiff's Complaint.

**FOR A TWELFTH DEFENSE**

43. That the defendants plead and assert the provisions of S.C. Code Ann. § 15-78-100 as a complete and absolute defense and/or bar to allegations set forth in the Plaintiff's Complaint.

**FOR A THIRTEENTH DEFENSE**

44. That the defendants plead and assert the provisions of S.C. Code Ann. § 15-78-120 as a complete and absolute defense and/or bar to allegations set forth in the Plaintiff's Complaint.

**FOR A FOURTEENTH DEFENSE**

45. That the defendants plead and assert qualified immunity as a complete and absolute defense and/or bar to the allegations of the Plaintiff's Complaint.

Wherefore, the defendants pray as follows:

1. That the Complaint of the plaintiff be dismissed.
2. That the defendants be granted such other and further relief as the court deems just and proper.

Respectfully submitted,

s/ Russell W. Harter, Jr.

Russell W. Harter, Jr.

14 Lavinia Avenue (29601)

Post Office Box 10224

Greenville, South Carolina 29603

864/233-4500 *Phone*

864/232-1710 *Fax*

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**ATTORNEY FOR DEFENDANTS**

August 12, 2013  
Greenville, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF Greenwood

Tony Young Plaintiff(s)

vs.

Greenwood County Detention Center  
Greenwood County Sheriff's Office Defendant(s)

Submitted By: \_\_\_\_\_  
Address: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

-CP -

2016-CP-24 00157

SC Bar #: \_\_\_\_\_  
Telephone #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Other: \_\_\_\_\_  
E-mail: \_\_\_\_\_

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- |   |   |   |  |
|---|---|---|--|
| <p><b>Contracts</b></p> <input type="checkbox"/> Constructions (100)<br><input type="checkbox"/> Debt Collection (110)<br><input type="checkbox"/> General (130)<br><input type="checkbox"/> Breach of Contract (140)<br><input type="checkbox"/> Fraud/Bad Faith (150)<br><input type="checkbox"/> Failure to Deliver/Warranty (160)<br><input type="checkbox"/> Employment Discrim (170)<br><input type="checkbox"/> Employment (180)<br><input type="checkbox"/> Other (199) _____   | <p><b>Torts - Professional Malpractice</b></p> <input type="checkbox"/> Dental Malpractice (200)<br><input type="checkbox"/> Legal Malpractice (210)<br><input type="checkbox"/> Medical Malpractice (220)<br><input type="checkbox"/> Previous Notice of Intent Case # 20____-NI-_____<br><input type="checkbox"/> Notice/ File Med Mal (230)<br><input type="checkbox"/> Other (299) _____                    | <p><b>Torts - Personal Injury</b></p> <input type="checkbox"/> Conversion (310)<br><input type="checkbox"/> Motor Vehicle Accident (320)<br><input type="checkbox"/> Premises Liability (330)<br><input type="checkbox"/> Products Liability (340)<br><input type="checkbox"/> Personal Injury (350)<br><input checked="" type="checkbox"/> Wrongful Death (360)<br><input checked="" type="checkbox"/> Assault/Battery (370)<br><input type="checkbox"/> Slander/Libel (380)<br><input type="checkbox"/> Other (399) _____   | <p><b>Real Property</b></p> <input type="checkbox"/> Claim & Delivery (400)<br><input type="checkbox"/> Condemnation (410)<br><input type="checkbox"/> Foreclosure (420)<br><input type="checkbox"/> Mechanic's Lien (430)<br><input type="checkbox"/> Partition (440)<br><input type="checkbox"/> Possession (450)<br><input type="checkbox"/> Building Code Violation (460)<br><input type="checkbox"/> Other (499) _____  |
| <p><b>Inmate Petitions</b></p> <input type="checkbox"/> PCR (500)<br><input type="checkbox"/> Mandamus (520)<br><input type="checkbox"/> Habeas Corpus (530)<br><input type="checkbox"/> Other (599) _____  | <p><b>Administrative Law/Relief</b></p> <input type="checkbox"/> Reinstate Drv. License (800)<br><input type="checkbox"/> Judicial Review (810)<br><input type="checkbox"/> Relief (820)<br><input type="checkbox"/> Permanent Injunction (830)<br><input type="checkbox"/> Forfeiture-Petition (840)<br><input type="checkbox"/> Forfeiture--Consent Order (850)<br><input type="checkbox"/> Other (899) _____ | <p><b>Judgments/Settlements</b></p> <input type="checkbox"/> Death Settlement (700)<br><input type="checkbox"/> Foreign Judgment (710)<br><input type="checkbox"/> Magistrate's Judgment (720)<br><input type="checkbox"/> Minor Settlement (730)<br><input type="checkbox"/> Transcript Judgment (740)<br><input type="checkbox"/> Lis Pendens (750)<br><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)<br><input type="checkbox"/> Confession of Judgment (770)<br><input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)<br><input type="checkbox"/> Other (799) _____ | <p><b>Appeals</b></p> <input type="checkbox"/> Arbitration (900)<br><input type="checkbox"/> Magistrate-Civil (910)<br><input type="checkbox"/> Magistrate-Criminal (920)<br><input type="checkbox"/> Municipal (930)<br><input type="checkbox"/> Probate Court (940)<br><input type="checkbox"/> SCDOT (950)<br><input type="checkbox"/> Worker's Comp (960)<br><input type="checkbox"/> Zoning Board (970)<br><input type="checkbox"/> Public Service Comm. (990)<br><input type="checkbox"/> Employment Security Comm (991)<br><input type="checkbox"/> Other (999) _____ |
| <p><b>Special/Complex /Other</b></p> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Pharmaceuticals (630)<br><input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Unfair Trade Practices (640)<br><input type="checkbox"/> Medical (620) <input type="checkbox"/> Out-of State Depositions (650)<br><input type="checkbox"/> Other (699) _____ <input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)<br><input type="checkbox"/> Sexual Predator (510) <input type="checkbox"/> Pre-Suit Discovery (670) |   |   |  |

*\* updated cover*

Submitting Party Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

STATE OF SOUTH CAROLINA )

COUNTY OF GREENWOOD )

TONY YOUNG )

Plaintiff(s) )

vs. )

GREENWOOD COUNTY DETENTION CENTER AND THE GREENWOOD COUNTY SHERIFF'S OFFICE )

Defendant(s) )

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2013-CP - 24- 00685

2016-CP-24 00157

FILED COMMON PLEAS 8TH JUDICIAL CIRCUIT GREENVILLE, S.C.

2013 JUN 11 AM 9:22

(Please Print)

Submitted By: JOSH HAWKINS

Address: P. O. BOX 8359, GREENVILLE, SC 29604

SC Bar #: 78470

Telephone #: 864-421-0036

Fax #: 864-421-9060

Other:

E-mail: josh@upstatetriallawyers.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

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NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case #, Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Assault/Slander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Other (799)
Administrative Law/Relief: Reinstate Driver's License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture - Consent Order (850), Other (899)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Commission (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)

Submitting Party Signature:

Joshua Hawkins

Date:

7/9/13

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

**FOR MANDATED ADR COUNTIES ONLY**

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

**You are required to take the following action(s):**

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

Tony Young,

Plaintiff,

vs.

Greenwood County Detention Center and the  
Greenwood County Sheriff's Office,

Defendants.

) IN THE COURT OF COMMON PLEAS  
) EIGHTH JUDICIAL CIRCUIT

) CASE NO. 2013-CP-24- 00655

) SUMMONS

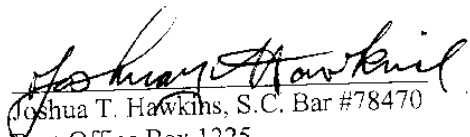
) 2016-CP-24 00157

FILED COMMON PLEAS  
8TH JUDICIAL CIRCUIT  
GREENVILLE, S.C.

2013 JUL 11 11:03

YOU ARE HEREBY SUMMONED and required to answer the complaint in this action, copy of which is hereby served upon you, and to serve a copy of your answer to the said complaint on the subscribers at their office, 1225 South Church, Greenville, South Carolina, 29604, within thirty (30) days after service thereof exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the complaint.

MOONEYHAM BERRY, LLC

  
Joshua T. Hawkins, S.C. Bar #78470  
Post Office Box 1225  
Greenville, South Carolina 29604  
(864) 421-0036 fax. (864) 421-9060  
*Attorneys for the Plaintiff*

7/9, 2013  
Greenville, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

IN THE COURT OF COMMON PLEAS  
EIGHTH JUDICIAL CIRCUIT

CASE NO. 2013-CP-24- 0060 S

Tony Young,

Plaintiff,

vs.

Greenwood County Detention Center and the  
Greenwood County Sheriff's Office,

Defendants.

COMPLAINT  
(Jury Trial Requested)

2016-CP-24 00157

2016 JUN 10 AM 9:22

FILED COMMON PLEAS  
8TH JUDICIAL CIRCUIT  
GREENWOOD, S.C.

COMES NOW, the plaintiff, alleging and complaining of the defendants as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Tony Young is an inmate housed at Walden Correctional Institution. During the most substantial portion of the facts set forth herein, Mr. Young was housed at Greenwood County Detention Center in Greenwood, South Carolina.
2. The Greenwood County Detention Center is a correctional facility operated by and located in Greenwood County, South Carolina.
3. The Greenwood County Sheriff's Office is a department of the County of Greenwood existing pursuant to the laws of South Carolina for the purpose of law enforcement.
4. Venue and jurisdiction are proper for the foregoing reasons.

**FACTUAL BACKGROUND**

5. The plaintiff was placed in Greenwood County Detention Center on August 16, 2011 for Felony Driving Under the Influence after being involved in an automobile accident on August 10, 2011.
6. Due to the serious injuries the plaintiff suffered as a result of the collision on August 10, 2011, the plaintiff was hospitalized at Greenville Memorial Hospital, where he remained for the following 6 days.
7. On August 16, 2011 officers from the Greenwood County Sheriff's Office traveled to Greenville Memorial Hospital for the purpose of taking the plaintiff into custody and transporting him to Greenwood County Detention Center.

8. The plaintiff's injuries included fractured vertebrae in his neck and back, pelvis fractures, broken ribs, fingers, and wrist, a bruised lung and spleen, two teeth being knocked out and a substantial rash.
9. Upon the officers' arrival at Greenville Memorial Hospital, the plaintiff's doctor urged the officers not to remove the plaintiff from the hospital since the plaintiff was still in need of extensive medical care. The plaintiff's son, Tony Young, Jr. and Samantha Porter were with the plaintiff during the time described, and witnessed the interaction between officers and Mr. Young's attending physician.
10. The officers ignored the doctor's pleas and removed the plaintiff from the hospital's care and transported him to Greenwood County Detention Center.
11. Upon the plaintiff's arrival at Greenwood County Detention Center, the plaintiff was ordered to strip naked and shower in the presence of the attending guards when he could barely stand due to his injuries.
12. The plaintiff was also ordered to remove the brace from his neck in order to be photographed. The plaintiff informed the facility personnel that doctors had specifically instructed him not to remove his brace for any reason; however, the attending guards disregarded the plaintiff's protests and pleas and forced him to remove his brace.
13. The plaintiff was then placed in a cell and left to suffer without any medication to alleviate the intense pain associated with his extensive injuries.
14. Despite his requests and pleas for medication and medical attention, the plaintiff was denied medical care.
15. Eventually, about 3 or 4 days after being placed in his cell with no pain medication, the plaintiff's ex-wife called and the facility finally provided non-prescription pain medicine to the plaintiff.
16. After a significant time had passed with no medical attention or any necessary pain medication, the plaintiff was finally able to get out of his bunk.
17. During the time the plaintiff was immobile, and following when he regained *some* mobility without medical treatment, the plaintiff consistently informed facility personnel that doctors had determined that the plaintiff needed physical therapy to properly recover.

18. At some point, facility personnel used steroids to treat the plaintiff, and the plaintiff attempted to inform the personnel that he did not need steroids, and that he desperately needed something to alleviate his intense pain.
19. Facility personnel responded by telling the plaintiff that his need for physical therapy was “not [their] problem” and that the plaintiff would have to pay for physical therapy, which was determined to be necessary by the plaintiff’s physician.
20. The plaintiff has received no physical therapy, which was deemed necessary by his physician.
21. The plaintiff continues to suffer from severe neck pain and daily headaches, as the Greenwood County Detention Center and its facility personnel refused, and continued to refuse, to address the plaintiff’s ongoing pain, need for medical attention and physical therapy for the duration of his detention at the facility.
22. Upon information and belief, the defendants’ gross negligence, intentional acts, reckless acts and omissions exacerbated, intensified and worsened the plaintiff’s injuries, directly and proximately causing him to suffer damages.
23. Upon information and belief, during all times described herein, after the plaintiff was taken into custody at Greenville Memorial Hospital, all government employees and those acting at the direction of government employees who apprehended, transported, treated and otherwise interacted with the plaintiff acted under the color of law by and through governmental agencies.

**FOR A FIRST CAUSE OF ACTION**

**(Violation of the U.S. CONST, amend IV & 42 U.S.C. §1983, and  
The South Carolina Constitution, Art. I, §10)**

24. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.
25. Pursuant to U.S. CONST. amend IV, the plaintiff has the right to be secure in his person against unreasonable searches and seizures.
26. Pursuant to U.S. CONST. amend XIV, U.S. CONST. amend IV is applicable to the conduct of state and municipal law enforcement personnel and employees of detention centers.

27. Pursuant to the S.C. CONST. art. I, §10, the plaintiff has the right to be secure in his person against unreasonable searches and seizures and unreasonable invasions of privacy.
28. The Greenwood County Sheriff's Office apprehended the plaintiff while he was severely injured, ignoring doctors' warnings that such apprehension could unnecessarily and seriously injure the plaintiff.
29. Government employees used unnecessary physical force with the plaintiff, seizing his person while being seriously injured with heightened susceptibility to transport injury and with a heightened risk of healing improperly without proper care, of which government employees deprived the plaintiff.
30. The Greenwood County employees' acts constituted an unreasonable seizure of the plaintiff's persons in violation of the U.C. CONST. amend IV, as well as a violation of the plaintiffs' right to be free from unreasonable invasions of privacy and personal security pursuant to S.C. CONST. art. I, §10.
31. As a direct and proximate result of defendants' conduct, by and through government employees, the plaintiff was deprived of his rights, privileges, and immunities secured by U. S. CONST. amend IV, and by S.C. CONST. art. I, §10.
32. The defendants used their position to inflict pain on the plaintiff and deprive him of necessary medical treatment, pain medication and physical therapy.
33. Acting under color of state law and in the course of conducting an unreasonable seizure of the plaintiff's person, the defendants acted with deliberate indifference to the plaintiff's constitutional rights.
34. No reasonable law enforcement officer or government employee could have believed that the defendants' actions comported with U.S. CONST. amend IV, or with S.C. CONST. art. I, §10, in light of the clearly established legal rules for police conduct.

**FOR A SECOND CAUSE OF ACTION**  
**(Wrongful Failure to Supervise Police Officer)**

35. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.
36. The Greenwood County Detention Center and the Greenwood County Sheriff's Office had a duty to supervise persons hired to serve as police officers, guards and other state employees that interacted with the plaintiff.

37. The defendant breached its duty in a grossly negligent and reckless manner to adequately supervise the state employees in the following particulars:
- a. in failing to ensure that state employees complied with policies and procedures regarding incidences such as the one which led to the events described herein;
  - b. in failing to ensure that officers and employees complied with employment policies and procedures regarding arrest, detention of and interaction with persons such as the plaintiff;
  - c. in failing to reprimand or terminate the employment of pertinent officers and employees when the defendants learned of various acts of excessive force, seizure and other acts perpetrated by state employees prior to the date described herein, and in condoning such behavior;
  - d. in failing to warn the plaintiff and others of the state employees' dangerous propensities toward others;
  - e. in failing to investigate the conduct of the state employees toward the plaintiff; and,
  - f. in other such particulars as the evidence may show.
38. As a direct and proximate result of the reckless and grossly negligent acts and omissions of the defendant, the plaintiff suffered the injuries and damages set forth above.

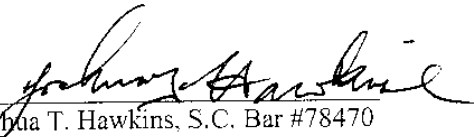
**FOR A THIRD CAUSE OF ACTION**  
**(Common Law Liability for Gross Negligence & Recklessness)**

39. All other allegations contained herein, to the extent that they are not inconsistent with the following, are incorporated by reference.
40. The defendants had a duty to exercise due care, defined to mean the care which a person of ordinary reason and prudence would exercise in the circumstances described herein.
41. The defendants had a duty to exercise that degree of knowledge, skill, and care by and through its government employees, required of such officers and employees, which is ordinarily possessed and exercised by those in their special line of work.
42. The defendants owed a duty to the plaintiff to:
- a. avoid assaulting the plaintiff;
  - b. avoid battering the plaintiff;

- c. avoid placing the plaintiff under arrest and seizing his person unnecessary without proper cause or justification while the plaintiff was hospitalized;
  - d. avoid handling the plaintiff in an unreasonably rough manner, prematurely and abruptly ending his medical care; and
  - e. other duties as will be shown through discovery.
43. The defendants breached their duty in a reckless and grossly negligent manner in several ways, including the following particulars:
- a. by failing to ensure that government employees complied with all applicable policies and procedures;
  - b. by failing to follow up on complaints made by other persons about government employees prior to the pertinent officers' and employees' tortious actions described herein;
  - c. by failing to adequately investigate government employees' conduct prior to their tortious actions described herein;
  - d. by failing to properly monitor the plaintiff's condition and administer appropriate medication and medical care.
  - e. by authorizing, adopting, and ratifying, the conduct of government employees toward the plaintiff; and
  - f. in other such particulars as the evidence may show.
56. As a direct and proximate result of the grossly negligent and reckless acts and omissions of the defendants, the plaintiff sustained the injuries and damages set forth above.

WHEREFORE, the plaintiff demands a jury trial and judgment against the defendants for actual and punitive damages to be determined by the Court as will fully compensate the plaintiff for his damages, for the costs of this action, for reasonable attorney fees pursuant to 42 U.S.C. §1988 and any other applicable authority herein cited or otherwise, and for such other relief as this Court deems just and equitable.

MOONEYHAM BERRY, LLC

  
Joshua T. Hawkins, S.C. Bar #78470  
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*Attorneys for the Plaintiff*

7/9, 2013  
Greenville, South Carolina

STATE OF SOUTH CAROLINA  
COUNTY OF GREENWOOD

Tony Young,

Plaintiff,

vs.

Greenwood County Detention Center and the  
Greenwood County Sheriff's Office,

Defendants.

) IN THE COURT OF COMMON PLEAS  
) EIGHTH JUDICIAL CIRCUIT

) CASE NO. 2013-CP-24-

) **COMPLAINT**  
) **(Jury Trial Requested)**

) **2016-CP-24157**

COMES NOW, the plaintiff, alleging and complaining of the defendants as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Tony Young is an inmate housed at Walden Correctional Institution. During the most substantial portion of the facts set forth herein, Mr. Young was housed at Greenwood County Detention Center in Greenwood, South Carolina.
2. The Greenwood County Detention Center is a correctional facility operated by and located in Greenwood County, South Carolina.
3. The Greenwood County Sheriff's Office is a department of the County of Greenwood existing pursuant to the laws of South Carolina for the purpose of law enforcement.
4. Venue and jurisdiction are proper for the foregoing reasons.

**FACTUAL BACKGROUND**

5. The plaintiff was placed in Greenwood County Detention Center on August 16, 2011 for Felony Driving Under the Influence after being involved in an automobile accident on August 10, 2011.
6. Due to the serious injuries the plaintiff suffered as a result of the collision on August 10, 2011, the plaintiff was hospitalized at Greenville Memorial Hospital, where he remained for the following 6 days.
7. On August 16, 2011 officers from the Greenwood County Sheriff's Office traveled to Greenville Memorial Hospital for the purpose of taking the plaintiff into custody and transporting him to Greenwood County Detention Center.

8. The plaintiff's injuries included fractured vertebrae in his neck and back, pelvis fractures, broken ribs, fingers, and wrist, a bruised lung and spleen, two teeth being knocked out and a substantial rash.
9. Upon the officers' arrival at Greenville Memorial Hospital, the plaintiff's doctor urged the officers not to remove the plaintiff from the hospital since the plaintiff was still in need of extensive medical care. The plaintiff's son, Tony Young, Jr. and Samantha Porter were with the plaintiff during the time described, and witnessed the interaction between officers and Mr. Young's attending physician.
10. The officers ignored the doctor's pleas and removed the plaintiff from the hospital's care and transported him to Greenwood County Detention Center.
11. Upon the plaintiff's arrival at Greenwood County Detention Center, the plaintiff was ordered to strip naked and shower in the presence of the attending guards when he could barely stand due to his injuries.
12. The plaintiff was also ordered to remove the brace from his neck in order to be photographed. The plaintiff informed the facility personnel that doctors had specifically instructed him not to remove his brace for any reason; however, the attending guards disregarded the plaintiff's protests and pleas and forced him to remove his brace.
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15. Eventually, about 3 or 4 days after being placed in his cell with no pain medication, the plaintiff's ex-wife called and the facility finally provided non-prescription pain medicine to the plaintiff.
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21. The plaintiff continues to suffer from severe neck pain and daily headaches, as the Greenwood County Detention Center and its facility personnel refused, and continued to refuse, to address the plaintiff’s ongoing pain, need for medical attention and physical therapy for the duration of his detention at the facility.
22. Upon information and belief, the defendants’ gross negligence, intentional acts, reckless acts and omissions exacerbated, intensified and worsened the plaintiff’s injuries, directly and proximately causing him to suffer damages.
23. Upon information and belief, during all times described herein, after the plaintiff was taken into custody at Greenville Memorial Hospital, all government employees and those acting at the direction of government employees who apprehended, transported, treated and otherwise interacted with the plaintiff acted under the color of law by and through governmental agencies.

**FOR A FIRST CAUSE OF ACTION**

**(Violation of the U.S. CONST, amend IV & 42 U.S.C. §1983, and  
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30. The Greenwood County employees' acts constituted an unreasonable seizure of the plaintiff's persons in violation of the U.C. CONST. amend IV, as well as a violation of the plaintiffs' right to be free from unreasonable invasions of privacy and personal security pursuant to S.C. CONST. art. I, §10.
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**FOR A SECOND CAUSE OF ACTION**  
**(Wrongful Failure to Supervise Police Officer)**

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  - c. by failing to adequately investigate government employees' conduct prior to their tortious actions described herein;
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WHEREFORE, the plaintiff demands a jury trial and judgment against the defendants for actual and punitive damages to be determined by the Court as will fully compensate the plaintiff for his damages, for the costs of this action, for reasonable attorney fees pursuant to 42 U.S.C. §1988 and any other applicable authority herein cited or otherwise, and for such other relief as this Court deems just and equitable.

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MOONEYHAM BERRY, LLC

Joshua T. Hawkins, S.C. Bar #78470  
Post Office Box 1225  
Greenville, South Carolina 29604  
(864) 421-0036 fax. (864) 421-9060  
*Attorneys for the Plaintiff*

\_\_\_\_\_, 2013  
Greenville, South Carolina

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Custodial Parent (if applicable): \_\_\_\_\_

SCCA 233F (12/2009)

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
v.	)	<b>PLAINTIFF'S</b>
Greenwood County Detention Center and the	)	<b>MOTIONS <i>IN LIMINE</i></b>
Greenwood County Sheriff's Office,	)	
Defendants.	)	
	)	

**PLAINTIFF'S MOTIONS *IN LIMINE***

The plaintiff moves *in limine* for an Order of the Court as to the following issues:

**1. Motion to exclude Plaintiff's arrests and convictions.**

This is a case in which the plaintiff alleges that he was abused and harmed while incarcerated at the Greenwood County Detention Center following a DUI charge. The abuse occurred prior to the plaintiff pleading guilty to the DUI. The plaintiff has several other arrests and convictions, which he testified to in his deposition. Tony Young Depo. 75-76. The plaintiff moves for each prior arrest and conviction to be excluded pursuant to Rules 401, 403, and 609, *SCRE*, none of which are relevant or admissible. This includes the DUI to which the plaintiff pled guilty following his incarceration at the Greenwood County Detention Center.

The plaintiff's conviction for breaking and entering is inadmissible pursuant to Rule 609(b), *SCRE*, as both the date of the conviction and the plaintiff's release from confinement occurred more than ten (10) years ago. Under Rule 609(b), *SCRE*, convictions more than ten (10) years old are only admissible if "the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect." In criminal cases, "the State bears the burden of establishing sufficient facts and circumstances to overcome the presumption against the admissibility of remote convictions." *State v. Black*, 400 S.C. 10, 17, 732 S.E.2d 880 (2012) citing *State v. Bryant*, 369 S.C. 511, 633 S.E.2d 152 (2006); *State v. Colf*, 337 S.C. 622, 525 S.E.2d 246 (2000). In civil cases, this burden shifts to the opposing party. Additionally,

evidence of a conviction more than 10 years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence. Rule 609(b), *SCRE*.

If the defendant plans to introduce evidence of the plaintiff's breaking and entering conviction, then they have failed to give the plaintiff sufficient advance written notice as required by Rule 609(b), *SCRE*.

The plaintiff's convictions for breach of peace, public intoxication, and possession of cocaine are inadmissible pursuant to Rule 609(a)(1), *SCRE*, as they are not crimes punishable by death or imprisonment in excess of one year. Additionally, none of these three convictions involves dishonesty or false statement, as provided in Rule 609(a)(2), *SCRE*. "Violations of narcotics laws are generally not probative of truthfulness." *State v. Bryant*, 369 S.C. at 517 citing *State v. Cheeseboro*, 346 S.C. 526, 552 S.E.2d 300 (2001). There is no suggestion that the plaintiff's convictions for breach of peace or public intoxication involve any dishonesty.

While the plaintiff's conviction for Felony Driving Under the Influence (the charge which led to the incarceration at issue) did occur within the last ten (10) years and is a crime punishable by imprisonment in excess of one year, it should nevertheless be deemed inadmissible. The Supreme Court of South Carolina has held that Rule 609(a)(1), *SCRE*, consists of a

two-part test for determining whether a defendant's prior convictions can be used to impeach him: (1) the prior crime must have been punishable by death or imprisonment in excess of one year, and (2) the court must determine that the probative value of admitting the evidence outweighs its prejudicial effect to the accused. *Green v. State*, 338 S.C. 428, 432, 527 S.E.2d 98 (2000).

Under the second part of that test, the plaintiff's felony DUI should be excluded because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The plaintiff's felony DUI conviction is wholly unrelated to the defendants' actions, which are the basis of this lawsuit. If that conviction were admitted into evidence, there is a significant danger of unfair prejudice, meaning "an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one." *State v. Alexander*, 303 S.C. 377, 383, 401 S.E.2d 146 (1991) citing Fed. R. Evid. 403 advisory committee's note. The potential probative value of any of the plaintiff's criminal convictions is far outweighed by the danger of unfair prejudice, confusion of the issue, and misleading the jury.

**2. Motion to exclude any discussion of Mr. Young driving without a license.**

At the time of the collision that caused the plaintiff's injuries, the plaintiff was driving without a license. Under Rule 401, *SCRE*, this fact is not relevant, as it does not have any tendency to make any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence. This action concerns whether the Greenwood County Sheriff's Officer acted with gross negligence during the plaintiff's detention, not whether the plaintiff was properly operating a motor vehicle at the time of the accident that caused his injuries. Additionally, even if such a fact were deemed relevant, it does not survive a Rule 403 analysis, as any probative value that it may have is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. *See State v. Alexander*, 303 S.C. 377, 401 S.E.2d 146 (1991) (relevant evidence may be excluded where its probative value is outweighed by the danger of unfair prejudice) and *State v. Gregory*, 198 S.C. 98, 16 S.E.2d 532 (1941) (trial judge properly limited the defendant's presentation of certain evidence to guard against confusion of the jury by the injection of collateral issues).

### **3. Motion to exclude the fact that someone was injured in the Plaintiff's wreck.**

The charge that led to the plaintiff's detention at issue was a driving under the influence charge that arose out of a collision between the plaintiff's vehicle and a tractor that was located in the middle of the road. The occupant of the tractor was injured during the wreck. Details of the wreck, in particular that someone else was injured, would have no probative value and would be unduly prejudicial. *See State v. Alexander*, 303 S.C. 377, 401 S.E.2d 146 (1991) (relevant evidence may be excluded where its probative value is outweighed by the danger of unfair prejudice) and *State v. Gregory*, 198 S.C. 98, 16 S.E.2d 532 (1941) (trial judge properly limited the defendant's presentation of certain evidence to guard against confusion of the jury by the injection of collateral issues). The defendant should not be allowed to confuse and inflame the jury with this irrelevant and unduly prejudicial information.

### **4. Motion to exclude collision report.**

Collision reports are inadmissible by statute in car wreck cases where liability is in question. Under Rule 401, *SCRE*, the collision report is not relevant. This action concerns whether the Greenwood County Sheriff's Officer acted with gross negligence during the plaintiff's detention, not whether the plaintiff was at fault for the accident that caused his injuries. Indeed, the plaintiff admits that he was at fault for the accident, so this fact is not in dispute. Additionally,

even if such a fact were deemed relevant, it does not survive a Rule 403 analysis, as any probative value that it may have is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. See *State v. Alexander*, 303 S.C. 377, 401 S.E.2d 146 (1991) (relevant evidence may be excluded where its probative value is outweighed by the danger of unfair prejudice) and *State v. Gregory*, 198 S.C. 98, 16 S.E.2d 532 (1941) (trial judge properly limited the defendant's presentation of certain evidence to guard against confusion of the jury by the injection of collateral issues).

**5. Motion to exclude grievances unrelated to this action.**

During the plaintiff's deposition, opposing counsel questioned the plaintiff about several grievances and/or sick call requests related to requests to move to a cell where the plaintiff could see a television. Under Rule 401, *SCRE*, these requests are irrelevant, as they do not have any tendency to make any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence. This action concerns whether the Greenwood County Sheriff's Officer acted with gross negligence during the plaintiff's detention, and any grievances unrelated to the Sheriff's Office's treatment of the plaintiff are irrelevant. Additionally, even if such a fact were deemed relevant, it does not survive a Rule 403 analysis, as any probative value that it may have is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. See *State v. Alexander*, 303 S.C. 377, 401 S.E.2d 146 (1991) (relevant evidence may be excluded where its probative value is outweighed by the danger of unfair prejudice) and *State v. Gregory*, 198 S.C. 98, 16 S.E.2d 532 (1941) (trial judge properly limited the defendant's presentation of certain evidence to guard against confusion of the jury by the injection of collateral issues).

**6. Motion to exclude use of the word "narcotics" when referencing the plaintiff's medication.**

The word "narcotic" has been used by the defense repeatedly throughout discovery in this case when referring to the Lortab prescribed by the hospital physician prior to the plaintiff's detention at the Greenwood County Detention Center. The word has a negative connotation and will be misleading to a jury. The plaintiff was prescribed medicine to take to the detention center, and the detention center refused to let him have that medicine. To refer to that medication with a term most often used in reference to illegal recreational drugs is misleading. Under Rule 403,

*SCRE*, any reference to the plaintiff's medication as "narcotics" would carry with it a danger of unfair prejudice and misleading the jury. See *State v. Alexander*, 303 S.C. 377, 401 S.E.2d 146 (1991) (relevant evidence may be excluded where its probative value is outweighed by the danger of unfair prejudice) and *State v. Gregory*, 198 S.C. 98, 16 S.E.2d 532 (1941) (trial judge properly limited the defendant's presentation of certain evidence to guard against confusion of the jury by the injection of collateral issues).

#### **7. Motion to exclude prior drug use.**

The plaintiff testified that he has used drugs in the past. Young Depo. 35:8-23. Under Rule 401, *SCRE*, this fact is not relevant, as it does not have any tendency to make any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence. This action concerns whether the Greenwood County Sheriff's Officer acted with gross negligence during the plaintiff's detention, not whether the plaintiff has ever used legal or illegal drugs in the past. Additionally, even if such a fact were deemed relevant, it does not survive a Rule 403 analysis, as any probative value that it may have is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. See *State v. Alexander*, 303 S.C. 377, 401 S.E.2d 146 (1991) (relevant evidence may be excluded where its probative value is outweighed by the danger of unfair prejudice) and *State v. Gregory*, 198 S.C. 98, 16 S.E.2d 532 (1941) (trial judge properly limited the defendant's presentation of certain evidence to guard against confusion of the jury by the injection of collateral issues).

#### **8. Motion to exclude disciplinary action.**

After he left the Greenwood County Detention Center, and entered SCDC, Tony Young was disciplined by SCDC for possession of cigarette rolling papers. Young Depo. 39:4-9. Under Rule 401, *SCRE*, this fact is not relevant, as it does not have any tendency to make any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence. This action concerns whether the Greenwood County Sheriff's Officer acted with gross negligence during the plaintiff's detention, not whether the plaintiff was ever disciplined while an inmate within the South Carolina Department of Corrections.

Additionally, even if such a fact were deemed relevant, it does not survive a Rule 403 analysis, as any probative value that it may have is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. See *State v. Alexander*, 303 S.C. 377,

401 S.E.2d 146 (1991) (relevant evidence may be excluded where its probative value is outweighed by the danger of unfair prejudice) and *State v. Gregory*, 198 S.C. 98, 16 S.E.2d 532 (1941) (trial judge properly limited the defendant's presentation of certain evidence to guard against confusion of the jury by the injection of collateral issues).

#### **9. Motion to exclude medical bills paid by SCDC.**

Under the collateral source rule, "compensation received by an injured party from a source wholly independent of the wrongdoer will not reduce the damages owed to the wrongdoer." *Citizens and S. Natl. Bank of South Carolina v. Gregory*, 320 S.C. 90, 92, 463 S.E.2d 317, 318 (1995). Applying that rule, the plaintiff's recovery should not be diminished because of any payments made by SCDC for his medical care. Additionally, because the plaintiff has not made any claim for payment of any medical treatment, the admission of any medical bills or testimony concerning medical bills is irrelevant to this cause of action and, thus, should be deemed inadmissible under Rule 401, *SCRE*. Any discussion of the plaintiff's medical bills also does not survive a Rule 403 analysis, as any probative value that the medical bills may have is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. See *State v. Alexander*, 303 S.C. 377, 401 S.E.2d 146 (1991) (relevant evidence may be excluded where its probative value is outweighed by the danger of unfair prejudice) and *State v. Gregory*, 198 S.C. 98, 16 S.E.2d 532 (1941) (trial judge properly limited the defendant's presentation of certain evidence to guard against confusion of the jury by the injection of collateral issues).

#### **10. Motion to exclude prior treatment for gout or anything else.**

The plaintiff has received medical treatment in the past for health conditions, illnesses, and injuries unrelated to the injuries that he sustained in the accident giving rise to this cause of action. Under Rule 401, *SCRE*, any prior treatment for health conditions, illnesses, and injuries unrelated to the injuries that the plaintiff sustained in the accident giving rise of this cause of action. This is irrelevant to whether the Greenwood County Sheriff's Officer acted with gross negligence during the plaintiff's detention. Additionally, even if such a fact were deemed relevant, it does not survive a Rule 403 analysis, as any probative value that it may have is substantially outweighed by the danger of confusion of the issues or misleading the jury. See *State v. Alexander*, 303 S.C. 377, 401 S.E.2d 146 (1991) (relevant evidence may be excluded where its probative value is outweighed by the danger of unfair prejudice) and *State v. Gregory*, 198 S.C. 98, 16 S.E.2d 532 (1941) (trial judge

properly limited the defendant's presentation of certain evidence to guard against confusion of the jury by the injection of collateral issues).

Respectfully submitted,

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Attorneys for Plaintiff

**Certificate of Service**

I hereby certify that on the nineteenth day of September, 2018, I served the plaintiff's foregoing Motions in *Limine* on the attorney at the address below, by first class mail with proper postage affixed and by electronic mail.

Mr. Russell W. Harter, Jr.  
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s/ Joshua T. Hawkins

Joshua T. Hawkins

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENWOOD	)	
	)	CASE NO.: 2016-CP-24-00157
Tony Young,	)	
	)	
Plaintiff,	)	<b>DEFENDANTS'</b>
	)	<b>MOTION IN LIMINE</b>
vs.	)	
	)	
Greenwood County Detention Center and	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	
	)	

**I. MEDICAL ISSUES AND/OR CAUSATION**

The defendants respectfully request the Court to instruct all witnesses to refrain from and/or guard against suggesting and/or offering any and all opinions with respect to medical issues and/or causation unless those witnesses are properly qualified in advance.

This motion includes but is not limited to any testimony or opinions that the plaintiff's healing and/or recovery from his injury was impaired and/or hindered because he allegedly did not have his neck brace for six (6) days and/or that he was denied medical care and/or equipment while at the GCDC between August 2011 and April 2012.

**II. STATEMENTS MADE BY PHYSICIANS AND/OR MEDICAL PROVIDERS**

The defendants respectfully request the Court to instruct all witnesses to refrain from and/or guard against suggesting or offering any statements and/or opinions made by any physicians and/or medical providers alleged to have been made at the time plaintiff was discharged from Greenville Memorial Hospital indicating that the plaintiff should not be discharged at that time.

**III. DISCHARGE INSTRUCTIONS**

The defendants respectfully request the Court to instruct all witnesses to refrain from and/or guard against suggesting or offering any statements and/or opinions with respect to the discharge instructions.

**IV. MEDICAL CARE**

The defendants respectfully request the Court to instruct all witnesses to refrain from and/or guard against suggesting or offering any statements and/or opinions concerning plaintiff's medical care unless they are properly qualified in advance.

Respectfully submitted,

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September 19, 2018  
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
v.	)	<b>PLAINTIFF’S</b>
Greenwood County Detention Center and the	)	<b>SUPPLEMENTAL</b>
Greenwood County Sheriff’s Office,	)	<b>MOTION <i>IN LIMINE</i></b>
Defendants.	)	
_____	)	

**PLAINTIFF’S SUPPLEMENTAL MOTION *IN LIMINE***

The plaintiff moves *in limine* for an Order of the Court as to the following issue:

**11. Motion to exclude Deborah Knowles’ deposition testimony.**

On September 20, 2018, counsel for the parties had a telephone conference related to evidence to be used at trial. During that conference, counsel for the defendants indicated that Deborah Knowles, whom the defendant deposed on February 13, 2015, was deceased and that the defendant intended to use Knowles’ deposition at trial. The undersigned had an opportunity to speak with Knowles’ daughter, Samantha Porter, and it is clear that Knowles struggled with cognitive issues and memory before she passed away. Samantha Porter is also a fact witness in this case. Porter has described her mother’s, Deborah Knowles’, struggles with seizures and the effects of seizure medication before her death and the noticeable cognitive issues with which Mrs. Knowles struggled.

On page 7 of her deposition, Knowles describes several of the medications she was taking at the time of her deposition, including Xifaxan (for fluid on her brain), Effexor, insulin, and Lyrica. These are only the medicines that she named. Although she indicated the medications would not affect her ability to testify when asked by defense counsel, it is questionable that Mrs. Knowles could even answer this question accurately.

The accuracy of Mrs. Knowles’ testimony is clearly in question, as shown by the following examples. She testified that the person injured on the tractor was present at the bond hearing. (p. 21) It is undisputed that he was not, and Mrs. Knowles flipped her testimony on that as the deposition continued. She testified that a public defender was not present at the bond

hearing. It appears clear that a public defender was present at the bond hearing. (p. 23) She made the statement, “Thank God [Tony Young] didn’t put [a seatbelt] on because he went through the windshield of the car,” which makes no sense. (p.28) She stated that Tony Young’s arm was not in a cast at the bond hearing, and it appears to be clearly established that Young did have a cast on his arm. (p. 30) Mrs. Knowles stated that Young had his collar on at when his mugshot was taken (p. 32), but the mugshot clearly shows that Young was not wearing a collar at the time the mugshot was taken. When asked by defense counsel if she would agree to the opposite of that statement (that the collar was not on in the mugshot), Mrs. Knowles agreed to that. (p. 33) Mrs. Knowles testified that Tony had dental work done, but that it was not related to the wreck (p. 58), but it is undisputed that Tony’s front teeth were knocked out in the wreck that injured him.

Whether Tony Young had his neck brace on at his bond hearing is one of the factual issues to be determined by a jury. The fact that Knowles’ testimony is not reliable is shown by her testimony that two events, only one of which can be true, simultaneously occurred. Young is not wearing a neck brace in his mug shot, plain and simple, and Knowles only testified consistent with that irrefutable photographic proof when led to do it by defense counsel. The fact that Knowles is deceased and defense counsel will be reading her testimony only confuses things further, especially when there is no possibility of cross examination or explanation of issues related to cognitive and memory function. Mrs. Knowles’ testimony even was inaccurate as to which one of Tony’s arms was broken. (p.55)

Since Mrs. Knowles’ testimony is riddled with inaccuracies as to facts that are undisputed by both sides, and since she is unavailable to explain the several inaccuracies, her testimony would only serve to confuse or mislead the jury. The plaintiff therefore respectfully requests that her testimony be excluded from trial.

– signature page follows –

Respectfully submitted,

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Attorneys for Plaintiff

**Certificate of Service**

I hereby certify that on the twenty-first day of September, 2018, I served the plaintiff's foregoing supplemental Motion *in Limine* on the attorney at the address below, by electronic mail.

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s/ Joshua T. Hawkins

Joshua T. Hawkins

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS  CASE NO. 2016-CP-24-00157  <b>PLAINTIFF’S MOTIONS          FOR A NEW TRIAL ABSOLUTE,          THIRTEENTH JUROR DOCTRINE,          AND JNOV</b>
COUNTY OF GREENWOOD	)	
Tony Young,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Greenwood County Detention Center and the Greenwood County Sheriff’s Office,	)	
	)	
Defendants.	)	
	)	

**PLAINTIFF’S POST-TRIAL MOTIONS**

**1. New Trial Absolute.**

The plaintiff respectfully submits that the evidence at trial does not support the verdict. The plaintiff also submits the jury instruction was confusing. The plaintiff respectfully submits that the inclusion of a comparative negligence instruction and the inclusion of the comparative negligence questions on the verdict form were errors. The plaintiff therefore requests a new trial.

**2. Thirteenth Juror Doctrine.**

The plaintiff respectfully submits that no reasonable juror could have reached the verdict returned. The plaintiff therefore requests a new trial pursuant to the Thirteenth Juror Doctrine.

**3. JNOV.**

The plaintiff respectfully requests that the Court enter judgment in his favor notwithstanding the verdict. The plaintiff presented evidence at trial that was uncontroverted by the defense. The defendant admitted to one or more policy violations, which is evidence of gross negligence. The plaintiff also submitted factual evidence, such as evidence of deprivation of medical equipment, to which the defense offered little or no evidence in response. The plaintiff respectfully submits that the Court should have granted judgment as a matter of law at the close of the plaintiff’s case and at the close of trial. The plaintiff therefore requests that the Court enter judgment in his favor notwithstanding the verdict.

– signature page follows –

Respectfully submitted,

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Attorneys for Plaintiff

Greenville, South Carolina  
October 5, 2018

STATE OF SOUTH CAROLINA ) COURT OF COMMON PLEAS  
COUNTY OF GREENWOOD ) 2016-CP-24-00157  
)  
)  
)  
)  
TONY YOUNG, )  
PLAINTIFF, )  
)  
vs. ) TRANSCRIPT OF RECORD  
) VOLUME I  
GREENWOOD COUNTY DETENTION )  
CENTER AND THE GREENWOOD )  
COUNTY SHERIFF'S OFFICE, )  
DEFENDANTS. )  
)

September 24, 25, 26, 27, 2019  
Greenwood, South Carolina

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

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

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Attorney for the Plaintiff

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CARLY H. DAVIS, ESQ.  
Attorney for the Defendant

Reported By:  
TARA SCOTT

Transcribed By:  
CHERYL A. SMITH  
Circuit Court Reporter

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1 THE COURT: Thank you.

2 In this case, the Greenwood Sheriff's Department is  
3 being represented by Mr. Harter. Mr. Harter, if you'd  
4 care to introduce yourself to the jury panel and certainly  
5 those people seated at the table with you.

6 MR. HARTER: Thank you, Judge.

7 My name's Rusty Harter. I practice law in Greenville  
8 with the firm of Chapman, Harter and Harter. This is my  
9 daughter and associate Carly Davis, and we'll be  
10 representing the sheriff today. With me is Lonnie Smith,  
11 Major Lonnie Smith with the sheriff's office and also the  
12 sheriff is with us today.

13 THE COURT: Sheriff Kelly.

14 MR. HARTER: Thank you.

15 THE COURT: Ladies and gentlemen, first question in  
16 this case, is there any member of the jury panel who is  
17 currently being represented or has previously been  
18 represented by any of the attorneys involved in this case  
19 or their firms, Mr. White and Mr. Hawkins, Mr. Harter or  
20 Ms. Davis? If so, please stand.

21 (No response.)

22 THE COURT: No one is standing.

23 Is there any member of the jury panel who has any  
24 close, business or social relationships or is related by  
25 blood or marriage to any of the lawyers involved in this

1 case? If so, please stand.

2 (No response.)

3 THE COURT: All right. No one is standing.

4 Ladies and gentlemen, I'm going to read a list of  
5 possible witnesses in this case. When I'm done reading  
6 this list, I will ask if there's any member of the jury  
7 panel who is related by blood or marriage or has any close  
8 business or social relationships to any of these people,  
9 okay? So here are the possible witnesses. And, again, I  
10 don't anticipate that all of these people are going to  
11 testify, but here are the possible witnesses in this case.  
12 You've been introduced to the plaintiff, Tony Young.  
13 Additional witnesses are: Samantha Porter; Jessica  
14 Shirley; Tony Young, Junior; Doretha, D-O-R-E-T-H-A, Hall;  
15 Sherry Bouknight, B-O-U-K-N-I-G-H-T; Beverly Weaver;  
16 Lonnie Smith with the sheriff's department; Sharon  
17 Middleton, also, I believe, with the sheriff's department;  
18 Michael Holtzclaw; Katie Mae Gilmore; Rodney Gresham; Gene  
19 Powell; Philip Vaughn; Gloria Bordelon, B-O-R-D-E-L-O-N;  
20 Alex Wylin Porter -- or Waylen Porter, W-A-Y-L-O-N,  
21 Porter; Doretha Hall; Sidney Montgomery; Beverly Weaver;  
22 Katie Gilmore; Linda Butler, who works with the sheriff's  
23 department; Melissa Bollman, B-O-L-L-M-A-N; David  
24 Pendergrass; Eddie Richmond, Junior; Cassius Murray,  
25 C-A-S-S-I-U-S, Murray, M-U-R-R-A-Y; Dr. Tami, T-A-M-I,

1 Massey, M-A-S-S-E-Y; licensed practical nurse Kate Snow;  
2 Kayla McMahan, K-A-Y-L-A, McMahan, M-C-M-A-H-A-N;  
3 Dr. Charles Kanos, K-A-N-O-S, Dr. John Tankersley,  
4 T-A-N-K-E-R -- sorry -- T-A-N-K-S-L-E-Y, Tanksley, Junior,  
5 Dr. John Tanksley, Junior; Benjamin Manning, who is also a  
6 doctor; Judge Bart McGuire, who is a former magistrate;  
7 and Mike Murdock, who is a patrolman with the Highway  
8 Patrol, a trooper with the Highway Patrol.

9 Any member of the jury panel related by blood or  
10 marriage to any of those folks or anyone who has any close  
11 business or social relationships with any of those  
12 witnesses? If so, please stand.

13 (No response.)

14 THE COURT: No one? Okay, good.

15 Now, ladies and gentlemen, in this case, basically,  
16 the plaintiff -- just to give you something by way of a  
17 factual background, the plaintiff was involved in an  
18 automobile collision in August of 2011. He was -- as a  
19 result of that collision, he was taken into custody by the  
20 Highway Patrol. He was taken to Greenville and treated  
21 for about six days at which point in time he was released  
22 back to the custody of the detention center where he  
23 stayed for several months.

24 Essentially, the plaintiff -- the plaintiff's  
25 complaint alleges that the defendant was grossly negligent

1 in their treatment of the plaintiff while he was at the  
2 detention center. Of course, the defendant denies these  
3 allegations.

4 Is there any member of the jury panel who thinks that  
5 they may know anything about this case or has formed or  
6 expressed any opinion about the allegations involved in  
7 this particular case? If so, please stand.

8 (No response.)

9 THE COURT: All right. No one is standing.

10 All right. Is there any member of the jury panel who  
11 has any close relatives who work for the sheriff's office  
12 or worked at the detention center either currently or back  
13 in 2011, 2012, during that time frame? If so, please  
14 stand.

15 (No response.)

16 THE COURT: Anyone have any relatives that work at  
17 the detention center, is what I'm asking.

18 (No response.)

19 THE COURT: No one is standing.

20 All right. Is there any member of the jury panel who  
21 has any member of your immediate family, parents,  
22 children, siblings who work or spouses who work in a law  
23 enforcement capacity? Anyone who is in law enforcement?

24 And, yes, ma'am, your name, again, please, for the  
25 record?

1 JUROR: Lenora Vasargant [phonetic].

2 THE COURT: Ms. Vasargant?

3 JUROR: My son is a correctional officer in Perry.

4 THE COURT: Okay. Thank you for that information,  
5 ma'am.

6 And yes, ma'am?

7 JUROR: Kristin Anderson. My husband is a captain  
8 for the City of Greenwood.

9 THE COURT: All right. You did indicate that to us.  
10 Thank you, Ms. Anderson.

11 Anyone else?

12 (No response.)

13 THE COURT: No one is standing.

14 All right. We have a number of people out there who  
15 work in the healthcare field. If you've already told us  
16 that you work in healthcare, you don't have to tell us  
17 again. But is there any member of the jury panel who, in  
18 addition -- is there any member of the jury who has any  
19 relative -- close relative, husband that you haven't told  
20 us about, spouse that you haven't told us about, child,  
21 brother, sister who works in the healthcare field? Anyone  
22 who has a relative that works in the healthcare field? If  
23 so, please stand.

24 (No response.)

25 THE COURT: No one's standing.



1 JUROR: Yes, he did.

2 THE COURT: All right. Very good. So he's mobile,  
3 he's able to walk and everything?

4 JUROR: Yeah.

5 THE COURT: All right. Thank you, Mr. McIntyre.  
6 Anyone else? Yes, ma'am? Your name?

7 JUROR: My father broke his neck.

8 THE COURT: Okay. And what's your name please,  
9 ma'am.

10 JUROR: Earnestine Terry.

11 THE COURT: Ms. Terry, your father broke his neck.  
12 When did this happen, ma'am?

13 JUROR: In February.

14 THE COURT: In February. Is he still recovering or  
15 is he ---

16 JUROR: Yes.

17 THE COURT: All right. He's still recovering, but  
18 good prognosis? bad prognosis?

19 JUROR: Good.

20 THE COURT: Good? All right. Very good. Thank you  
21 for that information, ma'am.

22 JUROR: My brother broke his back about 15 years ago.

23 THE COURT: Okay. And what's your name, sir?

24 JUROR: Jeff Davis, Number 39.

25 THE COURT: Did he recover?

1 JUROR: Yeah. He's fine.

2 THE COURT: Okay. Very good. Thank you.

3 Anyone else?

4 (No response.)

5 THE COURT: No one is standing.

6 All right. Is there any member of the jury panel who  
7 has ever been told to wear or has been prescribed a  
8 C-spine neck collar or neck brace? That's those things  
9 that fit around your neck, kind of keep it from moving.  
10 Any member of the jury panel who's ever been prescribed  
11 one of those or had a close family member ever prescribed  
12 one of those? If so, please stand.

13 JUROR: My father did.

14 THE COURT: Right. That only stands to reason.

15 Yes, ma'am -- yes, sir? What's your name?

16 JUROR: Patrick Myers.

17 THE COURT: Mr. Myers.

18 JUROR: My father had a neck surgery, and then he had  
19 to wear one for about a couple months.

20 THE COURT: A couple months? Okay. Thank you, sir.

21 Anyone else?

22 (No response.)

23 THE COURT: No one is standing.

24 All right. I think I covered this. Let me just  
25 double check. Is there any member of the jury panel who

1 has ever worked for the Greenwood County Sheriff's  
2 Department or has ever worked for Greenwood County? If  
3 so, please stand. Anybody who has ever been employed by  
4 the County of Greenwood. Let's handle it that way.

5 (No response.)

6 THE COURT: No one is standing.

7 All right. Is there any member of the jury panel who  
8 has strong opinions one way or another about holding -- if  
9 it's found that someone has done something wrong, anyone  
10 who has any problems -- strong issues with holding that  
11 person responsible for any harm that they may have caused?  
12 And that's regardless of whether the party is a private  
13 citizen or a corporation or a business or, in this case, a  
14 governmental entity. Anybody who has any issues with jury  
15 trials or holding someone accountable if they've done  
16 something wrong and it's proven by the plaintiff? If so,  
17 please stand.

18 (No response.)

19 THE COURT: No one is standing.

20 All right. Ladies and gentlemen, the next question  
21 I'm going to ask, I'm going to ask it, and then I'm going  
22 to let -- if anybody needs to respond, I'm going to let  
23 you come forward and you can talk to me privately down  
24 here, okay? Is there any member of the jury panel or any  
25 close family member who, to your knowledge, has ever been

1 either arrested for felony driving under the influence or  
2 been a victim of a drunk driver, or someone who is  
3 convicted of felony DUI? Any member of the jury panel  
4 who's either been arrested themselves, had a family member  
5 arrested or been a victim or had a close family member who  
6 was a victim of a felony DUI? If so, please stand.

7 All right. Ma'am, why don't you come forward and we  
8 can talk about that down here.

9 What's your name, ma'am?

10 JUROR: Michaela Coates. I'm Number 27.

11 THE COURT: 27, Ms. Coates. Yes, ma'am?

12 JUROR: So my uncle was hit by a drunk driver who  
13 left the scene, and he passed away from that.

14 THE COURT: Okay. How long ago was that, Ms. Coates?

15 JUROR: This was in '08.

16 THE COURT: 2008?

17 JUROR: Uh-huh.

18 THE COURT: Okay. This case involves allegations.  
19 The plaintiff basically was ultimately convicted of felony  
20 DUI. Can you put aside the situation that you had with  
21 your uncle and decide this case based solely on the  
22 evidence and the testimony or for the situation?

23 JUROR: I can do my best.

24 THE COURT: You can do your best. I need you to be  
25 certain. If you can put it aside, you can put it aside,

1 and if you can't, I need to know.

2 JUROR: I honestly don't know.

3 THE COURT: You're not sure. All right.

4 JUROR: I haven't talked about it since it happened.

5 THE COURT: Got you. I'll let you sit this one out  
6 then, Ms. Coates, okay?

7 JUROR: Okay.

8 THE COURT: Just have a seat. Don't go anywhere,  
9 though, okay?

10 JUROR: Okay.

11 THE COURT: What's your name, ma'am?

12 JUROR: Tonya Cannon, Number 20.

13 THE COURT: Ms. Cannon, yes, ma'am.

14 JUROR: My son, Kienta Witt, he had a DUI in January,  
15 and it was reduced to a reckless driving.

16 THE COURT: Okay. But that was just a regular DUI?  
17 Nobody got hurt?

18 JUROR: Yes. Nobody got hurt.

19 THE COURT: Okay. All right. You're fine then,  
20 ma'am.

21 JUROR: Okay.

22 THE COURT: Have a seat.

23 What's your name again, ma'am?

24 JUROR: Leah Kellett.

25 THE COURT: Ms. Kellett, yes, ma'am.

1 JUROR: I have a mother who was arrested for DUI.

2 THE COURT: Okay. But it wasn't felony DUI? No one  
3 was injured?

4 JUROR: Yes. Her third one was.

5 THE COURT: Okay. Third one, somebody did get  
6 injured in the third one?

7 JUROR: Yes.

8 THE COURT: Okay. How long ago was this, ma'am?

9 JUROR: It's been about 15 years.

10 THE COURT: 15 years. All right.

11 The allegations in this case involve the defendant.  
12 He was ultimately convicted of felony DUI. Does the fact  
13 that your mother went through this, does that -- is that  
14 going to affect your ability to be fair and impartial to  
15 both sides in this case, or can you put aside what  
16 happened to your mom and still judge it?

17 JUROR: I can still judge it without ---

18 THE COURT: Good enough.

19 JUROR: --- relating to that.

20 THE COURT: Very good. Thank you for that  
21 information.

22 JUROR: Angela Proctor.

23 THE COURT: Ms. Proctor. Yes, ma'am?

24 JUROR: My dad was involved in an accident where a  
25 drunk driver hit him.

1 THE COURT: Okay. How long ago was that,  
2 Ms. Proctor?

3 JUROR: Gosh, probably 10, 15 years ago.

4 THE COURT: Okay.

5 JUROR: Quite a while.

6 THE COURT: All right. The allegations involved in  
7 this case basically are that the plaintiff ultimately pled  
8 guilty to felony DUI involving, I believe, bodily injury.  
9 Is what happened in your family situation, is that hitting  
10 too close to home or can you set that aside and be fair to  
11 both sides?

12 JUROR: Yes, sir. I believe I can.

13 THE COURT: Good enough. Thank you. You can have a  
14 seat.

15 Good to see you again, Mr. Sprouse. Yes, sir.

16 JUROR: Just to clarify the question ---

17 THE COURT: Yes, sir.

18 JUROR: --- one more time.

19 THE COURT: Yeah. Anybody who's had a relative  
20 either a victim of or accused of felony DUI.

21 JUROR: Okay. That's -- I just had a DUI.

22 THE COURT: Okay.

23 JUROR: Is that just ---

24 THE COURT: A regular DUI doesn't count.

25 JUROR: I just wanted to let you know.

1 THE COURT: Yeah. Good enough, Mr. Sprouse.

2 JUROR: Thank you.

3 THE COURT: Yes, sir.

4 All right. Ladies and gentlemen, I hate to ask  
5 this. I've got to ask it, okay? But you can come forward  
6 and talk to me about it. Is there any member of the jury  
7 panel who, to your knowledge, has ever been detained at  
8 the Greenwood County Detention Center? Any member of the  
9 jury panel or any close family member who has ever been  
10 detained at the Greenwood County Detention Center? By a  
11 close family member, I mean, you know, husband, child,  
12 parent. That kind of a thing, okay? Somebody close to  
13 you. If you've already come down, you don't have to come  
14 down again. Y'all come down.

15 What your name, ma'am?

16 JUROR: Anna McKenna.

17 THE COURT: Yes, ma'am.

18 JUROR: My husband, before we were married.

19 THE COURT: Okay. And that was -- that would have  
20 been some time ago then?

21 JUROR: Uh-huh.

22 THE COURT: All right.

23 JUROR: In 2015, maybe.

24 THE COURT: 2015. All right. What was the charge,  
25 if you don't mind me asking?

1 JUROR: Public drunk.

2 THE COURT: Public drunk. Into every life a little  
3 rain must fall, so I understand. Thank you. For that  
4 information, Ms. McGinnis.

5 MR. HAWKINS: What's your jury number?

6 THE CLERK: 95.

7 THE COURT: 95.

8 Hey.

9 JUROR: My son.

10 THE COURT: All right. How long ago was that, ma'am.

11 JUROR: He's doing 15 years. But he was guilty.

12 THE COURT: Okay. All right. May I ask what he was  
13 convicted of, ma'am?

14 JUROR: Murder.

15 THE COURT: Murder. Okay. I'm sorry.

16 JUROR: Yeah. But he was guilty.

17 THE COURT: All right, ma'am.

18 THE CLERK: What's your name, sweetie? I'm sorry.

19 JUROR: Rachel Blair.

20 THE COURT: Number 8.

21 JUROR: Juror 8.

22 THE COURT: All right. Ms. Blair, thank you for that  
23 information.

24 JUROR: You're welcome.

25 THE COURT: Yes, ma'am.

1 I'm sorry. What was your name?

2 JUROR: Wayne Levens.

3 THE COURT: Mr. Levens, yes, sir.

4 JUROR: 87.

5 THE COURT: Yes, sir.

6 JUROR: My son was detained for child support.

7 THE COURT: Okay. How long ago was that, sir?

8 JUROR: It was last year.

9 THE COURT: Okay. Good enough. Thank you for that  
10 information, sir.

11 Hey.

12 JUROR: I'm Number 155, Jennifer Townes.

13 THE COURT: Yes, ma'am.

14 JUROR: And my brother was incarcerated in Greenwood  
15 County, I think a DUI, but he didn't have a felony DUI.

16 THE COURT: Okay. When was that?

17 JUROR: A couple times, actually, I think. Last time  
18 was at the beginning of the year, this year.

19 THE COURT: Okay. All right. Thank you for that  
20 information.

21 JUROR: You're welcome.

22 THE COURT: Yes, ma'am.

23 Your name again?

24 JUROR: Kristin Anderson.

25 THE COURT: Ms. Anderson. Yes, ma'am?

1 JUROR: Both my mother and my father have been in  
2 2001 both held for breach of trust charge that was  
3 dismissed.

4 THE COURT: Okay. That was 2001?

5 JUROR: Uh-huh.

6 THE COURT: All right. But that was just a breach of  
7 trust?

8 JUROR: Yeah.

9 THE COURT: All right. Good enough. Thank you,  
10 ma'am.

11 Your name again for the record?

12 JUROR: Earnestine Terry.

13 THE COURT: Yes, ma'am?

14 JUROR: My son, he did weekend time.

15 THE COURT: Okay. He did weekend time?

16 JUROR: Uh-huh. Maybe four years ago.

17 THE COURT: Four years ago?

18 JUROR: Uh-huh.

19 THE COURT: Okay. Thank you for that information.

20 JUROR: Hayes.

21 THE COURT: Mr. Hayes, Frank Addy. Yes, sir?

22 JUROR: My son, Jamall Hayes.

23 THE COURT: Okay. And how long ago was that,  
24 Mr. Hayes?

25 JUROR: Two years ago.

1 THE COURT: Two years ago. How long ago was he in  
2 for, did he stay in?  
3 JUROR: He just stayed a day.  
4 THE COURT: Just a day? Okay. Thank you, Mr. Hayes.  
5 Good enough.  
6 JUROR: I'm Juror Number 45.  
7 THE COURT: Yes, sir? Frank Addy. 45.  
8 JUROR: I have a DUI back in '08, and I was in for  
9 like maybe two or three days.  
10 THE COURT: Two or three days. Okay. But the charge  
11 was resolved and everything ---  
12 JUROR: Yeah.  
13 THE COURT: Okay. Good enough. Thank you, sir. 45.  
14 JUROR: Colby Lanford, Number 80.  
15 THE COURT: Number what?  
16 JUROR: 80.  
17 THE COURT: 80. Mr. Lanford, yes, sir.  
18 JUROR: I was detained after picked up for driving  
19 under suspension ---  
20 THE COURT: Okay.  
21 JUROR: --- back 15 years ago.  
22 THE COURT: DUS 15 years ago. Okay.  
23 JUROR: Yes. I was detained for a DUI in 2001.  
24 THE COURT: Okay. Good enough. Thank you for that  
25 information, sir.

1           What's your name again?

2           JUROR: Tonya Cannon.

3           THE COURT: Ms. Cannon, yes, ma'am.

4           JUROR: It was back I think in '98, '99 for a  
5 lynching.

6           THE COURT: Okay.

7           JUROR: When we went, me and Billy went over to the  
8 courthouse, she had already dismissed it.

9           THE COURT: Okay. But you were charged initially for  
10 a lynching?

11          JUROR: Uh-huh.

12          THE COURT: Many, many moons ago, '88, '89?

13          JUROR: Yes.

14          THE COURT: Okay. But it got dismissed and it's all  
15 good?

16          JUROR: It's all good.

17          THE COURT: Good enough. Thank you.

18          That was 89. You were 89, ma'am? What was your  
19 juror number?

20          JUROR: 20.

21          THE COURT: 20. Sorry.

22          THE CLERK: It was in '88.

23          THE COURT: Oh, sorry.

24          MR. HARTER: 20. It was in '89.

25          THE COURT: All right.

1 (Bench conference was held off the record.)

2 THE COURT: All right. Is there any member of the  
3 jury panel -- several of you have come down and I meant to  
4 ask this when you were down here, but is there any member  
5 of the jury panel who has ever had any complaint about how  
6 you were treated at the detention center or how a family  
7 member of yours was treated at the detention center?  
8 Anyone who has any complaint about the provision of care?  
9 You don't get to complain about the food, okay? But any  
10 complaint about like provision of medical care, that kind  
11 of thing, while at the detention center or for your family  
12 member while they were at the detention center? Anybody?  
13 Just stand up again if you need to talk to me about that.

14 (No response.)

15 THE COURT: No one has any complaints about any  
16 family member, how they were treated? Okay.

17 Last question, ladies and gentlemen. Is there any  
18 member -- or two more questions. Is there any member of  
19 the jury panel who knows of any reason why you cannot give  
20 to both the plaintiff in this case and the defendant in  
21 this case a fair trial, judging the case based solely on  
22 the evidence and the law as I instruct you? Any reason  
23 whatsoever you feel like you just cannot be fair and  
24 impartial? If so, please stand.

25 (No response.)

1 THE COURT: No one is standing.

2 Any member of the jury panel who has any deeply held  
3 moral or religious beliefs, the tenets of which prohibit  
4 you from serving on a jury? If so, please stand.

5 (No response.)

6 THE COURT: No one is standing.

7 All right. Ladies and gentlemen, what we're going to  
8 do is we're going to do this the old-fashioned way, okay?  
9 We have to put the names into the hopper because the  
10 system is still not working. We would normally do this by  
11 computer and draw the names electronically. What we're  
12 going to do, though, is I'm going to give you a 15 minute  
13 break. I'm going to let the clerk randomly draw the names  
14 of prospective jurors. I'm going to let the attorneys  
15 take a look at that list, and then when we come back in  
16 about 15 minutes, at that point in time, we'll seat the  
17 jury on the first case, okay?

18 So here's what we're going to do. While they're  
19 looking at the jury -- while they're looking at the jury  
20 list, you guys stay here, because what we're going to do  
21 is I'll go into the voir dire on the second case, okay?  
22 And that way, we should be in a position to quickly pick a  
23 jury on the second case. So as soon as they're done doing  
24 this the old-fashioned way, we'll move forward, okay?

25 (Pause in proceedings.)

1 THE CLERK: One alternate?

2 THE COURT: Are we okay to go with 11 if we lose one?

3 Are we okay with that? Yeah. No alternate.

4 (Pause in proceedings.)

5 THE COURT: All right. I'll give y'all about

6 15 minutes to look at that list, okay?

7 MR. HARTE: Okay. Thank you.

8 (WHEREUPON, a recess is taken.)

9 JURY SELECTION

10 THE COURT: All right. Counselor, are we ready to  
11 strike a jury?

12 MR. WHITE: Yes, Your Honor.

13 MR. HAWKINS: Yes, Your Honor.

14 THE COURT: Very good. All right. Strikes are four  
15 and four. Gentlemen, if you could, use the column to the  
16 very left of the page. That doesn't coincide with any  
17 juror number. Again, strikes are four and four.

18 Madam Clerk, you may proceed.

19 THE CLERK: Plaintiff strikes?

20 MR. WHITE: 3, 6 ---

21 THE COURT: Just give them to us one at a time.

22 MR. WHITE: Oh, I'm sorry.

23 THE COURT: No. That's okay.

24 Plaintiff strikes 3.

25 THE CLERK: The defense strikes?

1 MR. HARTER: Defendant strikes Number 12.  
2 THE CLERK: The plaintiff strikes?  
3 MR. WHITE: 6.  
4 MR. HARTER: Defendant strikes Number 5.  
5 THE CLERK: Plaintiff?  
6 MR. WHITE: 7.  
7 MR. HARTER: Defendant strikes Number 16.  
8 THE CLERK: Plaintiff?  
9 MR. WHITE: 15.  
10 MR. HARTER: Defendant strikes Number 1.  
11 THE COURT: All right. Review the strikes with you.  
12 I've got plaintiff striking 3, 6, 7 and 15, correct?  
13 MR. WHITE: That's correct, Your Honor.  
14 THE COURT: I've got defense striking 1, 5, 12 and  
15 16, correct?  
16 MR. HARTER: That's correct, Judge.  
17 THE COURT: All right. Ladies and gentlemen, if your  
18 name is called it means that you have been selected on  
19 this jury. I'll need you to come forward, bring with you  
20 anything that you brought to the courthouse and have a  
21 seat over here, okay? So if your name is called, come on  
22 down.  
23 Madam Clerk, please seat my jury.  
24 THE CLERK: 163, Katie Webster; 11, Heather Bowie;  
25 46, Judy Farmer; 36, Dylan Davis; 43, Alicia Dean; 83,

1 Beck Lay; 57, Michael Glenn; 76, Willie Kimble; 87, Wayne  
2 Levens; 161, Delma Waller; 172, Veronica Witt; and 61,  
3 Allison Harrison.

4 THE COURT: All right. Any exception or problems  
5 with jury selection from the plaintiff?

6 MR. WHITE: Not from us, Your Honor.

7 THE COURT: None from the defense?

8 MR. HARTER: No, sir.

9 THE COURT: Very good. Ladies and gentlemen, you're  
10 going to serve as the jury on the first case that's up for  
11 trial. I've talked to the attorneys, and the intention is  
12 to begin this case in earnest with opening arguments,  
13 et cetera, at 2:30. So if you would come back to the  
14 courthouse and be here, please, at 2:30.

15 After we pick the second jury, I'm going to have the  
16 lawyers on the first case report back at 2:00, and I'll  
17 handle any sort of pretrial motions. So if you could,  
18 just report back to the jury holding room, that same room  
19 that you guys were in in the morning. And then if we're  
20 running a little bit longer, we'll bring you in here and  
21 let you sit in here when we finish, okay? Or when we take  
22 a break. But I do anticipate starting the case in earnest  
23 at 2:30. All right.

24 I have not administered your oath to you as jurors.  
25 I haven't appointed a foreperson yet. I'll do all of that

1 at 2:30. Do go ahead and grab some lunch, be back at  
2 2:30. And just to let you know, we usually go to about  
3 5:00, 5:30 in the day, and we should be done each day  
4 around that particular point in time unless, for some  
5 reason, we have to go just a little bit longer.

6 But 2:30. I'll see you back. Be sure to be here.  
7 Wear those juror badges back to help identify you. Have a  
8 great lunch.

9 See you at 2:30. Thank you.

10 (WHEREUPON, the jury exited the courtroom.)

11 THE COURT: All right. Gentlemen, Ms. Davis, if you  
12 all want to come back at 2:00, we'll handle any pretrial  
13 at that time, okay? Thank y'all.

14 (WHEREUPON, a recess is taken.)

15 THE COURT: All right. We'll go back on the record,  
16 if we could.

17 It's the Court's understanding that there were a few  
18 motions in limine that the defense had that we needed to  
19 briefly address and maybe put on the record. Did y'all  
20 have anything in addition to what they provided?

21 MR. HAWKINS: Your Honor, we have filed several  
22 motions in limine, and I'm happy to hand a copy of that up  
23 to the Court if the Court doesn't have one available.

24 THE COURT: I don't know that I printed those off,  
25 I'm afraid. Hold on. Let me see if I can find them. I

1 think I may have misplaced them. Do you have another  
2 copy, by any chance? Thanks.

3 MR. HAWKINS: I think I scribbled some stuff on the  
4 back so I'll just come back and get it.

5 THE COURT: All right. That's fine.  
6 Who wants to go first?

7 MR. HAWKINS: We're happy to go first, Your Honor.

8 THE COURT: Sure.

9 MR. HAWKINS: Your Honor, we had filed, as you can  
10 see, several motions in limine. I don't know that we'll  
11 need rulings on all of them, but the first and foremost  
12 ones that we would like the Court to address is the prior  
13 convictions of my client as well as any reference to an  
14 injury to the person that was injured in the wreck that  
15 gave rise to the DUI. We think that it's pretty clear  
16 that the criminal stuff is probably not going to come in.  
17 I think all -- most if not all are probably more than --  
18 much more than ten years old. There are some breaches of  
19 peace and some -- I think there's a breaking and entering  
20 or something like that from like 2001. There's some  
21 special circumstances to go along with that, but I think  
22 just under plain reading of the rules, that stuff doesn't  
23 come in.

24 The reason we want to exclude the injury, you know,  
25 the guy on the tractor that got injured is because it

1 doesn't really have anything to do with our suit. Our  
2 suit is, you know, well after the wreck at the detention  
3 center, and it wouldn't really serve any purpose other  
4 than to just inflame or prejudice the jury. We're not  
5 claiming, you know, medical bills or anything like that  
6 that were incurred as a result of the wreck. We're not  
7 claiming anything about the wreck itself. We're just  
8 claiming that he didn't get appropriate medical attention  
9 and that he didn't get help with his bandages, and that he  
10 was denied medication at the detention center. So we  
11 would ask the Court to instruct the defense not to  
12 reference any prior convictions or the injury to the  
13 person on the tractor.

14 THE COURT: All right. Well, as it relates to any  
15 conviction more than ten years old, the defense -- the  
16 defense does not intend to go into that, I assume,  
17 Mr. Harter?

18 MR. HARTER: Your Honor, I could barely hear.

19 I will just tell you that I don't know of any  
20 convictions that we would use for impeachment purposes  
21 other than the one that relates to the felony DUI plea in  
22 April of 2012. There are some old convictions. I don't  
23 believe -- based on what I know, I don't plan to go into  
24 those.

25 THE COURT: Okay.

1 MR. HARTER: And I would not use those.

2 I do think -- and I'll go ahead and address this  
3 right now. I believe the felony DUI conviction of April  
4 of 2012, which is the basis of his arrest in this case, is  
5 clearly admissible under 609 for impeachment purposes.  
6 And I think -- I mean, a felony DUI in and of itself is an  
7 admission that the defendant or the defendant in that case  
8 was under the influence of alcohol and caused an accident  
9 involving serious bodily harm. So I believe in and of  
10 itself, that conviction gives rise to the -- just part of  
11 the plea that this man entered is that somebody had pretty  
12 -- had serious bodily injuries as a result of that  
13 accident.

14 Now, do I intend to call that person? Do I intend to  
15 go into details about that person's injury beyond the fact  
16 that it was a serious bodily injury? No, I don't. Do I  
17 intend to go into the facts of that accident and who did  
18 what? No. And do I intend to try and introduce the  
19 traffic collision report from that accident? The answer  
20 to that is no.

21 But I believe that it is very relevant for  
22 impeachment purposes that we can use this conviction, and  
23 this conviction in and of itself is an admission and an  
24 acknowledgment that there was another person in this  
25 accident that suffered serious bodily injuries, and I

1 think it almost deprives the jury of the entitlement to  
2 know not only did Mr. Young sustain some injuries, but  
3 somebody else did, too.

4 So I think that's as far as I plan to go with it.  
5 But I think those are facts that are clear, and I think  
6 they are certainly all relevant and admissible, and  
7 there's nothing about those facts that would inflame the  
8 jury and clearly is of probative value.

9 MR. HAWKINS: Your Honor, this -- what he's trying to  
10 get in is subject -- under Rule 609 is subject to a  
11 Rule 403 analysis. That's, you know, in Subpart 1 of 609  
12 or under Subpart A. So that's one of the first things I  
13 mentioned is subject to a 403 analysis.

14 Whether somebody was injured has absolutely nothing  
15 to do with whether the detention center was grossly  
16 negligent. It serves no other purpose but to be  
17 inflammatory and to prejudice a jury. It has nothing to  
18 do with whether they did what they were supposed to do,  
19 whether they provided medicine or anything like that.

20 So, you know, we'll stipulate, yeah, he pled guilty  
21 to DUI. We don't have a problem with that. But to tell  
22 somebody, oh, you hurt somebody, you need to punish this  
23 man by not giving him any money, that's just not proper, I  
24 don't think.

25 THE COURT: I don't think that Mr. Harter intends to

1 make that argument to the jury.

2 Part of what the Court has already discussed, though,  
3 with the jury is I specifically asked them on voir dire  
4 about things like felony DUI, it's natural for any juror  
5 when Mr. Young testifies, if he's not asked why he's in  
6 jail, they're going to wonder why he's in jail. And I've  
7 already -- I think it's already been alluded to, at least  
8 with some of the jurors that approached, that there's an  
9 aspect to this case involving felony DUI. And candidly, I  
10 did not see your voir dire before I asked those questions,  
11 otherwise, I may have shied away from it.

12 But, you know, it's going to be a credibility  
13 determination. He's going to be saying that I suffered  
14 from pain, I suffered anguish while in the detention  
15 center. I think that, honestly, to give the jury a full  
16 picture, they're going to have a question about what he's  
17 in jail for. I explained factually that there was a  
18 wreck, he was taken to the hospital, and that he then  
19 wound up in jail. I don't know that, at this point in  
20 time, the cat's out of the bag, I think.

21 MR. HAWKINS: Well, Your Honor, and I'll respond to  
22 the Court by asking if we -- you know, if the cat is out  
23 of the bag, so to speak, could we at least limit it to the  
24 information that he pled guilty to a DUI with great bodily  
25 harm? Past that, I mean, if my client's on the stand and

1 we're talking about what he's in jail for or him suffering  
2 in jail or whatever, and then Mr. Harter gets up and  
3 cross-examines him and says, well, this other person  
4 suffered, too, that brings an element into the case that's  
5 not part of whether the detention center was grossly  
6 negligent.

7 THE COURT: I would agree that Mr. Harter, though, is  
8 not going to be going into that, and I don't know that I  
9 would permit him to go into that, because obviously,  
10 you're correct that any injuries to somebody else, that's  
11 completely immaterial.

12 MR. HAWKINS: And we plan to stipulate to, you know,  
13 or we're fine with telling the jury and making it just  
14 unambiguous to the jury that he's in jail for DUI, he pled  
15 guilty. That's all fine. But to start talking about  
16 these injuries to another person is just -- I mean, it  
17 happened before the events giving rise to the lawsuit even  
18 took place, and it's not relevant at all.

19 THE COURT: Right. My take on it is that at least  
20 for impeachment purposes, because only your client can  
21 testify about pain, I don't know -- I'm hearing that there  
22 are no other medical records, no other examinations that  
23 were performed, and so his credibility as far as how much  
24 pain he suffered, how long he suffered it and why he  
25 suffered it I think is pretty central to your case. So in

1 terms of the probative value versus prejudicial effect, I  
2 think that the defense should be able to question him  
3 about that conviction.

4 And, again, it seems like the cat is out of the bag.  
5 I don't believe anybody's going to harp on that, but it's  
6 only natural that somebody's going to need to answer the  
7 question of, well, why was he in jail? The jury, I think  
8 it would be best if they're not left to speculate on that.

9 Did you have something else you wanted to ---

10 MR. HARTER: Judge, I mean, I don't mean -- like I  
11 said, I don't mean to plan to overstate it, but this is  
12 felony DUI. It's not just DUI. It's felony DUI. And  
13 felony DUI, part of that -- part of that charge is driving  
14 under the influence causing serious bodily harm or death,  
15 okay? And so, I mean, he caused serious bodily harm, but  
16 do I intend to just go overboard with that? But I do  
17 believe that the jury can be told he pled guilty to felony  
18 DUI, that he was under the influence and that there was an  
19 accident where he caused serious bodily harm to somebody.  
20 That's part of the case. That's part of the charge.

21 THE COURT: Okay.

22 MR. HARTER: And they can take it for what it's  
23 worth.

24 MR. HAWKINS: And, Your Honor, we would just -- you  
25 know, that's not part of the case. Part of the case is

1 not what he did to get in jail. What the case is about is  
2 what happened at jail.

3 And I know why they want it in. I would want it in,  
4 too, if I was them, but it's not relevant to whether the  
5 detention center was grossly negligent. Just saying, Oh,  
6 well, you are guilty of a crime that carries, you know,  
7 this kind of sentence for great bodily harm, that just  
8 doesn't do anything but inflame the jury. That's all it  
9 would do.

10 THE COURT: All right. He can be asked about whether  
11 he was convicted of the crime, and that's it. That's the  
12 extent. It's relevant for purposes of impeachment and  
13 it's relevant to explain why he's in jail and that alone.  
14 The fact that somebody else suffered bodily injury, I  
15 agree with the plaintiff. It's immaterial to any issue in  
16 this case. But at the same time, the defense is going to  
17 be allowed to question him about that, and the question  
18 simply needs to be isn't it true that, you know, you were  
19 subsequently convicted or that you were convicted for  
20 felony DUI involving great bodily injury? Yes.

21 MR. HARTER: Let me go over it at a different angle,  
22 too, Judge.

23 THE COURT: Okay.

24 MR. HARTER: Okay. This man is in here suing the  
25 detention center saying that we caused injury to him, we

1 caused pain to him. Okay. Now, as part of my defense is  
2 that he was -- he caused this pain himself, okay, that  
3 this accident was his fault. This was his doing. It's  
4 not that somebody else caused an injury to -- he -- his  
5 pain and suffering that he has complained about in this  
6 case was caused, in our view under our evidence, by his  
7 own actions for which he is responsible. Okay. And so  
8 he's responsible for that accident, and he's responsible  
9 for his injuries.

10 THE COURT: I don't disagree with you on that. But I  
11 think what they are looking for you to avoid is talking  
12 about this other victim out here, this other person.

13 MR. HARTER: I got that. And I'll abide by it. But  
14 I still -- I still would -- it's our position that this  
15 injury that he's got was his doing, it was his cause.  
16 He's the one that caused that accident.

17 THE COURT: And I think we're clear on that.

18 MR. HARTER: Okay.

19 THE COURT: And I don't know that they're necessarily  
20 looking to limit you in that area.

21 MR. HARTER: Right.

22 THE COURT: Because that's relevant to the issue of  
23 proximate cause. But ---

24 MR. HARTER: Exactly, exactly. That's -- we're good.  
25 Thank you.

1 THE COURT: Right. So as far as we're talking,  
2 though, just impeachment, and, you know, impeachment is  
3 one animal. I can fix a lot of that with the jury  
4 instruction, but we're not going to talk about whoever it  
5 is he ran into.

6 MR. HARTER: Okay, okay.

7 THE COURT: That's where we are.

8 MR. HAWKINS: Your Honor, another one of the motions  
9 that we have before the Court is -- and I don't think it's  
10 included in that one because we filed it subsequently, but  
11 it's a motion to deal with a Mrs. Knowles' testimony.  
12 It's my understanding that she is deceased now, and the  
13 defense would like to read portions of her deposition  
14 transcript into the record. However, what I've learned  
15 from reading her deposition transcript and from her family  
16 is in the last years of her life, she was very confused.  
17 She took a lot of different medications. Some of the  
18 medication was for fluid on the brain. And in reading her  
19 deposition transcript, there's a bunch stuff in there that  
20 doesn't really matter a whole lot for either one of us,  
21 but it shows that she didn't know what was going on. She  
22 was -- you know, for instance, the cast was on one arm and  
23 she got that mixed up, and then she got other stuff mixed  
24 up that is just demonstrably, you know, false.

25 And there's plenty of good stuff in her deposition,

1 of course, that we can use, but we don't think it's  
2 reliable, and we don't think it would do anything but just  
3 confuse the jury and confuse the issues. But we do -- I  
4 think she is deceased, though.

5 THE COURT: Factually, what's she going to testify  
6 to? How did she -- how is she a witness in this case?

7 MR. HAWKINS: She went with his daughter to the  
8 detention center for the bond hearing, and she would have  
9 seen him during that six-day period. Everybody pretty  
10 much agrees he didn't have his neck brace on at the bond  
11 hearing, but she said -- well, she actually flip-flopped.  
12 She said he didn't have it on there, then she said he did  
13 have it on in his mug shot, but you can see in his mug  
14 shot that he doesn't. Her -- she was kind of waffling  
15 there. So that's what she would testify to. And if the  
16 Court lets it in, then we'll just have to, you know, deal  
17 with that and submit our own lines and page numbers and  
18 lines to read.

19 But I don't -- I don't think it would do anybody any  
20 good for us both to read portions of a ladies' transcript  
21 who was confused in the last years of her life and taking  
22 medicine for fluid on her brain and suffer from seizures  
23 and stuff like that.

24 THE COURT: How does the defense intend -- or what do  
25 you intend to elicit as far as Knowles?

1 MR. HARTER: Your Honor, they listed Mrs. Knowles as  
2 a witness in this case. She is the spouse -- or was the  
3 spouse of Mr. Young. Mrs. Knowles and her daughter -- or  
4 Mr. Young's daughter Samantha Porter attended the bond  
5 hearing at the jail following this charge.

6 I believe these depositions were done back in 2015,  
7 and I can pull the deposition page out.

8 But they listed her as a witness, and I deposed her  
9 and asked her questions in her deposition as to whether or  
10 not she had -- was using any medications at that time that  
11 would, in any way, interfere with her ability to  
12 understand my questions and to give truthful responses.  
13 And she said she was able to do that. I questioned her  
14 about a number of things. I think Mr. Hawkins may have  
15 questioned her about a number of things.

16 But one of the issues in this case, and I'll just go  
17 ahead and telegraph it to you right now, is they say that  
18 this man's cervical collar was taken away from him for six  
19 days, and then it was returned to him. His booking photo  
20 does not show he is in that cervical collar, and there are  
21 reasons why law enforcement does that which will come out  
22 in the testimony.

23 But at the bond hearing, Samantha Porter says her dad  
24 did not have on the cervical collar. We think that he got  
25 his picture taken with the cervical collar off, and the

1 cervical collar under procedures would be returned to him  
2 right then and there. Mrs. Knowles testified that at the  
3 bond hearing, she thought he had his collar on.

4 So if there's a dispute of fact over that, her  
5 deposition, and I can pull out the pages and show them to  
6 you where her responses were appropriate, there was  
7 nothing she indicated was going on. She indicated what  
8 medical problems she had at the time, but none of them  
9 were such that it would affect her ability to answer  
10 questions. She didn't indicate she was under the  
11 influence of any medications that would affect that.  
12 Again, these are disputed facts. I don't see why that  
13 deposition is not usable under the rules. She is  
14 deceased. She's not available. It's admissible. It  
15 contradicts one of the things they say. I guess that's  
16 why they think it's not okay. But it's an issue of fact  
17 in the case.

18 THE COURT: All right. If they choose to use the  
19 depo, you can just pull out the portions that you think  
20 are relevant to her state of mind and her ability to  
21 adequately describe what she remembers. I think that's  
22 how we have to leave it.

23 MR. HAWKINS: Thank you, Your Honor.

24 And I'm probably doing them out of order because I'm  
25 doing them from memory, but one of the other motions in

1 limine is to exclude any information about prior drug use.  
2 When Mr. Harter took my client's deposition, he asked him  
3 about, you know, all the drugs he's ever used or whatever.  
4 And he's used I think pot and cocaine in the past. No  
5 evidence that he's done any of that any time in recent  
6 history. I don't know that it would affect any of the  
7 issues at all about whether he got proper medical  
8 treatment in the detention center. So we'd ask that all  
9 references about that be excluded.

10 THE COURT: All right. You're not planning on going  
11 there?

12 MR. HARTER: I have no -- I have no interest in  
13 exploring that, Judge.

14 THE COURT: All right.

15 MR. HAWKINS: And one of the other ones, Judge, is  
16 anything that would violate collateral source, any -- any  
17 comment about, you know, you didn't pay for medical  
18 treatment while you're there or his bills or anything like  
19 that. We're not claiming medical bills. It's not part of  
20 the case. So we just ask to get a ruling on that before  
21 we start.

22 THE COURT: I don't think he's going to go there  
23 either, right?

24 MR. HARTER: Well, he does not have any medical bill  
25 damages as I understand it, okay, so all of his care at

1 the detention center was gratis. I mean, I think we can  
2 -- as part of our responsibility, we have to provide  
3 medical care, and that's -- and part of providing medical  
4 care is the service and the expense for it. So yeah. I  
5 will ask him does he have any medical bills or has he  
6 incurred any medical bills in connection with this, and I  
7 guess he'll say no and that will be the end of it.

8 THE COURT: I think the detention center, he's right.  
9 They have an affirmative duty, and I'm imagining that at  
10 some point I'm going to instruct the jury that anyone who  
11 is in custody, there's an affirmative obligation on behalf  
12 of whatever governmental entity has that person in custody  
13 to provide all reasonable and necessary medical care. It  
14 goes without saying you can't bill that to the person,  
15 so ---

16 MR. HAWKINS: Right. And what I was also concerned  
17 about, Your Honor, is during my client's deposition, there  
18 was -- you know, when he was questioned about this, the  
19 attitude was, well, you got that for free. Well, you  
20 didn't have to pay for that. Well, we basically did you a  
21 favor, you know. Whether we did a good job or not, you  
22 got it for free so what are you complaining about? And I  
23 just want to make sure we don't get into that in trial  
24 because that's not part of whether they did what they were  
25 supposed to do.

1 MR. HARTER: The deposition was not added to. It was  
2 a series of questions and answers, Judge.

3 THE COURT: Right. I understand. I don't know that  
4 it's necessarily proper. The jury is going to know  
5 because I'm going to instruct them that there is an  
6 obligation to provide reasonable and necessary medical  
7 care, and it follows that if you were to try to bill it to  
8 a prisoner, you're not going to collect on it, so it's  
9 free. I don't know that we need to go into that, though,  
10 really. It's not relevant whether the county pays for it,  
11 whether somebody else.

12 I don't know that it's really necessary or proper if  
13 the only nature of the claim here -- if it was a different  
14 matter of, hey, they provided this medical care to me and  
15 this medical care was negligent, they should have taken me  
16 to the hospital or they should have -- the doctor that  
17 they had working, the nurse that they had working the jail  
18 didn't properly do this, if that was the nature of the  
19 claim -- I'm hearing that it's not, that it's more a  
20 function of not getting the medication that was prescribed  
21 and the cervical collar issue and pain related to that as  
22 opposed to a failure to undertake any affirmative thing  
23 like get him to a doctor. So I don't think we're -- who  
24 pays for it is relevant.

25 MR. HARTER: Well, if that's the case then, you know,

1 that sounds pretty fair to me. But there's no claim for  
2 medical expenses, and I'm going to ask him about that  
3 because I want the jury to be clear, because that's part  
4 of actual damages as are appreciated by the law.

5 THE COURT: And you can ask him: You're not making a  
6 claim for any medical expenses incurred by you, correct?

7 MR. HARTER: Period. Period.

8 THE COURT: Yeah. That's fair.

9 MR. HARTER: Right.

10 THE COURT: That's fair.

11 MR. HARTER: Okay.

12 MR. HAWKINS: I think that's all we need pretrial  
13 rules on, Your Honor.

14 THE COURT: Okay. Mr. Harter, you had a couple you  
15 want to touch on?

16 MR. HARTER: I do, Judge. And I don't know where all  
17 of these necessarily stand right now, but to my knowledge  
18 and information, there is no medical witness who will  
19 speak with respect to causation. One of the things that  
20 Mr. Young asserted is this, that he was -- he was picked  
21 up by the Greenwood County Sheriff's Office at Greenville  
22 Memorial Hospital on the afternoon of August 16, 2011, and  
23 that there was some physician and/or doctor at the  
24 hospital who had a conversation with this officer to the  
25 effect that Mr. Young is not stable for discharge,

1 Mr. Young has extensive medical injuries, and he should  
2 not be taken from the hospital at this point. Now, that  
3 is the testimony Mr. Young has offered in his deposition.  
4 That is the testimony his son, Tony Young, Junior, has  
5 indicated in his deposition.

6 They have also clearly suggested that the  
7 transporting officer was an officer of the Greenwood  
8 County Sheriff's Office. We dispute all of those things,  
9 and, in fact, this case was a Highway Patrol case. The  
10 Highway Patrol made this felony DUI charge. A Highway  
11 Patrol officer is the one who went to the hospital and  
12 picked up Mr. Young. I have not seen any medical records,  
13 nor have we been provided with the name of any physician  
14 who would offer the statement that Mr. Young could not  
15 and/or was not stable for discharge at that time. That is  
16 hearsay testimony, and we would ask that any reference to  
17 whether or not Mr. Young was stable for discharge as  
18 indicated by a physician, that they be instructed not to  
19 discuss that.

20 THE COURT: I assume that y'all have the records from  
21 Greenville Hospital System.

22 MR. HARTER: We do. I take that back. I've got the  
23 discharge summary.

24 THE COURT: Okay.

25 MR. HARTER: Okay. And the discharge -- and the

1 records that I have been furnished, none of them say that.

2 THE COURT: Right. But usually, the way that this  
3 happens, I mean, my wife works in the ER, and she has the  
4 police bring people in there all the time. Very often if  
5 they're not -- if they're not posing a danger to  
6 themselves, they let them stay there for a couple hours  
7 till they're treated and then the ---

8 MR. HARTER: Right.

9 THE COURT: --- nurse or somebody calls the police  
10 and says come back and get them, they're fine now, I've  
11 got them stitched up, or whatever the case may be. So  
12 they're not necessarily babysat while they're at the  
13 hospital, but there's always an indication in the chart  
14 that the person is good to go ---

15 MR. HARTER: Right.

16 THE COURT: --- that they're going to be released.

17 MR. HARTER: And the discharge instructions note what  
18 his discharge instructions are. They're signed by the  
19 nurse and they're signed by Mr. Young. And those are  
20 business records which we've stipulated to.

21 THE COURT: Okay.

22 MR. HARTER: And he's discharged home.

23 THE COURT: All right. Were y'all -- what are you  
24 planning on eliciting as far as that's concerned?

25 MR. HAWKINS: Yeah. Judge, Mr. Young initially had

1 the belief there was some back and forth between an  
2 officer and the medical providers that resulted in him  
3 being discharged early, but we were unable to really shore  
4 that up in discovery. And so we have no intention of  
5 arguing that ---

6 THE COURT: Okay.

7 MR. HAWKINS: --- the Greenwood County Sheriff's  
8 Office or any other officer, you know, persuaded the  
9 medical staff to release him earlier than they should  
10 have. So I don't think we're going to go there.

11 THE COURT: That would have surprised me if anybody  
12 was able to persuade a doctor to release a patient like  
13 that. I would think most doctors are going to go  
14 ballistic before they let that happen. But okay. We're  
15 not going there so we don't have to worry about it.

16 MR. HARTER: And also, Judge, there has -- Mr. Young  
17 has intimated in his testimony that he believes his  
18 healing from his fracture -- he had a fracture that he was  
19 treated for by an orthopedic doctor and he was treated by  
20 a neurosurgeon, and Mr. Young has offered the statement or  
21 assertion that his recovery and/or his healing from those  
22 injuries was impaired because his cervical collar was  
23 taken away from him for six days. And I would submit that  
24 whether or not his healing and his recovery was impaired  
25 as a result of anything that happened at the detention

1 center would be a medical opinion, and they would need to  
2 express opinions to a degree of reasonable medical  
3 certainty or most probably that there was something done  
4 at the detention center by the medical staff that resulted  
5 in some kind of injury or damage to Mr. Young.

6 THE COURT: The discharge instructions, you've got a  
7 copy of them. Do they indicate that he should be wearing  
8 the cervical collar for two weeks or ---

9 MR. HARTER: It indicates that he should wear the  
10 cervical collar for a period of time. And he says -- he  
11 says in his deposition that after six days, they gave it  
12 back to me and I had it for -- until I didn't need it  
13 anymore.

14 THE COURT: Okay.

15 MR. HARTER: So the question is whether or not these  
16 six days that he says he did not have the cervical collar  
17 impairs his healing, and I would submit that that's a  
18 medical opinion.

19 THE COURT: It sort of sounds like a medical opinion.  
20 You don't want to speak to that?

21 MR. HAWKINS: Your Honor, we're not going to put a  
22 doctor up to say his healing was impaired by not having a  
23 collar. He is going to say the pain was much greater when  
24 my neck wasn't stabilized, but we're not going to put up a  
25 medical expert to say, yeah, he's got these problems

1 because of the deprivation.

2 THE COURT: Okay. He can definitely testify that  
3 because I didn't have the collar, my pain was worse than  
4 when I did have the collar. That's fair. I think he  
5 would need a physician to say his healing was delayed or  
6 hampered or ---

7 MR. HAWKINS: And we agree, Your Honor.

8 THE COURT: Good enough.

9 MR. HARTER: And so he's not going to be offering --  
10 and I know there's no doctor is going to say that, but I  
11 just want to make sure Mr. Young nor anybody else says  
12 that. Because there's a lot of hearsay that kind of came  
13 out in these depositions as well.

14 THE COURT: Sure.

15 MR. HARTER: Okay.

16 THE COURT: Well, I mean, it's a broken neck. He's  
17 going to be having a lot of pain regardless. And I think  
18 it's a matter of -- it's going to come down to whether or  
19 not the jury believes that he was without the medical  
20 collar for a substantial period of time anyway. I think  
21 that's the basis for the underlying suit.

22 MR. HARTER: And, you know, also, I think that covers  
23 the war front, but, you know, to the extent they're --  
24 anybody's going to offer any medical opinion, we just want  
25 to make sure they're qualified before something gets

1 blurted out, okay?

2 THE COURT: Well, of course. I think that the  
3 defendant -- or sorry. I think the plaintiff can speak to  
4 what he feels, what he perceived, what he said, diagnosis,  
5 treatment, improvement, nonimprovement, whatever, that has  
6 to come from a doctor.

7 MR. HARTE: Thank you.

8 THE COURT: If you feel like we're going too far  
9 astray, just make an objection. We'll deal with it that  
10 way.

11 MR. HARTE: Okay.

12 THE COURT: Housekeeping-wise, are we good?

13 MR. HAWKINS: Your Honor, we didn't ---

14 THE COURT: Go ahead. Yes, sir.

15 MR. HAWKINS: The only remaining thing, Judge, is  
16 that we just ask under Rule 615 that we sequester any  
17 nonparty witnesses that are going to be testifying during  
18 the trial. I think we've got a number of them here.

19 THE COURT: Okay.

20 MR. HAWKINS: If they can maybe wait outside instead  
21 of ---

22 THE COURT: That work? You okay with that?

23 MR. HARTE: They're here because they subpoenaed  
24 them, asked them to show up.

25 MR. HAWKINS: Mr. Harter is correct on that. Just if

1 they can wait outside.

2 MR. HARTER: I'm fine with that.

3 And, you know, the other thing, Judge, I guess is  
4 we've got two gentlemen here in the courtroom, Mr. Powell  
5 and Mr. Roberts. These gentlemen weren't identified, I do  
6 not believe, in any initial discovery request up until  
7 just recently, okay? And we just don't think their  
8 testimony -- I don't believe these gentlemen had anything  
9 to do with Mr. Young or his treatment or anything while he  
10 was at the detention center, and so we submit that their  
11 testimony is -- we would move to -- a motion in limine to  
12 limit their testimony because they're not involved, you  
13 know.

14 THE COURT: Okay.

15 MR. HARTER: And so what is the relevance of the  
16 testimony?

17 MR. HAWKINS: Your Honor, this case, you know, was  
18 filed a long time ago.

19 THE COURT: Right.

20 MR. HAWKINS: It was removed, came back down and sort  
21 of got lost in the system, so to speak. But when it was  
22 remanded, you know, we immediately issued new discovery  
23 requests with a state court action, and we didn't get any  
24 responses to that from the defendant. And the defendant,  
25 after it was remanded, didn't issue any discovery requests

1 to us at all. We got some responses to request for  
2 admission, but they didn't respond to interrogatories or  
3 requests for production.

4 As soon as we found out that we were going to need  
5 Mr. Powell, we identified him. We filed -- or we sent him  
6 supplemental requests even though he didn't send us -- or  
7 supplemental responses even though he didn't send us any  
8 requests once the case had been remanded. Now, we both  
9 traded discovery when it was up in Federal Court in 2014  
10 or whatever. But as soon as we knew about these people  
11 we're going to use, we identified them to give them every  
12 opportunity to talk. I mean, presumably, they had more  
13 access to him than we did. So we identified them, we did  
14 everything we could to make it -- to broadcast, hey, we're  
15 going to call these people at trial. They've known that  
16 ever since we made the identification.

17 THE COURT: All right. Well, they're under subpoena.  
18 Let's do this so that they're not inconvenienced. Get  
19 some cell numbers from them, and that way if they're not  
20 going to -- you don't anticipate them testifying today, I  
21 assume?

22 MR. HAWKINS: Yes, Your Honor.

23 THE COURT: Oh, you do? Okay.

24 MR. HAWKINS: I think -- actually, both the gentlemen  
25 in the courtroom, one of them's testimony is going to be

1 real quick. I actually expect both of them will be, and  
2 we should hopefully be able to get to both of them today  
3 and then cut them loose and they can go about their  
4 business.

5 THE COURT: Okay. What are you going to ask them,  
6 out of curiosity?

7 MR. HAWKINS: Mr. Powell was the training director  
8 over at the detention facility during the time period  
9 where our client was there, and I believe Mr. Roberts has  
10 some knowledge about the policies or procedures over there  
11 that will be relevant to -- the policies that were  
12 relevant to what our client went through at the detention  
13 center as well.

14 THE COURT: All right.

15 MR. HARTER: To be sure, Judge, this case was going  
16 on a long time, and to suggest that the discovery that we  
17 did in -- this case was never refiled. It was filed one  
18 time. It was removed and it was remanded. And I'm  
19 shocked to think that somebody would suggest that the  
20 discovery we did and all of this work on this case so far  
21 is not applicable to where we are now, okay?

22 And again, this stuff about training, where is the --  
23 where is the relevance of this? Okay. There's no expert  
24 who says, you know, that there was a training deficiency.  
25 It just is kind of ---

1 THE COURT: I don't think they're claiming training  
2 deficiency. I'm assuming that, at some point during the  
3 discovery, something was produced as far as the internal  
4 policies of the detention center for dealing with people  
5 who have medical conditions or medical care. I'm sure  
6 that that's been provided. And I think that what the  
7 plaintiff intends to do is merely call these individuals  
8 to explain, okay, well, for somebody who's had an injury  
9 like the plaintiff's, what would you typically do? Well,  
10 we're going to do what the doctor says.

11 MR. HARTER: Okay.

12 THE COURT: And I think that they're trying to  
13 establish -- and this goes back to general duties the  
14 detention center owes to somebody, but I assume that  
15 they're using these two witnesses merely to establish the  
16 duty and the standard that other officers are expected to  
17 comply with in treating somebody who has injuries such as  
18 the plaintiff. Am I right?

19 MR. HAWKINS: I think you generally hit the nail on  
20 the head, Judge.

21 THE COURT: Okay. Which makes this testimony pretty  
22 vanilla and probably can come from anybody, including the  
23 sitting sheriff. So ---

24 MR. HARTER: Right. It could.

25 And let me add one more thing, Judge, just so we're

1 straight. The standard of care here is that of gross  
2 negligence.

3 THE COURT: Right.

4 MR. HARTER: Okay. And I just want to make sure that  
5 didn't get lost in the shuffle and/or the discussion,  
6 okay?

7 THE COURT: No.

8 MR. HARTER: Thank you.

9 THE COURT: Well aware.

10 MR. HARTER: Thank you.

11 THE COURT: But, you know, they still have the  
12 obligation to prove breach of duty, so ---

13 MR. HARTER: Right. I've got you.

14 THE COURT: By gross negligence.

15 MR. HARTER: Okay.

16 THE COURT: Let's do this. Let's go ahead, we'll  
17 take a brief break for ourselves while the jury is being  
18 moved into there, and we'll resume in about five minutes  
19 or so, five or ten minutes.

20 (WHEREUPON, a recess is taken.)

21 THE COURT: All right. We'll go back on the record.  
22 Anything before we bring the jury out and start in  
23 earnest?

24 MR. HAWKINS: Not from the plaintiff, Your Honor.

25 THE COURT: All right. Nothing from the defense?

1 MR. HARTER: Nothing.

2 THE COURT: Mr. Hawkins, Mr. White, who is going to  
3 open? Mr. White? Mr. Hawkins?

4 MR. WHITE: Yes, Your Honor. It will be me.

5 THE COURT: All right. Mr. Hawkins.

6 MR. WHITE: Mr. White.

7 THE COURT: White. I'm sorry.

8 All right. Let's have the jury, please.

9 (WHEREUPON, the jury entered the courtroom.)

10 JURY INSTRUCTIONS

11 THE COURT: All right. Very often, ladies and  
12 gentlemen, I'll let fate take the chance and just see who  
13 sits in the foreperson's seat, but nobody's sitting in the  
14 foreperson's seat, so I'm going to draft somebody.  
15 Michael Glenn. Who's Michael Glenn? Mr. Glenn, I'm  
16 making you the foreperson, okay? You're a librarian, so  
17 sit over here.

18 I'll let you know, Mr. Glenn, obviously, your vote  
19 will count no more or no less than any other juror's vote.  
20 You're basically first among equals whose primary job is  
21 to make sure once the deliberations start, everybody has a  
22 chance to have their fair say, okay, sir? So you'll be  
23 the foreperson.

24 Ladies and gentlemen, I'll let you know that during  
25 the course of the trial, if you have any problems hearing

1 any of the testimony of the witnesses, I want you simply  
2 to raise your hand, okay? That will be my cue to ask them  
3 to speak up. So if you cannot hear something that the  
4 witness is saying, wave your hand, get my attention, and  
5 I'll tell the witness to speak up. Actually, the  
6 acoustics here are pretty good so I don't think you should  
7 have any problem hearing what's being said during the  
8 course of the testimony.

9           Additionally, ladies and gentlemen, if you want to  
10 take any notes, that's perfectly fine. Does anyone want  
11 some tablets or something like that so that they can take  
12 notes? Anyone? Raise your hand. Don't be shy. Let's go  
13 ahead and grab a couple of tablets, if you could, for  
14 those jurors who want them.

15           Just a few rules about note taking. Ladies and  
16 gentlemen, please, of course, don't let the taking of  
17 notes distract you from the testimony, and obviously,  
18 those notes are your private property. We'll keep those  
19 overnight, secure them overnight, return them to you in  
20 the morning. Anytime that we're on break and when the  
21 case is over with, you'll take those with you, all  
22 right?

23           Now, ladies and gentlemen, I'm going to ask that you  
24 stand where you are, raise your right hand so the clerk  
25 can administer your oath to you as jurors, please.

1 (WHEREUPON, the jury is duly sworn.)

2 THE COURT: All right. Now, ladies and gentlemen,  
3 we're about to begin the trial of the case of Tony Young  
4 vs. The Greenwood County Detention Center. And before we  
5 begin the trial of this case in earnest, I want to let you  
6 know that, of course, this case is going to be a little  
7 bit different from what you've seen from watching cases  
8 depicted on TV and in the movies.

9 From what we see in popular culture, we often get the  
10 impression that trials are filled with a lot of drama, a  
11 lot of emotion, and sometimes certainly that's the case.  
12 But understand what we're dealing with here is real life,  
13 okay? This is not for anyone's entertainment value. This  
14 is real life. And real life is never as exciting as the  
15 movies or TV.

16 You guys have been picked as 12 individuals whose job  
17 it will be ultimately to determine what the facts are in  
18 this case. You'll determine that from the evidence that  
19 you hear and the other instructions that I give you on the  
20 law. And obviously, ladies and gentlemen, this case is  
21 going to take longer than the one hour that we see on TV  
22 or the two hours in a movie theater. Again, it's real  
23 life. This case is very important to both the plaintiff  
24 in this case and the defendant.

25 I want to thank you ahead of time for your

1 willingness to serve as jurors. I want to thank you for  
2 the inconvenience that we are causing to you and assure  
3 you that the only way that we can get this civil matter  
4 resolved, the only way we can get this dispute between  
5 these parties resolved is to put 12 people right there and  
6 let them hear the case. All right? So thank you for  
7 helping resolve this case for us.

8 With that, do you want to hand out any notebooks? If  
9 you want a notebook, just raise your hand, or a tablet and  
10 we'll provide one to you. If you change your mind while  
11 the case is going on and you want one, we can always get  
12 one to you later, okay?

13 All right. Ladies and gentlemen, what I now say to  
14 you is intended to serve just as an overview or an  
15 introduction to the trial of this case. And, of course,  
16 these remarks are not an instruction on the law. I'll  
17 instruct you on the law at the conclusion of the trial  
18 before you begin your deliberations. Again, this is just  
19 an overview of the procedure that we're going to use going  
20 forward so that you can understand what takes place or  
21 what you can anticipate to take place.

22 As I said a moment ago, you've been selected as fair  
23 and impartial jurors whose purpose it is to find and  
24 determine the facts in this case. Please understand that  
25 you're the sole judges of the facts, so if at any time I

1 make any comments concerning the facts, you have to  
2 disregard any comment that I make. You'll determine the  
3 facts from the testimony and the other evidence that's  
4 introduced. Understand that you cannot be influenced by  
5 any opinions or statements you may have heard outside this  
6 courtroom.

7 Now, ladies and gentlemen, it's especially important  
8 that you perform your duty of determining the facts  
9 diligently and conscientiously because ordinarily, there  
10 is no way to correct an erroneous determination of facts  
11 by a trial jury. When you comply with your oath and you  
12 impartially determine what the facts are, you will have  
13 fulfilled your duty as jurors and no one will have any  
14 right to criticize or argue with your verdict.

15 Now, understand that the same law that makes you the  
16 judges of the facts makes me the judge of the law. The  
17 law as given by this court is the only law that you can  
18 consider. You'll have to accept it and apply it even  
19 though you may disagree with it. Again, the law doesn't  
20 permit me to tell you what the facts are, and the law  
21 doesn't allow you to disagree with me as to what the law  
22 is or what the law should be.

23 Ladies and gentlemen, please, until you begin your  
24 deliberations, don't talk about this case with anyone, not  
25 friends, family members not even your fellow jurors. Once

1 the case is submitted to you, you can discuss it only in  
2 the jury room.

3 Also understand that the lawyers and the parties  
4 involved in this case have been told not to have anything  
5 to do with you while the case is going on. So if you  
6 happened to bump into one of them while coming or going  
7 from the courthouse and they don't even acknowledge you,  
8 they don't even say hello, understand they're not being  
9 rude. They're just following my instruction to have  
10 nothing to do with you while the case is going on. You  
11 can imagine the reason for this rule, okay? If one side  
12 were to see the other side talking to one of you guys, it  
13 can easily be misinterpreted as an effort at jury  
14 tampering. The best way to keep that issue from even  
15 arising is just to say the jurors are off limits while the  
16 case is going on.

17 Now, ladies and gentlemen, in a moment, the attorneys  
18 will make their opening statements to you in which they'll  
19 explain what they believe the issues are in this case.  
20 Understand that what the lawyers say to you during their  
21 openings is not evidence. It's merely an overview or a  
22 roadmap of what the issues are or what the facts are in  
23 this particular case. Even though it's not evidence, you  
24 should certainly pay attention to what the lawyers say in  
25 their openings because it will help guide you, it will

1 help you anticipate what some of the evidence will be.

2 Now, from time to time during the trial, during most  
3 trials that I preside over, it's necessary to take brief  
4 breaks while we take up issues of law out here on the  
5 record. Understand that when we take those breaks, I  
6 might need to ask you to return to the jury room so that I  
7 can take up an issue of law with the attorneys out here.  
8 The reason that I'm kicking you out of the courtroom for a  
9 few moments is that sometimes, in ruling on an issue of  
10 law, I have to comment about what witnesses have said,  
11 what evidence has been introduced, and I don't want  
12 anything that I say out here on the record in ruling on an  
13 issue of law to ultimately affect what you find the facts  
14 to be, so the easiest way to keep anything that I say away  
15 from you is to ask that you simply excuse us while I take  
16 up those issues of law. Of course, please don't speculate  
17 on what I'm saying about the facts. Again, the law does  
18 not permit me to have any opinion about the facts in this  
19 particular case.

20 In deciding what the true facts are, you have to  
21 decide whether or not the testimony of witnesses is  
22 believable or not. It's my job to rule on whether certain  
23 testimony can be admitted, but once it's admitted, whether  
24 you believe it is up to you entirely.

25 In deciding whether to believe a witness, you can

1 consider the interest of any witness, the bias of any  
2 witness, the prejudice of any witness towards either the  
3 plaintiff or the defendant. You can consider the  
4 opportunity for the witness to have seen or heard the  
5 things about which they testify, and you can also consider  
6 the way the witness acts while on the witness stand. You  
7 can consider anything that's in the record that will help  
8 you evaluate the witness's credibility. That means it's  
9 your duty to pay close attention to the witnesses, observe  
10 them, listen to them and try and keep your thoughts from  
11 wandering. If you give strict attention to the testimony  
12 and the evidence in this case, you'll be in as best a  
13 position possible to apply the law to the facts as you  
14 find them to be, and thus render a true and honest verdict  
15 under the oath that you have just taken as jurors.

16 In order to preserve everyone's rights, I'll give the  
17 lawyers a chance to object to anything I've said to you  
18 during these opening remarks, and then we'll proceed with  
19 opening statements.

20 Any objections? None from the plaintiff?

21 MR. HAWKINS: None from us, Your Honor.

22 THE COURT: None from the defense?

23 MR. HARTER: No. Thank you, Judge.

24 THE COURT: All right. Very good.

25 Mr. White, you're recognized for your opening, sir.

OPENING STATEMENTS

1  
2 MR. WHITE: The government is never allowed to  
3 needlessly endanger the public by admitting folks into the  
4 detention center who are too injured to be there. The  
5 government must screen out people who are too injured to  
6 be admitted into the detention center until they are  
7 cleared by a physician for detention.

8 This is a case about a hole in the Greenville County  
9 Sheriff's Office's medical screen that allows somebody who  
10 is too injured to pass through it, and as a result,  
11 suffered a thousand agonizing hours without prescription  
12 pain medication he was prescribed.

13 You're going to hear about the Greenville County --  
14 or the Greenwood County Sheriff's Office as we go on  
15 through trial. You're going to hear that the Greenwood  
16 County Sheriff's Office is the law enforcement agency in  
17 the County of Greenwood that performs various public  
18 safety functions. The Greenwood County Sheriff's Office  
19 controls communities. The Greenwood County Sheriff's  
20 Office investigates crimes. They assist with like if  
21 somebody has a mental illness and needs to be picked up,  
22 you know, check on, do welfare checks on the public.

23 And occasionally, the Greenwood County Sheriff's  
24 Office has to take folks into custody. In addition to  
25 somebody who may need to be taken into custody for medical

1 reasons or for mental illness or whatever, the Greenwood  
2 County Sheriff's Office will occasionally take people into  
3 custody who are accused of crimes. And when the Greenwood  
4 County Sheriff's Office takes folks into custody who are  
5 accused of crimes, they take them to the Greenwood County  
6 Detention Center.

7 And you're going to hear about various things that  
8 come into play when the government has folks in custody at  
9 the detention center. You're going to hear that the  
10 government is never allowed to needlessly endanger the  
11 public. You're going to hear that in addition, the  
12 government must screen out folks who are too injured to  
13 make sure they don't let people in who are too injured.  
14 You're going to hear that the government must know its  
15 limitations and operate within them.

16 You will hear that the government must never prevent  
17 someone in their custody from receiving necessary medical  
18 care. You will hear that the government must keep  
19 complete and accurate records. And you'll hear that the  
20 government must train its employees to understand and know  
21 the rules that apply at the detention center. And  
22 finally, you'll hear that somebody needs to supervise  
23 these employees to make sure they know and are following  
24 the rules.

25 And we're going to develop all of these things that

1 I've talked about in detail as the trial goes on, but I'll  
2 talk about them briefly sort of in turn now.

3 The government must never needlessly endanger the  
4 public. Now, as I've discussed already, the Greenwood  
5 County Sheriff's Office, the government in this county,  
6 performs various public safety functions. And when the  
7 government is performing these public safety functions  
8 within the county of Greenwood, is never allowed to  
9 needlessly endanger the public. That's true if it's  
10 performing its law enforcement functions, if it's  
11 investigating a crime, it's performing welfare checks on  
12 members of the public or if it takes people into custody.  
13 And you'll hear that the way that the government can avoid  
14 needlessly endangering the public is to follow the rules.

15 And as to the detention center specifically, you're  
16 going to hear about various kinds of rules. You're going  
17 to hear about some standards, some policies and procedures  
18 that if the government follows them, the public is safe,  
19 and if the government violates these rules, the public is  
20 less safe.

21 Now, some of the rules that apply to the detention  
22 center that you're going to hear about are the minimum  
23 standards for local detention facilities in South  
24 Carolina. You're going to hear that these are the minimum  
25 standards that apply to the local detention facilities in

1 the State of South Carolina that set the floor for what  
2 the detention centers are required to do. They can go  
3 below them, but they'd be breaking the law if they do. If  
4 they go below, then they may get in trouble or they may,  
5 you know, eventually be shut down. Those are the minimum  
6 standards that you're going to hear about during this  
7 trial.

8 You're also going to hear about the government's own  
9 policies and procedures that apply at the Greenwood County  
10 Detention Center. These are the ones the Greenwood County  
11 Sheriff's Office has that applied to their own facility.  
12 And you're going to hear that all of these standards,  
13 policies and procedures are things that, when complied  
14 with, they enhance public safety, and when they are  
15 violated, the public is less safe.

16 The government must never book someone into the  
17 detention center who was too injured to be there. Now,  
18 you're going to hear that there are some folks who are  
19 seriously injured and are too injured to be at the  
20 detention center. And it's important for the government  
21 to make sure that they don't book someone like that into  
22 the detention center if they're not capable of handling  
23 them. And one of the ways they do that is the medical  
24 screening I mentioned earlier, that the government must  
25 screen folks out who appear to be too injured to be in the

1 detention center until a physician clears them for  
2 detention.

3       You're going to hear that the minimum standards that  
4 I talked about and the Greenwood policies and procedures  
5 require a medical screening to be performed by an employee  
6 of the detention center. And this is not a doctor, it's  
7 not a nurse. It's an employee of the Greenwood County  
8 Sheriff's Office who's at the front, who's the gatekeeper  
9 who, when someone comes in, they evaluate them to see what  
10 their medical condition's like and see if the detention  
11 center can take them.

12       And you'll see that there's a form that's got to be  
13 completed when the medical screening is performed by this  
14 employee. It asks various questions. It has them look to  
15 see if they have any visible signs of injury, if they have  
16 any problems that keep them from getting around, if they  
17 have a cast, if they have a walker, if they have a neck  
18 brace, or if they have prescriptions that they need.  
19 Those are all things that you'll hear are covered on the  
20 medical screening form.

21       And this kind of segues into the next thing I talked  
22 about earlier where the government must keep complete and  
23 accurate records. And that applies to this medical  
24 screening form just like it applies to the other forms  
25 that are kept.

1           The questions on the medical screening form you'll  
2 hear are asked for a reason. They help the employee  
3 determine whether the person may be too injured to be in a  
4 facility or whether they need to be checked out by a  
5 physician and cleared for detention, and so it's important  
6 to answer those questions fully and accurately. And  
7 that's for two reasons. The first reason is that you want  
8 to see what happens later on. Like if somebody's going to  
9 look to see what was done during the medical screening,  
10 you want to have a record of that and it should show it.  
11 And there's a witness that we'll hear from at trial who's  
12 going to say if it ain't documented, it didn't happen.  
13 And that's something they're taught at the detention  
14 center when keeping the records.

15           And so ideally, we'd be able to go back and look at  
16 the record. If something like the medical screen was  
17 performed correctly, you'd be able to see that all the  
18 questions were answered fully and accurately and  
19 accurately reflected the person's condition.

20           Now, another reason it's important to keep complete  
21 and accurate records is that you'll hear that medical  
22 treatment is provided at the Greenwood County Detention  
23 Center, but they may not be seen by the same person every  
24 time. So the person that sees them later on is going to  
25 want to see what the previous people did so they don't

1 duplicate efforts, they don't do something different than  
2 what the previous person did, et cetera. It's kind of  
3 common sense.

4 The government must know its limitations and operate  
5 within them. Now, the detention center, like I said,  
6 provides some medical treatment. They have a nurse there  
7 on staff, they have a responsible physician at the  
8 detention center, but as you might imagine, there are  
9 things that can't be provided at the detention center that  
10 can be provided other places. Like you'll hear, for  
11 example, that if somebody needs open-heart surgery,  
12 probably the detention center is not the place to get it.  
13 If somebody needs a complex brain surgery, the detention  
14 center is not the place to get that.

15 And another limitation that you'll hear about at the  
16 detention center is that if somebody is seriously injured  
17 and needs prescription pain medication, or even if a  
18 doctor prescribes it to them and gives it to them, they  
19 can't take it at the detention center. That's something  
20 that the person, if they're prescribed it, they're still  
21 -- they're not going to get it at the detention center.  
22 There's a policy in place at the detention center that  
23 does not allow them to have that medication. And so  
24 that's why it's important when the government employees  
25 are evaluating someone to see if they're capable of

1 handling them at the detention center, they need to know  
2 those limitations and operate within them.

3 And also, the government needs to train its employees  
4 to know and understand the policies and procedures and the  
5 rules. Because, you know, you'll hear that if the folks  
6 don't know the rules, then they won't know to follow them  
7 and they won't know how to comply with them. So it's  
8 important for everybody to know the policies and  
9 procedures.

10 And then finally, it's important for somebody to be  
11 checking up on everybody to make sure that they are  
12 following the rules, and that would be somebody in a  
13 supervisory position at the detention center who would be  
14 checking up on that. Because if you find out that  
15 somebody is not following the rules or somebody is not  
16 keeping complete and accurate records, if there's holes in  
17 the medical screening because people are not following the  
18 rules, that would give an opportunity for a supervisor to  
19 step in and correct that issue.

20 These are all things that if the government does  
21 them, the public is safer, the government doesn't do them,  
22 the public is less safe.

23 In this case, ladies and gentlemen, you're going to  
24 hear about a man who had an interaction with the Greenwood  
25 County Sheriff's Office, and it was during -- you met

1 Sheriff Kelly earlier. This was during the previous  
2 administration, Tony Davis's administration, so it's going  
3 a few years back.

4 But the man is in a bad wreck. He is rendered  
5 unconscious at the scene, helicoptered to Greenville to be  
6 treated for his injuries. I believe he was in a medically  
7 induced coma for two days, has various surgeries to kind  
8 of put him back together. And I think all in all, he ends  
9 up with over a dozen broken bones including two broken --  
10 two breaks in his pelvis, a break in his hip, two broken  
11 ribs, his front teeth are knocked out, a couple broken  
12 fingers and a broken neck and a broken back. And he's  
13 hospitalized for a total of five days in Greenville, and  
14 then the physician discharges him from the hospital.

15 Now, you'll see the discharge instructions and  
16 discharge report and the other documents that pertain to  
17 the discharge of the man from the hospital. You'll see  
18 that they indicate that he is to be discharged to home,  
19 and that he's got a cast on his arm to deal with the  
20 broken fingers, he's given a neck collar to stabilize his  
21 broken neck, and he's discharged with a walker to be able  
22 to get around.

23 And also something you'll hear a lot about in this  
24 trial is that he's discharged with 90 Lortab pills for the  
25 pain, because obviously, he's in serious pain and so the

1 doctor prescribes this level of medication. I think this  
2 works out to be about a 45 day supply.

3 And when the man is discharged, he does not go home.  
4 He goes to the Greenwood County Detention Center. An  
5 officer, I believe, with the Highway Patrol takes him to  
6 the detention center because between the time that he  
7 entered the hospital and the time that he left, it was  
8 decided that he would be charged with felony DUI with  
9 great bodily injury as a result of the wreck.

10 So instead of going home, he goes to the detention  
11 center and he arrives you'll hear at the booking area, and  
12 he meets the gatekeeper, the person who's going to do the  
13 medical screen.

14 Now, you'll see the form that was completed as part  
15 of the medical screen. You'll see that the man who comes  
16 in with over a dozen broken bones, front teeth knocked  
17 out, comes in with a walker, neck brace and 90 Lortab  
18 pills, you'll see that it indicates on the form that the  
19 employee did not notice any physical injuries that would  
20 impair his mobility, for example. You'll also see on the  
21 form that the employee who is performing the medical  
22 screening indicated on the question of does the person  
23 appear to have any painful dental injuries, no. Recall  
24 teeth are knocked out. So the employee, the gatekeeper  
25 who is performing the medical screening, makes the

1 determination that the man is okay to admit to the  
2 detention center.

3 Now, you'll hear that there was -- one of the nurses  
4 on staff, on her way out, took a look at the man and  
5 determined that he was all good. And just when you hear  
6 about that during trial, just keep in mind that the  
7 minimum standards require the physician to evaluate  
8 somebody for detention.

9 So anyway, as part of this medical screening and  
10 booking process, you'll see that the employee who is  
11 responsible for performing the medical screening knew that  
12 the man was not allowed to have the prescription pain  
13 medication at the detention center because she took them  
14 from him, and they were logged in as property. So those  
15 are immediately taken from him because they're obviously  
16 not allowed in the detention center like we talked about  
17 earlier.

18 You're also going to hear, and I don't think anybody  
19 is going to dispute it in this trial, that the man's neck  
20 collar was taken so that they could take his mug shot.  
21 And you'll probably see a photo of his mug shot where he  
22 doesn't have his neck collar on.

23 And the man says that he's not given the neck collar  
24 back for six days. So he deals with the broken neck  
25 without a neck collar for six days. And then he'll also

1 testify that he was not given any pain medication of any  
2 kind during that six-day period. And then after that,  
3 they began giving him the best they could do, which was,  
4 you know, Tylenol or Advil or whatever they're allowed to  
5 give at the detention facility.

6 So that's a total as I indicated earlier, it's about  
7 a 45 day supply of the Lortab that he was supposed to get.  
8 And I think that shakes out to be about a thousand hours  
9 that he was in the detention center without the Lortab and  
10 about 64,000 minutes.

11 And the man that I've been talking about, the member  
12 of the Greenwood County community that I've been  
13 discussing and somebody y'all saw earlier when you were  
14 over here in these pews over here is Mr. Tony Young, and I  
15 represent Mr. Young. My name is Kyle White. I was also  
16 introduced earlier by the judge, but my name is Kyle  
17 White. I represent Mr. Young. And representing Mr. Young  
18 with me is Mr. Josh Hawkins here. He's also at the  
19 counsel table.

20 And we are going to put on evidence and testimony  
21 throughout this trial that at the end of which we're going  
22 to ask you to find that the government was grossly  
23 negligent here in allowing a hole in their medical  
24 screening because they didn't follow the rules and causing  
25 Mr. Young to experience a thousand agonizing hours without

1 his pain medication, or 64,000 agonizing minutes.

2 And we have the burden of proof. You will hear about  
3 that from Mr. Harter, who will be speaking next. We have  
4 the burden of proof in this case.

5 But keep in mind this is not a criminal case where  
6 the burden of proof is beyond any reasonable doubt. And  
7 nobody goes to jail at the end of this like, you know, a  
8 criminal case. But the burden of proof that we have in  
9 this case is by a preponderance of the evidence, so we  
10 have the responsibility to prove to you all that we're  
11 more likely right than wrong. So if you are satisfied at  
12 the end of hearing all the evidence and testimony that we  
13 are more likely right than wrong, then we have met our  
14 burden of proving -- more likely right than wrong that the  
15 government was grossly negligent, then we have met our  
16 burden on that issue of gross negligence.

17 And you will also be asked if you agree that  
18 Mr. Young is more likely right than wrong that the  
19 government was grossly negligent, should the government be  
20 held responsible? And should there be consequences for  
21 what was done such that the government is required to  
22 reimburse Mr. Young something for those thousand agonizing  
23 hours, or 64,000 agonizing minutes?

24 And, ladies and gentlemen, the great thing about our  
25 jury system in the United States is that you are the folks

1 who will ultimately get to make that decision on whether  
2 Mr. Young has met his burden of proving that he's more  
3 likely right than wrong. Y'all will hear the evidence and  
4 testimony, and y'all have the power to decide whether  
5 Mr. Young is more likely right than wrong that the  
6 government was grossly negligent.

7 And we are thankful for your service today. This is  
8 an important constitutional right that the parties have to  
9 the jury trial, and it would not be possible without any  
10 of y'all. And we know that everybody is going to listen  
11 to the evidence, listen to the testimony and make the  
12 right decision at the end of this trial. And we  
13 appreciate everybody's time.

14 Thank you.

15 THE COURT: Mr. White, thank you.

16 Mr. Harter, you're recognized for your opening, sir.

17 MR. HARTER: Thank you, Judge.

18 Mr. Foreman, ladies and gentlemen of the jury, I was  
19 introduced to you earlier. My name is Rusty Harter. I  
20 have the great privilege today of representing the  
21 Greenwood County Sheriff's Office. And you met my  
22 daughter, Ms. Davis, who is working with me on this case.  
23 And, again, this is Lonnie Smith, who is a major over at  
24 the sheriff's office. Lonnie was the jail administrator  
25 of the sheriff's office and for the detention center at

1 the time of the incident we're talking about here today.

2 Ladies and gentlemen, let me tell you a little bit  
3 about how operations work at the Greenwood County  
4 Detention Center. It is a detention facility, and it  
5 falls under the jurisdiction of the sheriff. The sheriff  
6 is overseer of all of the detention officers that are in  
7 the detention center. They work under the sheriff.

8 Occasionally and/or frequently, people come to the  
9 detention center that require medical attention or have  
10 medical issues. And for that reason, there is a contract  
11 arrangement with the detention center and a group called  
12 Southern Health Partners.

13 Southern Health Partners is a group that employs  
14 qualified and trained nurses and a physician who oversees  
15 all of the medical services at the jail. Detention  
16 officers don't oversee or make medical decisions, but  
17 there is a qualified medical person by way of a nurse who  
18 is there at the jail during certain hours, and that nurse  
19 tends to the medical needs of the inmates in the detention  
20 center and coordinates their care with the doctor, the  
21 physician that works for Southern Health Partners. And  
22 this also involves the coordination of medical care for  
23 any outside consults that are needed, and this also  
24 includes the oversight of handing out medications.  
25 Southern Health Partners' nursing staff hands out

1 medications, documents, makes records with respect to  
2 their care and attention for inmates at the detention  
3 center.

4 Now, the judge told you about this jury selection  
5 process, and he made reference to the fact that years ago,  
6 this kind of process happened a little differently. And  
7 we drew these names out of this hopper over here, and that  
8 was the old way of doing things. As I look around, I  
9 remember that. I remember those days. I remember that  
10 process. And this selection process is a little  
11 different.

12 But ladies and gentlemen, nothing else about jury  
13 service has changed, and that's the great thing about this  
14 system that we have here. And one of the things that  
15 Judge Addy has already told you about is that you are to  
16 listen to the evidence and testimony in this case. And  
17 plaintiff's lawyers are asking you to listen to the  
18 evidence and testimony in this case. And guess what? I'm  
19 going to do the same. But I want to ask you to listen  
20 with your eyes, your ears and your nose and your good  
21 common horse sense, because those are qualities that you  
22 bring in that door when you come into this process.

23 And the other important thing that I implore you to  
24 remember about this case and about your service is  
25 something that Judge Addy has already told you. What I'm

1 saying is not evidence. I submit that what you just heard  
2 in this case is not evidence. We handpicked you to listen  
3 to the evidence in this case and make a decision about  
4 what the true important facts are. And in order to do  
5 that, ladies and gentlemen, the evidence comes from here  
6 and from documents. And I want to ask you to listen  
7 closely to the evidence that comes from here as you  
8 deliberate and work through and filter through this case.

9 Now, let me tell you, this case is about a claim that  
10 Mr. Tony Young is making against the Greenville County  
11 Sheriff's Office -- Greenwood County Sheriff's Office.  
12 And in that regard, Mr. Young was involved in a serious  
13 motor vehicle accident on August the 10th of 2011. That  
14 accident was an accident that Mr. Young caused. That  
15 accident was an accident that resulted in him having some  
16 injuries, and it resulted in the Highway Patrol charging  
17 Mr. Young with the crime of felony DUI. As a result of  
18 that accident, Mr. Young was transported to the Greenville  
19 Memorial Hospital on August the 11th -- or 10th, I'm  
20 sorry, of 2011. And he received medical care there from  
21 August the 10th, 2011 until August 16, 2011, at which time  
22 I'm going to suggest to you the evidence will show  
23 Mr. Young was discharged by a physician and the staff at  
24 Greenville Memorial Hospital.

25 Now, he was there, and he was under arrest, and he

1 was discharged home. Well, his discharge home was to the  
2 Greenwood County Detention Center where he -- when  
3 somebody is under arrest, they're in custody, and there's  
4 a way that they can post bond and do those kind of things  
5 and get out. But by law, Mr. Tony Young was sent to the  
6 Greenwood County Detention Center.

7 Now, let me clear a couple things up as you listen to  
8 the evidence that you're going to hear from the witnesses.  
9 Mr. Young was discharged from the Greenwood -- from  
10 Greenville Memorial Hospital with a neck brace, a  
11 removable neck brace. He was discharged with a cast on  
12 his hand. He was discharged with a walker. He was  
13 discharged home. He was not discharged to a nursing  
14 facility. He was not discharged to a rehab facility. He  
15 was discharged from the hospital by the doctors at  
16 Greenville Memorial Hospital.

17 I do not believe Mr. Young had any surgeries while he  
18 was at Greenville Memorial Hospital. I do not believe he  
19 had any incisions or any sutured lacerations when he left  
20 Greenville Memorial Hospital. And he, I don't believe,  
21 had any neck -- back brace when he left Greenville  
22 Memorial Hospital. But he did have several fractures.  
23 And listen to what the evidence and the testimony is as to  
24 what those fractures were, the kind of fractures they  
25 were, and what was done to treat those fractures.

1           Mr. Young was brought to the Greenwood County  
2 Detention Center on the afternoon of August the 16th of  
3 2011. When he was brought to the Greenwood County  
4 Detention Center, and let's make no mistake about this,  
5 ladies and gentlemen, he was brought by the Highway  
6 Patrol. He was brought to the detention center. The  
7 detention center and/or the Greenwood County Sheriff's  
8 Office had nothing whatsoever to do with picking that man  
9 up from the hospital or bringing him to the detention  
10 center.

11           And you will see the discharge instructions, and they  
12 are discharge instructions. And he was a medical case.  
13 And I will suggest to you that he was placed as a  
14 special-needs inmate for medical at that time, and he was  
15 and he remained a special-needs inmate for a period of  
16 time.

17           Now, ladies and gentlemen, when he was brought to the  
18 Greenwood County Detention Center on the afternoon of  
19 August 16, 2011, he was brought in the door and he was met  
20 at that booking area by a lady by the name of Beverly  
21 Weaver. Beverly Weaver observed Mr. Young and immediately  
22 contacted the medical staff at the detention center.  
23 Mr. Young was seen at 4:00 or approximately 4:00 that  
24 afternoon prior to being booked and prior to being placed  
25 in a single cell where he would remain for some period of

1 time.

2 Now, let me talk about the collar thing for a minute,  
3 okay? Let me tell you what Mr. Young's claim is, what  
4 Mr. Young told us that his claim was. He told us that his  
5 claim was -- this is Mr. Young telling us that his claim  
6 was that, when he came to the detention center, his collar  
7 was taken away from him for six days, now, after which  
8 time he says I got my collar back, and I kept it as long  
9 as I needed it.

10 Now, Mr. Young was an inmate at the detention center  
11 from August 16, 2011, until April 12, 2012, April 10 or  
12 12, 2012. So for all of those months, he was at the  
13 Greenwood County Detention Center. And I'm going to  
14 suggest to you that the testimony and the evidence you  
15 will hear will show he had numerous medical encounters  
16 during that period of time. And he had extensive medical  
17 care, and he had what we submit is very reasonable and  
18 appropriate medical care. He's not out on the street. He  
19 is in a jail, and he's there because some judge issued an  
20 order that said that's where he needs to be. He does not  
21 need to be out here roaming the streets of the City of  
22 Greenwood or the County of Greenwood.

23 Now, Mr. Young says that this neck brace was taken  
24 away from him for six days, but then he got it back and he  
25 kept it as long as he needed it. Well, we disagree with

1 that. But I will tell you, when he is booked at the  
2 Greenwood County Detention Center, you will hear that as  
3 part of the booking process, they do a mug shot or a  
4 photo. And what they do is they remove devices like that  
5 for a couple of reasons. One is to inspect for  
6 contraband. Number two is they do an inspection to see if  
7 anybody has marks, scars or tattoos. And then thirdly,  
8 this mug shot, it's a mug shot. And sometimes mug shots  
9 are used in photo lineups, and so it is the policy of the  
10 detention center to take photos without these kind of  
11 devices on. If Mr. Young was ever placed in a photo  
12 lineup and had a neck brace on, that would draw attention  
13 to him. Under detention center practices and policies,  
14 that neck brace would have been and was willfully given  
15 back to him that very day.

16 Now, let's talk about the medication for a minute.  
17 When Mr. Young presented to the Greenwood County Detention  
18 Center, he had discharge instructions, and he had Lortab  
19 medications with him. And when he presented to the  
20 booking area on the afternoon of August 16, 2011, he was  
21 immediately greeted there by Sherry Bouknight, who was a  
22 nurse, who explained to Mr. Young we're in a detention  
23 center now. Lortab is a narcotic medication. We do not  
24 dispense narcotic medications at a detention center. But  
25 we substitute with another medication and/or regime of

1 medication approved by a formulary which provides  
2 equivalent and similar pain relief. The dispensing of  
3 Lortab in a jail or prison setting is thought to be  
4 fraught with problems.

5 On the afternoon of -- and Mr. Young also says with  
6 respect to his medications that on August the 16th when he  
7 presented and was booked, he had his collar taken away for  
8 six days, he got no medication whatsoever for six days,  
9 and he never saw any medical person for six days. Ladies  
10 and gentlemen, we disagree with that. And I want to  
11 suggest to you why, because in the medical records of  
12 Southern Health Partners, they document medical encounters  
13 with this gentleman. And there's a thing called MARs,  
14 medication administration records, where some nurse makes  
15 a note of what medications an inmate has, when they get  
16 those medications, and what the strength of them is.

17 Mr. Young was not given narcotic medication at the  
18 detention center. He was, however, given a series of  
19 medications that also have similar pain relieving  
20 components. He was immediately started on ibuprofen,  
21 600 milligrams twice a day. Throughout his stay at the  
22 detention center, these medications administration records  
23 show when he got medications, it shows other medications  
24 that were given and/or substituted. Ladies and gentlemen,  
25 I submit to you that these medical records, these

1 healthcare records confirm and refute actually what  
2 Mr. Young is saying, because he did get prompt medical  
3 care, and he got medication for his problems.

4 Another interesting component of this, ladies and  
5 gentlemen, is in April of 2012, Mr. Young pled guilty to  
6 the felony DUI charge, and he was transferred from the  
7 Greenwood County Detention Center to the South Carolina  
8 Department of Corrections where he remained an inmate  
9 there for a couple of years.

10 Well, while at the South Carolina Department of  
11 Corrections for those years after April of 2012, the South  
12 Carolina Department of Corrections has medical staff.  
13 They have medical people at every facility they have.  
14 Mr. Young, I believe, according to the testimony, had one  
15 medical encounter for his neck or back injury after  
16 April 12 of 2011, for years. And ladies and gentlemen,  
17 for all those years while he was at the South Carolina  
18 Department of Corrections, he never got narcotic  
19 medication. He got the same medications that he got at  
20 the detention center. The South Carolina Department of  
21 Corrections and the detention center both have the same  
22 policy and understanding about narcotic medications.

23 And, you know, ladies and gentlemen, I want you to  
24 listen closely and pay attention to the evidence you have  
25 about the seriousness or the significance of Mr. Young's

1 injuries. He was in a bad automobile accident, an  
2 automobile accident that he caused. He has some  
3 fractures. I do not believe his fractures were such as  
4 that he had any surgeries at all. I believe these were  
5 nondisplaced fractures.

6 And, you know, in spite of what Mr. Young and his  
7 lawyers say was bad medical care, ladies and gentlemen,  
8 this man had an automobile accident on August the 10th of  
9 2011. He was followed for his fractures, his hand injury,  
10 his neck injury, and his back injury, and he was  
11 discharged from any further medical care, no follow-up  
12 needed, on October 31, 2011. I would submit that for this  
13 kind of injury, these kinds of claims, to have an injury  
14 like this August 10, 2011, and to be released from any  
15 further medical care not by detention people but by a  
16 neurosurgeon and an orthopedist at the Greenville Hospital  
17 System, wow, that's a good coverage. He needs to thank  
18 God for where he is.

19 And ladies and gentlemen, I want to, again, implore  
20 you to listen to the evidence and the testimony in this  
21 case, and you'll hear from witnesses, and you'll see  
22 documents, I believe.

23 But there's one thing special about this case, and  
24 some of you may have some knowledge of other matters, but  
25 there's one thing special about this case. As I told you,

1 the detention center, they have to take these people. It  
2 would be great if they didn't have to take anybody, and  
3 they didn't have to take anybody that had any medical  
4 issues. But that's necessary, and that's part of it.

5 And, you know, if we talk about training and  
6 policies, the question is whether or not the right thing  
7 was done and whether or not this man got medical care  
8 consistent with what is required.

9 And, ladies and gentlemen, this case is a little bit  
10 different, a little bit unique in the sense that the  
11 plaintiff has the burden of proof, but the elements of the  
12 claim involve a thing called gross negligence. In other  
13 words, the plaintiff in this matter must first prove gross  
14 negligence by the detention center or the sheriff's  
15 office. Gross negligence is going to be described by the  
16 judge, and he is going to tell you that that means the  
17 exercise of even slight care or the conscious failure to  
18 exercise due care or reasonable care. I don't think  
19 you're going to see that in this case, ladies and  
20 gentlemen.

21 The other thing the judge is going to tell you is in  
22 order to find for the plaintiff, you must find that the  
23 actions of the detention center personnel was a proximate  
24 cause of actual damages, proximate cause, but for the  
25 actions of the detention center, Mr. Young would not have

1 experienced damages. Now, the judge is going to explain  
2 this to you, but I'm just telling you, giving you a  
3 roadmap of the law that applies.

4 And then I believe the judge will also tell you that  
5 the plaintiff has to prove what's known as actual damages.  
6 There are no medical expenses involved here. Do you hear  
7 any medical doctor come in here and talk about Mr. Young's  
8 medical condition? The actual damages Mr. Young is asking  
9 y'all to give to him in this case I respectfully submit,  
10 ladies and gentlemen, is damages for pain that he himself  
11 caused.

12 And, you know, I don't get to call my witnesses until  
13 later in the trial, but I do want to ask you to give us  
14 all your kind attention here. And, again, we handpicked  
15 you for this case, and you raised your hand and you gave  
16 an oath, and we appreciate your service. It is a  
17 sacrifice to be here. We appreciate it.

18 But at the end of the day, at the end of the trial,  
19 you're going to be asked to render a verdict. You're  
20 going to get a form from the judge that is a verdict form.  
21 You're going to be asked to go back here and deliberate  
22 and render a verdict. And ladies and gentlemen, I want to  
23 ask you when you render that verdict, to give thorough  
24 consideration to the evidence and testimony. And the  
25 Latin word for "verdict," verdict, the word verdicto. The

1 word "verdict" comes from the Latin word verdicto. And  
2 verdicto means speak the truth.

3 And we are thankful again to have you here again on  
4 this case, and we are quite confident and sure that you  
5 will give all parties appropriate consideration, follow  
6 the law and render a verdict that speaks the truth.

7 Thank you very much.

8 THE COURT: Thank you, Mr. Harter.

9 Your first witness should take about how long do you  
10 expect? I'm trying to see if we can do it.

11 MR. WHITE: Ten or 15 minutes. Not long at all.

12 THE COURT: Go ahead and call them, please.

13 MR. WHITE: The plaintiff calls Rodney Gresham, Your  
14 Honor.

15 WHEREUPON,

16 RODNEY GRESHAM

17 After having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. WHITE:

20 Q Mr. Gresham, how are you today, sir?

21 A I'm doing all right.

22 Q Good. Are you an employee of the Greenwood County  
23 Sheriff's Office?

24 A I am.

25 Q And what is your job?

1 A I am over transportation.

2 Q And were you -- at any point in time, had you been  
3 employed at the detention center?

4 A At?

5 Q The detention center.

6 A Yeah.

7 Q Yes. And it's my understanding that you began  
8 working there in February of 2011?

9 A No. I started in 2010.

10 Q Okay.

11 A Towards the end.

12 Q Okay.

13 A Yeah.

14 Q So you would have started before Mr. Young entered  
15 the detention center in August of 2011?

16 A Yes, sir.

17 Q And so you don't -- you no longer work in the  
18 detention center?

19 A I do.

20 Q Oh, you do work there.

21 A I do.

22 Q But the sheriff's office actually runs the detention  
23 center, right?

24 A They do.

25 Q And the sheriff's office, they do some other things

1 besides running the detention center, right?

2 A They do.

3 Q Does the sheriff's office perform law enforcement  
4 activities in the county?

5 A As far as I know, they do.

6 Q And does the sheriff's office put resource officers  
7 in schools?

8 A They do.

9 Q And does the sheriff's office occasionally take folks  
10 into custody?

11 A They do.

12 Q Does the sheriff's office, when they take them into  
13 custody, do they take them over to the Greenwood County  
14 Detention Center?

15 A They do.

16 Q All right. In any of those situations when the  
17 Greenwood County Sheriff's Office is performing these  
18 public safety functions, is it ever allowed to needlessly  
19 endanger the public?

20 A I don't understand.

21 Q Okay. Is the Greenwood County Sheriff's Office ever  
22 allowed to needlessly endanger the public?

23 A No.

24 Q And has that been true since you started at the  
25 detention center in 2010?

1 A It has.

2 Q And are you aware that there are certain policies and  
3 procedures in place at the Greenwood County Detention  
4 Center?

5 A I do.

6 Q Are you aware the minimum standards that are in  
7 effect in South Carolina that apply to detention centers?

8 A I do.

9 Q Are you aware of the Greenwood County Detention  
10 Center's own policies and procedures?

11 A I do.

12 Q And did -- I guess you heard earlier, or maybe you  
13 didn't, that Mr. Young was in the detention center from  
14 August 2011 until April of 2012. I'll just represent that  
15 to you.

16 A Okay.

17 Q Did the policies and procedures at the Greenwood  
18 County Detention Center change at all during that period  
19 of time, as far as you know?

20 A No.

21 Q All right. Are all employees of the Greenwood County  
22 Detention Center trained on medical screening for intake?

23 A They are.

24 Q And are there policies and procedures that apply to  
25 medical screening at intake at the detention center?

1 A There are.

2 Q Are the medical screening policies in part set by the  
3 minimum standards that are in place in South Carolina?

4 A They are.

5 Q Are they also in part dictated by the Greenwood  
6 County Detention Center's own policies and procedures?

7 A They are.

8 Q All right. Are the employees of the Greenwood County  
9 Detention Center allowed to violate any of those policies  
10 and procedures?

11 A They are not.

12 Q And when everybody follows those rules, is the public  
13 safer?

14 A Yes.

15 Q And when folks violate the rules, can the public be  
16 less safe?

17 A They could be.

18 Q And would you agree that there are situations in  
19 which someone can be too injured to be booked into the  
20 detention center in Greenwood?

21 A They are, but we -- if they come here, we've got  
22 policy on that that we have to notify the nurse, and  
23 she'll come in and she'll evaluate.

24 Q Right. And there are limitations in place at the  
25 detention center where -- well, let me back up. It's not

1 a hospital, right?

2 A No.

3 Q Okay. So if there are certain things that you need  
4 like, you know, heart surgery or brain surgery or  
5 whatever, that ain't happening at the detention center,  
6 right?

7 A No.

8 Q Okay. So all I'm getting at is there are certain  
9 limitations in place at the detention center that have to  
10 be taken into account when looking at whether you can take  
11 care of a person who is injured, right?

12 A Yeah. But when we notify medical, it's a medical  
13 screening that we go by. And if it's a certain amount  
14 of yeses and noes, we notify -- we stop and notify  
15 medical, and medical will take over and they'll go from  
16 there.

17 Q Right. And you mentioned the medical screening form  
18 just now. Is that what you were talking about?

19 A Yeah.

20 Q All right. And would you agree that it's important  
21 for the government to keep complete and accurate records?

22 A For the government?

23 Q The Greenwood County Sheriff's Office.

24 A Yeah.

25 Q All right. And one of those records that must be

1 completed fully and accurately would be that medical  
2 screening form, right?

3 A Yes. Unless -- unless we got more than six -- more  
4 than three yeses to the injury or whatever, we'll stop it  
5 and we'll notify our sergeant, and our sergeant will  
6 notify medical, and they'll determine.

7 Q All right. And so the number of yeses on that form  
8 depends on whether the person is just booked in right then  
9 or whether one of your superior officers at the detention  
10 center is notified, right?

11 A Yeah. For them to be sent back out or they can stay.

12 Q Okay. So that's one of the reasons that it is  
13 crucial to fully and accurately complete that medical  
14 screening form, right?

15 A Yes.

16 MR. WHITE: I have no further questions at this time,  
17 Mr. Gresham. Thank you for your time.

18 THE WITNESS: Okay.

19 THE COURT: Mr. Harter.

20 CROSS EXAMINATION

21 BY MR. HARTER:

22 Q All right. Let me ask you something. When the  
23 inmate comes in to the detention center they brought --  
24 do you know anything about Mr. Young when he was brought  
25 in?

1 A I do not.

2 Q Okay. Would it be appropriate procedures and  
3 processes that the Highway Patrol would bring an inmate or  
4 bring a prisoner to the detention center?

5 A Would it be appropriate?

6 Q Yeah.

7 A Yeah.

8 Q Okay. And if the -- when an inmate is brought to the  
9 detention center, you indicated they see somebody and go  
10 through a medical screening; is that right?

11 A That is correct.

12 Q Okay. And if there are any questions at all about  
13 their -- whether they can be booked or not, you call a  
14 person from the medical department?

15 A I notify my supervisor ---

16 Q Okay.

17 A --- then they'll make the call to what they need to  
18 do.

19 Q Okay. And that would be somebody from Southern  
20 Health Partners medical team?

21 A It would be.

22 Q Okay. And now, Mr. Young, he was discharged home,  
23 okay, and not to a medical facility.

24 A Okay.

25 Q Are you aware of that?

1 A I guess. I don't -- I don't know anything about  
2 Mr. Young.

3 Q Right. So just let me ask you this. If somebody is  
4 at the detention center as opposed to being at home and  
5 they're in the medical unit at the detention center, they  
6 actually have on site a nurse pretty much every day,  
7 right?

8 A They do. They most certainly do.

9 Q They wouldn't have that at home, would they?

10 A They would not.

11 Q If that nurse has any questions about that person,  
12 there's a doctor they can just call, right?

13 A There is. They have their own doctor they call.

14 Q And that's part of trying to take care of these folks  
15 at the jail.

16 A That is.

17 Q It would suit you fine, I guess, if there was never  
18 an inmate that came in that had any kind of special needs  
19 or medical problem, right?

20 A That would be perfect.

21 Q Okay. And was it the Greenwood County Sheriff's  
22 Office or was it some magistrate or judge that would  
23 determine that Mr. Young needed to be in jail or in  
24 detention as opposed to at home?

25 A It would be the -- the judge.

1 Q Okay. And, you know, Rodney, let me ask you this.  
2 There's a process called bond, right?

3 A It is.

4 Q Okay. And when inmates come into the detention  
5 center, they are brought in front of a judge quickly,  
6 right?

7 A Yes, sir.

8 Q And the judge determines a bond for these people,  
9 right?

10 A Yes, sir.

11 Q That's not the detention center determining what the  
12 bond is, that's a magistrate, right?

13 A It is.

14 Q And that magistrate has whatever discretion he or she  
15 wants to have with regard to issuing a bond, right?

16 A They do.

17 Q And if somebody has some type of medical problem that  
18 is so, so severe that they can't be at the jail, it's  
19 possible for them to ask the judge to reduce their bond  
20 for medical reasons.

21 A Yeah. I have seen where the magistrate have gave  
22 them a PR bond ---

23 Q Okay.

24 A --- because of the care they would need.

25 Q They would go to the magistrate and ask the bond be

1 reduced.

2 A Yes, sir.

3 Q Or their family or them would come up with whatever  
4 monies needed to get them out.

5 A Yes, sir.

6 Q Okay. And you were asked about policies and  
7 procedures and this kind of stuff. If an inmate was  
8 brought into the detention center, and he had obvious  
9 medical issues, and he was seen by a booking officer, and  
10 then if he was seen by a person from the medical  
11 department, would that be appropriate procedures?

12 A That would be.

13 Q Okay. Now, with regards to medications at the  
14 detention center ---

15 A Uh-huh.

16 Q --- who gives out medications?

17 A The medical staff. We're not medical.

18 Q Okay. The nurses give out medication?

19 A They do.

20 Q And they keep a record. They keep a record of what  
21 they give out.

22 A They do.

23 MR. HARTER: Okay. Excuse me just a minute.

24 Thank you. I appreciate it.

25 MR. WHITE: Brief redirect, Your Honor.

REDIRECT EXAMINATION

1

2 BY MR. WHITE:

3

4 Q Mr. Gresham, are there times when the Southern Health  
5 Partners medical folks are not on site at the detention  
6 center?

7

8 A No.

9

10 Q Okay. Back in 2011, were there times when the  
11 medical staff went home?

12

13 A I don't -- I just started there and I was kind of  
14 new, so I was more concerned about my job and learning  
15 policy and procedure. The answer to that, I don't ---

16

17 Q Okay.

18

19 A I -- I guess it was a time ---

20

21 Q Okay.

22

23 A --- they went home.

24

25 Q And officers, correct me if I'm wrong, at the  
detention center are trained to recognize a potentially  
serious medical situation so that they can report it to  
their supervisor, right?

26

27 A Yes. We report to our supervisor and let them know.

28

29 Q And you mentioned there was some discussion about  
30 home and the detention center. Now, with respect to the  
31 prescription pain medications, that's something that if  
32 somebody's prescribed prescription medications by a doctor  
33 and that prescription is filled by a pharmacist, they can

34

1 take that at their house, right?

2 A They can.

3 Q Okay. Can they take that prescription pain  
4 medication at the detention center?

5 A I don't know. I'm not medical.

6 Q Okay.

7 A Whatever -- whatever medical policy is about the  
8 prescriptions, I don't know.

9 Q Okay. So you don't know whether there's any policy  
10 in place that prevents folks from getting ---

11 A All I know is they don't -- they don't do narcotics.

12 Q Okay.

13 A That's all I've been told.

14 Q Got you. So that's a type of medication that if  
15 prescribed, you can potentially take it at your house, but  
16 not at the detention center, right?

17 A Yes, sir.

18 MR. WHITE: Thank you. No further questions.

19 THE WITNESS: You're welcome.

20 THE COURT: Go ahead.

21 RECCROSS EXAMINATION

22 BY MR. HARTER:

23 Q If Mr. Young got bonded out, he could take whatever  
24 medication he wanted, couldn't he?

25 A He most certainly could.

1 Q You don't have any control over that.

2 A I do not.

3 Q And you have other inmates at the detention center  
4 you're responsible for, right?

5 A We do with some -- some issues, too.

6 MR. HARTER: Thank you, sir.

7 THE WITNESS: You're welcome.

8 MR. WHITE: No further questions for the witness,  
9 Your Honor.

10 THE COURT: Good enough. You can step down. Thanks  
11 for coming.

12 THE WITNESS: Okay.

13 THE COURT: Ladies and gentlemen, we're going to take  
14 a brief afternoon comfort break. We'll be back on the  
15 record in about ten minutes. Anybody smoke, anybody need  
16 to step outside for a cigarette, don't be shy. It's still  
17 legal somewhat. Frowned upon, but -- all right. Good  
18 enough.

19 Adjourn to the back. Make yourselves comfortable.  
20 Have a little water, what have you. We'll be back on the  
21 record in about ten minutes. Okay?

22 Thank you.

23 (WHEREUPON, the jury exits the courtroom.)

24 THE COURT: All right. We'll be at ease for a few  
25 minutes.

1 (WHEREUPON, a recess is taken.)

2 THE COURT: All right. Let's have the jury out,  
3 please.

4 You've got your next witness?

5 MR. WHITE: Yes.

6 (WHEREUPON, the jury entered the courtroom.)

7 THE COURT: All right. Call your next witness,  
8 please.

9 MR. WHITE: The plaintiff calls Mr. Gene Powell.  
10 WHEREUPON,

11 GENE POWELL

12 After having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. WHITE:

15 Q Mr. Powell, could you please introduce yourself to  
16 the jury, sir.

17 A I'm Gene Powell.

18 Q And Mr. Powell, are you currently employed with the  
19 Greenwood County Sheriff's Office?

20 A No, sir.

21 Q Were you employed with the Greenwood County Sheriff's  
22 Office?

23 A Yes, sir.

24 Q All right. And were you formerly employed at the  
25 Greenwood County Detention Center?

1 A I don't understand the question.

2 Q Were you employed at the Greenwood County Detention  
3 Center?

4 A Yes, sir.

5 Q And for a period of time, did you serve as the  
6 training director there?

7 A Yes, sir.

8 Q All right. And so as part of your job as the  
9 training director, would you have been familiar with the  
10 standards and policies and procedures that applied to the  
11 detention center?

12 A Yes, sir.

13 Q Okay. So you would have learned those well enough to  
14 be able to, I guess, train other folks on them, right?

15 A Yes, sir.

16 Q Okay. And I know you're not currently still employed  
17 with the Greenwood County Sheriff's Office, but if we had  
18 you look at some of the standards and policies and  
19 procedures, do you think you'd be able to identify them?

20 A I think so.

21 MR. WHITE: All right. I'm going to -- I'd like to  
22 mark Exhibit Number 1 for identification, please.

23 (WHEREUPON, Plaintiff's Exhibit Number 1 was marked for  
24 identification.)

25 MR. WHITE: Your Honor, permission to approach the

1 witness.

2 THE COURT: Please.

3 BY MR. WHITE:

4 Q Mr. Powell, I'm handing you what's been marked for  
5 identification as Exhibit Number 1. Have you seen this  
6 document before?

7 A Yes, sir.

8 Q Okay. And does this appear to be the minimum  
9 standards for local detention facilities in South  
10 Carolina?

11 A That's what it -- that's what it says.

12 Q And those were the -- some of the standards that  
13 applied when you were the training director at the  
14 Greenwood County Detention Center?

15 A Could you repeat it?

16 Q Yes. These would have been the standards that you  
17 were familiar with and trained folks on when you were the  
18 training director at the Greenwood County Detention  
19 Center?

20 A We would be familiar with them. This is minimum  
21 standards. This is -- this is -- we -- we did more with  
22 policies and procedures.

23 Q Right. But you were familiar with them, though?

24 A Yes, sir.

25 Q Okay. And do those appear to be those minimum

1 standards that would have been in place when Mr. Young was  
2 in the detention center in 2011?

3 A The date on it says 12/19/2006 version. That's -- I  
4 can't tell you this is exactly.

5 Q Okay. Were you aware of any changes that were made  
6 to those minimum standards between 2006 and when Mr. Young  
7 was in the detention center in 2011?

8 A I'm -- I'm ---

9 THE COURT: Let's handle it this way. I assume these  
10 documents were provided by the defense through discovery.

11 MR. HARTER: Yes, they are. But this is -- as you  
12 can tell ---

13 THE COURT: Right.

14 MR. HARTER: --- there's a stack of stuff. There  
15 might be some sections of it that are relevant. And as I  
16 pointed out earlier to plaintiff's counsel, I would submit  
17 that a lot of that stuff is not ---

18 THE COURT: Necessarily relevant.

19 MR. HARTER: But if you select out what's relevant,  
20 we could talk about that.

21 THE COURT: Okay.

22 MR. WHITE: Judge, with these policies, these  
23 standards, it may be difficult to do that because they're  
24 not -- each standard isn't a separate document, so -- and  
25 the parties did stipulate to the exhibits that were

1 swapped to each other were authentic.

2 THE COURT: All right. You don't have a problem -- I  
3 think he's trying to lay a foundation for admitting this,  
4 but you don't have a problem saying that the 2006 version,  
5 as it relates to this case, there weren't any material  
6 differences in that it was in effect at the time of this  
7 incident in 2011?

8 MR. HARTER: I don't think I do, Judge. But there is  
9 a table of contents ---

10 THE COURT: Okay.

11 MR. HARTER: --- that would show which ones apply,  
12 which ones don't.

13 THE COURT: Okay.

14 MR. HARTER: And there's obviously stuff that does.

15 THE COURT: All right. In that case, we'll just go  
16 ahead and allow Plaintiff's 1 to be in evidence, okay?  
17 (WHEREUPON, Plaintiff's Exhibit Number 1 was admitted into  
18 evidence.)

19 MR. WHITE: All right. Thank you, Your Honor.

20 BY MR. WHITE:

21 Q And Mr. Powell, were you also familiar with the  
22 Greenwood County Detention Center's own policies and  
23 procedures?

24 A Yes, sir.

25 Q Okay.

1 A To the best of my knowledge.

2 Q And I've got a selection of these various policies  
3 and procedures that I'm -- if you saw them today, would  
4 you recognize them?

5 A I think so.

6 MR. WHITE: Okay. Mark for identification purposes  
7 Exhibit Number 2 here, please, ma'am.

8 (WHEREUPON, Plaintiff's Exhibit Number 2 was marked for  
9 identification.)

10 MR. WHITE: Permission to approach.

11 THE COURT: Please.

12 BY MR. WHITE:

13 Q I hand you what's been marked as Exhibit Number 2 for  
14 identification purposes. Mr. Powell, do you recognize  
15 that document?

16 A Yes, sir. It's a classification docket.

17 Q Okay. Is that the Greenwood County Detention Center  
18 policy and procedure that applied in 2011 as to  
19 classification, to the best ---

20 A Yes, sir. I think so. Yes, sir. Yes, sir.

21 Q And I'm going to go through a few of these, and  
22 we're having -- we've got to go through the process of  
23 placing the identification stickers on, so please bear  
24 with me.

25 A Yes, sir.

1 (WHEREUPON, Plaintiff's Exhibit Number 3 was marked for  
2 identification.)

3 BY MR. WHITE:

4 Q And I've got plaintiff's -- what's been marked as  
5 Plaintiff's Exhibit Number 3 there. Do you see that?

6 A Yes, sir. Yes, sir.

7 Q Does that appear to be an accurate copy of the  
8 Greenwood County Detention Center code of ethics that  
9 would have applied in 2011?

10 A Yes, sir. I think. Yes, sir.

11 (WHEREUPON, Plaintiff's Exhibit Numbers 4 through 13 were  
12 marked for identification.)

13 BY MR. WHITE:

14 Q The same thing with Exhibit Number 4 as to general  
15 population?

16 A And what was your question on this one, sir?

17 Q Take a look at Exhibit 4 and tell me if that's the  
18 policy that governs general population at the Greenwood  
19 County Detention Center.

20 A And what is your question on the second page,  
21 Number 4?

22 Q No. If Exhibit Number 4 appears to be a copy of the  
23 general population policy of the Greenwood County  
24 Detention Center.

25 A Yes, sir.

1 Q And I hand you what's been marked for identification  
2 as Exhibit 5, the policy that applies to healthcare. Do  
3 you also recognize that to be the Greenwood County  
4 Detention Center policy that applies to healthcare at the  
5 detention facility?

6 A Yes, sir.

7 Q All right. I'm handing you what's been marked as  
8 Exhibit Number 6, Information system and research. Does  
9 that also appear to be the accurate copy of the Greenwood  
10 County Detention Center policy as to information systems  
11 and research?

12 A (No answer.)

13 Q And I promise this is going to speed up once we  
14 identify all of these.

15 I'm going to hand you Exhibit Number 7 once you're  
16 finished looking at that one.

17 A I think -- I would think Number 6 is okay.

18 Q Okay. And take a look for me at what's been marked  
19 as Exhibit Number 7 and tell me if that's a true and  
20 accurate copy of the inmate handbook, as best you can  
21 tell, that would have been in place in 2011.

22 A Yep. Yes, sir. It appears to be the handbook. Yes,  
23 sir.

24 Q All right. I'll hand you Exhibit Number 8. Appear  
25 to be an accurate copy of the inmate rights policy?

1 A Yes, sir.

2 Q The same thing with -- I'm going to hand you what's  
3 been marked as Exhibit Number 9. If you can please just  
4 confirm for me that that -- what's been marked as Exhibit  
5 Number 9 is an accurate copy of the post orders policy  
6 that would have been in place in 2011.

7 A Yes, sir.

8 Q Okay. I just have a few more to go here.

9 Plaintiff's Exhibit Number 10, if you could please  
10 take a look at that and tell me whether that appears to be  
11 an accurate copy of the management policy that would have  
12 been in place in 2011.

13 A Yes, sir.

14 Q Handing you Exhibit Number 11, same thing. If you  
15 could just confirm that's an accurate copy of the mission  
16 statement document that would have applied in 2011.

17 A (Reviews document) If you just give me a minute. I'm  
18 reading it.

19 Q You're fine.

20 A I'm trying to have my memory go back to this.

21 I -- yes, sir. I think it is. Yes, sir. It is.

22 Q Okay. And I've just got two more that we're going to  
23 do this kind of tedious process with and then I'm going to  
24 move on. 12 and 13 here, if you can just take a look at  
25 those and tell me whether those are accurate copies of

1 policies that were in place at the detention center.

2 A The security and control looks correct. Yes, sir.

3 MR. WHITE: Okay. Your Honor, at this time, the  
4 plaintiff would move to have Exhibits 2 through 16 [sic]  
5 admitted into evidence.

6 THE COURT: Without objection?

7 MR. HARTER: Judge, to the extent of relevancy about  
8 we're just dealing with (inaudible) stuff.

9 THE COURT: Sure. If we get into some irrelevant  
10 area, just object.

11 They'll be in evidence.

12 (WHEREUPON, Plaintiff's Exhibit Numbers 2 through 13 were  
13 admitted into evidence.)

14 MR. WHITE: And permission to publish those to the  
15 jury, Your Honor.

16 THE COURT: Yeah. Just so long as stick to the  
17 germane.

18 MR. WHITE: Right.

19 BY MR. WHITE:

20 Q Okay. Look with me, Mr. Powell, to the intake and  
21 booking of inmates policy, please, sir, if you don't mind.

22 A Let's see. Do you know what number it is? What did  
23 you say it was? The intake ---

24 Q It's Number 9, Mr. Powell.

25 A Yes, sir. I have it.

1 Q All right. Is this the policy at GCDC -- and by that  
2 I mean Greenwood County Detention Center -- that applies  
3 to the intake and booking of inmates?

4 A What was your question, sir?

5 Q Is that the policy that applies to the booking and  
6 intake of inmates?

7 A To the best of my knowledge.

8 Q Okay. And is it your understanding and recollection  
9 as the training director at Greenwood County Detention  
10 Center for that period of time that the employees of the  
11 detention center are trained on how to perform a proper  
12 medical screen at intake?

13 A Yes, sir.

14 Q And why is it important to perform a proper medical  
15 screen?

16 A There are so many scenarios that they come into at  
17 the jail. I mean, is it -- our job is to provide care,  
18 and safety and security is our primary objective.

19 Q All right. And obviously, there's some limitations  
20 in place at the detention center where somebody's injuries  
21 could be too much for the detention center to handle,  
22 right?

23 A That would be a medical issue. It's not for us to  
24 determine if they're capable of being housed there. They  
25 are brought there, you know. It's not for me to determine

1 whether they stay there or not if there's any kind of  
2 medical issues, if that's what you're asking me.

3 Q Well, if you -- let's back up to the purpose of the  
4 medical screen. Now, part of that, I believe the  
5 testimony earlier was that if there's enough yeses on the  
6 form, then that would trigger a duty to inform a  
7 supervisor that there may be a serious medical situation.  
8 Is that correct, based on your understanding?

9 A That's -- that's -- that would be to the best of my  
10 recollection that the shift commander is the next person  
11 to be notified. Yes, sir.

12 Q Okay. So that's what you would have trained folks on  
13 when you were the training director at the detention  
14 center, right?

15 A Yes, sir. Yes, sir.

16 Q And the person performing the medical screening would  
17 be a nonmedical person, right?

18 A No detention staff are medical.

19 Q Right. And it would be a detention staff person  
20 actually completing the medical screening and answering  
21 yes or no as to all those questions, right?

22 A Could you ask it one more time?

23 Q Yes. It would be a nonmedical detention staff member  
24 performing that medical screening and answering yes or no  
25 as to all the questions on that form, right?

1 A They would document what -- what -- what is being  
2 asked of them.

3 Q And if the answer is yes, you'd obviously want to put  
4 yes, and if the answer is no, you'd want them to put no,  
5 right?

6 A Yes, sir.

7 Q All right. And that's just part of an example of it  
8 being important to keep complete and accurate records  
9 within the detention center, right?

10 A I can't -- I can't hear you when you go back there.

11 Q I'll step -- I'll step closer. Would you agree that  
12 it's important to keep complete and accurate records at  
13 the detention center?

14 A Absolutely.

15 Q Okay. And part of that would be having a complete  
16 and accurate record of the medical screening, right?

17 A I think our medical screenings go to medical  
18 department.

19 Q And what is your understanding as to what is required  
20 by the minimum standards of the local detention facilities  
21 as to what is supposed to happen when somebody notices  
22 that somebody is visibly injured during the medical  
23 screen?

24 A Medical would be called.

25 Q And do you have any recollection as to in 2011 what

1 the minimum standards required as to whether this person  
2 was supposed to be checked out by a physician and cleared  
3 for detention before they were booked in?

4 A I -- I have no recollection of this -- this hearing  
5 today, so I can't answer that question, sir.

6 Q But do you recall officers being trained that they  
7 should keep complete and accurate records so that folks  
8 can go back and look as to what happened on any particular  
9 day within the detention center?

10 A I think all the -- all the documents -- are you  
11 talking medical or anything?

12 Q Anything. Well, generally, correct me if I'm wrong,  
13 but I think everything was supposed to be documented  
14 pretty much in the detention center, right?

15 A Yes, sir.

16 Q Okay. So it was important for those records to be  
17 kept completely and accurately so that folks could look  
18 back later and see what was done on any particular day,  
19 who was there, what time it happened, all that, right?

20 A I would think so.

21 Q Okay. Do you recall the training as to the reasons  
22 that officers were supposed to keep complete and accurate  
23 records of everything that happened in the detention  
24 center?

25 A I don't understand the question. I'm sorry.

1 Q You're fine. Just give me just one second here, and  
2 I'll get us oriented.

3 All right. Mr. Powell, if you could look with me to  
4 Exhibit Number 4, please, sir.

5 A Yes, sir. I have it.

6 Q Okay. If you could turn with me, you'll have to flip  
7 over six pages because there's no page numbers. Flip over  
8 six pages for me until you get to . . .

9 A Okay. Are we on "head count"?

10 Q Actually, flip to the seventh page there. You see  
11 "principles of report writing" there?

12 A Absolutely.

13 Q Okay. And so do you agree, based on the policies and  
14 procedures, that folks within the detention center were  
15 supposed to keep track of medication administered as part  
16 of accurate record keeping?

17 A No, sir. We don't -- we don't control medication.  
18 No, sir. We don't have -- no, sir.

19 MR. HARTER: Could you show me what page you're  
20 talking about, please.

21 MR. WHITE: Flip over to the seventh page of the  
22 exhibit.

23 BY MR. WHITE:

24 Q Okay. Do me a favor and look below "principles of  
25 report writing" there. Do you see that?

1 A Yes, sir.

2 MR. HARTER: Principles of report writing is on  
3 page 6.

4 MR. WHITE: Okay.

5 MR. HARTER: He's talking about page 7.

6 BY MR. WHITE:

7 Q Principles of report writing on page 6, please,  
8 Mr. Powell. Do you see Principles of Report Writing?

9 A Yes, sir.

10 Q Okay. So you know where we are.

11 If you could please go below that and look at -- if  
12 you look at the second sentence there, "Detention officers  
13 report is an official document and often serves as the  
14 basis for actions which are taken by other personnel  
15 including," and then there's a list, right?

16 A Yes, sir.

17 Q Okay. So what I was talking about earlier, is one of  
18 the reasons you want to keep accurate records is because  
19 folks later on may rely on the records that you create  
20 previously, right?

21 A Documentation is important, yes, sir.

22 Q And if you look down to the Letter G there, do you  
23 see that?

24 A Yes, sir.

25 Q Okay. And what does that -- what does that give as

1 an example of something that you should accurately  
2 document?

3 A Question again, sir? I didn't hear the question.

4 Q Yeah. On Letter G there ---

5 A Yes, sir.

6 Q --- what does that give as an example of something  
7 that should be accurately documented?

8 A In reference to what G says, best I can recollect,  
9 there was a time in the detention center where -- where  
10 they may have assisted in some medication, but that's --  
11 that's not the case anymore.

12 Q Okay. But that is what this policy says, right?

13 A Yes, sir. That's what it says. But I think that's  
14 what it applies to.

15 Q And flip over with me to the next page there. Do you  
16 see that? At the top there where it starts "these actions  
17 often involve potential liability," do you see that?

18 A Yes, sir.

19 Q So this indicates these actions often ---

20 MR. HARTER: I'm sorry. Can you show me? I  
21 apologize. These pages are not numbered. Can you show me  
22 what page you're talking about?

23 MR. WHITE: Sure. Right there.

24 MR. HARTER: Okay. Where was G?

25 MR. WHITE: G.

1 MR. HARTER: Okay. So you're on this page now.

2 MR. WHITE: Right.

3 MR. HARTER: Inmate complaints?

4 MR. WHITE: I'm at ---

5 MR. HARTER: Okay. Thank you.

6 BY MR. WHITE:

7 Q And just to get us reoriented, these are the policies  
8 and procedures of the Greenwood County Sheriff's Office  
9 that apply to the detention center, right?

10 A Present or past?

11 Q At the time that they were ---

12 A Okay.

13 Q Right? And I'm just trying to get us reoriented.

14 A Okay.

15 Q Now, go with me to the top. What I was getting at  
16 there at the top, the first sentence: These actions often  
17 involve potential liability problems for the department  
18 and must be documented in writing. Do you see that?

19 A Yes, sir.

20 Q Okay. So is that part of something that employees of  
21 the detention center were trained on when you were the  
22 training director at the detention center?

23 A I think we have to read the whole paragraph.

24 Q Okay.

25 A I don't think that I can just go on that sentence,

1 because there's actually more to it. I mean ---

2 Q That's perfectly fair. Read that whole paragraph,  
3 the first two sentences there at the top on the ---

4 A It says, "These actions often involve potential  
5 liability problem for the department and must be  
6 documented in writing. For example, accurate and  
7 up-to-date medical reports are necessary to prove that a  
8 sick or injured inmate received proper medical -- medical  
9 care."

10 Q Okay. So if we're in a situation like this where  
11 there's a question as to whether an inmate received proper  
12 medical care, you want to be able to look back at the  
13 documents and see what was actually done so you could see  
14 if the medical care provided was adequate, right?

15 A When it's medical, then medical would have those  
16 records, not the detention center. We would -- we would  
17 not have those.

18 Q But that is a reason why whoever's creating the  
19 record would want to keep complete and accurate records,  
20 right?

21 A Again, documentation is -- is -- is one of your  
22 primary objectives.

23 Q And go with me down -- you see a Number 3 right below  
24 that paragraph? Now just go from 3 to 4 to 5 for me,  
25 please, if you don't mind. And let me know when

1 you ---

2 A Do you want me to read them to me?

3 Q Not all of them. Let's go to Number 5 real quick.

4 A Yes, sir.

5 Q And I would like you to read Number 5 there.

6 A All right. "The detention officer's best defense in  
7 liability suits brought by inmates is the ability to prove  
8 that he or she followed the facility policy and procedures  
9 and acted in good faith. If the officer keeps good  
10 records, he or she will be able to defend themselves in  
11 courts even years later."

12 Q Okay. So one of the reasons that detention officers  
13 are trained to keep complete, accurate records is to be  
14 able to justify their actions later on if there's a  
15 lawsuit like this, right?

16 A Should it occur. Yes, sir.

17 Q And they -- ideally, if the records are kept in an  
18 accurate and complete way, you'd be able to look back and  
19 see that the officer at issue complied with the relevant  
20 policy or procedure, right?

21 A As it relates to what? Medical or ---

22 Q Yes. Or anything that's the subject of this  
23 report-writing requirement.

24 A I don't think I understand the question.

25 Q Yeah. I'm just saying in terms of the policy, that

1 one of the reasons this -- folks are taught at the  
2 detention center to keep complete and accurate records is  
3 so they can defend a lawsuit like this and point to the  
4 records and say, look, this record shows that we complied  
5 with the policies and procedures, right?

6 A As a -- as it relates to that officer, yes, sir.

7 Q Okay. We're on the same page.

8 And if you look with me down still in that -- look  
9 over to the next page, please, for me, Mr. Powell, if you  
10 don't mind.

11 A Can you tell me what I'm looking for? Because I  
12 accidentally shut it.

13 Q Yeah. You're -- okay. Let's go ---

14 A Task report writing. Okay. Okay.

15 Q Go to page number -- like flip over to the ninth page  
16 there, and you'll see some -- you'll see a Letter D there  
17 at the top, and then there will be a Number 7 and a  
18 Number 8. Do you see that?

19 A Page 9?

20 Q That's right. And there should be a -- a lettered  
21 paragraph, a capital Letter D there towards the top?

22 A Yes, sir.

23 Q You see that? Okay.

24 A Yes, sir. I see it.

25 Q All right. And if you look with me to the end of

1 that paragraph where it says, "Since it is often difficult  
2 to sort out legitimate complaints from everyday griping,  
3 all inmates' complaints should be documented by inmate  
4 request forms, officer logbooks or incident reports so  
5 that a serious problem is not overlooked," right?

6 A I think we would call it a grievance form.

7 Q Okay. But that's one reason why you want to keep  
8 complete and accurate records is to make sure that a  
9 serious problem is not overlooked, right?

10 A What are you asking me would be overlooked? I  
11 don't ---

12 Q I'm just saying in general. Like this policy says  
13 that you've got to keep accurate records so a serious  
14 problem is not overlooked. I'm just asking if you agree  
15 with that.

16 A Yes, sir. I -- it -- you're -- you're correct.

17 Q And I'm nearing the end, so just bear with me on this  
18 policy.

19 If you look at Number 8, "With good facility records,  
20 the detention officer and the administration will be able  
21 to prove that inmates were afforded their legal rights and  
22 privileges." Do you see that?

23 A Yes, sir. I see it.

24 Q And is that also something that is set forth in the  
25 policy of the detention center the officers were trained

1 on?

2 A Repeat the question. I was reading. I'm sorry.

3 Q No. You're fine. Is that also something that was in  
4 the policies and procedures at the detention center that  
5 officers were also trained on?

6 A I think I can -- documentation is the one I was --  
7 and documentation, it is taught in training.

8 Q Okay. Great.

9 A Yes, sir.

10 Q Now flip over with me, not -- flip one page and then  
11 another page and then the third page after the one we were  
12 just looking at and tell me when you're there, please,  
13 sir.

14 A And is it the Mechanics of Report Writing? I'm not  
15 far enough.

16 Q It says "Subject: Report Writing" at the top of it.  
17 It's the page after Mechanics of Report Writing.

18 A Okay. I'm there.

19 Q Okay. All right. So go with me down, do you see  
20 where it says, "Reports shall be written so that a juror,  
21 who may know nothing about a detention officer's job, may  
22 read the report and understand the incident exactly as it  
23 happened," right?

24 A Yes, sir.

25 Q All right. And that's also something that was set

1     forth in the policies that officers were trained on,  
2     right?

3     A     Yes, sir.

4     Q     All right.  So ideally, if everybody followed the  
5     policies and procedures here, we would have accurate  
6     documents where the jurors could look at them and see  
7     whether all the policies and procedures were followed or  
8     whether they were violated, right?

9             MR. HARTER:  Object to form, Your Honor.

10            THE COURT:  All right.  I think the way that you've  
11     asked that is a little bit confusing to the witness.  Why  
12     don't you rephrase.

13            MR. WHITE:  That's fine.  I'm -- I'll actually move  
14     on.

15            THE WITNESS:  I was going to ask him to do that.

16     BY MR. WHITE:

17     Q     And do me a favor, Mr. Powell, and flip to the second  
18     to the last page of this exhibit.  And this is on a little  
19     bit different of a topic, but it's on this exhibit.  I'll  
20     hit this before we move on.

21            See the second to last page of the exhibit?

22     A     Laundry schedule?  That's my last page, and then I've  
23     got laundry.

24            MR. WHITE:  Got you.  Okay.  We'll just -- all right.  
25     I think, Mr. Powell, I think that's actually all the

1 questions that I have for you. I really appreciate your  
2 time here today, sir, and please answer any questions  
3 Mr. Harter may have for you.

4 THE WITNESS: Yes, sir.

5 CROSS EXAMINATION

6 BY MR. HARTER:

7 Q Gene, how long have you been gone from the detention  
8 center?

9 A Two -- two years.

10 Q Okay. Now, you were asked some questions about these  
11 minimum standards here, right?

12 A Yes, sir.

13 Q Okay. These minimum standards are put out by the  
14 South Carolina Department of Corrections, right?

15 A That is correct.

16 Q Okay. And depending on the facility, they apply to  
17 all the local jails throughout the state, right?

18 A Yes, sir.

19 Q Okay. Are you aware that SCDC does inspections with  
20 respect to the standards, and if a standard isn't met,  
21 they can shut the jail down, right?

22 A That is correct.

23 Q Okay. And these standards include things related to  
24 separation of inmates, one may be violent with the other,  
25 they relate to the rated capacity of the facility, they

1 relate to clothing, personal hygiene, relate to work  
2 programs. It covers a broad spectrum of things, right?

3 A Yes, sir. It does.

4 Q Okay. Now, you were shown some selected policies of  
5 the Greenwood County Sheriff's Office that relate to the  
6 detention center, right? You were asked to talk about  
7 these, right?

8 A Yes, sir.

9 Q Okay. Now -- but before I go further, when officers  
10 are hired by the sheriff at the jail, do they undergo  
11 training with the sheriff's office? During the course of  
12 their employment, they have training at the sheriff's  
13 office.

14 A They train in the detention center.

15 Q That's what I'm talking about.

16 A Yes, sir.

17 Q The detention center officers are trained at the  
18 detention center.

19 A Yes, sir.

20 Q Okay. And that's one of the things that you did; is  
21 that right?

22 A Absolutely.

23 Q Okay. Now, before that, though, these officers are  
24 trained somewhere else, aren't they? Don't they go to the  
25 Criminal Justice Academy?

1 A They may not go at the time of hire. We have a  
2 certain amount of time to -- to -- actually, if I'm  
3 correct, we have one year.

4 Q Okay. But typically, a detention officer is going to  
5 go to the Criminal Justice Academy at some point in time  
6 for training there; is that right?

7 A That is correct.

8 Q And that's a condition of their continued employment  
9 there is they go and they get training at the Criminal  
10 Justice Academy in Columbia; is that right?

11 A That is correct.

12 Q And they get certified as detention officers, don't  
13 they?

14 A That is correct.

15 Q Okay. And that certification is specifically related  
16 to detention center matters as opposed to deputies who go  
17 get trained to be what we call road deputies, right?

18 A That is correct.

19 Q Okay. Now, Gene, let me ask you about report writing  
20 for a minute, okay? Do you expect a detention officer to  
21 write something down about every single encounter or  
22 discussion that they have with an inmate or with somebody  
23 else at the jail?

24 A A discussion and an encounter are two different  
25 things.

1 Q Okay. If -- well, why don't they just -- if I go and  
2 say to an inmate, "We need to take you to another room  
3 right now," is that going to be documented?

4 A I would think so. Yes, sir. I would say yes.

5 Q Okay. Now, are there cell movement logs that are  
6 kept when inmates are moved, if you know?

7 A I'm not -- I'm not -- I'm not sure.

8 Q Is there a control room where people, when inmates  
9 move from one cell to another, there's documentation about  
10 that?

11 A Yes, sir.

12 Q Okay. Movement logs from the control room, right?

13 A I don't think it's called that, but you're correct.

14 Q Okay. There's a log.

15 A Yes, sir.

16 Q Okay. All right. Now, I guess what I'm trying to  
17 get at is what kind of incidents or events would you  
18 expect a detention officer to record or report or write  
19 some report about?

20 A Anything that's -- anything that's a violation of the  
21 safety and security would be one topic.

22 Q Okay. If you had a disturbance in a cell, that would  
23 be written up and reported, right?

24 A Absolutely.

25 Q Okay. If there was a water leak in a cell, you would

1 report that, right?

2 A Absolutely.

3 Q Okay. And if there was a problem with something like  
4 one of the doors, that would be written up, right?

5 A Absolutely. Absolutely.

6 Q Okay. But officers don't take a recording of every  
7 conversation, everything they do just like this court  
8 reporter's doing here today, do they?

9 A No, sir. They do not.

10 Q If they did, they'd never get the job done, right?

11 A Well, you'd have to have a lot of tape.

12 Q Okay. In terms of documentation, do officers provide  
13 inmates with grievance forms?

14 A Now or at the time of this?

15 Q At the time.

16 A At that time, I think it was paper.

17 Q That's what I'm talking about. A form ---

18 A Yes, sir.

19 Q --- a grievance form ---

20 A Yes, sir.

21 Q --- where an inmate can document themselves some  
22 issue that they have.

23 A That is correct.

24 Q Like I want to be moved to another room, or I want to  
25 be -- I want to have a different TV channel, right?

1 A Yes, sir. That's correct.

2 Q And they make grievance requests like that, don't  
3 they?

4 A Absolutely.

5 Q And those are documentations that are kept by the  
6 jail, aren't they?

7 A Yes, sir.

8 Q Okay. And by the way, in terms of documentation and  
9 report writing, you were asked if these -- about these  
10 policies where an officer would record something that  
11 might later be important. Is this the kind of report that  
12 you would think an officer might write that would be  
13 important that they would want to keep up with?

14 A Do you mind if I look at it for a second?

15 Q Sure. I'm sorry.

16 A You give me a piece of paper ---

17 Q I apologize.

18 A --- I want to know what I'm looking at.

19 Q All right.

20 A And what was your question?

21 Q Is that a document that -- you were asked about  
22 medical screening form. Is that a document or a report  
23 that an officer would write up and keep? The front page,  
24 now.

25 A I'm sorry, sir.

1 Q Okay.

2 A Are you asking would he keep it for himself or would  
3 he ---

4 Q No, no. Did they document ---

5 A Oh, I'm sorry. Yes, sir.

6 Q --- things like that?

7 A It is part of our medical screening.

8 Q That's part of the report writing and record-keeping  
9 that we talked about over here and that Mr. -- you were  
10 asked about; is that right?

11 A Yes, sir.

12 Q Okay. Well, let me look at that just a minute. This  
13 is an actual medical screening form, and it has a  
14 checklist of things. And it looks like it's dated August  
15 the 16th of 2011, right?

16 A It is.

17 Q Okay?

18 A It is, sir.

19 Q And it's signed by Beverly Weaver, right?

20 A Yes, sir. It is.

21 Q It's also signed by Tony Young, isn't it?

22 A That is correct.

23 Q Okay. And it says, "Inmate started on IBU instead of  
24 Lortab BIB for six days. Ordered naproxen to be delivered  
25 8/18." And it's signed by a nurse, right?

1 A It is signed by a nurse, yes, sir.

2 Q That's the kind of ---

3 MR. WHITE: Judge, just briefly, is that in evidence?

4 MR. HARTER: No, sir. Not yet, but it will be.

5 MR. WHITE: You got a copy of it, Rusty?

6 MR. HARTER: You've got it. It's Exhibit Number 7.

7 BY MR. HARTER:

8 Q And you mentioned other documentation that is  
9 important at the jail. How about the medical records, the  
10 medical reports, are they important?

11 A They're important.

12 Q Yes. Okay. Now, let me ask you something. And I  
13 want to make sure we're clear. You were asked to look at  
14 I think it's Exhibit Number 4, which has Greenwood County  
15 Detention Center, Greenwood, SC, Major Phillip Anderson,  
16 jail administrator, okay? Do you remember that? Is 4 in  
17 front of you?

18 A I don't have it.

19 Q I took it away. I apologize. Look at 4. Phillip  
20 Anderson, it says jail administrator, right?

21 A That is correct.

22 Q How long has it been since Phillip Anderson was the  
23 jail administrator?

24 A I can't give you a specific time.

25 Q At the time that Mr. Young was in the Greenwood

1 County Detention Center, do you agree that Lonnie Smith  
2 was the jail administrator at that time, or do you  
3 remember?

4 A I can -- I can recall Major Smith being back there.  
5 I just can't be significant on the date.

6 Q I'm with you.

7 A I'm sorry.

8 Q Okay. Now, this policy that you were asked about,  
9 Exhibit Number 4, Exhibit 4, does it have a date on it?

10 Exhibit 4. I'm sorry.

11 A Oh, I'm sorry.

12 Q Look at Exhibit 4.

13 A No, sir. No, sir, it doesn't.

14 Q Okay. Now flip over to five pages from the end.

15 A Where it's 7, 8, 9, 10, 11, 12, 13?

16 Q It says, "Subject: Medication." That's what I'm  
17 looking for.

18 A Oh, that's not that page. I might have miscounted.  
19 Okay. I'm there. I'm there.

20 Q It says, "Subject: Medication." And it's got a list  
21 of things here. It says, "Nurse shall prepackage  
22 medication, mark the slab with inmate's name, unit number,  
23 name of medication, dispensing instruction." It says,  
24 "Number 2, officer shall distribute medication along with  
25 medication sheet to the inmate's cell at the appropriate

1 time. Each inmate must sign that he, she, has received  
2 and taken their medication, and the officer shall also  
3 sign the medication was given or refused by the inmate."

4 Now, according to this, this is when officers were  
5 actually handing out medications to inmates, right?

6 A In reference to Number 2, it would be correct.

7 Q Okay. Now, do you understand that in 2010, that  
8 there was an agreement with Southern Health Partners to  
9 provide medical services to the jail?

10 A I don't know the contract, but I can't get -- they --  
11 they're -- they were the company.

12 Q Are you aware, at some point in time, that there was  
13 a change of the way things were handled, and instead of  
14 officers handing out medication to inmates, that the  
15 nursing staff of Southern Health Partners would actually  
16 hand out the medications to the inmates themselves?

17 A That's correct.

18 Q And the nurses would document in a medical record  
19 what that medication was, when it was given and whether or  
20 not the inmate took it or not, right? Or do you know?

21 A I want -- she had a book ---

22 Q Okay.

23 A --- that -- that she would have.

24 Q But she would document that?

25 A And they -- yeah. Yes, sir.

1 Q Okay. And was it fair to say then that -- Gene, I  
2 know we talked about, I know you've been asked about some  
3 of these policies, but is it fair to say that at the time  
4 Mr. Young was in the detention center between August of  
5 2011 and April of 2012, that the protocol would have been  
6 for Southern Health Partners' nurse to hand out  
7 medications and keep a medication administration record on  
8 that inmate?

9 A I don't have a specific date. I don't -- I don't  
10 have it. I don't have that.

11 Q Okay.

12 A I don't recall it.

13 Q But you do know, at some point in time while you were  
14 there, that nurses gave out medications and Southern  
15 Health Partners took over medical services.

16 A That is correct.

17 Q Am I right about that?

18 A That is correct.

19 Q Okay. Now, these policies that -- Gene, can I look  
20 at those for a second, those right there? The ones that  
21 are in front of you.

22 A Yes.

23 Q Okay. Can I hold him, I guess?

24 A You can have them.

25 Q Okay. These policies -- and I'm just going to leaf

1 through a couple of them. Number 12 looks like it's dated  
2 July 5, 2005, right?

3 A Yes, sir. Yes, sir.

4 Q Number 8 is dated 2005; is that right?

5 A That is correct.

6 Q Okay. Number 7 is an inmate handbook.

7 Number 6 is -- Plaintiff's Number 6 is dated 2005,  
8 right?

9 A Yes, sir.

10 Q Okay. Number 5 is also dated 2005. And that relates  
11 to healthcare, right?

12 A That's correct.

13 Q Okay. And then Number 3 is 2005 also?

14 A Yes, sir.

15 Q Okay. And then Number 2 is 2005, right?

16 A That is correct.

17 Q Okay. And those are the dates of policies, but at  
18 some point in time after those policies were written, do  
19 you agree that Southern Health Partners took over medical  
20 services for inmates at the jail?

21 A Absolutely.

22 MR. HARTER: Okay. Your Honor, I'd like to move this  
23 document into evidence. It was referred to before, and it  
24 is -- by agreement, it is a business record of the  
25 Greenwood County Detention Center.

1 MR. WHITE: Just probably mark it first, but I don't  
2 have any problem of it coming into evidence.

3 MR. HARTER: Thank you.

4 THE COURT: We'll go ahead and mark it as  
5 Defendant's 1, I assume, and it will be in evidence  
6 without objection.

7 MR. HARTER: Yes, sir.

8 (WHEREUPON, Defendant's Exhibit Number 1 was marked for  
9 identification and admitted into evidence.)

10 BY MR. HARTER:

11 Q And I want to just ask one thing more. And, Gene, I  
12 don't know if you remember this or not, but in the jail  
13 and per the minimum standards, there is a requirement that  
14 a medical screening form be completed at booking where an  
15 officer makes notations and comments about the condition  
16 of an inmate; is that right?

17 A That is correct.

18 Q Okay. And that's done by an officer, right?

19 A That is correct.

20 Q Okay. Now, there's another requirement under the  
21 minimum standards for there to be a medical evaluation  
22 within 14 days; isn't that right? Or do you remember  
23 that?

24 A I don't remember that, sir.

25 Q Okay.

1 A I'm sorry.

2 Q You remember at some point in time, every inmate,  
3 well or not, sick or not, rich or poor, whoever you are,  
4 you're going to get a medical evaluation after 14 -- after  
5 some period of time, right?

6 A I think -- yes, sir.

7 Q Okay.

8 A I think. Yes, sir.

9 Q And according to this document, Defendant's 1,  
10 Mr. Young was seen by -- apparently seen by Nurse  
11 Bouknight on August the 16th of 2011, and according to  
12 this note, he was started on medication that very  
13 afternoon, right?

14 A I don't know. I don't see it. You'll have to let me  
15 see it.

16 Q I apologize.

17 A I'm sorry.

18 Q I got in a hurry again. Got in a hurry again.

19 A And your question is what, sir?

20 Q That document shows that when Mr. Young came in on  
21 August the 16th, he was seen by somebody in the medical  
22 department that very day and started on medication that  
23 very day.

24 A That -- that is -- that is correct.

25 Q Thank you. Give me a minute. Thank you, Gene.

1 A Thank you, sir.

2 MR. HARTER: That's all I have.

3 THE WITNESS: Thank you, sir.

4 REDIRECT EXAMINATION

5 BY MR. WHITE:

6 Q I just have a couple quick ones, Mr. Powell.

7 The policies and procedures that we've been talking  
8 about, just so it's clear, those were the policies and  
9 procedures created by the Greenwood County Sheriff's  
10 Department for use at the detention facility in Greenwood  
11 County, right?

12 A Those policies were there when I arrived.

13 Q Right. And what I'm getting at is those were created  
14 by the Greenwood County Sheriff's Office, right? Like  
15 they're their own policies.

16 A I can't answer that question. I'm sorry. I don't  
17 know. I -- I don't know. I don't know.

18 Q And just sort of to remind everybody, now, you were  
19 the person, for a period of time at the Greenwood County  
20 Detention Center, who was responsible for training the  
21 folks who worked at the detention center, right?

22 A My job is to do training. This -- this -- everything  
23 that you're showing me, it was already there when I came.  
24 It had already been written and in place.

25 Q Right.

1 A My job as a training coordinator is to take what's  
2 there and teach it. So that's what I did.

3 Q Exactly. Because you didn't create any new policies.  
4 You just took the ones that were already in place and used  
5 those to train folks on, right?

6 A Whatever is there, that's what I train on.

7 Q Okay.

8 A I don't -- I don't deviate from it.

9 Q Okay. And now, one of the policies that we talked  
10 about was a medical screening policy. Do you recall that?

11 A Say it again?

12 Q Yeah. The medical screening policy that we talked  
13 about ---

14 A Yes, sir.

15 Q --- do you recall that?

16 A Yes, sir.

17 Q And the medical screening policy, now, there was some  
18 discussion about when Southern Health Partners came into  
19 the picture in 2010. Before 2010, were nonmedical  
20 employees of the sheriff's office responsible for  
21 performing the medical screening and completing the form?  
22 And if you need me to rephrase the question, I'm happy to.

23 A I don't think my mind is going to go back that far.

24 Q Okay. Got you.

25 A I'm trying, but I don't think it's going to let me.

1 I -- I don't recall.

2 Q Okay. Well, this may help us, because all I'm trying  
3 to get at is after Southern Health came into the picture  
4 in 2010, were sheriff's office folks who are not employees  
5 of Southern Health still responsible for doing the medical  
6 screening?

7 A The -- the detention centers done medical screening.  
8 They do all the medical screenings unless there's an  
9 underlining problem.

10 Q Right. Okay. So then even though Southern Health  
11 came into the picture in 2010, sheriff's office deputies  
12 who were not nurses and were not doctors were still the  
13 ones doing the medical screens and completing the medical  
14 screen forms, right?

15 A To the best of my knowledge.

16 Q Okay. All right. And you were asked about this  
17 specific medical screening form, and I'll hand you the  
18 exhibit that was admitted into evidence. Just so we're  
19 clear, this is the medical screening form that is one of  
20 those documents that should have been completed fully and  
21 accurately, right?

22 A This is one page.

23 Q Exactly. But that's the one-page medical screening  
24 form, right?

25 A Ask the question again?

1 Q That's -- what you have in front of you is the  
2 one-page medical screening form that was used at the  
3 detention center, right?

4 A This is one of the forms.

5 Q Okay. So this is a medical screening form that  
6 applies, as you stated earlier, to someone that appears to  
7 be Mr. Young, right?

8 A His signature's at the bottom of it.

9 Q Okay. Now, you don't have any personal knowledge as  
10 to what his signature looks like, right?

11 A No, sir.

12 Q Okay. And you don't actually -- do you have any  
13 knowledge -- personal knowledge as to Mr. Young  
14 whatsoever?

15 A I have no knowledge at all, sir.

16 Q Okay. But, if you're a person who doesn't have any  
17 personal knowledge as to Mr. Young or what his medical  
18 condition was at booking, ideally, you'd be able to look  
19 back at this medical screening form and see what issues  
20 were going on with him, right?

21 A I would have read the questions, and like I said,  
22 everything that's documented on this page is medical. The  
23 officers asked questions and they circled yes or no.  
24 Everything else belongs to a nurse.

25 Q Right. And it's important for the officer to

1 accurately answer the question so that if you need to take  
2 that next step you can, right?

3 A For who -- for who to answer it?

4 Q The officer to accurately answer each question yes or  
5 no where it calls for a yes or no answer.

6 A The officer's not going to ask -- answer the  
7 questions. If I'm -- if you're an inmate, and I'm -- I'm  
8 going to ask you these -- these questions. I'm not going  
9 to ask an officer.

10 Q Okay. Let's go -- this may be a better way to do  
11 this. Go with me to the top of the page where it says  
12 "Visual/Medical Observation." Do you see that?

13 A The numbers have been cut off here. Let me -- let me  
14 see if I can help you. Where do you want me to look?

15 Q If you look at the top here, Visual/Medical  
16 Observation, do you see that?

17 A Let me see your sheet. Just point it to me, if you  
18 don't mind.

19 Q You have the same one I do.

20 A I just ---

21 Q It's at the top there.

22 A Right.

23 Q Right There. Do you see where it says  
24 "Visual/Medical Observation"?

25 A Yes, sir. Well, actually it's been -- the "visual"

1 is not there, but it's been cut off by a copy machine or  
2 some type, but I'm assuming that would say "visual."

3 Q Okay. So this -- this section here is something  
4 that's supposed to be completed by the sheriff's office  
5 officer at the time they're observing the person's  
6 condition.

7 A Not the sheriff's office. The detention center. The  
8 detention center asks these questions, not -- not a  
9 sheriff's deputy.

10 Q We're on the same page. This sheriff's office  
11 employee at the detention center is the one asking these  
12 questions -- or going through these particular questions  
13 on the screening form, right?

14 A If you're asking me did the detention center ask  
15 these questions, the answer is yes, sir.

16 Q Okay. We're on the same page.

17 Now go with me to the last page -- the last question  
18 under that section. Do you see that? "The inmate's  
19 mobility restricted in any way due to deformity, cast,  
20 injury, et cetera." Do you see that? Did I read that  
21 question correctly?

22 A I'm looking for it.

23 Q You're fine.

24 A What are you looking -- what is it?

25 THE COURT: Why don't you point him to it.

1 THE WITNESS: It's cut off.

2 MR. HARTER: Do you want me to?

3 THE COURT: Point him to it.

4 BY MR. WHITE:

5 Q The "is the inmate's mobility restricted in anyway  
6 due to deformity, cast, injury," et cetera, do you see  
7 that?

8 A I do.

9 Q Okay. And so is that a question that is on the  
10 medical screening form that is something, a question  
11 that's going to have to be answered by the detention  
12 center employee who's doing the medical screening,  
13 completing the form?

14 A Repeat the question.

15 Q Yes. Is the question that we just talked about that  
16 I just pointed you to, is that a question that is going to  
17 have to be answered by the detention center employee as  
18 part of their visual/medical observation?

19 A Upon the -- if you're asking -- the back door opens,  
20 the detention center's responsibility is theirs, if that's  
21 what you're asking me, a visual. So everything on the  
22 top. One, two, three, four, five, there's five questions.  
23 Those are not questions that you ask an inmate. Those are  
24 questions that I visibly see for myself, to the best of my  
25 knowledge.

1 Q Exactly. And that's what I'm getting at is that,  
2 based on the officer's visual observation of the inmate,  
3 they are then tasked with answering yes or no to that  
4 question that we just talked about, right?

5 A That is correct.

6 Q Okay. So if someone presents, if an inmate comes  
7 into the facility and their mobility is restricted in any  
8 way due to deformity, cast, or injury, what should the  
9 answer to that question be? Should it be yes or no?

10 A There's some deformities, cast and injury, I would  
11 say yes.

12 Q All right. And what is the -- what is circled on  
13 this form that applies to Mr. Young, sir?

14 A It's circled no.

15 Q And if you look with me, go a little bit further down  
16 to -- actually, I think that's all the questions I have  
17 for this document right now.

18 MR. HARTER: To revisit this just one minute ---

19 MR. WHITE: Just a -- I said that was the only  
20 question I have for the document. I have ---

21 THE COURT: Oh, you've got some additional.

22 BY MR. WHITE:

23 Q I'm almost finished, Mr. Powell. Ten more seconds.  
24 This medical screening form is something that would  
25 have been part of the training that you provided to the

1 employees of the detention center while you served as  
2 training director, right?

3 A They actually do their own medical screening. In my  
4 training class, they do training on medical screening on  
5 each other.

6 Q Okay.

7 A For me to be clear, they understand exactly what they  
8 need to be doing.

9 MR. WHITE: Okay. Thank you, Mr. Powell.

10 THE WITNESS: Yes, sir.

11 MR. WHITE: Please answer any questions Mr. Harter  
12 has.

13 RE CROSS EXAMINATION

14 BY MR. HARTER:

15 Q To revisit this just for a minute just to make sure,  
16 regardless of what information was indicated on this form,  
17 it clearly indicates that a nurse was called to the  
18 booking area; is that right?

19 A (No answer.)

20 THE COURT: If you want to point him to the area.

21 BY MR. HARTER:

22 Q Yeah. It clearly shows inmate started on ibuprofen  
23 instead of Lortab BIB for six days, right? And it's got  
24 the nurse's signature there?

25 A I see what you're saying. Yes, sir.

1 Q Okay. Now, would the nurse maybe create a medical  
2 note herself in the medical chart and make reference to  
3 that encounter on August 16, 2011, much like this progress  
4 note right here, sir?

5 A What was your question again, sir? I'm sorry.

6 Q Would a nurse -- in terms of report writing and  
7 documentation, would a nurse make a note in her medical  
8 chart about what went on that day?

9 A Yes, sir.

10 Q Similar to what you're looking at right now.

11 A Those are nurse's notes.

12 Q And one of them is dated 8/16/2011, right?

13 A That is correct.

14 Q Does that indicate to you that, regardless of what  
15 was indicated on the medical screening form by the  
16 officer, that a nurse or a medical person saw that person  
17 that day, if you know?

18 A I don't know.

19 Q Okay. And in terms of the practice and policy, would  
20 if be appropriate and reasonable and consistent with  
21 training if the nurse -- if the officer who makes these  
22 observations about this inmate thinks, hey, wait a minute,  
23 we need to get medical to look at it, would they call the  
24 nurse to come?

25 A That is correct.

1 Q Okay. If the officer didn't think there was anything  
2 in that booking that needed any medical attention, would  
3 the nurse or any medical person be called to the booking  
4 area?

5 A No, sir. Not to my knowledge. No, sir.

6 MR. HARTER: Okay. Thank you.

7 THE WITNESS: Yes, sir.

8 THE COURT: All right, sir. Thank you very much.  
9 You can step down. Have a good day. You're free to go.

10 All right. Ladies and gentlemen of the jury, I'm  
11 going to go ahead and release you for the evening. I'm  
12 speaking at a class at Lander tomorrow morning at 8:00,  
13 and so it's -- I anticipate that if you were to come back  
14 here at 9:30, I should be done by that point in time. I  
15 think it's about an hour and 15 minutes. So please be  
16 back in the jury room at 9:30 tomorrow morning, and we'll  
17 be in a position to resume with the trial of this case.

18 If you took any notes, just leave your tablets in the  
19 chairs. We'll collect those.

20 And additionally, this evening, please don't discuss  
21 the case with anyone, okay? Not your spouse, significant  
22 other, what have you. Fine to tell them that you've been  
23 picked on a jury, but understand the call that you have to  
24 make is your call. It's not that of whoever you share a  
25 roof with, and whatever they say simply can't influence

1 what you ultimately find in this case. So please don't  
2 talk about the case. Hopefully, you've got more  
3 interesting stuff to discuss.

4 Have a lovely evening. Stay dry. See you all  
5 tomorrow morning at 9:30.

6 Thank you. You're excused for the night.

7 Oh, take those juror badges back, bring them back  
8 home tomorrow -- or back here tomorrow, okay?

9 (WHEREUPON, the jury exits the courtroom.)

10 THE COURT: We'll go off the record.

11 (WHEREUPON, proceedings adjourned, to be reconvened on  
12 Tuesday, September 25, 2019.)

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1                                    TUESDAY, SEPTEMBER 25, 2019

2

3

THE COURT: We'll go back on the record.

4

Do you have your next witness in here?

5

MR. WHITE: Yes, Your Honor. We've got Gilmore here.

6

Yes, Your Honor.

7

THE COURT: Do you want to go ahead and bring him in?

8

And we'll bring the jury in.

9

(Pause in proceedings.)

10

THE COURT: Hold on one second. We're going to let  
you be sworn in front of the jury. Okay.

11

12

Let's go ahead and have the jury come out, please.

13

Bring them on out.

14

(WHEREUPON, the jury entered the courtroom.)

15

THE COURT: All right. The record will reflect that  
the jury is back and seated.

16

17

Ladies and gentlemen, I hope that you all had a  
pleasant evening last night. We're, of course, still  
engaged in the trial of Mr. Young versus the county, and  
the plaintiff has their next witness in the courtroom.

18

19

20

21

So at this point in time, call your next witness,  
please.

22

23

MR. WHITE: The plaintiff calls Ms. Gilmore as the  
next witness, please, Your Honor.

24

25

THE COURT: Go ahead and swear her in, please.

1 WHEREUPON,

2 KATIE GILMORE

3 After having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. WHITE:

6 Q Ms. Gilmore, can we start by getting your full name  
7 for the record, please.

8 A Katie Mae Wicker Gilmore.

9 Q Ms. Gilmore, are you currently employed with the  
10 sheriff's office?

11 A I am.

12 Q Okay. What is your current job?

13 A I'm a correction officer.

14 Q Are you employed at the detention center?

15 A Yes, sir.

16 Q Have you received training and instruction as to the  
17 rules that apply for the detention center?

18 A I have.

19 Q And do you understand that it's just as important for  
20 the government to follow the rules as it is for everybody  
21 else to follow the rules?

22 A Yes, sir.

23 Q And have you received training on the -- specifically  
24 on the Greenwood Detention Center policies and procedures  
25 and the minimum standards that apply to detention

1 facilities in South Carolina?

2 A Yes.

3 Q I'm going to hand you what's already in evidence as  
4 Plaintiff's Exhibit 11, Plaintiff's Exhibit Number 1,  
5 Plaintiff's Exhibit Number 5 and plaintiff's Exhibit  
6 Number 9. Okay.

7 MR. WHITE: And permission to approach.

8 BY MR. WHITE:

9 Q I hand you these exhibits in the order that I  
10 mentioned, Ms. Gilmore. And first, I just want you to do  
11 me a favor. I'm handing you also a clean copy of each one  
12 of these exhibits, and I just want you to confirm that  
13 those appear to be accurate duplicates of the ones that  
14 have been marked as exhibits real quick. Just take a  
15 second and look at those, and I'll grab them from you.

16 A (Witness complies.)

17 Q And is that first one that you looked at an accurate  
18 duplicate of that clean copy, Ms. Gilmore?

19 A Yes, sir.

20 Q Okay. Do you mind handing me that clean copy real  
21 quick? I'll leave the exhibit with you and I'm going to  
22 take the clean copy for me.

23 And Ms. Gilmore, if you want, we can start by I'll  
24 just ask you a couple questions about this first page. So  
25 if you'll get that first one-page exhibit, which has been

1 marked as Plaintiff's Exhibit 11. It's in front of you on  
2 the bar there.

3 A Exhibit 11.

4 Q Yeah. It's right there.

5 Okay. Do you recognize this to be a mission  
6 statement of the Greenwood County Detention Center that  
7 applies -- or that's contained within the policies and  
8 procedures for the detention center?

9 A It is.

10 Q Okay. And so -- and I've got a copy. You can look  
11 at the copy in front of you or you can look at the copy on  
12 the Elmo up here.

13 Do you agree that the purpose of the Greenwood County  
14 Detention Center is to provide, in a cost-effective  
15 manner, the highest degree of security for all citizens of  
16 Greenwood County and the safety for both the inmates and  
17 staff?

18 A Correct.

19 Q All right. So you agree that that's part of the  
20 mission of the Greenwood County Detention Center?

21 A It is.

22 Q And if you look at the second paragraph, "The staff  
23 and management of the Greenwood County Detention Center  
24 are committed to the preservation of basic human rights  
25 and dignity of the inmate population as prescribed in the

1 Constitution of the United States and the minimum  
2 standards of the State of South Carolina." Do you agree  
3 that's part of the mission of the Greenwood County  
4 Detention Center?

5 A It is.

6 Q So you agree -- and I'm just going to highlight these  
7 minimum standards right here so everybody can see. You  
8 agree that the minimum standards are a part of what  
9 everybody is required to follow in the detention center  
10 under the Greenwood County Detention Center's policies?

11 A It is, sir.

12 Q And the document that you have in front of you that's  
13 been marked as Plaintiff's Exhibit Number 1, does that  
14 appear to be a copy of -- and all I want to ask you right  
15 now is, is Exhibit Number 1 a duplicate of the clean  
16 minimum standards that I handed you? Like in other words,  
17 is this ---

18 A It is.

19 Q Does this appear to be a duplicate of that?

20 A Yes.

21 Q Okay. I want you to keep that Exhibit Number 1 in  
22 front of you, please, ma'am. Next, I want you to please  
23 turn with me to Page Number 20 of that exhibit.

24 A Okay.

25 Q And let me know when you're there.

1 A I'm there.

2 Q Do you see that there is a section down there at the  
3 bottom called Admission of Injured, Ill or Intoxicated  
4 Detainees?

5 A I see it.

6 Q Do you agree that this paragraph is triggered anytime  
7 you encounter any prisoner who appears to be severely  
8 injured?

9 A Repeat your question.

10 Q Yeah. I'm sorry. If you encounter an inmate who  
11 comes into booking and appears to be severely injured,  
12 would this policy apply to that situation, based on this  
13 first sentence of the policy?

14 A Yes.

15 Q Okay. So if we're looking at what to do in that  
16 situation and we're going to follow the minimum standards  
17 in place in South Carolina as to detention facilities, we  
18 would read on and see what we're supposed to do, right?

19 A Uh-huh.

20 THE COURT: That's a yes.

21 BY MR. WHITE:

22 Q Is that a yes?

23 A Will we read on and see what we're going to do?

24 Q Yes. Now, I was going to say would we read on to see  
25 what we would need to do in this situation if we're going

1 to follow the minimum standards in place in South  
2 Carolina?

3 A Yes. If you want to follow the minimum standards.

4 Q All right. So if we read on, one of the things we're  
5 supposed to do in a situation where you encounter somebody  
6 who is severely injured, would you agree is to have them  
7 examined by a physician prior to acceptance or admission,  
8 according to these minimum standards?

9 A Yes, sir.

10 Q And is that something you're trained on as a  
11 detention officer at the Greenwood County Detention  
12 Center?

13 A Are you asking am I trained to do it or trained to  
14 have a physician to examine an individual?

15 Q Right. You have received training at the Greenwood  
16 County Detention Center, right?

17 A Yes.

18 Q And we talked to a former training director  
19 yesterday, Mr. Gene Powell. Do you know him?

20 A I do.

21 Q All right. And he was a training director at the  
22 Greenwood County Detention Center, right?

23 A Yes.

24 Q All right. Did he or anyone else at the Greenwood  
25 County Detention Center train you that if you encounter

1 somebody who comes in and they appear to be severely  
2 injured, that they've got to be examined by a physician  
3 prior to acceptance or admission?

4 A Yes.

5 Q All right. And a physician is somebody that has an  
6 MD at the end of their name, right?

7 A Correct.

8 Q And that's somebody who's been to medical school and  
9 they can hold themselves out as a doctor, right?

10 A That's correct.

11 Q All right. So -- and obviously, a doctor is  
12 different than a nurse, for example, right?

13 A They are.

14 Q So if you're going to comply with these minimum  
15 standards that are in place in South Carolina, if you  
16 encounter somebody who appears to be severely injured, you  
17 have got to have them examined by one of those  
18 doctor folks that we were just talking about, right?

19 A Yeah. They've got to be examined by the doctor. And  
20 in all the detention center, we have a nurse that is  
21 certified to check him out. And he's severely injured,  
22 you know, he's going to go to see a doctor an MD.

23 Q Right. But in this situation ---

24 MR. HARTER: Katie, could you push up that microphone  
25 just a little bit?

1 THE COURT: Just pull that a little closer to you.  
2 Thank you.

3 MR. HARTER: Thank you.

4 BY MR. WHITE:

5 Q So I think what you're saying at the detention center  
6 is that there are situations in which a severely injured  
7 person would be seen by a nurse instead of a doctor in  
8 terms of certifying that they're okay for detention.

9 A If they're severely injured, they're going to go out  
10 to the hospital.

11 Q And the person that is supposed to make that call is  
12 the person who's actually doing the intake or booking,  
13 right?

14 A No. The nurse makes that call.

15 Q Right. But everybody that comes into the detention  
16 center doesn't get referred to the nurse, right?

17 A If they need medical attention, they get referred to  
18 the nurse.

19 Q Right. And the detention center officer who is doing  
20 the intake, the employee of the Greenwood County Sheriff's  
21 Office, is the one who looks at the person and says, "I  
22 think this person needs to be checked out by the medical  
23 staff," right?

24 A Yes.

25 Q Okay. So you, the nonmedical person, the employee of

1 the Greenwood County Sheriff's Office at the detention  
2 center has got to know how to make that call on whether  
3 somebody potentially needs medical attention so they can  
4 see the nurse or physician or whatever, right?

5 A Correct.

6 Q All right. So let's look on at this minimum standard  
7 where you see in the next paragraph, "Further, if, after  
8 an examination and treatment as appropriate." Did I read  
9 that correctly?

10 A Yes.

11 Q "And upon advice and concurrence of the examining  
12 physician," right?

13 A Uh-huh.

14 Q "The prisoner is kept at the facility." Do you see  
15 that?

16 A I see that.

17 Q So this standard obviously says that if, after a  
18 doctor, a physician checks the person out to see if  
19 they're okay to be in the facility, then you can  
20 potentially keep them at the facility. But this "if" here  
21 says that there are scenarios where, after a doctor checks  
22 them out, they might not be okay to be brought into the  
23 facility, right?

24 A Run that question by me again.

25 Q Yeah. So if we're going to comply with this

1 standard, right?

2 A Uh-huh.

3 Q We're going to have a physician or a doctor take a  
4 look at somebody and see if they're okay for detention,  
5 right?

6 A Right.

7 Q And after the physician, the doctor, has examined the  
8 person, we then make the decision on whether they'll stay  
9 at the facility or not, right?

10 A We don't make that decision. The doctor. He have to  
11 go be cleared, the doctor have to clear them. And if the  
12 doctor cleared them to return back to the facility, then,  
13 yes, we house them.

14 Q Right. And all I'm getting at, what I was getting at  
15 with that question, and I apologize if I -- I ask bad  
16 questions sometimes, and I apologize for that. What I was  
17 getting at is there are scenarios where the physician, the  
18 doctor, would examine the person and determine they're  
19 okay to be in the facility, right?

20 A That's the doctor.

21 Q And there would also be situations where the doctor,  
22 the physician, the person with the medical degree would  
23 examine the person and say, no, they can't be taken into  
24 the facility, right?

25 A Then they'll be kept at the hospital.

1 Q Exactly. And so -- but in order to determine whether  
2 the person is okay to be booked into the facility or  
3 whether they need to be sent out, you've got to comply  
4 with this standard to have that doctor look at them and  
5 certify them for detention, right?

6 A Yes, sir.

7 Q Turn with me to -- and I think you've got Plaintiff's  
8 Exhibit Number 2 in front of you, Ms. Gilmore. Do you see  
9 that?

10 A I don't see 2 -- 1.

11 Q If you need my help, I'll come over there. You've  
12 got a lot of stuff in front of you.

13 MR. HARTER: I apologize. I do need your help.  
14 Which is 2?

15 MR. WHITE: Plaintiff's Exhibit 2.

16 MR. HARTER: I know. But can you tell me which  
17 policy it is, in essence? And I apologize. I did not  
18 get them all numbered correctly. If you can tell me  
19 which ---

20 MR. WHITE: Oh, you know what? That's because I read  
21 the wrong exhibit number.

22 MR. HARTER: That's okay. We all make mistakes.

23 MR. WHITE: The -- what I was looking for is Exhibit  
24 Number 5. I apologize for that. And I'll tell you,  
25 Rusty, what it is when I get over here.

1 BY MR. WHITE:

2 Q All right. Take a look at Exhibit 5. And that would  
3 be for Rusty's benefit, the healthcare policy.

4 And does the blank copy of the healthcare policy that  
5 you have in front of you appear to be a duplicate of  
6 what's been marked as Exhibit Number 5? Does that appear  
7 to be a duplicate?

8 A It is.

9 Q Now please turn with me over to page 2 on that  
10 exhibit. And this is also, correct me if I'm wrong,  
11 Ms. Gilmore, a policy that is in place. Oh, this is one  
12 of Greenwood County Detention Center's own policies that  
13 it put in place at the detention center, right?

14 A Correct.

15 Q And this is specifically the policy that deals with  
16 healthcare, right?

17 A Yes, sir.

18 Q And if you look, there's a section on that page 2  
19 about halfway down called Healthcare Services. Do you see  
20 that?

21 A I do.

22 Q And the first sentence under policy indicates,  
23 correct me if I'm wrong, "The Greenwood County Detention  
24 Center shall provide healthcare services to all inmates  
25 who are in need of treatment and care." Do you see that?

1 A Yes.

2 Q All right. And if you go down, see General  
3 Information there?

4 A Un-huh. I do.

5 Q Go with me to page number -- I mean Number 4 down  
6 there at the bottom where it says, correct me if I'm  
7 wrong, "Health trained personnel, in parentheses,  
8 detention officers, shall medically screen all committed  
9 inmates upon arrival." And I'm going onto the next page.  
10 And then it says, "The screening shall include at a  
11 minimum the following."

12 But what I want to ask you about there is, in terms  
13 of the medical screening that's part of the healthcare  
14 policy that's in the detention centers policies and  
15 procedures, the detention officers are specifically the  
16 ones responsible for performing that, right?

17 A Are we responsible for performing the medical?

18 Q The medical screening.

19 A Yeah. The medical screening intake, correct.

20 Q And that's required by not only the minimum standards  
21 that we've discussed, but also these Greenwood County  
22 Sheriff's Office's own detention center policies and  
23 procedures, right?

24 A Yes.

25 Q All right. And I've got one more exhibit that I want

1 to talk with you about, Ms. Gilmore, and it's Exhibit  
2 Number 9. And you should have a clean copy and a marked  
3 copy in front of you. And I just want to do the same  
4 thing that we've already done, have you confirm the clean  
5 copy and the marked copy. Do those appear to be the same?

6 A Yes.

7 MR. HARTER: My apologies. Tell me what title that  
8 is.

9 MR. WHITE: The subject is Intake and Booking of  
10 Inmates, title is Admission for (inaudible) Release.

11 BY MR. WHITE:

12 Q Ms. Gilmore, I want you to take a look at plaintiff's  
13 Exhibit Number 9, please, and confirm for me that this is  
14 the Greenwood Detention Center policy that applies to the  
15 intake and booking of inmates. If you look in the subject  
16 line, that may get us oriented.

17 A Correct.

18 Q So -- and this will tell us the policies and the  
19 steps the government's got to go through when they're  
20 booking somebody into the facility to properly do that,  
21 right?

22 A Yes.

23 Q All right. So if you look at policy here, this says  
24 that the admission of an inmate will require that he be  
25 legally arrested, that his property be intact, and that he

1 is in good mental and physical health, right?

2 A Yes.

3 Q So one of the requirements for being allowed to even  
4 book somebody into the detention center is that the person  
5 is in good physical health, right?

6 A Reiterate that question.

7 Q Yeah. Just I was asking if we're just going by the  
8 policy that's in place at the Greenwood County Detention  
9 Center, is one of the requirements for somebody being  
10 allowed to be booked into the detention center, that  
11 they're in good physical health?

12 A Physical enough to be housed, yes.

13 Q And that -- and you agree that this policy says that  
14 he is in good physical health, right? Good mental and  
15 physical health.

16 A Yes.

17 Q Okay. And if you go with me to the bottom of that  
18 page to 2.5 down there. Do you see that at the bottom?

19 A Yes.

20 Q And this again says, "The booking officer will  
21 complete a medical screening form," right?

22 A Yes.

23 Q And this says, "If the subject is visibly injured or  
24 obviously physically or mentally ill, it is believed that  
25 the person needs prime medical attention, the senior

1 officer present will refuse the subject until the  
2 committing officer takes the subject to the hospital,"  
3 right?

4 A Correct.

5 Q And so that's something that's contained within the  
6 Greenwood County Detention Center's own policies and  
7 procedures, right?

8 A Yes.

9 Q And now if you go with me to that last sentence, "If  
10 the subject is examined by medical personnel and deemed  
11 fit to be incarcerated, paperwork to that effect must be  
12 in writing and returned with the subject," do you see  
13 that?

14 A I do.

15 Q And so if somebody comes in and they appear to be  
16 physically injured, the policies don't allow us -- and by  
17 "us" I mean the Greenville County -- I mean Greenwood  
18 County Sheriff's Office -- to take them into the detention  
19 center facility until you've got this certification that  
20 they're fit to be incarcerated, right?

21 A Yes. Till they are cleared.

22 Q And as we talked about earlier, if we're going to get  
23 that certification from somebody that they're deemed fit  
24 to be incarcerated, we've got to get that from a  
25 physician, right?

1 A Correct.

2 Q And there are things that detainees can do at their  
3 home that they can't do at the detention center,  
4 obviously, right?

5 A Say that again?

6 Q Yeah. I mean, it's obvious, but there are things  
7 that somebody can do at their house that they can't do if  
8 they're a detainee at the detention center, right?

9 A Correct.

10 Q So like, for example, there's medications that folks  
11 can take at their house that they can't take at the  
12 detention center, right?

13 A Correct.

14 Q Like, for example, if somebody is prescribed like a  
15 prescription pain medication like Lortab or something like  
16 that, they can take that at home, right?

17 A Correct.

18 Q But that's something that they are never going to be  
19 able to take once somebody makes the decision that they're  
20 fit to be incarcerated and books them into the detention  
21 center, right?

22 A I'm not medical. That's the medical call, you know.

23 Q Right. But do you have any idea whether folks can  
24 take Lortab or what's been described as narcotic  
25 medication once they're booked into the facility?

1 A Correct.

2 Q So you're aware that once somebody makes the decision  
3 that the person is fit to be incarcerated and they're  
4 booked in, they cannot take Lortab or another narcotic  
5 type medication even if a doctor's prescribed it?

6 A Correct.

7 MR. WHITE: Thank you. I don't have any further  
8 questions, Ms. Gilmore.

9 CROSS EXAMINATION

10 BY MR. HARTER:

11 Q Katie, let me ask you, Katie, you were -- how long  
12 have you been with the sheriff's office?

13 A Eight years.

14 Q Okay. You had training as a detention officer at the  
15 Criminal Justice Academy and you were certified; is that  
16 correct?

17 A Yes, sir.

18 Q Okay. And you've been with the sheriff's office for  
19 a number of years. And what's your position or capacity  
20 there?

21 A I'm a MDO, master detention officer.

22 Q Okay. Tell us what that means.

23 A When you've been there eight years, you're a senior  
24 officer ---

25 Q Okay.

1 A --- of the detention center.

2 Q Now, I want to make sure I understand the context of  
3 what we're talking about here. You were asked a few  
4 minutes ago about an exhibit, and it came from the minimum  
5 standards from SCDC, okay? I don't remember the exhibit  
6 number, Katie, but I do remember looking at this a little  
7 while ago. And Mr. White's told me it's Plaintiff's 1.  
8 But this is a section from the SCDC minimum standards,  
9 right, you were asked about?

10 A Yes, sir. I was.

11 Q Okay. And, Katie, it reads, "Any prisoner who  
12 appears -- admission of injured or intoxicated detainees.  
13 Any prisoner who appears to be either severely injured or  
14 acutely ill or who is in a stupor or a coma, even though  
15 the apparent cause may be intoxication, shall be examined  
16 by a physician prior to acceptance or admission to rule  
17 out the possibility of brain injury or organic disease as  
18 a cause of the apparent disability." And then you were  
19 asked to read further. "If, after an examination and  
20 treatment as appropriate and upon advice and concurrence  
21 of the examining physician, the prisoner is kept at the  
22 facility, he or she shall be maintained by security staff  
23 under the level of observation determined necessary by the  
24 physician until such time as he or she will have  
25 completely recovered from the stupor or coma. If, after a

1 reasonable period of time, he or she is not completely  
2 recovered, the prisoner shall be transferred to a medical  
3 facility for further examination and treatment."

4 Now, let me ask you, Katie, when people come into the  
5 detention center, sometimes they're brought in by the city  
6 police department of Greenwood, right?

7 A Correct.

8 Q Sometimes they're brought in by the Highway Patrol,  
9 right?

10 A Correct.

11 Q Sometimes they're brought in by sheriff's deputies,  
12 right?

13 A Correct.

14 Q Sometimes they ain't ever been to no hospital, right?

15 A Correct.

16 Q They might have been in a car accident out on the  
17 street, or they might have been in a fight with somebody,  
18 or there might have been some degree of force used against  
19 them in connection with some type of apprehension, right?

20 A Yes.

21 Q And sometimes people just come in and they've got  
22 medical problems that you don't know about, right?

23 A Yes.

24 Q Okay. So would I be correct if I understood that  
25 provision of the minimum standards to apply when a person

1 is brought into the detention facility initially?

2 A Do the question again.

3 Q Do you understand? This -- this is -- this person's  
4 never been to a hospital, right?

5 A Right.

6 Q Okay. Do you know that Tony Young, the plaintiff in  
7 this case, was brought to the detention center from a  
8 hospital?

9 A Okay.

10 Q Ma'am, do you know that?

11 A (No answer.)

12 Q Well, let me just ask you, if you're following policy  
13 and this person is brought to the detention center and has  
14 that same afternoon been seen by a doctor and discharged  
15 from the hospital, would you think that inmate could be  
16 admitted to the detention center?

17 A If they've been cleared.

18 Q Yes.

19 A Yes.

20 Q He's been released by a doctor from a hospital and  
21 sent home, would he be cleared for the detention center?

22 A Yes.

23 Q Okay. Do you know if Mr. Young had been in the  
24 hospital and was cleared by a medical doctor on the  
25 afternoon of August the 16th right before he was brought

1 to the detention center in Greenwood?

2 A Cleared, yes.

3 Q Okay. And if that is the case, that inmate has to  
4 stay with y'all, doesn't he?

5 A Yes.

6 Q You don't get to pick and choose who your tenants are  
7 going to be, do you?

8 A No.

9 Q If the law says arrest this person, take him to jail,  
10 that has to be done, right?

11 A Yes.

12 Q Now, if that person is in jail and they have some  
13 issue and they want to get out of jail, they can post a  
14 bond, can't they?

15 A Yes.

16 Q All right. But in terms of what your role is as the  
17 detention officer and as a detention facility, what  
18 prerogative, what right do you have to say I'm not going  
19 to take this person who's been released by a medical  
20 doctor and who is under an arrest warrant for a serious  
21 crime and is ordered to jail? What are your options,  
22 ma'am?

23 A I don't have no choice in the matter but take him.

24 Q You don't have any choice, do you?

25 A (No answer.)

1 Q Okay. Now, and this policy that you were asked about  
2 -- but coming back to this for a moment. If you have  
3 somebody that comes to the jail and the detention center  
4 and they do have -- and they haven't been to the hospital,  
5 they haven't been to the doctor and they present with some  
6 type of wound or some type of injury or some type of  
7 obvious problem, in that context, is the detention center  
8 staff booking going to require that law enforcement  
9 officer who brings that inmate to the jail to take him to  
10 a doctor first before we take him?

11 A Yes.

12 Q Okay. So he is a prisoner of the agency that arrests  
13 him until he comes to the detention center and is  
14 accepted, right?

15 A Correct.

16 Q And if an inmate -- if a prisoner is under arrest and  
17 he has been cleared by a physician, he's going to the  
18 detention center ---

19 A Yes.

20 Q --- and that's the way it is, right?

21 A Correct.

22 Q And that's the way policy works, and that's the way  
23 the minimum standards work, right?

24 A Yes.

25 Q Okay. Now, Katie, you were also asked about the

1 healthcare service policy. And this, I believe, is  
2 Number 5. And I want to ask you, this policy is dated  
3 July 6th of 2005, right? I'm sorry.

4 A Yes.

5 Q I thought you could see over here. It's Number 5,  
6 Katie.

7 A I got it.

8 Q Okay. It's dated 2005; is that right?

9 A Yes, sir.

10 Q Okay. And you were asked to look over at the second  
11 page of this where it says -- now, this is Greenwood  
12 County policy, and it says, "Greenwood County will provide  
13 health services to all inmates who are in need of  
14 treatment and care. Medical and health services shall be  
15 provided by qualified healthcare personnel and directed by  
16 the facility nurse in compliance with informed consent and  
17 standards." And then I think you were pointed down to  
18 Number 4. And it says, "Health trained personnel  
19 detention officers shall medically screen all committed  
20 inmates upon arrival." And I think Mr. White asked you  
21 about detention officers being health-trained personnel,  
22 okay?

23 Katie, let me ask you this. Are you aware that after  
24 this policy, after 2005 and after 2006, that the Greenwood  
25 County Detention Center entered into an agreement with

1 Southern Health Partners to provide medical services to  
2 inmates at the jail?

3 A Yes.

4 Q Okay. And Southern Health Partners has a staff of  
5 nurses that are actually in the jail, aren't they?

6 A Yes.

7 Q They are physically in the jail between 7:00 in the  
8 morning and 7:00 at night, right?

9 A Yes.

10 Q And there is a physician who is available for the  
11 nurse or anybody at the jail to contact if they need to.

12 A Yes.

13 Q Okay. Now, Katie, do you know if an inmate comes to  
14 the detention center who has been released the same  
15 afternoon by a physician and discharged home, not to a  
16 medical facility, not to a rehab facility, not to a  
17 nursing home, but that individual has been discharged by a  
18 physician in a hospital that is unconnected to Greenwood  
19 County Sheriff's Office, and that individual has been  
20 discharged home by a physician, and that person is under  
21 arrest for a crime and has been ordered to go to jail, and  
22 that person is brought to the Greenwood County Detention  
23 Center and a detention officer sees them and then has a  
24 nurse that same day come look at them and examine them, is  
25 that consistent with policy and training for you?

1 A Yes, it is.

2 MR. WHITE: Objection. Leading and compound.

3 Counsel is testifying.

4 THE COURT: He can lead. He's on cross. Point's  
5 made, though.

6 MR. HARTER: Thank you.

7 BY MR. HARTER:

8 Q What sense would it make if you have a discharge  
9 summary right there from a physician that says inmate Joe  
10 blow is discharged home at 3:30 in the afternoon? What  
11 sense would it make for the detention center to then send  
12 that person to the hospital or back to the hospital to be  
13 cleared for booking or for detention?

14 A The nurse is going to see him.

15 Q And if the nurse sees him, that's an extra  
16 precaution, isn't it?

17 A Yes.

18 Q Okay. Now, that's even going beyond if the nurse  
19 sees him and he's already been cleared by a physician to  
20 come to be -- cleared to come home and he's brought to the  
21 detention center, the nurse examining is an added  
22 precaution, isn't it?

23 A Yes.

24 Q You also were asked to look at this post order that's  
25 dated -- sorry -- July 7, 2005, and it says, "The

1 admission of an inmate will require that he be legally  
2 arrested." You want to make sure that they're actually  
3 supposed to be in custody, right?

4 A Yes.

5 Q And then it says, "That his property is intact and  
6 that he is in good mental and physical health, and that  
7 his, her rights will be not violated by his  
8 incarceration," right?

9 A Right, yes.

10 Q Okay. Now, whose determination is it as to whether  
11 or not an inmate is in good mental or physical health?  
12 That's a medical decision, isn't it?

13 A Yes, it is.

14 Q And was there anything that you were aware of that  
15 would prevent an inmate who has been discharged home by a  
16 physician, is there any reason why he or she could not be  
17 incarcerated at a detention center if they've been cleared  
18 by a doctor?

19 A No reason.

20 Q No reason.

21 Now, you were asked to look down here further, and it  
22 says, "The booking officer will complete a medical  
23 screening form if the subject is visibly injured,  
24 obviously physically or mentally ill, and it is believed  
25 that the person needs prompt medical attention. The

1 senior officer present will refuse the subject until the  
2 committing officer takes the subject to the hospital or to  
3 Beckman's Mental Health for an evaluation and/or  
4 examination. If the subject is examined by medical  
5 personnel and deemed fit to be incarcerated, paperwork to  
6 that effect must be in writing and returned with the  
7 subject."

8 Now, I want to make sure I understand, Katie. This  
9 applies to a subject who is brought to the detention  
10 center who has not already been medically cleared, right?

11 A Uh-huh. Yes.

12 Q And it says, "A booking officer will complete a  
13 medical screening form." Katie, is there any problem with  
14 a booking officer completing a medical screening form and  
15 then having the nurse come assist them before that inmate  
16 is booked into the detention center?

17 A No.

18 Q Okay. Now, you say you've been working at the  
19 detention center for ---

20 A Eight years.

21 Q --- eight years. Do you remember a time at the  
22 detention center when medications were actually handed out  
23 by detention officers to inmates?

24 A No.

25 Q You don't remember that?

1 A No.

2 Q Okay. When did you start?

3 A 2010.

4 Q 2010?

5 A Yes, sir.

6 Q So you started after Southern Health Partners or  
7 while -- around the same time Southern Health Partners  
8 took over the medical unit?

9 A Yes.

10 Q You were not there when officers actually handed out  
11 the medication to inmates.

12 A I was not.

13 Q Okay. But you know now that Southern Health Partners  
14 has nursing staff that puts the medications together and  
15 hands them out.

16 A Yes, sir.

17 Q And documents what they do.

18 A Correct.

19 MR. HARTER: Okay. Excuse me a minute, Your Honor.

20 THE COURT: Yes, sir.

21 BY MR. HARTER:

22 Q Katie, let me ask you something. When inmates are  
23 brought to the detention center from a hospital facility  
24 like was the case with Mr. Young, okay?

25 A Uh-huh.

1 Q You had cases before when an inmate was at a hospital  
2 and then they were brought to the detention center, right?

3 A Yes.

4 Q Okay. When that happens, isn't -- doesn't the  
5 arresting authority contact the hospital, or doesn't the  
6 hospital contact the arresting authority and tell them  
7 when to come get the inmate?

8 A Ask me that again.

9 Q Okay. In a case where an inmate is at a hospital or  
10 a medical facility and he is under arrest, does the  
11 hospital call the arresting agency and tell them when the  
12 inmate is to be picked up?

13 A Yes.

14 MR. HARTER: Okay. Thank you, Katie. Those are all  
15 the questions I have.

16 REDIRECT EXAMINATION

17 BY MR. WHITE:

18 Q Ms. Gilmore, do you know anything about Mr. Tony  
19 Young or his detention at the Greenwood County Sheriff's  
20 Office specifically?

21 A Specifically? I know when he was housed there, he  
22 was housed in B Unit.

23 Q Okay. And did you interact with Mr. Young while he  
24 was at the facility?

25 A Yes. I interacted with him.

1 Q All right. So you remember the time period when he  
2 was incarcerated at the Greenwood County Sheriff's Office,  
3 right?

4 A I do.

5 Q And the policies and procedures that we talked about  
6 today, those minimum standards and the Greenwood County  
7 Sheriff's Office detention center policies, those would  
8 have been in effect then just like they were when they  
9 were created in 2005, right?

10 A Repeat that question.

11 Q Yeah. The policies, the minimum standards that we  
12 talked about and the Greenwood Detention Center's policies  
13 and procedures that we talked about would have been in  
14 equal effect when Mr. Young was in the detention center as  
15 they were in 2005 on that date that was circled by  
16 Mr. Harter, right?

17 A You're saying the medical standard?

18 Q All the policies -- the Greenwood Detention Center  
19 policies and procedures that we went through and the  
20 minimum standards.

21 A The minimum standards. Yes.

22 Q Okay. And those, the ones we talked about today,  
23 those policies and procedures, they're posted where all  
24 personnel in the facility can see them, right?

25 A Yeah. They are both, yes.

1 Q Okay. And you're trained to follow those procedures,  
2 right?

3 A Correct.

4 Q And the minimum standards, if you look with me to  
5 Plaintiff's Exhibit Number 1, which is, I think, still in  
6 front of you.

7 A Okay.

8 Q And I think these were referred to during some  
9 questions that were asked of you as the SCDC minimum  
10 standards. Do you agree that these are the minimum  
11 standards for local detention facilities in South  
12 Carolina?

13 A Yes.

14 Q All right. And is Greenwood County Detention Center  
15 a local detention facility?

16 A Yes. It's local.

17 Q So these policies and procedures are the absolute  
18 minimum standards that have to be complied with by the  
19 Greenwood County Sheriff's Office when operating the  
20 detention center, right?

21 A Yes.

22 Q Now, do me a favor and stay on that exhibit and flip  
23 over to page 20. I believe you had indicated that there  
24 was an exception to this policy where someone had already  
25 been discharged from the hospital. Do you recall that

1 testimony?

2 A That somebody had already discharged from the  
3 hospital?

4 Q Right. In other words, there was -- there was some  
5 testimony that these policies set forth on page 20 had an  
6 exception to it where somebody had just been discharged  
7 from the hospital. Do you recall that?

8 A Being discharged and brought to the detention center?

9 Q Right.

10 A Yes.

11 Q Okay. Do me a favor and just read for me which part  
12 of the admission of injured, ill or intoxicated detainees  
13 has an exception for if somebody has been discharged from  
14 the hospital.

15 A (No answer.)

16 Q Do you see that in the policy, Ms. Gilmore?

17 A Unless you -- the latter part of you saying if, after  
18 a reasonable period of time he or she has not completely  
19 recovered, the prisoner shall be transferred to a medical  
20 facility for further examination and treatment. Is that  
21 what you're asking?

22 Q No. What I'm asking is, is there an exception in the  
23 policy where this doesn't apply. So if you encounter  
24 somebody who appears to be severely injured, like it says  
25 in the policy, where's the exception in this policy for

1 any person who appears to be either severely injured or  
2 acutely ill unless they've already been discharged from  
3 the hospital? Do you see that in the policy? That's all  
4 I'm getting at.

5 A I just want to make sure I'm reading you clear.  
6 They've been severely injured and then medically cleared  
7 from the hospital, are you asking are we going to accept  
8 them? Is that your question?

9 Q Well, I'm asking do you find those words anywhere in  
10 this policy that are in the minimum standards?

11 THE COURT: Could counsel approach quickly over here  
12 to the side?

13 MR. WHITE: Yeah.

14 (WHEREUPON, a bench conference was held off the record.)

15 THE COURT: Sorry for the interruption, Mr. White.  
16 Please continue.

17 MR. WHITE: No, you're fine.

18 BY MR. WHITE:

19 Q Ms. Gilmore, now, there are -- as Mr. Harter asked  
20 you, there are times when Southern Health Partners are not  
21 present at the facility, right?

22 A Correct.

23 Q They leave at 7 p.m. every day.

24 A Correct.

25 Q And even after an inmate has been -- let's say that

1 they've been discharged from the hospital and cleared by a  
2 physician, could their condition deteriorate as they're in  
3 the detention center such that they're worse off later on  
4 and need additional medical attention?

5 A Can it deteriorate?

6 Q Right.

7 A Sure it can.

8 Q Okay. And especially if that happens after the  
9 Southern Health folks go home for the day after 7 p.m.,  
10 it's still important for the officers at the Greenwood  
11 County Sheriff's Office to be able to recognize that so  
12 they can get them medical attention, right?

13 A Yes, yes.

14 Q And even after Southern Health Partners came into the  
15 picture in 2010, were Greenwood County Sheriff's Office  
16 detention officers still performing the medical screening?

17 A Yeah. We're still performing medical screenings as  
18 they intake.

19 Q Okay. So nothing changed about the medical screening  
20 requirement or who was doing it after Southern Health  
21 Partners came into the picture in 2010, right?

22 A What do you mean when you say "nothing changed"?

23 Q In other words, the medical screening policy still  
24 required a detention officer to perform those medical  
25 screenings?

1 A Medical intake, correct.

2 Q And they were still required to fill out the medical  
3 screening form, right?

4 A Correct.

5 Q And it was still important for the detention officer  
6 filling out that form to do a complete and accurate job of  
7 filling out that form, right?

8 A Yes.

9 MR. WHITE: That's all the questions I have for you,  
10 Ms. Gilmore. Please answer any that Mr. Harter may have.

11 REXCROSS EXAMINATION

12 BY MR. HARTER:

13 Q Katie, let me follow up on one thing. If a person is  
14 brought to the detention center and they had been cleared  
15 that afternoon by a physician, do you send them back to  
16 another doctor or back to the hospital to clear them  
17 again?

18 A No.

19 Q Okay. And at the detention center, after hours,  
20 after 7 p.m., there is a doctor and a nurse on call; am I  
21 right?

22 A Yes.

23 Q And if a medical emergency were to arise, EMS can be  
24 called, right?

25 A Yes.

1 Q Do you have any information that Mr. Young did not  
2 have a proper exam when he entered or that Mr. Young had  
3 some type of medical emergency that required EMS  
4 treatment?

5 A No.

6 Q Do you know if Mr. Young's complaint is that he had  
7 this neck collar taken from him and he didn't get his  
8 Lortab? Do you know that?

9 A Are those his complaint? Yes.

10 MR. HARTER: Okay. Thank you.

11 MR. WHITE: We don't have anything else for the  
12 witness, Your Honor.

13 THE COURT: Very good. Ma'am, you can step down.

14 Ladies and gentlemen, we're going to take a brief  
15 morning break for about ten minutes and then we'll go back  
16 on the record. Feel free to help yourself to a little  
17 more coffee, use the facilities, what have you. Don't  
18 discuss the case. Back on the record in about ten  
19 minutes, okay?

20 (WHEREUPON, the jury exits the courtroom.)

21 THE COURT: We'll be at ease for a little bit.

22 (WHEREUPON, a recess is taken.)

23 THE COURT: Let's have the jury.

24 (WHEREUPON, the jury entered the courtroom.)

25 THE COURT: All right. The jury is back and seated.

1           Mr. White, Mr. Hawkins, if you'd call your next  
2 witness, please.

3           MR. WHITE: At this time, we call Jeff Roberts,  
4 please.

5 WHEREUPON,

6                                   JEFFREY DANIEL ROBERTS

7 After having been duly sworn, testified as follows:

8                                   DIRECT EXAMINATION

9 BY MR. WHITE:

10 Q    Mr. Roberts, could we please get your full name for  
11 the record.

12 A    Jeffrey Daniel Roberts.

13 Q    Are you currently an employee of the sheriff's  
14 office?

15 A    No, sir. I am not.

16 Q    Okay. When did you stop being an employee of the  
17 sheriff's office?

18 A    I'm pretty sure it was two years ago I changed  
19 occupations.

20 Q    What -- I'm sorry. I didn't mean to interrupt you.

21           What period of time were you employed at the  
22 Greenwood Detention Center?

23 A    I think it was around about the time of June, July  
24 2011 till just two years ago.

25 Q    So when -- I'll represent to you that the case

1 involving Mr. Young involves his detention between  
2 August 2011 and, I believe, April of 2012. Would that  
3 have been a period of time you were employed at the  
4 detention center?

5 A Right. Yes, sir.

6 Q And did you receive training on the policies and  
7 procedures that apply at the facility?

8 A Correct. Yes, sir. I did.

9 Q I'm going to hand you what's been marked as  
10 Plaintiff's Exhibit Number 4 and ask you to turn to the  
11 fifth to the last page, which is right there. I learned  
12 my lesson from yesterday. If you could please look with  
13 me to -- do you see where it says "Subject" -- sorry.  
14 Actually, turn to the previous page where it says  
15 "Subject: Medication." Do you see that?

16 A Yes, sir.

17 Q All right. Do you recognize that as a Greenwood  
18 Detention Center policy on medication that would have been  
19 in place when you were at the detention facility?

20 A It's been so long I wouldn't be able to recognize  
21 this as for sure the policy.

22 Q Okay. Well, do me a favor and flip over to the next  
23 page and go to Number 7 there. And the exhibit indicates,  
24 "The officer shall call names of all inmates receiving  
25 medication. Inmates requesting Tylenol, Maalox or

1 nonprescription medication shall be instructed to please  
2 wait until prescription medication is distributed." Do  
3 you see that?

4 A Yes, sir.

5 Q All right. Is that your understanding of what the  
6 policy was at the detention center when you were working  
7 there?

8 A Again, I worked night shift, so we didn't -- we  
9 rarely did anything with medication. And like I said  
10 again, it's been so long, I can't -- I can't say this is  
11 the policy for sure.

12 Q Okay. But when you were at the detention center, do  
13 you recall there being a distinction between the way that  
14 prescription medication was dispersed and the way  
15 over-the-counter medications, like this policy says,  
16 Tylenol, Maalox and other nonprescription medication was  
17 distributed?

18 A I don't recall.

19 MR. WHITE: All right. I don't think I have any  
20 further questions, Mr. Roberts. We appreciate your time.

21 THE WITNESS: Yes, sir.

22 THE COURT: Anything?

23 MR. HARTER: I don't have any questions.

24 THE COURT: Sir, thank you for coming.

25 Call your next witness, please.

1 MR. WHITE: I call Nancy Bouknight. Mr. Hawkins  
2 can . . .

3 WHEREUPON,

4 SHERRY BOUKNIGHT,

5 After having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. WHITE:

8 Q Ma'am, if we could please start by getting your full  
9 name for the record.

10 A Sherry Bouknight.

11 Q Okay. Sorry I mispronounced your name before you  
12 were in the room, and I apologize for that, Ms. Bouknight.

13 Who do you currently work for, Ms. Bouknight?

14 A Self Regional Healthcare.

15 Q And are you a nurse?

16 A Yes.

17 Q What kind of nurse are you?

18 A I'm an LPN II.

19 Q And in 2011, I guess around the August 2011 time  
20 frame, were you employed by Southern Health?

21 A Yes.

22 Q And were you stationed by Southern Health at the  
23 Greenwood County Detention Center?

24 A Yes.

25 Q And were you one of the folks who was responsible for

1 providing medical care at the Greenwood County Detention  
2 Center?

3 A Yes.

4 Q And are you familiar with the minimum standards for  
5 local detention facilities in South Carolina?

6 A Repeat your question?

7 Q Are you familiar with the minimum standards that  
8 apply to local detention facilities in South Carolina?

9 A No.

10 Q Are you -- at the time you worked at the Greenwood  
11 Detention Center, were you familiar with the policies and  
12 procedures in place at that facility?

13 A Of Southern Health Partners, yes.

14 Q So were you -- were the policies and procedures that  
15 applied to the detention center that were the nonmedical  
16 policies, were those posted where everybody could see  
17 them?

18 A I'm not familiar with those.

19 Q That's fine.

20 Now, as a nurse, did you take classes in human  
21 anatomy, things like that when you were studying to be a  
22 nurse?

23 A Yes.

24 Q And does that include a working knowledge of the  
25 human skeleton and the bones in the human body?

1 A Yes.

2 Q And is that -- in terms of being able to identify  
3 bones and types of fractures and stuff like that, did you  
4 study all of that in nursing school?

5 A Yes.

6 Q And is that knowledge that you used while working as  
7 a nurse in the real world as well?

8 A Yes. But I did not diagnose as far as fractures.

9 Q Okay. Right. But if you see a type of fracture  
10 described and where it is and all that, would you be able  
11 to identify that on a human skeleton?

12 A Yes.

13 MR. WHITE: I'd like to mark for identification  
14 Plaintiff's 14.

15 (WHEREUPON, Plaintiff's Exhibit Number 14 was marked for  
16 identification.)

17 BY MR. WHITE:

18 Q Don't show this to the jury just yet, but could you  
19 please confirm that this appears to be generally an  
20 accurate depiction of where bones are in a human  
21 skeleton.

22 A Yes.

23 Q Is this a -- is this a diagram of a human skeleton  
24 that you would be able to identify various types of  
25 fractures if you were asked to?

1 A For frontal view, yes.

2 MR. WHITE: All right. Judge, permission to  
3 publish ---

4 THE COURT: Sure.

5 MR. WHITE: --- to the jury.

6 THE COURT: Yes.

7 MR. WHITE: Are you good, Rusty?

8 MR. HARTER: Sure.

9 THE COURT: If she needs to step down, that's fine if  
10 she needs to step down to demonstrate at any point in  
11 time.

12 MR. HARTER: She can identify the location of the  
13 fracture ---

14 THE COURT: Right.

15 MR. HARTER: --- type of fracture.

16 THE COURT: Right.

17 BY MR. WHITE:

18 Q And I'm not going to have you step down just yet. I  
19 want to ask you about a couple other documents that we are  
20 going to use to talk about this first.

21 Now, when you were a nurse at the Greenwood County  
22 Detention Center, did you have the opportunity to look at  
23 inmates' medical records and incorporate those into  
24 whatever services you provided to inmates in the center?

25 A Yes.

1 Q And is that something -- like for a particular  
2 inmate, is there -- like, for example, if they had been to  
3 the hospital and they were discharged from the hospital,  
4 would the discharge documents have been something that you  
5 would have looked at to see the nature of their injuries  
6 and incorporated that into any treatment provided?

7 A Yes.

8 MR. WHITE: I'm going to mark as Plaintiff's ---

9 THE COURT: 15.

10 MR. WHITE: --- 15, 16 and 17, three documents that  
11 I'm going to hand to you.

12 (WHEREUPON, Plaintiff's Exhibit Numbers 15, 16 and 17 were  
13 marked for identification.)

14 MR. WHITE: And for the records, these have been  
15 stipulated to as authentic business records by the  
16 parties.

17 THE COURT: Very good.

18 MR. HARTE: That's correct, Your Honor.

19 I just want to make sure -- what -- which numbers  
20 now?

21 THE COURT: 15 through 17 ---

22 MR. HARTE: Okay.

23 THE COURT: --- is what they're being marked as.

24 MR. HARTE: Bear with me one second, Judge. My  
25 exhibits have different numbers.

1 BY MR. WHITE:

2 Q I'm going to hand you Plaintiff's Exhibits 15, 16 and  
3 17. Do you recognize those to be the type of discharge  
4 reports that you would have looked at with respect to a  
5 particular inmate in the detention facility?

6 A Yes.

7 MR. WHITE: Okay. At this time, Your Honor, we would  
8 move to have Plaintiff's Exhibits 15, 16 and 17 admitted  
9 into evidence.

10 THE COURT: Without objection.

11 MR. HARTE: No objection.

12 THE COURT: Without objection they're in evidence.

13 (WHEREUPON, Plaintiff's Exhibit Numbers 15, 16 and 17 were  
14 admitted into evidence.)

15 MR. WHITE: Permission to publish those to the jury,  
16 Your Honor.

17 THE COURT: Go ahead, please.

18 BY MR. WHITE:

19 Q And the first thing that I want to talk about,  
20 Ms. Bouknight, is the patient discharge information. Do  
21 you see that in front of you?

22 A Patient discharge instructions?

23 Q The patient discharge information is the one that's  
24 kind of a typed-up report.

25 A Yes.

1 Q And this would be a record that you'd look at if you  
2 wanted to see, for example, what somebody's condition was  
3 at discharge, right?

4 A Yes.

5 Q And does this document, if you take a second to  
6 review it, indicate to where this patient was discharged,  
7 the location to which he was discharged?

8 A (No answer.)

9 Q And I'll help to get us oriented here. If you look  
10 at -- if you look under "discharge instructions," do you  
11 see an actual discharge date there?

12 A Yes.

13 Q What was the discharge date?

14 A 8/16/2011.

15 Q All right. And is there indication they're  
16 discharged to? Do you see that below it?

17 A Home.

18 Q All right. And also, do you recall there being  
19 policies in place at the detention center where there were  
20 certain medications that inmates could have in the  
21 detention center and certain medications they couldn't  
22 have?

23 A Yes. We had standing orders.

24 Q And prescription pain medication such as Lortab, was  
25 that something that inmates could not have at the

1 detention center?

2 A They could not.

3 Q And if a doctor were to prescribe that type of  
4 medication to somebody when they discharged them, that  
5 would be something that they could take at their house,  
6 right?

7 A Yes.

8 Q And this record also indicates if you look down -- go  
9 with me down to about 20 rows down where it says  
10 "in, underscore, med instruction." Do you see that on the  
11 left-hand side? And I'm going to highlight it up here on  
12 the Elmo if that will help you get ---

13 A Yes.

14 Q --- oriented. Okay.

15 And would you agree that the record indicates that at  
16 discharge, the patient was instructed to remember to take  
17 your medications as prescribed?

18 A Yes. At home.

19 Q And look with me to the discharge report. Sorry. I  
20 don't know if it's called the discharge report or not.  
21 It's that one. You got that one in front of you?

22 A I do.

23 Q And just so the record's clear, what exhibit is that  
24 indicated on?

25 A Number 15.

1 Q So if you look at Plaintiff's Exhibit Number 15, does  
2 it indicate anywhere on the document where -- what the  
3 patient's injuries were?

4 A Yes.

5 Q Okay. And under discharge diagnoses, does that  
6 indicate various fractures and contusions that the patient  
7 had incurred at the time -- or prior to his discharge?

8 A Yes.

9 Q If we had you come down to the skeleton that we  
10 talked about earlier, would you be able to identify with  
11 this red pen the locations of each one of those fractures  
12 using that record?

13 A The first one I'm not familiar with, but yes, the  
14 rest of them.

15 Q All right. Let's talk about the ones you're familiar  
16 with. If you don't mind, please step down.

17 MR. WHITE: Are you good with that, Your Honor?

18 THE COURT: Okay.

19 BY MR. WHITE:

20 Q And I'd like you to use this red pen and just go  
21 through that list of fractures and do your best to mark  
22 the location of each one of the fractures you know. And  
23 as you're talking about them, I will also highlight them  
24 on this discharge document. So call out which ones you're  
25 going to identify and then identify them with that red pen

1 on the skeleton, please.

2 A Number 3.

3 Q Okay. And that's -- if you don't mind just speaking  
4 up a little bit, Ms. Bouknight. I'm sorry.

5 If you could, please tell us specifically what  
6 Number 3 is.

7 A The left fourth and fifth proximal phalanges  
8 fracture.

9 Q So indicate on the skeleton, please, with that red  
10 pen where those are.

11 A (Witness complies.)

12 Q And are you familiar with any other of the fractures  
13 listed on this document?

14 A Number 4.

15 Q And what's Number 4?

16 A Left posterior rear fracture with pulmonary  
17 contusion.

18 Q Indicate on the skeleton, please, if you don't mind,  
19 where that fracture would be located.

20 A (Witness complies) Posterior is going to be on the  
21 back, but ---

22 Q I think, can we see the back ribs a little bit  
23 through the front?

24 A We can, but it doesn't tell me which rib, so by his  
25 ribs somewhere.

1 Q Okay. Maybe we can just circle in the general  
2 direction of the left ribs.

3 A (Witness complies.)

4 Q There you go.

5 All right. And then do you -- are you familiar with  
6 Number 5?

7 A The lumbar.

8 Q And what -- could you please read the whole type of  
9 fracture that's listed there.

10 A It's the Lumbar 2 through 4 transverse process  
11 fractures.

12 Q All right. Please identify that on the skeleton as  
13 well.

14 A (Witness complies.)

15 Q And are you familiar with the type of fractures  
16 identified on Number 1 or 2?

17 A Not definite.

18 Q So have we identified all of the types of fractures  
19 listed on this document that you, Ms. Bouknight, are  
20 familiar with?

21 A Yes.

22 Q You can have a seat again. Okay. But before you sit  
23 down, Ms. Bouknight, let me ask you one more thing. So  
24 the fracture at the time that Mr. Young came in, if you  
25 would have seen him, you would have understood that he at

1 least had fractures here, here or here (indicating) as  
2 well?

3 A Uh-huh.

4 Q And two of them, you would -- if you were to see this  
5 document, you wouldn't have been familiar what those were,  
6 right?

7 A Not without looking them up.

8 Q Okay. If you don't mind, please just have a seat  
9 again.

10 And is it important for medical providers to complete  
11 -- sorry -- keep complete and accurate records?

12 A Yes.

13 Q And is that important for what's called continuity of  
14 care?

15 A Yes.

16 Q What is continuity of care?

17 A Care that they need to provide help in healing.

18 Q And so when you're taking care of a particular  
19 patient, is it possible that maybe a provider later on may  
20 not be the same provider that saw them initially? Does  
21 that make sense?

22 A In the hospital or within the detention center  
23 setting?

24 Q In the detention center, did y'all have multiple  
25 medical providers?

1 A No. One provider.

2 Q Okay. So you were the only one there?

3 A No. You said medical provider. I'm referring to the  
4 doctor. We only had one doctor. We had multiple nurses.

5 Q I see. Okay. So would it have been possible in the  
6 detention center that if an inmate needed care throughout  
7 the time he was at the detention center, that he would  
8 have seen maybe different nurses each time?

9 A Correct.

10 Q So is that one of the reasons that it's important to  
11 keep complete and accurate records?

12 A Yes.

13 Q Because if you don't keep complete and accurate  
14 records, then somebody who is relying on the record later  
15 on may make some kind of mistake because they don't have  
16 all the correct information, right?

17 A Possibly.

18 Q So is that one of the reasons that keeping complete  
19 and accurate records serves as a safety function when it  
20 comes to providing medical services?

21 A Yes.

22 Q And when you were a nurse at the detention facility,  
23 did you keep records of medical treatment provided to  
24 inmates?

25 A Yes.

1 Q Did you keep I believe what appears to us to be  
2 titled progress notes? Did you keep progress notes?

3 A Yes.

4 Q All right. In those progress notes, would you have  
5 notated anything significant going on with an inmate's  
6 medical condition at the time the inmate was seen?

7 A Yes.

8 MR. WHITE: I'll mark Exhibit 18, please.

9 (WHEREUPON, Plaintiff's Exhibit Number 18 was marked for  
10 identification.)

11 MR. WHITE: Again, this has been stipulated as an  
12 authentic business record, for the record.

13 BY MR. WHITE:

14 Q Ms. Bouknight, I'm going to hand you Exhibit 18. Do  
15 you recognize this document to be the type of progress  
16 notes that would have documented the medical treatment  
17 provided to someone during their detention at the  
18 Greenwood Detention Center?

19 A Yes.

20 MR. WHITE: Your Honor, at this time, we'd ask that  
21 Exhibit 18 be moved into evidence.

22 MR. HARTER: Without objection, Your Honor.

23 THE COURT: Without objection, 18 is in evidence.

24 (WHEREUPON, Plaintiff's Exhibit Number 18 was admitted  
25 into evidence.)

1 BY MR. WHITE:  
2 Q And this was the type of record that we were talking  
3 about earlier that would have contained any significant  
4 medical issues pertaining to an inmate, right?  
5 A Yes.  
6 Q And does there appear to be a note dated August the  
7 16th of 2011 on this progress note?  
8 A Yes.  
9 Q Does this -- this appears to reference a  
10 Ms. Bouknight. Do you see that?  
11 A Yes.  
12 Q Is that you?  
13 A It is.  
14 Q And this indicates that the inmate has multiple  
15 breaks, right?  
16 A Yes.  
17 Q And it indicates that you saw this inmate on your way  
18 out of GCDC, right?  
19 A Yes.  
20 Q So I guess there were times where you would have  
21 obviously been on duty at Greenwood County Detention  
22 Center, and there were times when your duty was over and  
23 you'd go home, right?  
24 A Correct.  
25 Q Okay. So this would have been one of those times

1 where you were on your way out to go home and you see the  
2 inmate on your way out, according to these notes, right?

3 A Correct.

4 Q And the record indicates a neck brace, right?

5 A Correct.

6 Q And it indicates that the inmate was dealing with the  
7 right arm, fingers in cast. Do you see that?

8 A Yes.

9 Q And that he's got multiple cuts and bruises, right?

10 A Yes.

11 Q And it also indicates that he has cracked vertebrae  
12 in his neck and back and a broken pelvis and ribs. Do you  
13 see that?

14 A Yes.

15 Q And then if you read further on, the inmate came in  
16 with 90 Lortab pills, right?

17 A Yes.

18 Q So does this record accurately reflect sort of the  
19 condition that Mr. Young was in as the folks at the  
20 detention center perceived it when he came in at the time?

21 A Correct.

22 Q And does it also accurately indicate that he came to  
23 the detention center with 90 Lortab pills that a doctor  
24 had given him?

25 A That's correct.

1 Q And so the -- we're not dealing with a situation  
2 where there is a prescription for Lortab pills that have  
3 to be filled later. He actually had those Lortab pills in  
4 hand, right?

5 A Correct.

6 Q And obviously, since he can't have those at the  
7 detention center, those would have been taken away from  
8 him at booking, right?

9 A Correct.

10 Q Now flip with me over to the next page on that  
11 document. And is there an entry at 1600 on August the  
12 17th of 2011?

13 A Yes.

14 Q And would that have been the day after Mr. Young was  
15 booked into the detention center?

16 A Yes.

17 Q And it indicates that the family was very upset due  
18 to inmate not receiving meds from the hospital because  
19 meds are narcotics and can't be given. Do you see that?

20 A Yes.

21 Q All right. So do you recall Mr. Young's family  
22 complaining about the fact that he was not being given the  
23 prescription pain medication that he had been given by the  
24 doctor?

25 A Yes.

1 Q Now go on with me to August the 19th, which is a  
2 little further down on the page. Okay. Do you see where  
3 the -- do you see where, on that day, which, I guess just  
4 to get us oriented, that would have been three days after  
5 he was booked into the detention facility, right?

6 A Correct.

7 Q And does it indicate that Mr. Young was getting dizzy  
8 every now and then and wants to go to the hospital for  
9 this? Do you see that?

10 A Yes.

11 Q And it says he can't get comfortable, and so the  
12 doctors said if he gets dizzy, he can come back to the  
13 hospital, because if he falls, it could kill him. Do you  
14 see that?

15 A Yes.

16 Q And in response to this complaint, what is noted that  
17 Mr. Young was told by the staff at the detention center?

18 A Do you want me to read the whole entry?

19 Q Well, let's start with does it say, "Will not send to  
20 ER"?

21 A Yes.

22 Q All right. So the conclusion by the folks at the  
23 detention center in response to the request for additional  
24 medical treatment was that they will not send him out to  
25 the emergency room, right?

1 A Correct.

2 Q Okay. Go with me over to the next page. Do you see  
3 an entry that indicates at I believe it's August 23rd of  
4 2011 it has, "He walked to B Unit desk," and then the next  
5 one says, "C-spine collar in place." Do you see that?

6 A Yes.

7 Q And what is a C-spine collar?

8 A He had a hard collar on for a cervical fracture.

9 Q Is that a -- is that something, you know, that goes  
10 around their neck to keep like a broken neck stable?

11 A Yes.

12 Q All right. If somebody has a broken neck, is that  
13 something that would assist with their recovery?

14 A Yes. But it can also be used for other injuries  
15 besides a broken neck.

16 Q Right. I'm with you there.

17 And the neck collar keeps somebody's neck stabilized  
18 while it's healing, right?

19 A Yes.

20 Q So if the person is given the neck brace but they  
21 don't use it or it's taken away from them or whatever, can  
22 that cause the person increased pain?

23 MR. HARTER: Object.

24 THE COURT: I'm sorry? Did you object?

25 MR. HARTER: If we stop at pain, that's okay.

1 MR. WHITE: That's where we're at.

2 THE COURT: She can answer the question how she wants  
3 to. She's trained.

4 THE WITNESS: Repeat.

5 BY MR. WHITE:

6 Q Yeah. If somebody has a neck collar prescribed and  
7 needs it to keep the neck stabilized, if that is removed  
8 or if it's taken away from them, can that cause the person  
9 increased pain?

10 A It may cause increased pain.

11 Q So if somebody has a broken neck and they're given a  
12 neck brace, that's not something that you would want to  
13 take away from them for a week, right?

14 A No.

15 Q Now do me a favor. The record that we just talked  
16 about referencing the neck brace was dated August 23rd of  
17 2011, right?

18 A Yes.

19 Q And Mr. Young was booked in on August the 16th of  
20 2011, right, according to these notes?

21 A Yes.

22 Q Do me a favor, if you don't mind, and just identify  
23 for the jury anywhere between the 8/16/11 note and the  
24 8/23 note where a C-spine collar is referenced or it's  
25 indicated that it's in place. And you can take all the

1 time you need just to flip through the pages.

2 A (Reviews document) Through which dates?

3 Q August the 16th and August the 23rd.

4 A It's mentioned twice.

5 Q Okay. In the two times that it was mentioned were  
6 when he first came in on August the 16th, right?

7 A Correct.

8 Q And then the next time that it's mentioned is seven  
9 days later on August the 23rd, right?

10 A Correct.

11 Q And so there's no mention or reference to a neck  
12 brace at all or being in place during the days in between,  
13 right?

14 A Correct.

15 MR. WHITE: I don't think I have any additional  
16 questions for you right now, Ms. Bouknight. Thank you  
17 very much.

18 THE COURT: Mr. Harter.

19 MR. HARTER: Thank you, Your Honor.

20 Excuse me just a moment. We're going to introduce  
21 some things. Bear with me a second, Your Honor. We've  
22 put together an exhibit list, and I'm going to go ahead  
23 and introduce these at this time ---

24 THE COURT: Sure.

25 MR. HARTER: --- so we can walk through it more

1 quickly.

2 Your Honor, we put together an exhibit list and  
3 exchanged it prior to trial, and at this point, I would  
4 like to introduce Defendant's Exhibit Number 2, which are  
5 healthcare records from GHS.

6 THE COURT: Without objection then, that will be in  
7 evidence.

8 MR. WHITE: If I can see them just for one second.

9 MR. HARTER: They're the same ones you've got.

10 MR. WHITE: The Defendant's Exhibit 2, you're saying?

11 MR. HARTER: Yes. Yeah. Okay. Sure. It will be --  
12 it will be Number 1 on my list. I think it's already put  
13 in.

14 Exhibit Number 2 is going to be doctors orders. I  
15 mean 3. I'm sorry.

16 4 is patient discharge instructions dated August  
17 2011.

18 MR. WHITE: That's 3 on your list, Rusty?

19 MR. HARTER: Correct.

20 5 is patient discharge information; 6 is appointment  
21 notice; 7 is medical staff screening form; 8 is special  
22 needs inmate report; 9 is admission data and history and  
23 physical form; 10 is complete progress notes, Southern  
24 Health Partners; next is doctors orders, Southern Health  
25 Partners; next is medical administration records; email,

1 Dr. Massey, Sherry Bouknight; email, Dr. Massey, Sherry  
2 Bouknight; incident 12/12 -- 2/12/12 -- February 12, '12;  
3 and then the next is clinical pathways.

4 (WHEREUPON, Defendant's Exhibit Numbers 2 through 16 were  
5 marked for identification.)

6 MR. HARTER: Judge, we would move in premarked  
7 Exhibits 2 through 17 -- 16. I'm sorry. 16.

8 MR. WHITE: I don't think I have any objection, Your  
9 Honor. If I could take like ten seconds to look through  
10 these.

11 THE COURT: Yeah. Go ahead. Go ahead.

12 (Pause in proceedings.)

13 MR. WHITE: I think some of these might already be  
14 in, but I don't have any objection to them, Your Honor.

15 MR. HARTER: There is some duplication, Your Honor,  
16 but not much.

17 THE COURT: Those are in evidence without objection  
18 then.

19 (WHEREUPON, Defendant's Exhibit Numbers 2 through 16 were  
20 admitted into evidence.)

21 MR. HARTER: Right.

22 CROSS EXAMINATION

23 BY MR. HARTER:

24 Q Sherry, how about tell the jury a little bit about  
25 yourself, where you live and where you work.

1 A I'm a nurse at 96 Family Healthcare under Self  
2 Regional.

3 Q You can pull that microphone up so you don't have to  
4 bend over.

5 And you're an LPN; is that right?

6 A Correct.

7 Q Where do you live, Sherry?

8 A Here in Greenwood.

9 Q How long have you lived in Greenwood?

10 A All of my life. 50 years.

11 Q Okay. Tell these folks a little bit about yourself,  
12 your education and your family.

13 A I have two children, three grandchildren, I'm  
14 recently widowed.

15 Q Education?

16 A My education. Sorry. I have an associate's degree  
17 in science and I have a diploma in LPN nursing.

18 Q Okay. And when -- tell the jury a little bit about  
19 how you ended up in nursing and when.

20 A I started out in nursing due to my son. He had some  
21 health problems and didn't really understand what the  
22 doctors were saying or talking to me about, and I decided  
23 that I wanted to try to be one of those that were helping  
24 me understand for the parents.

25 Q And where did you go and when did you get your

1 certificate as an LPN?

2 A I went to Piedmont Technical College, 2003.

3 Q Okay. And after 2003 at Piedmont Tech, of course,  
4 you got a certification; is that right?

5 A Yes. Through the license board.

6 Q Okay. And you had to pass boards for that, right?

7 A Yes.

8 Q Okay. And that's an exam by the nursing board. And  
9 your license, of course, is current?

10 A Yes.

11 Q And you have continuing education ---

12 A Yes.

13 Q --- I'm sure.

14 Okay. And tell us about your work experience. Now,  
15 have you worked in -- where had you worked before you went  
16 to work with Southern Health Partners?

17 A I've worked several places as a contract nurse.

18 Q Okay.

19 A I started out at Solutia as an occupational nurse.  
20 From there I went to cardiology. From cardiology I did  
21 some PRN work at the rehab hospital, and then I went into  
22 teaching.

23 Q Okay. Where?

24 A At Piedmont Tech.

25 Q Okay. You taught there?

1 A Yes.

2 Q What did you teach?

3 A I taught physician care technician and phlebotomy.

4 Q Okay.

5 A And medical assistant.

6 Q Okay. And then how -- now, how did you end up at  
7 Southern Health Partners?

8 A Contract was ending at Piedmont Tech and this  
9 position was available.

10 Q All right. And when did you start with Southern  
11 Health Partners? And tell the jury a little bit about  
12 what you did there.

13 A I'm not certain on the month, but I'm thinking I  
14 started around first of the year in 2011.

15 Q Okay. And tell us a little bit about Southern Health  
16 Partners. Is it a -- it provides -- in your role at  
17 Southern Health Partners at the Greenwood County Detention  
18 Center, tell us how that works.

19 A I was a medical team administrator known as an MTA on  
20 the records. I had several nurses that worked under me.  
21 We provided care within our scope of practice under the  
22 guidelines of Southern Health Partners that were agreed  
23 upon between the teaching center and the Southern Health  
24 Partners.

25 Q Okay. And those guidelines involved -- the staff,

1       rather, involved nurses?

2       A     Yes.

3       Q     As well as a staff position.

4       A     Yes.

5       Q     And in this case, the staff position was Dr. Tami  
6       Massey?

7       A     Correct.

8       Q     Okay. Now, were you -- at Southern Health Partners,  
9       what did your scope of responsibility include at the  
10      detention center?

11      A     We provided care as our guidelines were given to us  
12      by Southern Health Partners.

13      Q     Did you have established protocols and standing  
14      physician orders that you followed?

15      A     Yes, we did.

16      Q     Did you have a formulary that was used with respect  
17      to medications that were used?

18      A     Yes, we did.

19      Q     Okay. And when you worked at Southern Health  
20      Partners at the detention center, did you -- were you on  
21      site? Were you in the building?

22      A     Yes.

23      Q     Was there a medical department there?

24      A     Yes. We had a medical office.

25      Q     Okay. And did you coordinate with inmates with

1 regard to their medical needs? How did that work? Did  
2 they make requests when you see them? How did that work?

3 A We had an initial intake for them, and then after  
4 that, they were not seen unless they put in a sick  
5 call ---

6 Q Okay.

7 A --- to be seen.

8 Q So every inmate well, sick, no matter who they are,  
9 had an initial intake.

10 A Correct.

11 Q Medical intake.

12 A Correct.

13 Q But then if they had any medical needs as they were  
14 there, then they would be addressed as needed with a sick  
15 call request.

16 A Correct.

17 Q Okay. Now, what was the availability of Dr. Massey?  
18 How did that work?

19 A I'm trying to remember, but I think she was there two  
20 days a week ---

21 Q Okay.

22 A --- two mornings a week.

23 Q And was she available by phone or email or she's on  
24 call?

25 A Yes. At all times. Yes.

1 Q Okay. And in terms of the nursing staff, now, what  
2 hours were y'all there?

3 A 7 a.m. to 7 p.m.

4 Q Okay. Now, was there a medical unit or a medical  
5 department there?

6 A Yes. There was an office.

7 Q Okay. And was there any particular area of the jail  
8 or detention center where any special-need inmates were  
9 housed?

10 A Yes.

11 Q Okay. And tell us about that. How did that work?

12 A If I'm remembering, again, correctly, there were --  
13 there was a special-needs unit in booking. There were  
14 special-needs units -- the special needs in B Unit. And  
15 I'm not remembering about the other units.

16 Q Now, Sherry, did -- as part of your responsibility at  
17 Southern Health Partners, did y'all screen inmates when  
18 they came into the detention center if they had any  
19 special needs or if you were needed?

20 A We had ---

21 Q If you were called to the booking area, would you  
22 screen an inmate there?

23 A Yes.

24 Q Okay.

25 A Yes.

1 Q And did you also coordinate making appointments for  
2 outside consults with any inmates that had follow-up needs  
3 or things like that?

4 A Yes, we did.

5 Q You would schedule that?

6 A I would.

7 Q Okay. Now, in terms of medication for inmates, how  
8 were the medications handled?

9 A If they were on the approved list, they were given  
10 twice a day. We had med pass twice a day.

11 Q Okay. And when you say "med pass" and when you say  
12 "approved list," those would be medications that were  
13 approved by protocol of Southern Health Partners for a  
14 formulary and Dr. Massey; is that right?

15 A Correct.

16 Q Okay. And when medications -- where were the  
17 medications kept?

18 A In a locked cart in medical.

19 Q And who accessed those medications?

20 A Only nurses.

21 Q Okay.

22 A And the doc.

23 Q And when it came time to hand out medications, did  
24 you or some nurse hand out medications directly to  
25 inmates?

1 A Yes.

2 Q Okay. And throughout your work at Southern Health  
3 Partners and at the detention center, you handled  
4 different kinds of medications for inmate needs; is that  
5 right?

6 A Yes.

7 Q Okay. Some inmates might have a blood pressure issue  
8 and be on a blood pressure medicine. Y'all have that?

9 A Yes, we did.

10 Q Okay. That would be a prescription medication, of  
11 course.

12 A Correct.

13 Q Somebody may be diabetic and have -- need insulin,  
14 and y'all would be responsible for handling that.

15 A Yes.

16 Q Okay. And when you gave out medications, did you use  
17 a form, an MAR form to hand out medications and document  
18 what medications were given and when those medications  
19 were given?

20 A Yes, we did.

21 Q Okay. Now, Sherry, let me ask you this. In terms of  
22 Tony Young, you know we're here about Mr. Young's case,  
23 and you have had access to various parts of the medical  
24 chart; is that right?

25 A Yes.

1 Q Okay. And in Mr. Young's case, I want to ask you,  
2 based on your training and experience, do you believe that  
3 while Mr. Young was at the Greenwood County Detention  
4 Center, that he got appropriate medical care?

5 A Yes.

6 Q Were you directly hands-on involved in his medical  
7 care?

8 A Yes, I was.

9 Q Okay. Now, let me ask you a couple of questions now.  
10 In terms of the initial booking when Mr. Young was brought  
11 to the detention center, are you aware that he had some  
12 medical issues?

13 A Yes, I was.

14 Q Okay. And, now, let's talk about Plaintiff's Exhibit  
15 Number 15. And this exhibit indicates that Mr. Young had,  
16 and I think we talked about this, a couple of fractures.  
17 And according to this admission and discharge, now, we see  
18 he was -- he was admitted to GHS on August the 10th, and  
19 this discharge was written up on August the 15th; is that  
20 right?

21 A Yes.

22 Q Okay. And these were the discharge diagnoses, right?

23 A I can't really see that.

24 Q Oh, I'm sorry. I apologize. I've got the exhibit in  
25 front of me.

1           These were the discharge diagnoses that he had:  
2           pubic ramus nondisplaced fracture, left fourth proximal  
3           phalangeal fracture, left posterior rib fractures with  
4           pulmonary conditions, lumbar 2/3 transverse process.

5           A     Yes.

6           Q     You were asked about those, right?

7           A     Yes.

8           Q     Okay. Now, when Mr. Young was discharged, would you  
9           have been made aware of those findings?

10          A     Yes. Upon receiving that paperwork.

11          Q     Okay. Now, his discharge instructions indicated that  
12          he was being discharged with follow-up to orthopedic and  
13          follow-up to Dr. Kanos; is that right?

14          A     Yes.

15          Q     Okay. Now, when Mr. Young was brought to the  
16          detention center -- and I think you said you identified on  
17          this drawing over here some fractures; is that right?

18          A     Yes.

19          Q     Okay. Now, there's apparently a fracture to the  
20          fingers, and those are the bones of the finger; is that  
21          right?

22          A     Yes.

23          Q     There was noted some rib fracture. You don't know  
24          how many those were or what those were, right?

25          A     Correct.

1 Q And there was note of a lumbar fracture; is that  
2 right?

3 A Correct.

4 Q And there was a note of a cervical fracture; is that  
5 right?

6 A Yes.

7 Q Okay. Now -- well, let me correct that. Is there a  
8 -- now, let me ask you this. In terms of when Mr. Young  
9 presented to the detention center, he was on a walker,  
10 right?

11 A Correct.

12 Q Okay. He had some type of cast on his hand; is that  
13 right?

14 A Correct.

15 Q And he had a collar on his neck; is that right?

16 A Correct.

17 Q All right. Now, did he have any kind of back brace  
18 at the time?

19 A No, he did not.

20 Q Okay. From reviewing these records or this hospital  
21 record, did it appear to you that Mr. Young had had any  
22 type of surgery at all?

23 A Not to my recollection.

24 Q Okay. Now, Sherry, I want to ask if you can look at  
25 Exhibit Number 5, okay? Okay?

1 A Yes.

2 Q Now, Exhibit Number 5 says he is discharged and he is  
3 discharged home; is that correct?

4 A Yes.

5 Q And it refers to some follow-up appointments with  
6 orthopedic; is that right?

7 A Yes.

8 Q All right. And it refers to follow-up with neuro; is  
9 that right? Or Dr. Kanos?

10 A Dr. Kanos, yes.

11 Q Okay. Now, this discharge instruction was written up  
12 by the hospital; is that right?

13 A Yes, it was.

14 Q Okay. And if I look over here on the last page, it  
15 is signed by an RN at the hospital, and it is signed by  
16 Tony Young himself on August 16th.

17 A Yes.

18 Q Okay. Now, I want to make sure, this discharge  
19 instruction does not say that he is to be sent to any  
20 rehab facility.

21 A No.

22 Q It does not say that he is to be sent to a nursing  
23 home.

24 A No.

25 Q It does not order any home health care.

1 A No.

2 Q It just says he is to have follow-up with orthopedics  
3 and neurology -- I mean and neurosurgery, right?

4 A Correct.

5 Q Okay. And he has limitations with weight-bearing; is  
6 that right?

7 A Correct.

8 Q Okay. Do these discharge instructions, discharge  
9 information make reference to any dental issue?

10 A No.

11 Q Okay. All right. Now, Sherry, I want you to look at  
12 the patient discharge instructions that is Exhibit  
13 Number 4. And am I right that this says that the  
14 discharge time is at 1530 on August the 16th? Down at the  
15 bottom, does it say August, 3 p.m.?

16 A Yes. It's discharge at the top, 1530.

17 Q All right. And the discharge, we believe other  
18 records, don't they show he was discharged on August the  
19 16th?

20 A Yes.

21 Q Now, sometimes these discharge instructions are  
22 written the day before because the patient is going to be  
23 discharged the next day, right?

24 A Correct.

25 Q Okay. And on this discharge note, it mentions keep

1 C-spine in place for three months for neurosurgery to  
2 follow up then in two to three weeks; is that right?

3 A Correct.

4 Q Okay. And level of activity, it says "other," and he  
5 has limitations. But he is not bedridden; is that right?

6 A No, he's not.

7 Q Okay. Now, Sherry, look at another exhibit, which is  
8 Exhibit Number 3. And I want to just confirm with you  
9 that there were certain medications that he had that were  
10 discontinued by doctors orders on August the 16th; is that  
11 right?

12 A Correct.

13 Q Okay. And when it has this note out to the side that  
14 says "DC," that means they're discontinued, right?

15 A Correct.

16 Q And then the date and time is 8/15 at 3:30; is that  
17 right?

18 A That is correct.

19 Q Okay. And it is signed by some physician; is that  
20 right?

21 A Yes.

22 Q Okay. Now, I want to jump over now, Sherry, to your  
23 first involvement with Mr. Young. And if you will, tell  
24 us how and when you first had any connection with  
25 Mr. Young.

1 A Officers called me by radio to come to booking.

2 Q Okay. And I'm looking at Defendant's Exhibit  
3 Number 1, and it indicates that this is a Southern Health  
4 Partners form; is that right?

5 A That's correct.

6 Q And this form has certain questions on it, and at the  
7 bottom, I believe that there's a signature of Beverly  
8 Weaver and Mr. Young; is that right?

9 A Yes. It appears to be.

10 Q Okay. Now, in the middle of that note, can you read  
11 to us what you wrote?

12 A Can I have a copy of it?

13 Q Oh, I'm sorry. That might help. I apologize again.  
14 Read what that note says that you wrote.

15 A "Inmate started on ibuprofen instead of Lortab BID."

16 Q Okay. And was that note written that day?

17 A Yes.

18 Q Okay. On August the 16th?

19 A Correct.

20 Q And how do we know that to be the case?

21 A Because I was called to booking, and he was presented  
22 with Lortab. And that's ---

23 Q And you remember seeing him and talking to him there  
24 that day?

25 A Yes.

1 Q Okay. Now I want to ask you if you will look at  
2 Defendant's Exhibit Number 3. And I want to walk through  
3 this with you, Sherry. This is a note -- this is a  
4 progress note; is that right?

5 A That is correct.

6 Q And this is your writing; is that correct?

7 A Part of this is.

8 Q The encounter of the 16th is your writing; is that  
9 right?

10 A Yes.

11 Q Okay. And I want to make sure we read the whole  
12 thing. "Inmate was brought in this afternoon at  
13 approximately 1645. Nurse Bouknight went to medical  
14 booking on her way out of GCDC to observe, clear inmate  
15 for booking. Inmate has multiple breaks, neck brace,  
16 right arm, fingers in cast, multiple cuts and bruises.  
17 Inmate states he has cracked vertebra in his neck, back  
18 and broken pelvis and ribs. Inmate came in with Lortab  
19 for pain, 90, and Officer Tut [phonetic] made -- took into  
20 properly due to inmate not being allowed to have  
21 narcotics." Did I kind of get that close?

22 A Yes.

23 Q Okay. And then it says, "Nurse Bouknight made aware  
24 that when here at GCDC, he would only receive Advil,  
25 200 milligrams times three, or naproxen, 500 milligrams

1 BID"; is that right?

2 A Correct.

3 Q "Naproxen was placed on pharmacy order to be placed  
4 on 8/17/11. Inmate states that he understood the booking  
5 process, was completed by Officer Tut, Sergeant Manley.  
6 Nurse McMahan will give inmate Advil tonight for pain, and  
7 he will receive on 8/17 until naproxen arrives from  
8 pharmacy. Inmate will be placed on medical watch and will  
9 receive an additional mat"; is that right?

10 A Correct.

11 Q So in that encounter, you took time to look at him to  
12 discuss his care with him and to let him know what was  
13 going to happen in terms of his medications; is that  
14 right?

15 A That's correct.

16 Q Okay. And you explained that to him; is that right?

17 A Yes, I did.

18 Q And you left instructions to make sure he got that  
19 medication that night.

20 A Yes.

21 Q Is that right? Okay.

22 Now, there's another encounter later that same day at  
23 1800 hours; is that right?

24 A Yes.

25 Q And it says, "Nurse McMahan gave inmate ibuprofen,

1 200 times three, while holding his water. Inmate placed  
2 ibuprofen in mouth, and nurse handed him his water. No  
3 further comments."

4 So he clearly got medication that night; is that  
5 correct?

6 A Yes.

7 Q Okay. Now, if we move over to the 17th, this is  
8 another medical encounter on the 17th with who? With you?

9 A Yes.

10 Q Okay. And you asked him at 9:00 on the 17th if there  
11 was anything else that he needed, and he said no; is that  
12 right?

13 A That's correct.

14 Q Okay. He was not in a wheelchair; is that right?

15 A That's correct.

16 Q Okay. And he walked with a walker; is that right?

17 A That's correct.

18 Q Okay. Now, you were asked a few minutes ago about  
19 the next injury on -- at 1600 on August the 17th. And,  
20 again, Sherry, is this your note? Is this your entry?

21 A Yes.

22 Q Okay. And I think it says, "Nurse called to  
23 courtroom to meet with inmate's family. Family was very  
24 upset due to inmate not receiving meds from hospital. DC  
25 meds are narcotics and can't be given."

1           And this is what I don't think you were asked before.  
2           You explained that a substitute had been ordered to be  
3           received 8/18; is that right?

4           A     That's correct.

5           Q     "Family was concerned with sleeping situation,  
6           explained will add an additional mat and will monitor  
7           daily."

8           Okay. Now, let me make sure I understand this --  
9           this note. This is a note that you were called to the  
10          courtroom; is that right?

11          A     Correct.

12          Q     And that would have been at Mr. Young's bond hearing;  
13          is that right?

14          A     The courtroom at the detention center.

15          Q     At the detention center.

16          A     Yes.

17          Q     And he's in the courtroom with his family; is that  
18          right?

19          A     That is correct.

20          Q     And you're explaining that to them, right?

21          A     Yes.

22          Q     Okay. Now, during that conversation, it looks like  
23          and it sounds like the subject was what about this  
24          medication, what about this Lortab; is that right?

25          A     Yes.

1 Q Okay. Now, I didn't see any mention in that note  
2 where anybody or Mr. Young complained that he did not have  
3 the cervical collar on. Did you?

4 A No.

5 Q Okay. And his family was there. You talked to them,  
6 and you were there.

7 A Yes.

8 Q Okay. And did you go down there, Sherry, just so you  
9 could make sure they understood what the situation was?

10 A Yes.

11 Q Okay. And tell us, now, the medication that he was  
12 given as a substitute and that he was actually given right  
13 away, that is ibuprofen, 200 milligrams times three.

14 A Yes.

15 Q Now, is that given twice a day or once a day?

16 A Twice a day.

17 Q Okay. So it's 200 milligrams times three in the  
18 morning?

19 A Yes.

20 Q And it's 200 milligrams times three at night?

21 A Correct.

22 Q Okay. Now, tell the jury, what do you understand  
23 that narcotic medication such as something like Lortab  
24 might be a problem substance if it's floating around in  
25 the jail.

1 A Yes. It's a controlled substance, and if it's not  
2 swallowed, it can be used as leverage in the jail with  
3 other inmates.

4 Q So it can be put in -- an inmate can have it in their  
5 mouth, right?

6 A Correct.

7 Q And not actually swallow it.

8 A Correct.

9 Q And then there's concern that it might be used to  
10 barter somehow in the jail?

11 A That's correct.

12 Q Is there a legitimate concern therefore because it is  
13 a narcotic medication?

14 A That is correct.

15 Q Does it have some addictive component to it?

16 A It does.

17 Q Okay. Did you feel that this substitute medication  
18 that Mr. Young was given was an appropriate substitute and  
19 a reasonable substitute for the Lortab?

20 A Yes.

21 Q Is that a pretty healthy dose of ibuprofen?

22 A Yes.

23 Q Okay. Now, you were asked about Mr. Young's  
24 injuries, and I think he had some road rash, he had an  
25 issue with his neck, he had something on his arm, and he

1 also had some rib or lumbar fractures.

2 A Yes.

3 Q But he was not -- he did not have any surgery, he did  
4 not have any pins, he didn't have any surgical sites or  
5 anything like that.

6 A No.

7 Q And he didn't have on any kind of brace for this ---

8 A No.

9 Q --- back issue; is that right?

10 A That's correct.

11 Q Okay. Nondisplaced fracture means it's a fracture  
12 but it's still in place. It doesn't require any reduction  
13 or any -- right?

14 A Correct.

15 Q These fractures that he had were basically kind of  
16 treated with making things immobile, right?

17 A That's correct.

18 Q Now, there were some also notes in here that he had,  
19 and you were referred to this note that said -- all right,  
20 "Inmate has no open sores, all scabs over." And that's a  
21 good sign, isn't it?

22 A Yes.

23 Q Scab is God's Band-Aid, his healing, right?

24 A Correct.

25 Q Okay. And it says on 8/19/2011, "Gets dizzy every

1 now and then and wants to go to hospital for this. He  
2 says can't get comfortable. doctor said if he acts dizzy,  
3 to come back to hospital because if he falls, it could  
4 kill him. Will not send out to ER. Blood pressure within  
5 normal limits. Advised to change positions slowly."

6 Now, his blood -- in response to that dizziness  
7 complaints, that was what he wanted to go to the hospital  
8 for, right?

9 A Correct.

10 Q And in response to that dizziness complaint, his  
11 blood pressure was taken, right?

12 A That's correct.

13 Q And then he was cautioned when you get up, sit up and  
14 just stand up slowly, don't just pop up, right?

15 A That's correct.

16 Q Okay. And he was told that, right?

17 A Yes.

18 Q Okay. And then the next day, the next day it says,  
19 on the 21st, the next morning at 7:15, "Inmate took meds  
20 without difficulty. He voiced no complaints of pain or  
21 discomfort." And then on the 21st, the document --  
22 documentation is that he had no dizziness reported; is  
23 that right?

24 A That's correct.

25 Q Okay. So this dizziness complaint was resolved the

1 next day.

2 A Yes.

3 Q Okay. Now, there are some other notes where on the  
4 20th he accepted his meds without difficulty but stated  
5 that this medication was not helping him; is that right?

6 A That's correct.

7 Q Now, the type of injuries that this man had with  
8 these nondisplaced fractures and some sore ribs, would  
9 those be the type of injuries that naturally in and of  
10 themselves would be painful irrespective of medication,  
11 irrespective of what kind of care you got? You've got  
12 injuries that you're recovering from, and they're going to  
13 be painful, right?

14 A Yes.

15 Q Let's look at the note. It looks like there was a  
16 medical encounter on the 22nd of August and a medical  
17 encounter on the 23rd of August. And actually, there were  
18 two medical encounters on the 23rd; is that right?

19 A That's correct.

20 Q Okay. Now, you were asked by Mr. White about these  
21 medical encounters. And I think you said inmate walked --  
22 it reads, "Inmate walked to B Unit desk for med pass,  
23 C-spine collar in place, cast on arm." And what does  
24 that ---

25 A With detached.

1 Q "With detached cast on left pinky"?

2 A Correct.

3 Q And saying, "Inmate's wounds on arms and face heal  
4 well, scabs and no infection noted"; is that right?

5 A That's correct.

6 Q Okay. Now, this review that you did on August the  
7 23rd, and you were asked whether there was any reference  
8 to his C-collar being in place before this, okay? Now let  
9 me make sure I understand, this is seven days after he is  
10 -- has been booked.

11 A Yes.

12 Q And in any of these earlier medical encounters, he  
13 was asked about pain. He noted some pain. He noted some  
14 difficulty. In any of these medical encounters between  
15 the 16th of August and the 23rd of August, was there any  
16 note in there that you saw where he complained that he did  
17 not have his C-collar?

18 A No.

19 Q Now -- and would it be fair to say -- well, let's  
20 look at the 23rd, the bottom half of that note. Now, that  
21 note is on the 23rd, and that note is signed by  
22 Dr. Massey; is that right?

23 A That's correct.

24 Q Okay. So, Sherry, would that have been a medical  
25 encounter where you did a head-to-toe review of systems

1 with Mr. Young and where Dr. Massey also was in there and  
2 reviewed him from head to toe?

3 A Yes, she did.

4 Q Okay. And I'm going to run on through these now. It  
5 looks like August the 24th, 2011 there was another medical  
6 encounter; is that right?

7 A That's correct.

8 Q And then some more progress notes August the 26th,  
9 and then there's mention of changing the dressing; is that  
10 right?

11 A That's correct.

12 Q Okay. August the 27th he was seen again by somebody  
13 from the medical department; is that right?

14 A That's correct.

15 Q August the 29th, right?

16 A That's correct.

17 Q And now on September the 2nd, it looks like he was  
18 sent out to the orthopedic center; is that right?

19 A That's correct.

20 Q Okay. September 20th, he was placed on the list to  
21 see the doctor; is that right?

22 A That's correct.

23 Q And then on the 4th of October, there's a note that  
24 Mr. Young -- or you observed him trip and fall over  
25 another inmate's walker; is that right?

1 A That's correct.

2 Q Okay. And he had a scrape on his left knee that you  
3 addressed; is that right?

4 A That's correct.

5 Q Okay. And then, Sherry, on October the 4th, he  
6 complained of burning pain in his neck and into his  
7 shoulders, worse when he was lying down, and that he has  
8 been seen by the orthopedic clinic, and he has an  
9 appointment with the neck spine; is that right?

10 A That's correct.

11 Q And it says, "Will try to move appointment sooner";  
12 is that right? That's Dr. Massey's note.

13 A That's Dr. Massey.

14 Q Okay. And now, there's continued progress notes  
15 which go November of 2018 [sic]; is that right?

16 A That's correct.

17 Q And there's some mention about his teeth; is that  
18 right? Correct?

19 A I'm trying to follow you.

20 Q November 8th. Something about his teeth?

21 A Yes.

22 Q Okay. Do you remember there being any instruction  
23 from the hospital about anything having to do with his  
24 teeth or any need for a dental referral?

25 A No.

1 Q Okay. And then there's another medical encounter on  
2 December the 5th, Another medical encounter it looks like  
3 on December the 22nd; is that right?

4 A That's correct.

5 Q Okay. And then on January the 10th, there was  
6 approval for a tooth to be extracted; is that right?

7 A That's correct.

8 Q And then there's another note on February it looks  
9 like 4th and February 6th; is that right?

10 A That's correct.

11 Q And on February the 6th of 2012, he complains about  
12 his knee hurting, and then he also makes a complaint about  
13 gout; is that right?

14 A That's correct.

15 Q Okay. Did you address that concern as well?

16 A I did.

17 Q Okay. And I'm going to go ahead and keep skipping  
18 over now. These medical encounters go into February 21st  
19 of 2012; is that right? Keep going. Keep flipping.

20 A Yes.

21 Q February 21, 2012. I'm trying to move on with it,  
22 okay?

23 THE COURT: And just under the heading, I need to  
24 break at 12:30 because I've got a meeting at that point in  
25 time.

1 MR. HARTER: Okay.

2 THE COURT: But we'll -- I know she'll need to be --  
3 you'll need to come back, I'm sorry, after lunch. But go  
4 ahead.

5 MR. HARTER: I'll get to a stopping point really,  
6 really soon.

7 THE COURT: No. You're good. That's why I was  
8 letting you know.

9 MR. HARTER: In fact, I'll try to finish by ten.

10 BY MR. HARTER:

11 Q And then there's -- on February 21, there's this  
12 reference about gout; is that right?

13 A Yes.

14 Q Okay. February 22, 29 more medical encounters, and  
15 March 2012 more medical encounters; is that right?

16 A Yes.

17 Q Now, let me ask you one question about this gout  
18 issue. Did you receive a call from some family member  
19 indicating that there was a problem with his gout and he  
20 needed some medication? Did y'all address that?

21 A Is this the ---

22 Q Yeah.

23 A Yeah.

24 Q Okay. All right. Now, and I want to -- I'm going to  
25 stop right now in a second and deal -- and let the judge

1 excuse us, but I do want to ask one other -- a couple more  
2 follow-up questions. Sherry, can you look at the ---

3 MR. HARTER: I'm getting there, Judge. I promise.

4 THE COURT: You're good.

5 MR. HARTER: I promise, I promise, I promise I'm  
6 getting there.

7 BY MR. HARTER:

8 Q Okay. I apologize. Number 2, let's look at  
9 Number 2. Exhibit Number 2, and I want to ask you if you  
10 can confirm for me what we have here. This looks like a  
11 progress note or office note dated September 2, 2011; is  
12 that right?

13 A That's right.

14 Q And this is with Greenville Health System.

15 A Yes.

16 Q And it's a Dr. John Tanksley; is that right?

17 A That's correct.

18 Q Okay. And in this note, it makes reference to cast  
19 removal, left arm; is that right?

20 A I'm catching up. Yes.

21 Q And it makes reference to -- in past medical history,  
22 it makes reference to his fracture, and he says, "No  
23 complaints"; is that right?

24 A That's right.

25 Q And then this documentation also continues over to

1 the next page. And it says, "Left-hand cast with sharp  
2 edges, visibly no skin compromised, small and ring fingers  
3 taped together, full range of motion, normal sensation";  
4 is that right?

5 A Yes.

6 Q And that note is signed off; is that right?

7 A That is.

8 Q Now, it also, on the next page, it says, "Follow-up  
9 three weeks, remove left-hand cast today, replace with  
10 cock-up splint," right?

11 A Yes.

12 Q "Follow-up three weeks," right?

13 A Yes, yes.

14 Q And let's look at the next note, which is  
15 September 23, 2011. It is from the same provider,  
16 Dr. Tanksley; is that right?

17 A Yes.

18 Q And it says, "Weight bearing is tolerated, may remove  
19 cock splint, no further follow-up needed." And then down  
20 here it says, "Follow-up, none needed"; is that right?

21 A That's right.

22 Q And so this is Dr. Tanksley who was with the  
23 Orthopedic Clinic at Greenville, and he determines that  
24 Mr. Young, on September the 23rd, needs no follow-up from  
25 this accident which happened on October 10th; is that

1 right?

2 A That's correct.

3 Q Okay. And move quickly to the next note, which is  
4 from, again, University Medical Group. This is the  
5 Greenville -- excuse me -- the Southeastern Neurosurgery  
6 and Spine Institute. That note is dated October 31, 2011;  
7 is that right?

8 A That's right.

9 Q Okay. And in connection with that note, Dr. -- it's  
10 a Dr. Kanos who was treating him at that time, correct?

11 A Correct.

12 Q I'm sorry. I apologize. And Dr. Kanos notes in  
13 terms of follow-up, PRN; is that right?

14 A That's correct.

15 Q He doesn't indicate there needs to be any follow-up;  
16 is that right?

17 A That's correct.

18 Q He says, "In treatment, 43-year-old man was involved  
19 in MVA 10/11. He has a chip off the tip of his  
20 (inaudible). X-ray shows no subluxation. I'm going to  
21 remove the C-collar. He has thoracic fractures. He can  
22 follow up as needed"; is that right?

23 A That's correct.

24 Q There was no further follow-up ordered or requested  
25 by Dr. Kanos at that time; is that right?

1 A That's correct.

2 Q Okay. And this was October 31, 2011, after his  
3 accident on August 10, 2011, right?

4 A Correct.

5 MR. HARTER: Okay. Sherry, we're going to have to  
6 take a break, and do not to talk to anybody while we're  
7 off, okay?

8 THE COURT: All right. Ladies and gentlemen,  
9 normally we'd break around 1:00. I do have a lunch  
10 meeting today that I've got to go to, so we're going to  
11 take an earlier break than usual.

12 If you could, be back in the jury room, please, let's  
13 say about quarter till 2:00. That should give you about  
14 an hour and 15 minutes to grab a bite to eat, okay?

15 Don't discuss the case, and be back on the record as  
16 soon as possible. You're excused to lunch. Quarter till  
17 2:00. Thanks.

18 Ma'am, you can step down. Be careful when you step  
19 down, and I'll see you back then, too. Okay?

20 THE WITNESS: Okay.

21 THE COURT: Don't talk to anybody about your  
22 testimony, of course.

23 THE WITNESS: Okay.

24 (WHEREUPON, a recess is taken.)

25 THE COURT: We'll go back on the record. And let us

1 have the jury.

2 (WHEREUPON, the jury entered the courtroom.)

3 THE COURT: Ladies and gentlemen of the jury,  
4 welcome back. We're continuing with the testimony of  
5 Ms. Bouknight.

6 So at this point, Mr. Harter, you may continue, sir.

7 MR. HARTER: Thank you, Your Honor.

8 BY MR. HARTER:

9 Q Sherry, I think when we broke for lunch, we had  
10 discussed the dates upon which Mr. Young had been  
11 discharged by the specialist he had seen in Greenville,  
12 South Carolina; is that right?

13 A Yes.

14 Q Okay. And I believe timeline-wise, his accident  
15 occurred on August 10th, and that he was in the hospital  
16 from August 10th to August the 16th, that he was booked at  
17 the detention center on August 16th, and that he has an  
18 orthopedic -- final orthopedic consult on September 23rd  
19 when he was discharged from orthopedics, and then he had a  
20 final neurosurgeon consult on October 31st when he was  
21 discharged by Dr. Kanos, right?

22 A Correct.

23 Q All right. And then April 10, 2012, I believe, is  
24 the date upon which Mr. Young was transferred to the South  
25 Carolina Department of Corrections, okay?

1           Now, let me ask you, we covered a lot of the  
2 encounters during that time that Mr. Young was at the  
3 detention center. You were involved in several of those  
4 encounters which you told the jury about, okay? I want to  
5 just cover one other thing, too, if you don't mind. I  
6 want to ask you to look at Defendant's Exhibit Number 9.  
7 I'm going to need some help here. Thank you.

8           Okay. Defendant's Exhibit Number 9 is a form from  
9 admission and data history and physical form of Southern  
10 Health Partners; is that correct?

11         A     Yes.

12         Q     Okay. And this form, it says, "Exam day 8/28/2011";  
13 is that right?

14         A     That's correct.

15         Q     Okay. And now, this is a form that is completed by a  
16 nurse, a Southern Health Partners nurse; is that right?

17         A     That's correct.

18         Q     And it looks like a medical history is taken, and it  
19 also looks like there is a mental health evaluation done;  
20 is that right?

21         A     That's correct.

22         Q     The bottom of that page. Okay.

23                 And now I'm going to flip over to the next page. And  
24 the next page continues, and it says, "Medical history,  
25 physical assessment." And this is a detailed review of

1 systems by the nurse; is that correct?

2 A That's correct.

3 Q Okay. And then I think in the middle of the page,  
4 there is further discussion about the exam itself; is that  
5 right?

6 A That's correct.

7 Q Okay. And I want to just draw your attention to the  
8 section which says "neck," okay? Do you see that section?

9 A I do.

10 Q And it says "veins," and then it skips down and it  
11 talks about the thyroid, the carotids and then the lymph  
12 nodes; is that right?

13 A That's correct.

14 Q So that is an assessment the nurse is doing about the  
15 carotids and about the lymph nodes and the thyroid and the  
16 veins in the neck; is that right?

17 A That's correct.

18 Q Okay. Now, out to the side where it says "mobility,"  
19 there is a 0/neck brace. Will you tell the jury what that  
20 means to you?

21 A He had limited to no mobility due to a neck brace  
22 being in place.

23 Q Okay. It doesn't mean the neck brace was not there.  
24 It means that mobility of the neck was limited ---

25 A Correct.

1 Q --- because of the neck brace.

2 A Correct.

3 Q Okay. And I know this is on -- this assessment is on  
4 it looks like 8/28/2011?

5 A That's correct.

6 Q Okay. And this would clearly be some probably  
7 12 days after Mr. Young was booked at the detention  
8 center, right?

9 A Correct.

10 Q Okay. All right. Thank you.

11 Now, Sherry, let me ask you this. There is a part of  
12 the medical chart that is referred to as the medication  
13 administration records, okay?

14 A Correct.

15 Q And I want to ask you if you'll look at what is  
16 Exhibit 12.

17 A (Witness complies.)

18 Q Okay. And I want to ask you, is that a medication  
19 administration record that relates to the time when  
20 Mr. Young was detained at the Greenwood County Detention  
21 Center?

22 A Yes.

23 Q All right. Now, I'm going to apologize for the  
24 quality of the print, but I want to now ask you, these  
25 medication administration records are -- this is a record

1 that you maintain on every inmate that gets medication; is  
2 that right?

3 A That's correct.

4 Q Okay. And across the top of the page, there are --  
5 in those black boxes, there are numbers there; is that  
6 correct?

7 A That's correct.

8 Q And they run from 1 to 31; is that right?

9 A That's correct.

10 Q Okay. Now, those numbers as they roll horizontally,  
11 do those represent days of the month?

12 A Yes, they do.

13 Q And is there a page of MAR, medical administration  
14 records, for each month? I mean, the page is for a month.

15 A Oh, yes.

16 Q That's what I'm talking about.

17 A Yes.

18 Q The page covers a month.

19 A That's correct.

20 Q All right. And each of the little boxes is symbolic  
21 of what was done or given or not given during that day of  
22 each month; is that right?

23 A That's correct.

24 Q Okay. Now, in the left column here, there is an A  
25 and a P; is that right?

1 A That's correct.

2 Q And does that represent a.m. and p.m.?

3 A That's correct.

4 Q Okay. And then in the far left column is the name of  
5 some medication; is that right?

6 A That's correct.

7 Q Okay. So in interpreting these medication  
8 administration records for each month, we can look across  
9 the top to see what day of the month something occurred,  
10 we can look at the A and P box and determine whether or  
11 not it was an a.m. med or a p.m. med, and then in the left  
12 column we see what the medication is.

13 A That's correct.

14 Q Okay. Now -- and Sherry, if you don't mind, just  
15 step down here and look at what I'm looking at here. And  
16 you can just stand right there and look at what I'm  
17 looking at. And look at the exhibit if you need to. But  
18 I want to ask you, now, on this MAR, I see reference to  
19 naproxen; is that right?

20 A That's right.

21 Q I see reference to BU, and I assume that's ibuprofen?

22 A The I is ---

23 Q Is that right?

24 A Uh-huh.

25 Q Speak up for us now.

1 A Yes. It stands for ibuprofen.

2 Q Okay. And then there is another medication. What is  
3 that from? Can you tell?

4 A I can't tell.

5 Q Red dot?

6 A Loratadine.

7 Q And then naproxen.

8 A Correct.

9 Q Okay. Now, I want to ask you, does naproxen and  
10 ibuprofen, do they have -- are those medications that were  
11 substituted for Lortab in the case of Mr. Young?

12 A Yes.

13 Q And those were medications that came off of the  
14 formulary of the Southern Health Partners?

15 A Correct.

16 Q Okay. And do the naproxen and ibuprofen in these  
17 doses have pain-relieving components to them?

18 A Yes.

19 Q Okay. And this medication administration record that  
20 we're looking at on the screen right now shows that I  
21 believe medication was started on the 16th of August. And  
22 if you need to look at the exhibit, okay?

23 A Which medicine are you referring to?

24 Q The naproxen -- or ibuprofen, rather. Sorry.

25 A Yes. It was started on the 16th.

1 Q Okay. It was started -- the ibuprofen,  
2 200 milligrams, three 200 milligram tablets twice a day  
3 was started on the 16th of August.

4 A That's correct.

5 Q Okay.

6 THE COURT: If we could, if you're -- can she come  
7 back up here? Make it easier.

8 MR. HARTER: I'm sorry.

9 THE COURT: It will make it a little easier for my  
10 court reporter.

11 MR. HARTER: I'm sorry. I apologize.

12 THE COURT: That's quite all right.

13 BY MR. HARTER:

14 Q And does that indicate, these boxes when they're  
15 filled in represents the medications he got when he got  
16 them, right?

17 A That's correct.

18 Q And so on the highlight, we've got naproxen started  
19 on the 16th -- I mean ibuprofen started on the 16th, and  
20 then naproxen was started immediately after that; is that  
21 correct?

22 A On the 18th, correct.

23 Q And then naproxen again was started when?

24 A It looks like the 29th.

25 Q Okay. And it looks like the other naproxen ran out

1 on the 28th and he was started again on the 29th.

2 A That's correct.

3 Q So we look at the MAR. He got some medication every  
4 day in August of 2016; is that right?

5 A That's correct.

6 Q Okay. And the dates down at the bottom, I believe  
7 that there's the date of August 16th through 8/31; is that  
8 right?

9 A That's correct.

10 Q Okay. Sherry, now let me look at the month of  
11 September. Flip over two pages, please.

12 Now, you sign off on these, right?

13 A I do.

14 Q Okay. And, again, on September, the month of  
15 September, it looks like every day that month he got  
16 medication. He got naproxen, 500 milligrams, and then  
17 when that was discontinued -- he got that naproxen twice a  
18 day, a.m., p.m., and then ibuprofen he got twice a day,  
19 600 milligrams twice a day, correct?

20 A That's correct.

21 Q Okay. And then we see another medication,  
22 gabapentin, okay? It looks like gabapentin was started  
23 sometime around the 21st of September.

24 A That's correct.

25 Q Okay. And does gabapentin have a pain-relieving

1 component to it?

2 A Anti-inflammatory, yes.

3 Q Okay. Does it help relieve pain?

4 A Yes.

5 Q Okay. And then the next MAR continues and shows that  
6 ibuprofen picking up on the 26th, going through the 30th;  
7 is that right?

8 A That's correct.

9 Q So does the MAR pretty much confirm the medications  
10 and the pain medications he got with the frequency he got  
11 them in September of 2011?

12 A Yes.

13 Q Okay. Let's now look at the month of October 2011.  
14 And I think you're the one who signed off on this; is that  
15 right?

16 A That's correct.

17 Q Okay. And in the month of October 2011, it looks  
18 like he got gabapentin, 100 milligrams at bedtime that  
19 whole month; is that correct?

20 A That's correct.

21 Q And then during the month of October, he got  
22 ibuprofen, 600 milligrams twice a day for the whole month.

23 A That's correct.

24 Q Okay. And then for the month of November, I believe  
25 November 1st through November 30th, this MAR shows that he

1 got ibuprofen the whole month, 200 milligrams, three tabs  
2 -- three tablets, 200 milligrams, and he got that twice a  
3 day; is that right?

4 A That's correct.

5 Q Okay. And he got that for the entire month.

6 A That's correct.

7 Q Okay. And he also apparently got gabapentin that  
8 entire month.

9 A That's correct.

10 Q Okay. All right. And for the month of December, the  
11 MAR, does it also show that he got gabapentin that entire  
12 month?

13 A Yes.

14 Q And does it also show that he got ibuprofen,  
15 200 milligrams, it looks like three tablets,  
16 200 milligrams twice a day from the 1st up until the 7th;  
17 is that right?

18 A That's correct.

19 Q And then the ibuprofen was continued later; is that  
20 right? I'm sorry. He did not get any more ibuprofen that  
21 week or that month.

22 A He got one dose.

23 Q One dose. Okay. And that was December of 2011,  
24 correct?

25 A Correct.

1 Q And he got gabapentin the entire month?

2 A Yes.

3 Q Okay. And, now, this MAR covers two days -- a couple  
4 of days, I'm sorry, the 28th through the 31st of November  
5 of 2011, I'm sorry, and then this shows that he got  
6 gabapentin the 28th through the end of the month; is that  
7 right?

8 A That's correct.

9 Q And for the month of January, it looks like he got  
10 ibuprofen, he got gabapentin, he got ibuprofen, Neurontin  
11 and ibuprofen and Neurontin again; is that right?

12 A That's correct.

13 Q And these, again, as we look across the page, he got  
14 these medications every single day, is that right, as is  
15 indicated?

16 A That's correct.

17 Q All right. I'm sorry. This is February. And he got  
18 gabapentin. He got gabapentin pretty much throughout that  
19 entire month; is that correct?

20 A That's correct.

21 Q And then during February, between the 22nd, 23rd and  
22 the 28th, he got Tylenol; is that right?

23 A Yes.

24 Q And then as we move into March of 2012, he got  
25 Tylenol it looks like from the 5th of March through the

1 rest of that month in the evening; is that right?

2 A From the 6th, yes.

3 Q 325 milligrams, two 325 milligrams in the evening,  
4 right?

5 A That's correct.

6 Q Okay. And then up through April of 2010, when  
7 Mr. Young was transferred to the South Carolina Department  
8 of Corrections, the MAR shows he got medications every day  
9 that month up until his transfer.

10 A That's correct.

11 Q Okay. Sherry, are these MAR's, these medical  
12 records, records that Southern Health Partners and you, as  
13 a representative of Southern Health Partners, maintained  
14 on Mr. Young to confirm what medications he got, when?

15 A Yes, they are.

16 Q Okay. Were these medications, in your opinion based  
17 on your experience and your knowledge and the formulary of  
18 partners Southern Health Partners, appropriate medications  
19 for Mr. Young for his pain levels?

20 A Yes, they are.

21 Q Okay. And throughout this whole time we saw some of  
22 these medications were changed; is that right?

23 A That's correct.

24 Q Were you continuously in contact with Dr. Massey  
25 about changes in this man's medication?

1 A Yes, we were.

2 Q Okay. And in doing that, did you -- did you and  
3 Dr. Massey communicate by email and phone calls and things  
4 such as that?

5 A Yes, we did.

6 Q Okay. Here, do you document every single thing that  
7 happens in a medical record?

8 A We attempt to very heartily.

9 Q All right. Is it really possible?

10 A No.

11 Q Okay. In the real world, you deal with patients or  
12 inmates, and you make -- you have interaction with them,  
13 and it's pretty much impossible to document every single  
14 conversation that happens and everything that's done; is  
15 that correct?

16 A In this setting, yes.

17 Q You document what's important, don't you?

18 A That's exactly right.

19 Q And sometimes in your documentation, you would  
20 document what's negative or unusual, right?

21 A That stands out, yes.

22 Q Okay. All right. Now, also with Mr. Young, I want  
23 to ask you to look at Exhibit Number 5. Exhibit Number 5,  
24 this is the patient discharge information from GHS, and it  
25 is dated August 16, 2011. Now, in this documentation,

1 when we talk about the symptoms list -- I'm sorry. When  
2 we talk about the symptoms, when to contact your doctor, I  
3 don't believe dizziness is in there, is it?

4 A I don't see it, no.

5 Q Okay. And it says "discharged home." We talked  
6 about that, right?

7 A Yes.

8 Q Now, a lot of these medical records are done through  
9 what they call drop-down boxes, aren't they?

10 A That's correct.

11 Q And this record, does it make any reference to any  
12 dental consult or dental injury or dental care?

13 A No, it does not.

14 Q All right. Now, what it does reference, what it does  
15 reference, Sherry, is it references a physical referral to  
16 Dr. Kanos, and it references a referral to the ortho  
17 clinic; is that right?

18 A That's correct.

19 Q All right. Now, we have looked at this record. We  
20 have looked at the records from the orthopedic clinic and  
21 the neurology group. Now, I want to ask you, did you, on  
22 behalf of Southern Health Partners, arrange for that  
23 orthopedic consult that we talked about and that we're  
24 mentioning right here when Dr. -- when he was seen by  
25 orthopedics on September 23rd and September 2nd?

1 A Yes. I arranged it.

2 Q All right. You arranged those appointments, right?

3 A Yes.

4 Q Okay. Now, Sherry, and you understand he was  
5 discharged from orthopedics on September 23rd.

6 A I do.

7 Q Okay. Now, this discharge information also makes  
8 reference to August 31st, 10 a.m. physician appointment.  
9 And it appears that that appointment is with Dr. Kanos,  
10 who is a neurosurgeon.

11 A Correct.

12 Q Okay. Now, I want you to tell the jury, Sherry, do  
13 you know -- do you know if that appointment for  
14 October 30th -- excuse me -- for August 31st was done?

15 A Yes.

16 Q For August 31st do you know if that appointment was  
17 done? I'm talking about August now, not October?

18 A August. No, I do not know.

19 Q Okay. So in terms of that August 31st appointment  
20 with Dr. Kanos, if I look at your chart, I don't see a  
21 note where that was done, agree?

22 A Agree.

23 Q Okay. Does it mean it didn't happen? Or do you know  
24 what happened with reference to that August 31st  
25 appointment with Dr. Kanos?

1 A No, I don't.

2 Q Okay. Now, who would ordinarily make that  
3 appointment and who would ordinarily arrange for transport  
4 for that appointment?

5 A The nurses would.

6 Q Okay. That would be ---

7 A Myself.

8 Q --- Southern Health Partners and yourself?

9 A Correct.

10 Q You don't have any -- we can't show the jury or  
11 anybody any documentation that that appointment was kept.

12 A Correct.

13 Q Okay. Sometimes, are there issues with scheduling  
14 appointments and things such as that?

15 A Of course.

16 Q Okay. But in all fairness, you don't have an  
17 explanation today here now as to whether or not that  
18 appointment actually was done and there's no record of it  
19 that you have, or it may not have happened, right?

20 A That's correct.

21 Q Okay. But we do know and you do know that the  
22 appointment with Dr. Kanos did happen on October 31st,  
23 which we talked about a minute ago, and the appointment  
24 with Dr. Kanos confirmed that as of that date, Mr. Young  
25 was discharged without any follow-up needed, okay? Is

1 that right?

2 A Correct.

3 Q And there was no indication in this record of a,  
4 quote, missed appointment, is there?

5 A No.

6 Q Okay. All right. Sherry, let me cover one other  
7 thing with you. Now, Mr. Young, while he was at the  
8 detention center, had some complaints. We'll see some  
9 sick call requests, and he made complaints about a  
10 toothache, some pain, some back pain, some -- a toothache,  
11 headache. It's in the records. But there is -- a part of  
12 the records include what is called clinical pathways.

13 A Yes.

14 Q Would you tell the jury what a clinical pathway is?

15 A It's where you observe the patient again for what  
16 their needs are.

17 Q I'm sorry. Speak up now.

18 A It's where you observe the patient for what their  
19 needs are and then you address it ---

20 Q Okay.

21 A --- with the doctors orders.

22 Q It's sort of like a guide, isn't it?

23 A Yeah.

24 Q I mean, there's one, there's a special clinical  
25 pathway for toothache, one for pain, one for neck pain,

1 one for back pain. And these are more or less pathways  
2 put together by Southern Health Partners to kind of direct  
3 and assist you with addressing these kinds of complaints;  
4 is that right?

5 A That's correct.

6 Q And you follow these clinical pathways in treating  
7 and caring for Mr. Young?

8 A We do.

9 Q Okay. Sherry, I want to ask you, do you think you  
10 were negligent or careless or that you, in any way, failed  
11 to give Mr. Young the medical attention that you were able  
12 to give to him as a nurse taking care of him?

13 A No, I do not.

14 Q Okay. And were you aware that Mr. Young, did he have  
15 a personal physician at home or a primary care physician  
16 that you know of?

17 A I'm not aware.

18 Q Okay. If he didn't have a primary care physician at  
19 home and he had some medical issue, he'd have to go to the  
20 emergency department or back to the hospital or something,  
21 right?

22 A That's correct.

23 Q But at the jail, he had the benefit of a medical  
24 staff that was there. Granted, it's not home, but he had  
25 the benefit of a medical staff there, and he had the

1 classification as a special-needs inmate for medical  
2 purposes; is that right?

3 A That's correct.

4 MR. HARTER: Excuse me. Sherry, I am sorry that we  
5 kept you here so long, but I felt like we needed to go  
6 through those things. Thank you.

7 THE COURT: Any redirect?

8 MR. WHITE: I just have a few questions, Your Honor.

9 THE COURT: Go ahead.

10 REDIRECT EXAMINATION

11 BY MR. WHITE:

12 Q Ms. Bouknight, is Southern Health Partners now,  
13 during the time we've been talking about, was responsible  
14 for providing some of the medical care at the facility,  
15 right?

16 A That's correct.

17 Q But who was ultimately responsible for the operation  
18 of the Greenwood County Detention Center? Would that have  
19 been the Greenwood County Sheriff's Office?

20 A Outside of medical, yes.

21 Q So Southern Health Partners was not responsible for  
22 the ultimate operation of the detention center to make  
23 sure they operate correctly in compliance with the  
24 policies and procedures, right?

25 A Correct.

1 Q And we talked about some of your qualifications and  
2 background, but just so we're clear, you are not a  
3 physician or an MD or anything like that, right?

4 A No.

5 Q Okay. So if there's a rule that requires a physician  
6 to do something, then that would not be something you  
7 would be able to do, right?

8 A That's correct.

9 Q And the -- we talked about a couple of different  
10 medicines. The folks in the courtroom, they'd be a lot  
11 more familiar with them than I am, but I had to look them  
12 up over the break. What is ibuprofen? Is that what the  
13 brand name -- or is Advil a typical brand name for  
14 ibuprofen?

15 A It is.

16 Q I'm sorry. I spilled coffee on my pad over the  
17 break.

18 And naproxen, is that typically -- is Aleve a version  
19 of naproxen?

20 A That's correct.

21 Q And is acetaminophen synonymous with Tylenol?

22 A That's correct.

23 Q So all the days that we talked about that were  
24 highlighted up on the Elmo, just to be clear, those are  
25 all days that Mr. Young was not allowed to have the

1 prescription Lortab that he brought with him to the  
2 detention center, right?

3 A That's correct.

4 Q And we talked about whether you're a physician, if  
5 you can do things that a physician is required to do. On  
6 August the 16th on this timeline, the day that Mr. Young  
7 was booked in, are you aware of any physician who saw  
8 Mr. Young from the time that he stepped foot into the  
9 detention center until the time that he was booked into  
10 the detention center?

11 A No.

12 Q And before -- I have just a couple more seconds to  
13 go, and I want to put this back up real quick for just one  
14 second. And I think it's going to be difficult to see  
15 those red marks if we don't fill them in. And I just want  
16 to make sure, you indicated a circle right here  
17 (indicating) for the broken fingers, right?

18 A Uh-huh. Yes.

19 Q So if I just darken that, is that going to be an  
20 accurate depiction of what you were trying to circle?

21 A Yes.

22 Q All right. And then you also indicated there was a  
23 circle here. Is that for the broken vertebrae in the  
24 lumbar spine?

25 A Lumbar, yes.

1 Q All right. So I'm just going to darken that on your  
2 lines just so it shows up better. All right. Is that  
3 still an accurate depiction of the area you were trying to  
4 circle with the red pen?

5 A Yes.

6 Q I'm going to do the same thing in the rib area here.  
7 Is that the rib area that you were trying to identify with  
8 the red circle earlier?

9 A Yes.

10 Q And you -- we didn't mention the cervical breaks  
11 during your testimony, but I think it was brought up when  
12 Mr. Harter was asking you questions. Would the cervical  
13 spine breaks be in this (indicating) area?

14 A That's correct.

15 Q So if I put a red circle around this (indicating)  
16 area, would that be accurate, to the best of your  
17 knowledge, of the location of cervical breaks?

18 A That's correct.

19 Q And so -- and also, I believe we discussed some  
20 broken locations in the pelvic area. Which area -- is  
21 this the pelvic area right here (indicating)?

22 A Yes, yes.

23 Q Okay. So if I put a red circle around that, would  
24 that accurately reflect the location of breaks in the  
25 pelvis?

1 A Yes.

2 Q All right. So all the red circles that appear on  
3 Plaintiff's Exhibit Number 14, would those be accurate  
4 circles that identify the locations of the broken bones  
5 that were identified in the discharge summary?

6 A Yes.

7 MR. WHITE: Your Honor, at this time, we would move  
8 to admit Plaintiff's Exhibit Number 14 into evidence as a  
9 depiction of the locations of the breaks in Mr. Young.

10 MR. HARTER: No objection.

11 THE COURT: In evidence, Plaintiff's 14.

12 (WHEREUPON, Plaintiff's Exhibit Number 14 was admitted  
13 into evidence.)

14 BY MR. WHITE:

15 Q And there was also a record -- well, never mind.  
16 There was a record earlier that we saw that Mr. Harter put  
17 on the Elmo here that indicated that Mr. Young's front  
18 teeth were knocked out, right?

19 A That's correct.

20 Q So if we were going to identify this on what's been  
21 admitted into evidence as Plaintiff's Number 14, we'd have  
22 a circle around the teeth as well, right?

23 A That's correct.

24 Q And if somebody gets their teeth knocked out in a  
25 wreck, would that constitute a painful dental injury?

1 A Yes.

2 Q And would these injuries that we've shown on  
3 Plaintiff's Exhibit Number 14 constitute severe injuries  
4 that would be painful to the person who has sustained  
5 these injuries?

6 MR. HARTER: Speculative.

7 THE COURT: What's the objection?

8 MR. HARTER: It's speculation, Your Honor.

9 THE COURT: I think she can testify to it.  
10 Go ahead, ma'am.

11 THE WITNESS: Yes, it would.

12 BY MR. WHITE:

13 Q And would these be injuries that -- based on your  
14 knowledge and experience, be injuries that could  
15 potentially affect a person who has sustained these  
16 injuries' mobility?

17 A I'm sorry. Repeat your question.

18 Q Would these injuries that we've depicted on  
19 Plaintiff's Exhibit Number 14 be examples of injuries that  
20 if the person had them would affect the person's mobility?

21 A Yes.

22 Q And just so it's clear, there was a cast, the best of  
23 your recollection, on Mr. Young's left arm, right?

24 A There was.

25 Q And he was also, when he came to the facility, had a

1 walker, right?

2 A He did.

3 Q And would those be clues to anybody who is examining  
4 him that maybe his mobility was affected?

5 A That's correct.

6 Q And would it also be something that would clue a  
7 person in who's looking at him that they've got a cast  
8 on?

9 A That's correct.

10 Q And, again, the Southern Health folks at the facility  
11 are not the ones who were responsible for being the first  
12 line of gatekeeping when the inmate comes in who fills out  
13 the medical screening form, right?

14 A Correct.

15 Q Yeah. It's on a Southern Health form, but a  
16 Greenwood County Sheriff's Office detention officer is the  
17 one who's actually answering those questions on the  
18 medical screening, right?

19 A Correct.

20 Q And there are inmates who come into the Greenwood  
21 County Detention Center who Southern Health Partners has  
22 no reason to see because they're not injured, right?

23 A That's correct.

24 Q So if the Greenwood County Sheriff's Office  
25 individual performing the medical screen determines that

1 there's no reason to call medical in, then it doesn't  
2 happen, right?

3 A That's correct.

4 MR. WHITE: I have no further questions at this time,  
5 Ms. Bouknight. Thank you.

6 THE COURT: Recross.

7 MR. HARTER: Yes, sir.

8 RECCROSS EXAMINATION

9 BY MR. HARTER:

10 Q Sherry, let me follow up with one thing, follow that  
11 question that was just left on the table. If an inmate or  
12 suspect is brought to the Greenwood County Detention  
13 Center and they've been brought to the detention center  
14 from the jail -- I mean from the hospital, is there any  
15 reason to send them back to the hospital?

16 A No.

17 Q And in the case of Mr. Young, we know, we know from  
18 the documentation that he was brought into the detention  
19 center by the Highway Patrol, he saw a booking officer at  
20 the detention center who called you to come down; is that  
21 right?

22 A That's correct.

23 Q And you know about these medications. Is Lortab a  
24 magical medication that all of a sudden when taken will  
25 alleviate and eliminate any and all pain that somebody

1 might have who had the injuries that Mr. Young professes  
2 to have and had at the detention center?

3 A I don't think so.

4 Q So even if he had Lortab, he's going to be  
5 uncomfortable, isn't he?

6 A Possibility, yes.

7 Q Did y'all do everything you could to make him as  
8 comfortable as you could while he was there?

9 A Yes, we did.

10 MR. HARTER: Thank you.

11 MR. WHITE: Nothing further, Your Honor.

12 THE COURT: Ma'am. Thank you very much for coming.  
13 Sorry to bring you back after lunch. Have a great rest of  
14 your day. Take care of yourself, all right. Thanks for  
15 coming.

16 THE WITNESS: Thank you.

17 THE COURT: All right. You have another relatively  
18 brief witness before we take a break, I assume?

19 MR. HARTER: Could we have a minute, Your Honor?

20 THE COURT: You want a minute? We'll take a minute.  
21 Ladies and gentlemen, we're going to take a minute.

22 Don't talk about the case. Go back in there, refresh  
23 yourselves, get something to drink, maybe a little coffee,  
24 soda, pop, whatever. Be back on the record in a few  
25 moments.

1 (WHEREUPON, the jury exits the courtroom, and a recess is  
2 taken.)

3 THE COURT: All right. Let's go ahead and get the  
4 jury moving, if we may. And we have our next witness, I  
5 assume.

6 MR. WHITE: Beverly Weaver.

7 THE COURT: Good deal. Go ahead and bring them in.

8 (WHEREUPON, the jury entered the courtroom.)

9 THE COURT: The jury is back and seated. Call the  
10 next witness, please.

11 MR. WHITE: The plaintiff calls Beverly Weaver.

12 WHEREUPON,

13 BEVERLY WEAVER

14 After having been duly sworn, testified as follows:

15 THE COURT: All right.

16 DIRECT EXAMINATION

17 BY MR. WHITE:

18 Q Ms. Weaver, can we start by getting your full name  
19 for the record, please, ma'am.

20 A Beverly Anita Weaver.

21 Q And where are you currently employed, Ms. Weaver?

22 A Greenwood County Magistrate's Office, civil division.

23 Q And were you formerly employed by the Greenwood  
24 County Sheriff's Office to work at the Greenwood County  
25 Detention Center?

1 A Yes.

2 Q And were there rules in place at the Greenwood County  
3 Detention Center that employees of the sheriff's office  
4 were required to follow?

5 A Yes.

6 Q Were you trained on those rules?

7 A Yes, I was.

8 Q Did you receive training from a gentleman named Gene  
9 Powell, the training director?

10 A No. I got my training at the academy.

11 Q Do you recall Gene Powell?

12 A I do.

13 Q Okay. And you recall him being the training director  
14 at the detention center?

15 A Yes, sir.

16 Q And when you were at the detention center, was Lonnie  
17 Smith the jail administrator?

18 A He was at the beginning.

19 Q And that's Mr. Smith over there?

20 A Yes.

21 Q All right. So I want to talk about a few of the  
22 rules that were in place at the Greenwood County Detention  
23 Center when you were employed there, just to get us  
24 oriented. If we go first to plaintiff's Exhibit Number 1,  
25 I just want to hand you this real quick, and do you recall

1 receiving any training while you were at the -- while you  
2 were employed at the Greenwood County Detention Center on  
3 the minimum standards for local detention facilities in  
4 South Carolina?

5 A I was once I went down to the academy.

6 Q Okay. So you received training and understood that  
7 these standards were the absolute minimum standards that  
8 detention centers had to comply with in order to operate  
9 legally in South Carolina?

10 A Yes.

11 Q And that would include the Greenwood County Detention  
12 Center, right?

13 A Yes.

14 Q Were you ever trained by anyone at the Greenwood  
15 County Detention Center that if a severely injured inmate  
16 comes to the detention center, that they've got to be  
17 cleared by a physician for detention before the detention  
18 center can take them?

19 A We were trained that if they came in and they needed  
20 medical assistance, to turn it over to the nurse, and then  
21 they would handle it past there.

22 Q And do me a favor and flip over to page 20 of the  
23 exhibit that you've got in front of you, please, ma'am.

24 A (Witness complies.)

25 Q Are you on page 20?

1 A I am.

2 Q And if it's easier for you to see up there, that's  
3 fine as well because I've got the portion up on the screen  
4 that I was going to talk about.

5 A Okay.

6 Q Were you ever trained by anyone at the Greenwood  
7 County Detention Center that any prisoner who appears to  
8 be severely injured shall be examined by a physician prior  
9 to acceptance or admission?

10 A Was I trained on that?

11 Q Yes.

12 A I was told that, yes.

13 Q Okay. So you were trained that somebody has got to  
14 be checked out by a physician and cleared for detention  
15 before the detention center can take them.

16 A Yes.

17 Q And we're going to look now at Plaintiff's Exhibit  
18 Number 9, which I'll bring you a copy of. What I'm going  
19 to do is direct your attention to -- and first, let me  
20 start, does this appear to you to be the policy and  
21 procedure in place at the Greenwood County Detention  
22 Center that applied to intake and booking of inmates?

23 A Yes.

24 Q Do you recall being trained that the rules at the  
25 Greenwood County Detention Center required that an inmate

1 be in good physical health before they can be admitted to  
2 the detention center?

3 A What do you mean by good physical health?

4 Q Well, the -- take a look at the exhibit in front of  
5 you, and the first sentence there next to policy, "The  
6 admission of an inmate will require that he be legally  
7 arrested, that his property be intact, that he is in good  
8 mental and physical health, and that his rights will not  
9 be violated by his or her incarceration." Do you see  
10 that?

11 A Uh-huh.

12 Q So do you recall being instructed at the detention  
13 center that before somebody can be taken into the  
14 detention center, that they've got to be certified by a  
15 physician that they're in good physical health?

16 A Not necessarily in that order, but yes. If they come  
17 in and they look like they need to see a physician, we are  
18 told to contact the nurse and the nurse makes that  
19 decision. Just walking in, I can't tell by looking, you  
20 know, unless they just look like they are bleeding or  
21 passing out or something.

22 Q Right. And what you're striving is you're supposed  
23 to visually examine them to see if they appear to be  
24 outwardly severely injured, right?

25 A Right.

1 Q Now, do you recall being trained or instructed at the  
2 detention center that not only does a physician have to  
3 examine somebody who appears to be severely injured, but  
4 this physician has to deem them fit to be incarcerated?  
5 Do you recall being instructed on that at the Greenwood  
6 County Detention Center?

7 A Not instructed on it, sir. But I was told that  
8 medical makes that decision.

9 Q And medical would be the Southern Health folks at the  
10 facility?

11 A The nurse, yes.

12 Q Okay. So you were not taught that before you can  
13 take somebody in at the detention center, you've got to  
14 have paperwork that is to the effect that they are deemed  
15 fit to be incarcerated as it states in this rule?

16 A No.

17 Q And Gene Powell never told you that?

18 A I wasn't trained by Gene Powell. I was trained at  
19 the academy.

20 Q Right. But Gene Powell, just so it's clear, he was  
21 the training director?

22 A He was the training officer.

23 Q And he never trained you that you had to have  
24 paperwork certifying the inmate as fit for detention  
25 before you could take him into the detention center,

1 right?

2 A Right.

3 Q Okay. But you were trained that you were required to  
4 -- or sorry. Let me back up. Did you receive training on  
5 how to properly perform a medical screening at the  
6 detention center?

7 A I did.

8 Q And is it your understanding that it was important to  
9 properly perform that medical screening so that you can  
10 determine whether somebody was too injured to be at the  
11 facility?

12 A I was told that medical was to do -- to be taken to  
13 make sure that there was nothing that would require  
14 medical attention before they're brought in, yes.  
15 However, taking the medical process, that part of the  
16 paperwork does not include the booking. It's the first  
17 step before booking.

18 Q Got you. So before anything can be done, you've got  
19 to do the medical screening, and you, as the intake  
20 person, has to visually examine the person and ask them  
21 various questions to figure out whether the appropriate  
22 medical provider needs to clear them, right?

23 A Right before the booking is taking place.

24 Q And are there some inmates who come in and they have  
25 no injuries at all?

1 A On the appearance you mean?

2 Q Right.

3 A Right.

4 Q Yeah. There's some folks who, you know, they come in  
5 and they don't have any injury whatsoever. They don't say  
6 they have an injury and they don't appear to have an  
7 injury, right?

8 A Right.

9 Q So it's only when you have somebody who comes in and  
10 they are severely injured that it would trigger this  
11 policy that would require a physician to clear them for  
12 detention, right?

13 A Right.

14 Q All right. And do you recall that you were the  
15 individual who performed the medical screening for  
16 Mr. Young when he arrived at the detention center?

17 A Yes.

18 Q And I'm going to hand you what's been marked as  
19 Defendant's Exhibit Number 1. Ms. Weaver, does this  
20 appear to be an accurate copy of the medical screening  
21 form that you completed when Mr. Young was booked into the  
22 detention center on August the 16th of 2011?

23 A Yes.

24 Q And this is one of those forms that, obviously, you  
25 would be required to fill out completely and accurately,

1 right?

2 A Completely and accurately.

3 Q And because it's important in general for the  
4 detention center to have complete and accurate records,  
5 right?

6 A Right.

7 Q And that's what's required by the rules at the  
8 detention facility, right?

9 A Right.

10 Q And it's important to complete the medical screening  
11 properly and to accurately answer all questions on the  
12 form because you don't want somebody slipping through the  
13 medical screen when they should be certified by a  
14 physician first because they're too injured, right?

15 A Well, this -- this particular part was instaminate  
16 [phonetic] by the Southern Health Partners. This was  
17 their stuff, forms, not Greenwood County Detention Center.  
18 It's something that they require.

19 Q Right. And this is a form created by Southern  
20 Health. But just so it's clear, while the form says  
21 "Southern Health" at the top, the employee of the  
22 sheriff's office is actually looking through each question  
23 and answering it based on what they see, right?

24 A Right.

25 Q And it's important to answer those questions

1       correctly so that if the proper medical treatment or  
2       certification or whatever needs to be initiated, it can  
3       be, right?

4       A     Right.

5       Q     And if there's a certain amount of yeses on the form,  
6       for example, that would trigger some kind of heightened  
7       examination of a person that may not be required  
8       otherwise, right?

9       A     Right.

10      Q     So look with me to the top of that form where there  
11      is a -- it's kind of cut off a little bit, but it says  
12      "Visual/Medical Observation."  Yeah.

13      A     Yes.

14      Q     Do you see that at the top there?

15      A     I do.  Uh-huh.

16      Q     All right.  So this is the spot where the Greenwood  
17      County Sheriff's Office employee who's performing the  
18      intake and medical screening task would actually take a  
19      look at the person who comes into the detention center and  
20      to answer the questions based on what they see, right?

21      A     Right.

22      Q     And these are also questions that it's important to  
23      answer accurately so that the medical screening process is  
24      done correctly, right?

25      A     Correct.

1 Q So do you recall what Mr. Young's condition was when  
2 he presented at the Greenwood County Detention Center?

3 A When he came in, he was brought in by a Highway  
4 Patrol, I remember that, and that he had several forms in  
5 his hand, the officer did. And he took Mr. Young over to  
6 the booking area to have a seat.

7 Q And at the time Mr. Young came in, were you aware  
8 that he had sustained a neck fracture?

9 A I remember -- to be honest, I don't remember what  
10 Mr. Young looked like. I just remember that he had a  
11 cast. I remember a cast on his arm. He may have had a  
12 neck brace on, too.

13 Q Okay. Do you remember if he had a walker?

14 A I do not.

15 Q All right. Now, let's look at -- and did you do --  
16 did you go through the medical screening process and  
17 assess what you saw that was going on with Mr. Young and  
18 then proceed to answer all the questions that were in the  
19 visual and medical observation column here?

20 A After the second question, after I looked at him and  
21 did see like he had some abrasions on his face and he had  
22 the cast on his arm -- and I had a form in front of me  
23 that was from the hospital release. That was one of the  
24 things that they handed me. I stopped and notified my  
25 sergeant to call the nurse so she could make sure that he

1 was in health enough to be booked into the detention  
2 center.

3 Q Okay. Did you also answer all the other questions  
4 accurately, based on what you perceived was going on with  
5 Mr. Young at the time?

6 A Yes.

7 Q Okay. There wouldn't be any reason for you to put  
8 down inaccurate answers, right?

9 A No.

10 Q Because then we would end up with a potentially  
11 incomplete or inaccurate form in that case, right?

12 A Right.

13 Q All right. So let's look at question number -- it  
14 doesn't -- we don't have the question number, but is the  
15 inmate's mobility restricted in any way due to deformity,  
16 cast, injury, et cetera? Do you see that question?

17 A I do.

18 Q All right. And Mr. Young, you indicated earlier that  
19 he had a cast on his arm, right?

20 A He did.

21 Q All right. And if he needed a walker to get around,  
22 is that something that can potentially restrict his  
23 mobility?

24 A Yes.

25 Q All right. And you indicated that he also had a neck

1 brace; is that ---

2 A I said he may have had it on. I don't remember.

3 Q Okay. Well, let's say he had -- let's assume he had  
4 a neck brace. What -- is that something that would have  
5 restricted his mobility potentially?

6 A When you say "mobility," you mean his movement?

7 Q Right.

8 A What do you mean by "mobility"?

9 Q What is your understanding of what "mobility" means,  
10 just so that we're talking on the same terms?

11 A I'm -- I'm reading the form to say is anything  
12 restricting him from being able to move about, move from  
13 place to place. Does he need help? Is he in a  
14 wheelchair?

15 Q Okay.

16 A And if he wasn't, I put no.

17 Q And so it's your testimony today that somebody with a  
18 neck brace, a broken neck, broken bones in his back, a  
19 walker, a cast and a broken pelvis would not be somebody  
20 whose mobility would potentially be restricted so that it  
21 would have to indicate yes on this form?

22 A I wouldn't know if he had broken bones by -- just  
23 because he had a neck brace on. I -- I had no idea who  
24 Mr. Young was or why he was coming in at that point.

25 Q But -- and I'm zooming out here. And I just want to

1 confirm that whenever you were performing your visual and  
2 medical observation of Mr. Young and you reached the  
3 question asked if his mobility was restricted in any way  
4 due to various things, including cast or injury, that your  
5 conclusion was no; is that right?

6 A That's right.

7 Q And at any point between the time that Mr. Young  
8 arrived at the detention center and the time that he was  
9 officially booked in and sent back, are you aware of a  
10 physician evaluating him and certifying him for  
11 detention?

12 A I'm aware that the nurse came up because we called  
13 for her to come up, but not a physician.

14 Q So -- and we don't have any paperwork from a  
15 physician that certifies him and deems him fit for  
16 admission into the detention center, right?

17 A We just had a release statement from the hospital  
18 signed by a doctor.

19 Q And that was created -- just so I'm clear, that was  
20 -- or just so we're clear, that was from before the time  
21 that he arrived physically at the detention center,  
22 right?

23 A He was -- he came in with that information.

24 Q I'm going to hand you something that has not been  
25 entered into evidence that I'm aware of yet.

1 (WHEREUPON, Plaintiff's Exhibit Number 21 was marked for  
2 identification. Transcriptionist's Note: This exhibit  
3 was originally marked as Exhibit Number 18 and was  
4 remarked as Exhibit Number 21.)

5 BY MR. WHITE:

6 Q And I'm handing you what has been marked as  
7 Plaintiff's Exhibit Number 18. Do you recognize this  
8 document to be an intake and release medication or  
9 supplies form?

10 A Yes. Part of the medical packet.

11 Q And this is a document that was created by you -- or  
12 completed by you at the time Mr. Young was booked into the  
13 detention center, right?

14 A Right.

15 Q And that's your signature at the bottom of the page?

16 A It is.

17 Q All right. And this was completed on the date that's  
18 indicated on the document, August 16th of 2011?

19 A Correct.

20 MR. WHITE: All right. At this time, we'd move to  
21 have Exhibit Number 18 admitted into evidence.

22 MR. HARTER: No objection.

23 THE COURT: 18 is in.

24 (WHEREUPON, Plaintiff's Exhibit Number 21 was admitted  
25 into evidence.)

1 BY MR. WHITE:

2 Q All right. So, Ms. Weaver, there are certain things  
3 that may be allowed on the outside of the detention center  
4 that aren't allowed on the inside of the detention center,  
5 right?

6 A Correct.

7 Q And when an inmate comes to the detention center with  
8 something that they can have on the outside of the  
9 detention center but they can't have on the inside of the  
10 detention center, it will be taken from them, right?

11 A Yes. Contraband.

12 Q Okay. And it will be taken as contraband, and it  
13 will be logged into -- or taken into the property and  
14 there will be a document created at that time, right?

15 A Correct. Once it's put into their property.

16 Q All right. And one of the things that was taken from  
17 Mr. Young at the time, correct me if I'm wrong, was  
18 90 Lortab pills that he came to the detention center with,  
19 right?

20 A Correct.

21 Q And these are pills that he -- in addition to having  
22 a walker, a neck brace and the discharge paperwork that  
23 you mentioned earlier, he also had a bottle with 90 Lortab  
24 pills in it, right?

25 A Yes.

1 Q And because that's something that he is not allowed  
2 to have at the detention center, that was taken from him  
3 and it was logged in on this form, right?

4 A Correct.

5 Q And so it doesn't really matter to the detention  
6 center if a doctor has prescribed the medication like  
7 this. The policies just don't allow it once he's been  
8 booked in, right?

9 A Southern Health, their policy says that.

10 Q Right. So -- but once they get through that medical  
11 screening and they get through booking and they're in the  
12 detention center ---

13 A Uh-huh.

14 Q --- the policy is they can't have this medication  
15 that was prescribed by the doctor that Mr. Young had with  
16 him when he got to the facility.

17 A They can't have any medicine on the floor of their  
18 own. It's all administered by the nurse.

19 Q Okay. And this is the type of medication that is not  
20 going to ever be administered to him at the detention  
21 center, right?

22 A So I've been told.

23 Q And the policy at the detention center would also  
24 dictate that when somebody comes into the detention  
25 center, if they've got something like a neck brace on or

1 something like that, that it would be taken off of them  
2 initially to inspect for contraband inside, other tattoos  
3 or scars or whatever, right?

4 A Correct.

5 Q Okay. So in this case when Mr. Young got to the  
6 detention center, if he had a neck brace on, it would have  
7 been taken off of him by somebody there, right?

8 A Yes. The next officer that would have been  
9 completing the booking process.

10 Q And do you know, would that have been Mr. Holtzclaw  
11 in this situation?

12 A I'm not sure. My position was in the control booth,  
13 which is right beside booking. So that would have been  
14 past me.

15 Q Okay. So what would have happened to the neck brace  
16 after that point? You wouldn't have seen or been paying  
17 attention to it, right?

18 A I wouldn't know. I wouldn't have a visual to see.

19 Q So you're -- so if we were going to ask somebody when  
20 he got that neck brace back, you would not be the person  
21 to ask, fair?

22 A Correct. Once this paperwork passed me, that was my  
23 end of it.

24 MR. WHITE: I think that's all we have for you right  
25 now, Ms. Weaver. Please answer any questions Mr. Harter

1 might have for you.

2 THE COURT: Mr. Harter.

3 CROSS EXAMINATION

4 BY MR. HARTER:

5 Q Beverly, let me just follow up on a couple things.

6 When an inmate is booked, and you heard a minute ago  
7 some discussion about taking -- if he came in with a neck  
8 brace, that would be taken off, they would actually ask  
9 the inmate to take it off themselves, wouldn't they?

10 A Yes. They would assist if he needed, but yes.

11 Q All right. Now, let me follow up on something. You  
12 work with the magistrate's office now, right?

13 A Yes, sir.

14 Q Okay. And you were at the Greenwood County Detention  
15 Center for a few years?

16 A Correct.

17 Q Okay. And you're familiar based on preparation for  
18 this trial with what this case is about and the  
19 allegations of Mr. Tony Young; is that right?

20 A That's correct.

21 Q Okay. And let me see if I understand what happened.  
22 You were in the booking area of the detention center on  
23 your shift, and Mr. Young is brought in by the Highway  
24 Patrol; is that right?

25 A Correct.

1 Q Okay. And he is brought in, and you are informed  
2 that he's come from the hospital; is that right?

3 A That's correct.

4 Q Okay. And when an inmate is brought in from the  
5 hospital, is it your assumption and understanding they've  
6 been cleared by the hospital?

7 A Correct.

8 Q Was there anything that you were made aware of that  
9 indicated that Mr. Young had not been cleared and/or  
10 discharged from the hospital?

11 A No, sir.

12 Q Were you ever made aware of and told that he was  
13 supposed to go to some rehab place or anything like that?

14 A No, sir.

15 Q Okay. All right. And when you're in the booking  
16 area, he's brought in, you look at him, and you start  
17 completing this form; is that right?

18 A When he came back up to my window.

19 Q Right. And, Beverly, I mean, were you serious about  
20 your job?

21 A Yes.

22 Q Okay. Felt like you did a good job with the  
23 sheriff's office?

24 A Yes, sir.

25 Q And did you feel like, in your position booking

1 inmates, that you were careful and competent, concerned  
2 and did the things that you were supposed to do?

3 A Yes, sir.

4 Q Okay. And you've been asked about the form that you  
5 completed.

6 A Correct.

7 Q Okay. And I think you explained to us that when this  
8 form, when you started completing this form, you became --  
9 you wanted to have a medical exam; is that right?

10 A Yes. The nurse to be notified that ---

11 Q Okay. And really, the top of the form is called --  
12 and it's chopped off, but it really is Visual/Medical  
13 Observation, right?

14 A Correct.

15 Q Okay. And this is observations that you as the  
16 booking officer are making, right?

17 A Correct.

18 Q These are your subjective and/or mental impressions  
19 of what's going on ---

20 A Correct.

21 Q --- at the time ---

22 A At the time.

23 Q --- based on the information you have before you,  
24 right?

25 A Correct.

1 Q And you completed the top portion of this form, the  
2 first couple of questions that we talked about; is that  
3 right?

4 A That's correct.

5 Q Okay. Now, the next part of the form that I've just  
6 circled is like ask the inmate questions, right?

7 A Correct.

8 Q So these are questions that you ask the inmate  
9 himself.

10 A Correct.

11 Q Part of this is your visual observation, and part of  
12 it is what the inmate says.

13 A Correct.

14 Q Right? Okay.

15 And you asked the inmate the questions that are  
16 indicated on the form. And I think one of the questions  
17 was have you been hospitalized by a physician or  
18 psychiatrist within the last year.

19 A Correct.

20 Q And the answer is yes because he just came from the  
21 hospital, right?

22 A Right.

23 Q Okay. And then -- but a few questions down, it says,  
24 "Do you have a painful dental condition?" And he answered  
25 that question, and he answered it "no"; is that right?

1 A That's correct.

2 Q Were you ever made aware he had any kind of dental  
3 issue or dental condition?

4 A No, sir.

5 Q Okay. And Beverly, when you had this gentleman in  
6 the booking area and you made these observations, you  
7 understood he had been discharged from the hospital,  
8 right?

9 A Correct.

10 Q Okay. Did -- and what did you do when you looked at  
11 him?

12 A What did I do?

13 Q Yeah. I'm sorry. You called a nurse, right?

14 A Oh, yes. Definitely.

15 Q Okay. Because you wanted to make sure?

16 A Yes, sir.

17 Q You wanted to take the added precaution to make sure  
18 that he was okay, right?

19 A Yes, sir.

20 Q And Nurse Bouknight came down?

21 A Yes.

22 Q And she documented that she looked at him, talked to  
23 him and started him on medication right then and there.

24 A That she -- that's her handwriting. Everything but  
25 the "six days" is mine, but that's her handwriting on the

1 form.

2 Q Okay. Do you think you were -- you did your job when  
3 you booked this gentleman and handled his booking the way  
4 you did?

5 A I believe I did.

6 Q Okay. Now, let me make sure I understand. You work  
7 in a magistrate's office now, right?

8 A I do.

9 Q Okay. The magistrate sometimes issues arrest  
10 warrants for people, right?

11 A Correct.

12 Q And when you're in a booking area of the detention  
13 center, people are brought in that are under arrest,  
14 right?

15 A Yes. Constantly.

16 Q Okay. And as a matter of court order and a matter  
17 of law, those people, some judge has decided they don't  
18 need to be out on the street, they need to be in jail,  
19 right?

20 A That's what the order means, yes.

21 Q That's what it means, right?

22 A Correct.

23 Q Now, if you just willy-nilly decide I don't think  
24 this person needs to be in jail, are you doing your job?

25 A No, sir.

1 Q Are you protecting the public that you're sworn to  
2 protect?

3 A No, sir.

4 Q Okay. Now, if somebody is in jail, then there are  
5 ways they can get out, aren't there? Like bond?

6 A Oh, yes, sir.

7 Q Okay. In magistrate's, the magistrates set bond all  
8 the time for people, right?

9 A Correct.

10 Q And you work in the magistrate's office, and very  
11 often, families or individuals will come in and say, "Hey,  
12 Judge. I've got some extenuating circumstances here.  
13 Reduce my bond so I can get out," right?

14 A I don't work in that department, but yes that  
15 happens.

16 Q It happens in the office you work in, though,  
17 right?

18 A I'm in civil. That's the criminal side of  
19 magistrate.

20 Q But they can do that.

21 A They can do that.

22 Q The magistrate can reduce the bond.

23 A They can.

24 Q Right? Okay.

25 Now, Beverly, is there any reason in the world why

1 you would want to keep Mr. Young in the jail as a detainee  
2 if he was not in your view and/or if he had not been  
3 medically cleared for the jail?

4 A No, I would not.

5 Q And you've been asked before about whether or not  
6 some physician examined him after he got brought from the  
7 detention center -- I mean after he got brought from the  
8 hospital to the detention center and before he was booked.  
9 I think you said no, right?

10 A That's right.

11 Q He had already been examined by a physician a couple  
12 of hours before.

13 A Correct.

14 Q Did you have any indication or reason to think that  
15 between the time he left the hospital and the time he got  
16 to the jail that he had any further injuries?

17 A No, sir.

18 MR. HARTER: Okay. Thank you, Beverly. I appreciate  
19 you coming and answering our questions today.

20 THE COURT: Any redirect?

21 MR. WHITE: Two questions.

22 THE COURT: Okay.

23 REDIRECT EXAMINATION

24 BY MR. WHITE:

25 Q Ms. Weaver, the way that you performed the medical

1 screening and the way that you did intake and booking with  
2 Mr. Young, were you doing all that based on what you  
3 believe was expected of you by your supervisors in the  
4 jail?

5 A Yes.

6 Q And you were doing it based on the expectations that  
7 were set forth by the superior officers at the detention  
8 center, right?

9 A When you say "expectations," of carrying out the job  
10 function?

11 Q Right.

12 A Yes.

13 MR. WHITE: I have no further questions. Thank you.

14 RECCROSS EXAMINATION

15 BY MR. HARTER:

16 Q Beverly, you used your good common sense, didn't you?

17 A Definitely.

18 MR. HARTER: Thank you.

19 THE COURT: All right. I want you to be very careful  
20 stepping down, all right?

21 THE WITNESS: Yes, sir.

22 THE COURT: Call your next witness, please.

23 MR. HAWKINS: Your Honor, we call Lonnie Smith.

24 ///

25 ///

1 WHEREUPON,

2 LONNIE SMITH

3 After having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HAWKINS:

6 Q How are you doing, Mr. Smith?

7 A I'm doing good.

8 Q As you know, I have a much different style than  
9 Mr. White. Not quite as polished.

10 A I understand.

11 Q Bear with me.

12 A Okay.

13 Q Let's talk about when Tony came into the detention  
14 center.

15 A Okay.

16 Q What do you remember about it?

17 A I remember he came in. I don't think I was in the  
18 booking area when he came in.

19 I guess I need to back up a little bit, Josh, and  
20 tell my role and what my position was at the detention  
21 center.

22 Q Have at it.

23 A Okay. I'm Lonnie Smith. I work at the Greenwood  
24 Sheriff's Office. Been there 35 years. From February  
25 2011 till February 2013, I was the jail administrator.

1 Okay.

2 Q What do you remember about Mr. Young?

3 A I knew he'd been in an automobile accident. I knew  
4 he had been to the hospital. He had been brought into the  
5 detention center by the Highway Patrol, and he was pretty  
6 beat up.

7 Q That's the exact words you used in your deposition,  
8 pretty beat up.

9 A Okay.

10 Q Did he have road rash on him?

11 A Oh, yeah. He was beat up. I mean, you could tell  
12 he'd been in an accident.

13 Q Was he eat up with it?

14 A He was pretty good, you know. That's what I see.

15 Q Did he have a neck brace on?

16 A He had -- when he first came in, I don't know that he  
17 had a neck brace on. I had read notes that he did have a  
18 neck brace. Now, I don't -- I can't say I saw him that  
19 day, but I saw him the next day or so ---

20 Q Okay.

21 A --- when I say he was beat up.

22 Q Okay.

23 A Okay?

24 Q You understand that he had two fractures in his neck?

25 A Right. What was said on the documentation and

1 everything I read, right.

2 Q Two fractures in his back?

3 A Whatever they said. Yes, sir.

4 Q And I don't think you need to be a doctor to answer  
5 this question, but a neck brace, that's to make sure those  
6 fractures don't fracture all the way and sever your spinal  
7 cord, isn't it?

8 MR. HARTER: Objection to form of the question.  
9 That's speculation.

10 THE COURT: I think it may call for a medical  
11 opinion.

12 MR. HARTER: Medical opinion.

13 MR. HAWKINS: I'll withdraw the question.

14 BY MR. HAWKINS:

15 Q From a layperson's perspective ---

16 A Okay.

17 Q --- is it safe to start taking off neck braces of  
18 people that have broken necks?

19 A I think if he was released, I know I've seen people,  
20 and I can use my wife, for example. She's had several  
21 neck surgeries. You can remove them for momentarily. As  
22 he was -- came into the jail, we did remove his neck brace  
23 or asked him to remove it momentarily so we could take a  
24 photo, so we could check it to make sure there were no  
25 needles, no contraband, nothing that he maybe had slipped

1 by the hospital, brought into the detention center.

2 Q Your wife didn't get thrown through a windshield onto  
3 the road, did she?

4 A No. My wife wasn't out here drinking and driving.

5 Q That's right. And if she had been, she could have  
6 gone to the detention center, right?

7 A Right. She could have.

8 Q And if she went, would you want them to do the proper  
9 medical screening and follow the policies and procedures?

10 A They -- whatever they did, right.

11 Q That's important, isn't it?

12 A It is very important.

13 Q Following the policies and procedures is important to  
14 protect everybody in the community; is that right?

15 A That's right.

16 Q And following the minimum standards is absolutely  
17 important to make sure that somebody that doesn't need to  
18 come into the detention center doesn't end up there; is  
19 that right?

20 A Right. But he had been to the hospital, he had been  
21 released from the doctor, the doctors knew he was coming  
22 to the jail, so therefore, they cleared him to come to the  
23 jail.

24 Q Okay. Let's talk about that for a minute. Why do  
25 you think the doctors knew he was coming to jail?

1 A Because he was arrested by the Highway Patrol.

2 Q Uh-huh.

3 A They called the Highway Patrol and said he is being  
4 released. If you're going to take him into custody, come  
5 and get him. So they went and picked him up.

6 Q Okay. Now, you're telling us that. How do we know  
7 that that phone call took place?

8 A Well, I mean, we can call patrol person Wynn Guidant  
9 [phonetic].

10 Q That would be great. Is he going to testify in  
11 y'all's case?

12 A If he needs to, we can.

13 Q Okay. Well, maybe we'll get to ask him questions  
14 later on.

15 A Okay.

16 Q If he, if my client, Mr. Young, was going to the  
17 detention center and the doctors called said, "Hey, we're  
18 sending you this guy for the detention center," why do you  
19 think the doctors wrote him medicine that he couldn't have  
20 at the detention center?

21 A Maybe the doctors didn't know what the detention  
22 center policies were or what Southern Health policy was on  
23 giving out narcotics.

24 Q Okay. Why do you think the doctors wrote "home"  
25 where he was released to?

1 A I can't answer that. I mean, it may not be a  
2 drop-down box. They maybe -- just they don't have jail.  
3 Maybe they just said to go home.

4 Q Was the state trooper his friend?

5 A I don't think the state trooper would have been his  
6 friend.

7 Q Okay. So the doctor released him to home, said he  
8 was going with a friend, gave him medicine.

9 A Well, I don't know that he was going with a friend.

10 Q Well, if we can look at it.

11 (Pause in proceedings.)

12 A There are some exhibits right there.

13 Q All right. Where is he discharged to?

14 A It says he was discharged on 8/16/2011. He was  
15 discharged to home, be accompanied by other, and it says  
16 additional comment -- excuse me -- accompanied by,  
17 comment, friend.

18 Q Okay. All right. Is there anything on this document  
19 to indicate that the doctor knew where he was going?

20 A I do not see anything on this document that would say  
21 he knew where he was going.

22 Q Okay. And, in fact, the doctor said, "If you develop  
23 worsening symptoms, pain increases, come back," right?

24 A Okay.

25 Q So can he go back to the doctor if he's in the

1 detention center?

2 A He most certainly can. If our medical staff deems  
3 that he needs to go, that if he starts complaining, he is  
4 observed by our medical staff, and he needs to go to the  
5 hospital, we will definitely take him to the hospital.

6 Q Okay. No. I'm talking about the time when he was  
7 lying in his cell without the neck brace and without the  
8 pain medication.

9 A I can't say he was laid in his cell without a neck  
10 brace or pain medication.

11 Q Okay. What would be required in order for him to go  
12 to the doctor if the pain increased? Go through that  
13 process for the jury, please.

14 A He would see medical. Medical would then contact --  
15 if they felt necessary, they would contact the doctor on  
16 call for them, and they would make that decision, and they  
17 would let us know if we needed to take him to the  
18 emergency room, we need to take him back to the hospital.

19 Q Okay. While all that red tape's going on, symptoms  
20 could worsen, couldn't it?

21 MR. HARTER: Your Honor, that's just arguing with the  
22 witness. I mean, he's on direct. Let him ask questions  
23 -- appropriate question.

24 THE COURT: All right. Well, you've got a point  
25 there, but more to the point, I think it calls mostly for

1 speculation. You're not claiming in your complaint that  
2 your client's symptoms worsened or anything. My  
3 understanding is the primary focus of the damages in this  
4 case would be pain and suffering. So -- but let's try and  
5 stick to what's germane here, if we could, please. That's  
6 a long way to say sustained.

7 MR. HARTER: Thank you, Your Honor.

8 BY MR. HAWKINS:

9 Q Mr. Smith, when people come to the detention center  
10 who are too injured to be there, there's a safety catch,  
11 there's a rule in place; is that right?

12 A Well, that's what the medical screening is for.

13 Q Okay.

14 A That is provided by Southern Health Partners. They  
15 give us a questionnaire to ask that they come up with.  
16 They're the medical experts. They come up with this  
17 questionnaire. As our detention officer, like Ms. Weaver  
18 said, she asked those questions. When she got to a  
19 certain point, she felt it was necessary to notify  
20 medical. At that point, she notified Ms. Bouknight, who,  
21 in turn, came up -- notified via radio, came up and  
22 examined Mr. Young.

23 Q Right. Well, let's talk about the minimum standard  
24 then. That requires a physician to clear him for  
25 admission to the detention center.

1 A He just left the hospital.

2 Q Right.

3 A He just seen -- he just seen a physician. He was  
4 released.

5 Q Exactly.

6 A Okay.

7 Q And that's what the safety catch is for so that if  
8 somebody comes from the hospital and you can't deal with  
9 them, you send them either to Self or to a facility that  
10 can deal with them, right?

11 A We dealt with him. We -- we put ---

12 Q We know that.

13 A We brought him in ---

14 THE COURT: We need to take turns.

15 MR. HARTER: Let him finish his answer, please.

16 THE COURT: We need to take turns talking. So go  
17 forward.

18 THE WITNESS: Okay. Yeah. When he came in, we have  
19 stuff in place through medical health partners that we  
20 allowed them to do the screening, we allowed them because  
21 they're the medical expert.

22 I have no medical degree. None of the detention  
23 facility's -- detention employees have any medical  
24 degree. So that's why we refer to Southern Health  
25 Partners.

1 BY MR. HAWKINS:

2 Q Okay. Did anybody that was involved in the booking  
3 and admission of Mr. Young have a medical degree, MD at  
4 the end of their name?

5 A None of them had an MD, but we had Southern Health  
6 Partners, who was Sherry, where he had just left -- I  
7 mean, it's common sense. He just left the doctor, and the  
8 doctor knew where he was coming when the Highway Patrol  
9 picks him up.

10 Q Let me ask you this question.

11 A Okay.

12 Q If somebody came in from the hospital and -- with  
13 their leg cut off, do you take that person?

14 A We've taken them that's been shot, we've -- we've had  
15 people that come in with big holes in their legs.

16 Q Uh-huh.

17 A We -- we take them. If they are -- pass this medical  
18 screening and Southern Health Partners looks at them and  
19 they say they are okay to be in the detention facility, we  
20 house them. I mean, we can't pick and choose who we  
21 house.

22 Q No. The minimum standards actually allow you to do  
23 exactly that. They allow you to refuse people with a  
24 doctor if you can't deal with them.

25 A Well, what -- but if I'm going to -- if he's

1 arrested, he's charged with felony DUI, I turn him -- say  
2 I can't take them, we take him home, he goes out and kills  
3 somebody again tonight, then I'm liable. The warrant says  
4 for us to arrest him, so we arrest him.

5 Q Nobody said turn him loose or take him home.

6 A Well, what am I going to do with him?

7 Q You're going to take him to Self, which is what the  
8 policy says if you can't deal with them, or you could take  
9 him to a facility that can properly deal with him.

10 THE COURT: We've been down this road before, okay?  
11 We've been down this road before. I think you're pumping  
12 a dry well here. He was released from the hospital in  
13 Greenville. It's what I said over there earlier this  
14 morning. He cannot be boomeranged back between doctors.  
15 We need to move on from this line of questioning and focus  
16 on what your complaint is, and that is the six days  
17 without the neck brace, okay? So go.

18 MR. HAWKINS: Thank you, Judge. Appreciate it.

19 BY MR. HAWKINS:

20 Q So let's not talk about like His Honor said going  
21 back and forth.

22 A That's okay. Okay.

23 Q All right. There was no doctor there. We agree on  
24 on that.

25 A We agree on that.

1 Q The policy says there has to be. We agree on that.

2 A That was policy that was before we obtained -- if I'm  
3 correct, the policy was written in 2005, 2006. We  
4 obtained Southern Health Partners in 2010. We changed --  
5 you know, we didn't go in and change the policy at that  
6 moment, but we changed our procedures for the better.  
7 It's better that we've got certified health people in  
8 there to look at the inmates to help make a better  
9 assessment of what's going on.

10 Q Okay. I'm just talking about the minimum standards  
11 that are required in all detention facilities. And that  
12 was -- and that was in place from 2006 to 2013. He was  
13 there in 2011, right?

14 A You're right. He was.

15 Q Okay. So all I'm trying to get to, I mean, we're  
16 both saying a doctor wasn't there, we're both saying that  
17 you took him anyway. Do you take -- do you think the  
18 sheriff's office has any responsibility for violating that  
19 policy?

20 A I do not.

21 Q Okay. Fair enough.

22 A Okay.

23 Q Do you think that y'all violated any of your own  
24 policies and procedures?

25 A That -- that was written in 2005, 2006. Did we maybe

1 not update them in a timely manner? Like I said, I took  
2 over the jail in February of 2011. These policies were  
3 written in 2005, 2006. And, you know, it takes time to  
4 start a new job in there and to come in and review  
5 everything. So, you know, and that was something we did  
6 during my administration back there. We did start  
7 revisiting some of the policies and start looking at some  
8 of the stuff. But Southern Health Partners, when we got  
9 them on contract, they were better equipped, better  
10 educated in medical to help us make sure that our inmates  
11 were taken care of.

12 Q Well, let's talk about Southern Health Partners for a  
13 second.

14 A Okay.

15 Q They don't have responsibility for running the  
16 detention center, right?

17 A They do not.

18 Q Okay. Who's responsible to the citizens of Greenwood  
19 County for running the detention center?

20 A The jail administrator, assistant jail administrator  
21 and all the detention employees.

22 Q Okay. So y'all -- and when I say "y'all," I mean the  
23 sheriff's office is responsible for managing the detention  
24 center; is that right?

25 A That's correct.

1 Q Okay. And they're responsible for hiring people to  
2 do whatever they do to make sure things are done  
3 appropriately in the detention center.

4 A That's correct.

5 Q Okay. So if you're going to hire Southern Health  
6 Partners or anybody else, your responsibility is to make  
7 sure they follow policy and procedure and minimum  
8 standards; is that right?

9 A They go by their guidelines on medical care.

10 Q Right. But they're not -- they're not responsible  
11 for the detention center.

12 A If something is going wrong or if we feel like that  
13 somebody is being deprived or somebody is not being taken  
14 care of, of course we would step in. But in this case,  
15 Mr. Young received all his medication that we could  
16 legally give him in the detention center. We -- he seen a  
17 nurse or a physician the whole time he was in there.

18 Q Well, the medication you could legally give him,  
19 that's not really accurate, is it? I mean, your policies  
20 and what's illegal are two different things.

21 A Well, let me -- you correct me on that. You're  
22 right, you know. But our policies and what Southern  
23 Health Partners say what they will give and what they  
24 won't give. They say they do not give narcotics, and  
25 that's the way throughout the state in all the detention

1 facilities.

2 Q And that policy is important for y'all to follow.

3 A Through Southern Health. We yield to them when it  
4 comes to medical.

5 Q Okay. Why don't y'all follow the policy that  
6 requires good health before admission?

7 A He was -- if we had -- if somebody had to be in  
8 perfect health every time we put somebody in jail, then  
9 there'd be a lot of criminals running loose on the street  
10 because we couldn't house them. That's why we have  
11 Southern Health Partners, because people do come to jail  
12 with medical issues, and we address those medical issues.

13 Q Okay. And I'll hand you this. 2.5 of general  
14 orders, I want you to just take a look at this. I've  
15 highlighted it down at the bottom.

16 A Okay. (Reviews document) Okay. Booking officer will  
17 complete a medical screening, is visible and obviously  
18 physical.

19 Like I said before, this was 2005, prior to Southern  
20 Health Partners. We changed it when they do the medical  
21 screening, if we see something, then we notify the nursing  
22 staff or Southern Health Partners.

23 Q Okay. Do you think this policy was complied with?

24 A Was that policy complied with?

25 Q Yeah.

1 A I think it was better the way we handled it. I don't  
2 -- I don't think we went to that policy by the T or by the  
3 letter, but I think that when he came in, he received  
4 better treatment than what that policy says.

5 Q Okay. He received better treatment than what the  
6 doctor said he needed to have. Is that your position?

7 A I'm just saying that he received better than what  
8 that policy said. I'm not saying what the doctor said he  
9 needed.

10 Q Okay. There's a part in the policy and procedures  
11 that say the staff should develop a caring attitude rather  
12 than one of strict enforcement. Are you familiar with  
13 that one?

14 A In our policies?

15 Q Uh-huh.

16 A Right. We do have a caring attitude.

17 Q Right. Okay. So that means you could make an  
18 exception if you wanted to, doesn't it?

19 A Not with -- not -- as an exception in what?

20 Q Like if somebody had a broken back and their teeth  
21 knocked out, you could give them what the doctor said was  
22 necessary, couldn't you?

23 A Once we go with Southern Health Partners, we go with  
24 what they want us to do. They are a proven company  
25 throughout the state, and that's what we go by.

1 Q I understand that. My point is, if you put Southern  
2 Health Partners in place, you have a duty to monitor them.  
3 I mean, you can't put them -- would you agree with me that  
4 you can't put them in place and say whatever you say goes?

5 A I agree. Because that's like I said earlier, I do  
6 monitor them. And if I thought they done anything  
7 inappropriate or I think that they were neglecting an  
8 inmate and not giving them care, I would definitely step  
9 in.

10 Q Okay.

11 A But I felt in this case that Mr. Young received as  
12 much or more required care than he -- you know, than --  
13 than, you know, what is said in that policy.

14 Q Okay. Do you have any evidence that -- the neck  
15 brace issue, do you have any evidence that Tony Young's  
16 neck brace was given back to him immediately after it was  
17 checked for contraband?

18 A I have no reason to believe it wasn't. That's not  
19 our ---

20 Q No. I understand. I understand. What I'm asking is  
21 if you have any evidence of when it was returned.

22 A I have no evidence when it was returned, but I do  
23 believe that from procedures that we've done in the past,  
24 if we ask him to remove his neck brace for a picture, we  
25 would give it right back to him.

1 Q Okay. Is there a document anywhere that says "neck  
2 brace immediately returned to inmate" or anything like  
3 that?

4 A It is not.

5 Q Okay. All right. Do you know anybody that could  
6 verify they visually saw return of the neck brace?

7 A I -- I wasn't in the booking area when his photo was  
8 taken, so I don't know.

9 Q Okay. All right. Do we agree that if the neck brace  
10 was deprived for six days, that would be a violation of  
11 policy?

12 A If it happened, I would say ---

13 Q Okay.

14 A --- that would be, but it didn't happen. I don't  
15 believe it would happen.

16 Q Okay. There are cameras like this in the booking  
17 area, aren't there?

18 A That's correct.

19 Q Okay. Did y'all bring any of the footage that would  
20 show the neck brace on Mr. Young at the time?

21 A Our cameras purge after 90 days.

22 Q Right.

23 A Okay. So at the time, we had no reason to believe  
24 that we was not doing anything but the right thing. We  
25 did not know that it would come to this seven years later.

1 Q Okay. Now, when you say "purge," these cameras don't  
2 require VHS tapes, do they?

3 A No. They just record over. I mean, they just -- the  
4 system records.

5 Q Like a computer?

6 A Yeah. I guess it would record over and over and  
7 over.

8 Q Okay. So there should be a database where that stuff  
9 is stored, shouldn't there?

10 A I don't have access to that. I'm not an IT guy.

11 Q Did y'all try get it? I mean, we sent a subpoena for  
12 it in addition to our ---

13 A No. We're -- I mean, we don't have access to it.  
14 From what we've been told by our computer company Simplex,  
15 that the tapes are lost every 90 days. They are rewritten  
16 over.

17 Q Okay.

18 A And that's all I can go on.

19 Q Okay. Did you contact an IT person to try to go into  
20 the hard drive to retrieve them even if they've been  
21 deleted?

22 A I didn't -- I didn't do anything.

23 Q Don't you think the jury would like to see footage of  
24 Mr. Young while he was in the booking area?

25 THE COURT: All right. Sustained.

1 MR. HARTER: Thank you, Your Honor.

2 THE COURT: This suit was filed years later, okay?  
3 The tapes get written over. Let's focus on what is truly  
4 an issue here and stop chasing rabbits, please, okay?

5 Go ahead.

6 BY MR. HAWKINS:

7 Q Do you have any pictures of Mr. Young during any of  
8 the time that he was in the booking area?

9 A The only picture that we have is when we took his  
10 booking photo, which clearly shows he did not have his  
11 collar on.

12 Q Okay. All right. Do you know which officer told him  
13 to take the collar off?

14 A I have no idea. I mean, I can look and see who the  
15 booking officers were and who was in there, and that may  
16 would give us an idea, but I don't -- without being there,  
17 I don't know. No, sir.

18 Q What's your understanding of what Mr. Young's family  
19 complained about when they made some complaints about the  
20 neck brace and the medication and that sort of stuff?

21 A Okay. They never spoke with me personally.

22 Q Okay.

23 A Okay? From what I've read and what I've -- in  
24 preparing for the trial, I have saw that -- I have seen  
25 that there was something about gout and there was

1 something about the medication. Those are the only two  
2 things that I know of.

3 Q Okay. After -- or if you don't know, that's fine.  
4 But after the family complained, do you know if anything  
5 was done to remedy the situation about Mr. Young not  
6 having his medicine and not having his neck brace?

7 A On the -- on the medicine, I -- and this is  
8 assumption, okay? I'm assuming they told him that, you  
9 know, narcotics are not allowed, but they will be giving  
10 him a substitute for narcotics. You know, they came up  
11 with whatever -- however they do it. And then with the  
12 gout, I'm assuming they talked to medical, and that was  
13 handled.

14 Q What substitute? If I substitute my pants for  
15 shorts, I mean, that's not appropriate for the Court,  
16 right?

17 A That would be up to Judge Addy.

18 Q Right. And he could screen me right out of here, the  
19 bailiffs.

20 A He could, right.

21 Q Okay. So what I'm drawing is a picture of how far  
22 the disparity is between the Advil and what a doctor said  
23 was necessary. Did anybody ever have a meeting or a  
24 conversation about the fact that somebody who was hurt  
25 this badly wasn't getting his prescription medication?

1 A I don't know that the doctor said that Lortab was  
2 necessary. It was just -- you know, it was prescribed to  
3 him. I don't know if it was necessary or wasn't  
4 necessary. But when you come to jail, you know, we do not  
5 give out narcotics. That's a rule from Southern Health  
6 Partners. They -- they deal with it all the time, and  
7 they have whatever they decide -- whatever they come up  
8 with on giving for his pain.

9 Q Okay. Are you familiar with the policy of protection  
10 from harm?

11 A Protection from harm?

12 Q Uh-huh. That forbids corporal punishment?

13 A Right.

14 Q Okay. Is deprivation of medical equipment, a medical  
15 device, does that constitute corporal punishment within  
16 the rule?

17 A I don't know. I don't know whether it would or not.  
18 I'm not a medical person to say that -- that it would be.

19 Q Right. And they're not policies for the medical  
20 people. They're policies for the detention center where  
21 Mr. Young was. And I think it referred to guards.

22 A You lost me there.

23 Q I'll find it for you.

24 A Okay.

25 Q And I think it goes into the next page.

1 A Okay. And what I'm reading here, Mr. Hawkins, it  
2 says, "Under no circumstances whatsoever will any form of  
3 corporal or physical punishment be inflicted." And we do  
4 not do any kind of physical or corporal punishment on  
5 Mr. Young. It says, "And withholding of food, heat,  
6 medical, dental care, tooth extractions is also considered  
7 a form of corporal punishment." Okay. We did not -- I  
8 think they said earlier that he received medication every  
9 day.

10 Q Okay. It says that somebody that does this could be  
11 terminated or criminally prosecuted. Is it fair to say  
12 that's a pretty serious thing to be accused of, corporal  
13 punishment?

14 A Right.

15 Q Okay. When he said that he hadn't had his neck brace  
16 for six days, was there even an investigation done? I  
17 mean, did y'all even ask anybody about it?

18 A I had no reason to believe he didn't have it. I  
19 mean, I believe he had it. And like I said, it was 2014  
20 when you came forward with this suit to ask about it.

21 Q 2013, I think.

22 A Well, whenever it was.

23 Q And we all agree that it should have been done. I  
24 mean, we agree on that. Nobody should have taken his  
25 collar.

1 A Right. He should not have been without his collar,  
2 and I don't believe it happened.

3 Q Okay. What I'm asking is after that period of time  
4 when his family complained and when he said, "I need my  
5 collar," did y'all look into it at all, or did y'all just  
6 say that would have never happened, so it's not worth  
7 looking into?

8 A We -- we had it where we had documentation where out  
9 in B Unit where he was housed, that the officers working  
10 B Unit, when he came out on his rec, would document if he  
11 came out with his neck collar on or without his neck  
12 collar on.

13 Q Okay. Where is that documentation?

14 A It's -- I mean, we've got it if he needs it.

15 Q Okay. We'll wait and see it then.

16 A Okay.

17 Q Do you have any idea in the progress notes where he  
18 is noted to have it on the 16th when he comes in, and then  
19 it's absent until the 23rd? Do you have any idea why that  
20 would be noted in the progress notes?

21 A I looked over the progress notes, like I said,  
22 preparing for this, and I seen it was listed on the 23rd  
23 but it was not listed before or after the 23rd.

24 Q It was listed on the 16th.

25 A Well, I mean, it was listed on the 16th.

1 Q Right.

2 A Then it was listed on the 23rd, but between the 16th,  
3 23rd it was listed, and between the 23rd until he was  
4 released, it was never listed again on progress notes  
5 either. But like I said, we do have documentation that  
6 when he came out from his rec, that it said that he didn't  
7 have his medical stuff or he didn't have his neck brace on  
8 and things like that.

9 Q When you say "rec," you mean the rec yard?

10 A Well, come out in -- not necessarily out on the rec  
11 yard. Comes out in the runaround. Like you're in a cell,  
12 they have their what we call rec period, and that's when  
13 they come out for like an hour, hour and a half a day that  
14 we let them come out. And it necessarily doesn't mean  
15 outside. It could be right there in the little runaround  
16 area.

17 Q Uh-huh. Okay. And those times that he's documented  
18 to have it, is that before or after the 23rd when he got  
19 it back?

20 A When he did have it or didn't have it?

21 Q Yeah. Those records. Do you have something in that  
22 six-day period?

23 A I don't have anything in that six-day period, so that  
24 would lead me to believe that he would have had it on,  
25 because we only documented when he didn't have it on. If

1 he had it on, we wouldn't document it because he's doing  
2 what he's supposed to do.

3 Q But you -- I'm sorry. Go ahead.

4 A And -- but if he's got it on, he's supposed wear it,  
5 then he's abiding by the rules, he's doing what he's  
6 supposed to do. If he comes out without it on, we  
7 document that, hey, he didn't have his neck brace on. He  
8 came out without his whatever it says in there. If he  
9 didn't have his medical stuff like his walker or whatever  
10 he may have had or may not have had, then we document it  
11 because if he fell or if he done something, we want to  
12 show that he didn't have his proper medical stuff on. But  
13 if he had everything on, there was no need to document it.

14 Q My question is, it's documented that it's on him on  
15 the 16th, and it's documented that it's on him on the  
16 23rd, so that's two times he had it on and they documented  
17 it.

18 A When he first came in and then while -- and it was  
19 documented by Southern Health Partners when he went out  
20 that day, when, I guess Sherry, if I remember right, went  
21 out and just made her notes. I mean, I don't know why she  
22 made them that day. I can't answer that. She would have  
23 to answer that.

24 Q All right. Are there any other documents related to  
25 booking, intake or screening that were not filled out

1 accurately or that were filled out inaccurately?

2 A Not to my knowledge. I mean, you may can show me  
3 something and I can look at it and tell you yes or no.

4 Q Okay. All right.

5 (WHEREUPON, Plaintiff's Exhibit Number 19 was marked for  
6 identification.)

7 BY MR. HAWKINS:

8 Q All right. Do you -- have you seen one of these  
9 before?

10 A This is a temporary custody form.

11 Q Okay. Are those filled out all the time when people  
12 come in?

13 A By the arresting officer. Yes, sir.

14 Q Okay. And is there a signature line for the  
15 detention center employee also?

16 A It's got arresting officer, it looks like M. Murdock,  
17 and then signature is M, I'm assuming -- I mean, I'd have  
18 to guess and say Murray.

19 Q Okay.

20 A Okay. So ---

21 Q Okay. So you've seen it before.

22 A Oh, yeah. Everybody that comes into the detention  
23 facility, the arresting officer has to fill out a  
24 temporary custody so we can hold them till they see the  
25 judge.

1 MR. HAWKINS: Okay. All right. And, Your Honor,  
2 this is already been stipulated to. I'd move to have it  
3 in evidence.

4 THE COURT: Which one is it?

5 MR. HARTER: Let me just take a look at it, Your  
6 Honor.

7 THE COURT: That's fine.

8 MR. HARTER: No objection, Your Honor, of course.

9 THE COURT: Plaintiff's 19 in evidence.

10 (WHEREUPON, Plaintiff's Exhibit Number 19 was admitted  
11 into evidence.)

12 BY MR. HAWKINS:

13 Q All right. This document only has four questions on  
14 it. And the first one is, "Has this person been injured  
15 or have any observable medical problems?" And, you know,  
16 it's marked "no." Does that seem to be accurate or  
17 inaccurate?

18 A I would say that it is inaccurate.

19 Q Okay. Has anybody ever -- since this case has been  
20 filed, has anybody ever gone back and looked at documents  
21 like these and raised any concern with anybody or talk to  
22 anybody about why that document is erroneous or why it was  
23 filled out incorrectly?

24 A Like I said, this was filled out by J.M. Murdock who  
25 works with the Highway Patrol, and you would have to ask

1 him why he filled it out in that way.

2 Q I'm sorry. Were you done?

3 A Yeah.

4 Q The detention center employee, the sheriff's office  
5 employee -- Murray, I think it is?

6 A That's what it looks like.

7 Q Did he -- did anybody talk to Murray about this?

8 A I did not talk with him. I can't say any -- whether  
9 he was talked to or not.

10 Q Okay. And he was supposed to read this, make sure  
11 it's right before he signed his name. Is that fair to  
12 say?

13 A I would say he is to -- well, he is to say that Tony  
14 Ray Young was brought in for felony DUI, great bodily  
15 injury by J.M. Murdock, South Carolina Highway Patrol, and  
16 when his next bond hearing will be at 3 o'clock -- it  
17 looks like 1500 would be 3:00 at the Greenwood Detention  
18 Center. He signed it, then the detention center signed it  
19 that he had the temporary custody.

20 Q Okay. All right. The screening form we saw that  
21 said Tony didn't have any visible injuries or any dental  
22 injuries and said that his mobility was restricted, in  
23 this document here, it's important to fill both of those  
24 documents out correctly when people are being admitted to  
25 the detention center, right?

1 A I would say you need to fill them out accurately.

2 Q Okay. But no corrective action's been taken to  
3 address that or ---

4 A That's the first time I've seen that form today.

5 Q Okay. All right. Have there been any other  
6 complaints or incidents at the detention center about  
7 people not getting there medicine or ---

8 MR. HARTER: Objection, Your Honor.

9 THE COURT: All right. Sustained. Sustained.

10 BY MR. HAWKINS:

11 Q All right. Do you have any reason to believe -- let  
12 me ask you like this.

13 A Okay.

14 Q You know the allegations.

15 A I do.

16 Q Six days, no collar, neck moving around, didn't  
17 properly screen. That's what we allege. You're aware of  
18 that.

19 A I'm aware of that. Yes, sir.

20 Q All right. And are you aware of any recurring  
21 problem that has similar allegations to this?

22 A I am not.

23 MR. HARTER: Objection to form, Your Honor.

24 THE COURT: Overruled. Overruled. I'll let that  
25 one ---

1 THE WITNESS: Like I said, I was the detention -- I  
2 was the jail administrator from 2011, February 2011 till  
3 February of 2013. February of 2013 I was moved back to  
4 the uniform division over operations at the sheriff's  
5 office as second in command, and so I have not worked in  
6 the detention center since February of 2013. So if  
7 there's any been made to the current jail administrator, I  
8 do not know.

9 BY MR. HAWKINS:

10 Q Okay. Is that something that you should have been  
11 filled in on if there were other instances where this was  
12 a recurring problem?

13 A During my time as a jail administrator, I would hope  
14 they would have come to me and let me know there was a  
15 problem.

16 Q Right. And I'm talking about even the time before  
17 you got there, do you feel like that would be important  
18 information to know there was a hole in the system that  
19 kept allowing this matter ---

20 A You're talking about prior to me taking that  
21 position.

22 Q Yes.

23 A Yes. If somebody -- somebody should have maybe let  
24 me know that that was a problem, but I was never -- I was  
25 never directed that was a problem.

1 MR. HAWKINS: Okay. Your Honor, can we approach.

2 THE COURT: Sure. Come on up.

3 (WHEREUPON, a bench conference was held off the record.)

4 THE COURT: I need to take up an issue of law with  
5 the attorneys. Like I said yesterday, this is one of  
6 those times I'm going to have to clear out the courtroom  
7 and send you to the jury room, all right?

8 Adjourn to the back. I'll have you back out here as  
9 soon as possible, but I have to take up a few matters of  
10 law, all right? Thanks.

11 (WHEREUPON, the jury exits the courtroom.)

12 THE COURT: We're just going to take a few moments  
13 just for ourselves, and then we'll resume.

14 Lonnie, you can step on down.

15 (WHEREUPON, a recess is taken.)

16 THE COURT: All right. If we may, I just want to put  
17 on the record what the conversation out of earshot of the  
18 jury was about. The Court is going to allow a proffer  
19 here of what Mr. Hawkins is looking to get into as far as  
20 other inmates.

21 In the Court's mind, and here's where I am, the  
22 understanding of the Court was that the damages complained  
23 of in this case are limited to pain and suffering. And it  
24 is the plaintiff's theory that the pain and suffering was  
25 proximately caused by deprivation of the collar for a

1 period of time, which is within lay knowledge, and it's my  
2 understanding that there will be no expert testimony from  
3 pretrial discussions, there's not going to be a doctor or  
4 anybody who testifies as to medical causation, things of  
5 that nature. So if that is, in fact, the case, I think  
6 that the germane question here is exactly that, the neck  
7 brace and any attendant pain caused by the deprivation of  
8 the neck brace.

9 The parties keep referring to the narcotic that the  
10 defendant was prescribed in Greenville as medication.  
11 That's not medication. Medication is penicillin if you  
12 have pneumonia, it is insulin if you have diabetes, it is  
13 a chemical that treats and cures a disease.

14 The narcotic medicine that was prescribed to the  
15 defendant, no jail in South Carolina, no prison in South  
16 Carolina would permit that medication through the door for  
17 a very, very, very good reason. So we're kind of dealing  
18 with a very collateral issue in the mind of the Court here  
19 when we focus on the question of the medication.

20 Also, collateral is the question of were policies and  
21 procedures followed. He was well enough to be booked into  
22 the detention center. He was well enough to be discharged  
23 from the hospital, he was well enough to be booked into  
24 the detention center, and it's not like they were  
25 completely cavalier in not having him seen by a medical

1 professional. My wife is a nurse. She's a nurse  
2 practitioner. Nurses make better medical providers than  
3 doctors do, okay? So if the policies and procedures had  
4 said he needs to see a witch doctor and he saw a nurse,  
5 well, he's better for it. That's what the Court is  
6 concerned about.

7 I'm seriously considering that when this case gets to  
8 the jury, the inquiry I'm going to make of them is whether  
9 or not the plaintiff has proven by the preponderance of  
10 the evidence that the defendant was grossly negligent in  
11 depriving the plaintiff of the neck brace for a period of  
12 time and that said deprivation was the proximate cause of  
13 pain thereby resulting in damages, or words to that  
14 effect. I'll probably clean that up. But that is what we  
15 are focused on here, and everything else is really very  
16 collateral.

17 You wanted to go ahead and proffer specific  
18 instances, Mr. Hawkins, that you say relate to this  
19 question, specific instances of other inmates, so go ahead  
20 and do that outside of the presence of the jury and we'll  
21 see where we are, okay?

22 MR. HAWKINS: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. HAWKINS:

25 Q Mr. Smith, have you ever talked to Sharon Middleton

1 or anybody about William Johnson that made a complaint  
2 about not receiving medication for being a hemophiliac,  
3 being a free bleeder?

4 A Right. William Johnson, yes, sir.

5 Q Do you know when that was?

6 A He was incarcerated several times in the detention  
7 facility. I know one time -- at least one if not twice  
8 while I was the jail administrator. And he had -- he had  
9 complained about -- is it a Factor 8 or something like  
10 that where he has to get a shot or something of that  
11 nature.

12 Q Right.

13 A Right.

14 Q Okay. All right. So that would be one. Whether it  
15 was right or wrong, that would be one prior incident.

16 A Right. Of where he didn't get his shots, his 8 -- is  
17 it V-8 or Vector 8, or some kind of shot. I don't know.

18 Q Okay. And have you ever heard of an inmate or talked  
19 to Sharon Middleton about an inmate named Kelvin Lites?

20 A I know Kelvin Lites. I know I -- I don't know that  
21 I've talked to Captain Middleton about him, but I know  
22 Kelvin.

23 Q Okay. And do you know anything about his allegations  
24 of not receiving appropriate medical care?

25 A The only thing I know that Kelvin is -- I know he is

1 -- says something about he needed baby oil or some kind of  
2 special lotion at one time. But as far as medication, I  
3 don't remember. I mean, like I said, it's been seven  
4 years ago, six years ago. I'm not saying I did, but I  
5 don't remember him saying anything about medication. His  
6 was always about he wanted a certain kind of soap or a  
7 certain kind of lotion.

8 Q Okay. Do you know anything about a diabetic that  
9 made an allegation that they didn't receive their insulin  
10 and they had a diabetic episode?

11 A I don't recall that. No, sir.

12 MR. HAWKINS: Okay. All right. Judge, we would move  
13 to, you know, have this stuff heard in the presence of the  
14 jury since it's substantially close in time, and there's  
15 at least one allegation that there was a deprivation of  
16 medical care.

17 THE COURT: Do you want to speak to that, Mr. Harter?

18 MR. HARTER: I would, Your Honor.

19 I do not know anything about this, quote, diabetic  
20 thing, but I think you focused on the fact that the issues  
21 here are the collar, and the issue is whether or not this  
22 gentleman got pain medication, not medication to cure or  
23 address a medical issue. So I don't know firsthand about  
24 anything having to do with this -- this diabetic thing.

25 But I do -- I would suggest to you that with regard

1 to a Mr. Lites, I seem to have a recall that there was a  
2 lawsuit filed by Mr. Lites, and I believe that suit was  
3 dismissed. I can't remember, Judge. I don't remember  
4 when it was, but I think it was in federal court probably,  
5 and it probably was something just like Lonnie said. I  
6 believe it was dismissed because there was no merit to it.

7 I will and can speak to the other case involving  
8 William Johnson, and you may know Mr. Johnson yourself.  
9 But Mr. Johnson had a bleeding disorder, and he had come  
10 to the detention center a couple of times. Actually, one  
11 of the thoughts was that he would not take his medication  
12 on the street, and when he would come to the jail, he  
13 would then request that medication. I do know there was a  
14 lawsuit over that. I was involved in that lawsuit  
15 representing the detention center.

16 And that case, Your Honor, for dates and time  
17 purposes, I will represent to you that according to the  
18 deposition taken by the plaintiff's lawyer in that case,  
19 she indicated that that deposition related to William  
20 Johnson, detainee back in March 2013 for the incarceration  
21 period of March 14, 2013 to April 1, 2013. That was -- he  
22 was there for about, according to her statement --  
23 preliminary statement about two weeks or something like  
24 that. That was after, you know -- that would have been  
25 well after this matter. So I fail to see what relevance

1 that could possibly have. And, Judge, it's just fraught  
2 with probative value issues.

3 THE COURT: The Johnson thing is coming back to me  
4 now, because what that was was a probation violation. And  
5 I recall the -- there was a concern about the cost, and  
6 apparently the medication wasn't covered under whatever  
7 plan or rubric the jail has for a hemophiliac, and there  
8 was a concern about the cost and so they wanted to move  
9 forward. He was in jail on a probation violation because  
10 he was doing a Youthful Offender Act sentence. His agent  
11 put him in there. The Court heard promptly from the  
12 detention center and the sheriff at the time. So I went  
13 ahead and appointed Janna Nelson, the public defender, to  
14 represent Mr. Johnson with the intention of moving forward  
15 with a hearing concerning his violation within the next  
16 couple of days. Ms. Nelson requested two weeks to consult  
17 with him, and I didn't find her request to be  
18 unreasonable. And I basically told the detention center,  
19 well, you're going to need to put a crowbar in your wallet  
20 and find the money to give him his medication. I think  
21 that's how that all played out.

22 Let me ask you this, Mr. Hawkins. If we were dealing  
23 with an issue of punitive damages, okay, similar conduct,  
24 similar actions in the past as it relates to other people  
25 would clearly be relevant on a punitive-type issue, but

1 this is under the Tort Claims Act. So we're dealing with  
2 a suit against the county governmental entity, so clearly  
3 you can't get punitives.

4 Back to my original point, the medication for a  
5 hemophiliac, that's to prevent them, if they cut  
6 themselves shaving, from bleeding out. That's absolutely  
7 necessary for an individual to have.

8 The insulin for Inmate X, again, and Mr. Lites, I  
9 don't think we've actually pinned down what his issue was.  
10 It sounds like lotion, based upon the testimony of the  
11 witness, and that's all that we've got to go on. I can't  
12 find anything where Mr. Lites has filed suit, so I can't  
13 speak to that.

14 All that said, how is this relevant to the question  
15 of whether he was deprived of a neck brace? If Mr. Smith  
16 here had knowledge of perhaps some other medical device  
17 similar to a neck brace, either a back brace, perhaps an  
18 external pacemaker, I don't think they use those anymore,  
19 some device that's necessary for the inmate to have in  
20 order to sustain either life or provide additional comfort  
21 to them, that's one thing. We're talking about  
22 life-saving medication over here as opposed to some stuff  
23 that no detention center is going to have -- let him have  
24 anyway. So how is this relevant in light of where I am?

25 MR. HAWKINS: Your Honor, we would say it's relevant

1 because although we can't get punitive damages under the  
2 Tort Claims Act, we do have the same standard of proof  
3 which is, you know, we've got to show gross negligence.  
4 That's recklessness and gross negligence is what you have  
5 to show to get punitives. So there is a similarity in  
6 what we have to show. And if we can show that there's  
7 been other incidences, even one other incident where they  
8 knew somebody wasn't getting medication or they went  
9 through, you know, a bunch of red tape to get them their  
10 medication, then that would be a similar incident and it  
11 would be close in time. And under Turner v. Wilson,  
12 86 S.E.2d 867, and Grant v. Columbia Coca-Cola, that's  
13 7 S.E.2d 641, we think that that -- those come in. I can  
14 hand Your Honor these cites if you ---

15 THE COURT: Sure. Please.

16 MR. HAWKINS: And Your Honor, behind that one that's  
17 highlighted, there are more recent cases my co-counsel  
18 just told me.

19 THE COURT: Right.

20 Back to my original point, though. You're  
21 complaining about the fact that he wasn't provided with  
22 medication that he could not have been provided with in  
23 the context of the detention center anyway, and so if  
24 we're talking about -- I'm sorry. You seem to want to  
25 speak. Go ahead.

1 MR. HAWKINS: Sorry, Your Honor. We think that since  
2 the neck brace was, you know, keeping his neck from  
3 breaking and they took that from him, that's essentially  
4 the same thing as taking a life-saving medication. The  
5 neck brace was keeping his neck from breaking, and that  
6 medication in the other incident was keeping the person  
7 from bleeding to death because they're a hemophiliac.

8 THE COURT: Right. But his neck did not break.

9 MR. HAWKINS: Right. Thankfully. But it's the rule  
10 violation that we're concerned about. We want to stop the  
11 rule violation.

12 THE COURT: Okay.

13 MR. HAWKINS: If you -- I'm sorry.

14 THE COURT: No, no. Go ahead.

15 MR. HAWKINS: If he was caused extra pain because  
16 they kept it for six days, which all the evidence  
17 indicates that they did, that would be the exact kind of  
18 damage that was caused in this other incident of, you  
19 know, this hemophiliac not getting their medication. They  
20 were caused, you know, extra pain and bleeding. He was  
21 caused extra pain by not having his neck brace.

22 THE COURT: Right. But I think the testimony from  
23 Mr. Smith was he doesn't know about the diabetic,  
24 Mr. Lites' situation -- and this is all the Court's got to  
25 go on at this point in time, okay? Mr. Lites' situation

1 was that his -- he didn't have the proper cream or  
2 whatever for his skin or special soap, and Mr. Johnson's  
3 situation, I don't think that Mr. Smith indicated that he  
4 did, in fact -- or that he was, in fact, deprived of the  
5 hemophiliac medication. It was just an allegation. Do  
6 you have any kind of independent report, any sort of  
7 investigation, anything other than just, hey, isn't it  
8 true that other people make complaints?

9 I mean, we are dealing with a detention center here.  
10 People are arrested. They're coming off prescription pain  
11 medication, they're coming off opioids. They're going to  
12 have a big level of discomfort. You've got drunks that  
13 are going to be -- they're going to be going through DTs.  
14 You're going to have complaints made by the inmates at the  
15 detention center if for no other reason than to make a  
16 complaint.

17 And so far, the only evidence that we have that your  
18 client was deprived of the neck brace is apparently his  
19 testimony that I assume is going to come sometime  
20 tomorrow. Everybody else says, no, there's no reason we  
21 would have deprived him of it.

22 And again, to characterize hemophiliac medication for  
23 insulin with a neck brace, I think that's an  
24 apples-and-oranges comparison. The cases that you site  
25 shows that there has to be some -- it has to prove or

1 disprove something which is, in fact, in dispute, and  
2 based upon this proffer, I don't hear any evidence from  
3 this witness that this has been a recurring problem, only  
4 that there have been recurring complaints. And that's not  
5 to be -- that's not unexpected in a detention center  
6 setting that there would be complaints.

7 Now, if there were some complaints that were founded,  
8 that might be a different matter entirely. If the County  
9 of Greenwood paid William Johnson, you know, \$150,000  
10 because they admitted or they were found to have deprived  
11 him of his hemophiliac medication and he suffered damages,  
12 that's a different matter entirely. But isn't it true  
13 that other complaints were made, that doesn't cut it,  
14 especially in light of the fact that this judge actually  
15 has somewhat personal knowledge of the situation involving  
16 Mr. Johnson, and he got his medication, was my  
17 understanding, if it's the same guy I'm thinking about it.  
18 There aren't that many hemophiliacs that were on probation  
19 for wise in Greenwood, I would think. But I would hope.

20 That's my ruling. This is irrelevant, and I don't  
21 see how it's germane to any issue involved in this case.  
22 Thanks, though.

23 MR. HAWKINS: Thank you, Your Honor.

24 THE COURT: Yes, sir.

25 Let's have the jury back, please.

1 (WHEREUPON, the jury entered the courtroom.)

2 THE COURT: All right. We're back on the record, and  
3 we are continuing with Mr. Smith's examination.

4 Mr. Hawkins, please continue, sir.

5 MR. HAWKINS: Thank you, Judge.

6 DIRECT EXAMINATION (Continued)

7 BY MR. HAWKINS:

8 Q Mr. Smith, I only have a few more questions for you.

9 Would you agree that the sheriff's office has to  
10 follow rules just like everybody else?

11 A Right. We have rules we have to go by, rules and  
12 guidelines.

13 Q Okay. And where do you work now? You told me  
14 earlier.

15 A I am over the operations -- the sheriff's office is  
16 broken up into three divisions. The sheriff is  
17 responsible for the telecommunication, which is known as  
18 dispatch, the Greenwood Detention Center and uniform  
19 patrol, which is the Class I certified officers which  
20 includes your investigation, DU, stuff like that. I am  
21 currently the commander over the Uniform Patrol Division,  
22 but I am classified as a major over operations and second  
23 in command.

24 Q Okay. All right. Is it important for the sheriff's  
25 office to follow the rules no matter which branch of it is

1 operating, no matter what it's doing?

2 A We have rules and guidelines, like I say, we do need  
3 to go by, right.

4 Q Okay. Would you agree that those rules are in place  
5 for the safety of the public?

6 A I think that that's why rules are in there is for the  
7 safety of the public and also safety of officers and  
8 everybody involved.

9 Q Okay. Resource officers, 96, Greenwood, Emerald, all  
10 the hospitals have resource officers.

11 A Okay.

12 Q Do those resource officers also have to follow safety  
13 rules?

14 A They have guidelines. And that's why they go to -- a  
15 school resource officer, there's a special training, a  
16 two-week training that they have to go to.

17 Q Okay. Would you agree that it's important for the  
18 sheriff's office to follow rules, whether it's in the  
19 detention center or anywhere else, because if a pass is  
20 given in one area of breaking rules, then officers could  
21 break the rules in other areas? Is that fair to say?

22 MR. HARTER: Your Honor, I -- I'm sorry. I just  
23 don't see the relevance in all this. We're talking about  
24 a detention center setting, and I just don't see why we're  
25 going all the way over there.

1 MR. HAWKINS: Your Honor ---

2 THE COURT: All right. I think that's more of an  
3 argument that you could make to the jury. I understand  
4 what you're saying, and I think that we all agree that  
5 it's important for whatever agency to follow whatever  
6 rules and guidelines are in existence. So that's more of  
7 an argument-type question. I'll sustain the objection.

8 MR. HAWKINS: Thank you, Your Honor.

9 BY MR. HAWKINS:

10 Q Is it important for people who act in a supervisory  
11 role to make sure that their subordinates follow the  
12 rules, whether it's in the detention center or anywhere  
13 else?

14 A I think it's equally important for everybody of an  
15 organization to follow rules. I think that makes for a  
16 better organization.

17 Q Okay. And is it fair to say that if the rules aren't  
18 followed, people can be hurt?

19 A There -- sometimes I will say that. But I'll also  
20 say this. Sometimes when rules are followed, there's --  
21 people gets hurt.

22 MR. HAWKINS: Okay. Thank you. I don't have  
23 anything else until redirect.

24 THE WITNESS: Okay.

25 THE COURT: Go ahead, Mr. Harter.

CROSS EXAMINATION

1  
2 BY MR. HARTER:

3 Q Lonnie, I just want to ask you one thing. While  
4 Mr. Young was at the Greenwood County Detention Center, he  
5 received medical care from Sherry Bouknight, who was an  
6 LPN, and he received medical care from Dr. Massey; is that  
7 correct?

8 A He did. He received from Sherry Bouknight, and I  
9 don't remember the names of the other nursing, but  
10 Dr. Massey was the doctor that came up.

11 Q Okay. And Dr. Massey is a medical doctor, and  
12 Dr. Massey and Mr. Young have the patient-physician  
13 relationship, correct?

14 A I'm sure that Dr. Massey knows who Mr. Young is and  
15 Mr. Young knows Dr. Massey.

16 Q But by virtue of the fact that Dr. Massey is  
17 rendering care and providing care to Mr. Young, that  
18 establishes a physician-patient relationship, right?

19 A It does. Yes, sir.

20 Q And Mr. Young's physician, Dr. Massey, was involved  
21 in this process and decision-making about his medications  
22 and his care, correct?

23 A Right. Yes, sir.

24 MR. HARTER: Okay. Lonnie, thank you. Those are all  
25 the questions we have.

1 THE COURT: Redirect? None?

2 MR. HAWKINS: No redirect.

3 THE COURT: All right. Mr. Smith, go back to counsel  
4 table, I suppose, or leave, whichever.

5 Do y'all have a quick witness, 15, ten minutes? No?  
6 Probably not.

7 MR. WHITE: No, Your Honor. We have Sharon  
8 Middleton. She'll probably take ---

9 THE COURT: That'll take a little bit of time. All  
10 right.

11 Ladies and gentlemen, we're going to go ahead and  
12 take a break for the evening. I'm going to ask that you  
13 return, please, to the jury room. Be here at 9:30. I  
14 have a doctor's appointment that I've been putting off  
15 since like March over in Abbeville, okay? So it's nothing  
16 serious, but it's -- I'm going to go see a doctor tomorrow  
17 morning. It's at 8:30, I'm hoping I'll be done by 9:30.  
18 If I don't have you out here, it's my fault. It's because  
19 they kept me waiting, okay? Don't hold it against me --  
20 or don't hold it against them. You can hold it against  
21 me.

22 This evening, don't, of course, talk to anyone about  
23 this case. I do hope you have a pleasant night, all  
24 right? Get some rest, and I'll see y'all tomorrow morning  
25 at 9:30. Thank you.

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(WHEREUPON, the jury exits the courtroom, and proceedings  
were adjourned, to be reconvened on Wednesday,  
September 26, 2018.)

## 1 CERTIFICATE OF REPORTER

2  
3 STATE OF SOUTH CAROLINA )  
4 COUNTY OF GREENWOOD )  
5

6 I, CHERYL A. SMITH, Official Court Reporter for the  
7 Thirteenth Judicial Circuit of the State of South  
8 Carolina, do hereby certify that the foregoing is a true,  
9 accurate and complete Transcript of Record of the  
10 proceedings had and evidence introduced in the trial of  
11 the captioned case, relative to appeal, in the Court of  
12 Common Pleas for Greenwood County, South Carolina, on the  
13 24th and 25th day of September, 2018, reported by Circuit  
14 Court Reporter Tara Scott and transcribed by me.

15 I do further certify that I am neither of kin,  
16 counsel, nor interest to any party hereto.  
17

18 August 2, 2019  
19

20  
21 

22 Cheryl A. Smith, CVR-M  
23 Court Reporter  
24  
25

STATE OF SOUTH CAROLINA ) COURT OF COMMON PLEAS  
COUNTY OF GREENWOOD ) 2016-CP-24-00157  
)  
)  
)  
)  
)  
TONY YOUNG, )  
PLAINTIFF, )  
)  
vs. ) TRANSCRIPT OF RECORD  
GREENWOOD COUNTY DETENTION ) VOLUME II  
CENTER AND THE GREENWOOD )  
COUNTY SHERIFF'S OFFICE, )  
DEFENDANTS. )

September 24, 25, 26, 27, 2019  
Greenwood, South Carolina

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

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

JOSHUA THOMAS HAWKINS, ESQ.  
KYLE JASON WHITE, ESQ.  
Attorney for the Plaintiff

RUSSELL W. HARTER, JR., ESQ.  
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Attorney for the Defendant

Reported By:  
TARA SCOTT

Transcribed By:  
CHERYL A. SMITH  
Circuit Court Reporter



1 THE COURT: I can't recall specifically.

2 But Mr. Harter, can you recall?

3 MR. HARTER: Your Honor, I don't have a specific  
4 recollection about that, but that was no suggestion that  
5 Mr. Young had done that. He was hypothetically speaking  
6 about his wife. And Lonnie tells me he thought he said  
7 "hurt somebody."

8 THE COURT: All right.

9 MR. SMITH: No. I didn't say that. I said she  
10 wasn't charged with felony DUI.

11 THE COURT: Okay.

12 MR. SMITH: I never said anything about injury.

13 THE COURT: Let's handle it this way. My court  
14 reporter might be able to find that portion of the  
15 testimony and just listen to it, and she can tell us  
16 what's said. And if worse comes to worse, I'll need to --  
17 because obviously, this is already out, and I'll need to  
18 deal with it somehow in the instructions. When the  
19 plaintiff testifies, the defense is going to be able to  
20 ask him about the underlying incident due to the  
21 causation, proximate-cause issue that we have in the case.  
22 So let me ruminate on that and think about it a little bit  
23 and we'll figure out some way to move forward. But I'm  
24 sure we can address any prejudice appropriately with an  
25 instruction.

1 MR. HAWKINS: Thank you, Judge.

2 THE COURT: Thank you.

3 Let us have the jury please.

4 (WHEREUPON, the jury entered the courtroom.)

5 THE COURT: All right. We're back on the record in  
6 Mr. Young's case involving himself versus Greenwood County  
7 Detention Center.

8 Ladies and gentlemen, welcome back. Thanks for  
9 being here. Thanks for being on time.

10 At this point in time, of course, we're still on the  
11 plaintiff's case in chief, so, Mr. Hawkins, if you'd call  
12 your next witness, please, sir.

13 MR. HAWKINS: Thank you, Judge. The plaintiff calls  
14 Ms. Sharon Middleton to the stand.

15 WHEREUPON,

16 SHARON MIDDLETON

17 After having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. HAWKINS:

20 Q Ms. Middleton, good to see you again.

21 Could you please tell the jury what your role at the  
22 sheriff's office was during Mr. Young's incarceration?

23 A My role at the sheriff's office at the time was  
24 assistant jail administrator.

25 Q Okay. What did your job duties entail?

1 A My job duties entail assisting the jail  
2 administrator, making sure that the officers follow policy  
3 and procedure, attending to inmate grievances, making sure  
4 medical appointments were followed through. Just  
5 assisting the administrator to make sure that the  
6 day-to-day operation of the jail was completed.

7 Q Ms. Middleton, do you have any recollection of Tony?

8 A I do.

9 Q Okay. Do you remember him coming in with some  
10 significant injuries?

11 A I do.

12 Q Okay. Tell the jury about those injuries, please.

13 A I recall when Mr. Young came to jail, that he had  
14 some injuries. He had a brace around his neck. He also  
15 had a cast on one of his arms, and he was using a walker.

16 Q Was his mobility impaired or restricted?

17 A He was able to move around.

18 Q Okay. Was he -- did it appear that his mobility was  
19 slower than it would have been had he not had a walker?

20 A Yes. He was slower than normal.

21 Q Okay. Did he have road rash on him?

22 A Yes, he did.

23 Q Okay. And that neck brace, do you recall what it  
24 looked like?

25 A It was a white collar.

1 Q Okay. When is the next time you saw the neck brace?

2 A The next time ---

3 Q Sorry. Go ahead.

4 A The next time I saw the neck brace was when I went to  
5 the unit and I saw Mr. Young in the unit.

6 Q Okay. Do you recall the date?

7 A No. Because part of my role as the assistant jail  
8 administrator is to do walk-throughs through the jail, so  
9 at any given time, I would walk through the jail. It's  
10 not like a specific day that I choose to walk. Just any  
11 day.

12 Q Okay. Are you aware that Mr. Young had two  
13 fractures, his neck was broken in two places? Are you  
14 aware of that?

15 A I wasn't aware of his -- the extent of his injuries.

16 Q Okay. With an inmate that comes in like that with a  
17 serious spinal injury, is it important to make sure that  
18 special attention is paid to those inmates?

19 A Yes.

20 Q Okay.

21 MR. HARTER: Your Honor, I object to the  
22 characterization of a spinal injury. There's no  
23 indication there was a spinal injury. If you have a neck  
24 fracture and mobilize ---

25 MR. HAWKINS: I can rephrase it, Your Honor.

1 THE COURT: All right. I think we get the point.  
2 That's not necessary.

3 MR. HAWKINS: Okay. Thank you, Your Honor.

4 THE COURT: Overruled.

5 BY MR. HAWKINS:

6 Q Why is it particularly important to pay attention to  
7 someone who has a broken neck when they come into the  
8 detention center?

9 A Well, whenever an inmate come into the jail, we may  
10 not know the extent of the injuries because we are not  
11 trained in that area. But when an inmate comes to the  
12 jail, then we do take note of, you know, if they have a  
13 collar or if they're on a walker and things of that  
14 nature.

15 Q Okay. And is it important for -- well, let me ask  
16 this first. You don't work for the sheriff's office  
17 anymore, do you?

18 A I do not.

19 Q Okay. So -- and I'm talking about just your time  
20 with the sheriff's office and the safety rules involved in  
21 that, okay?

22 A Okay.

23 Q Okay. Why is it important to give someone whatever  
24 medical care they need regardless of any bad decisions  
25 that got them to the detention center? Why is that

1 important?

2 A Everyone's health is important not just because they  
3 come to jail.

4 Q Right.

5 A We're not going to treat them any different.

6 Q Okay. Can we agree that regardless of -- because we  
7 all make bad choices, right? Don't we all make bad  
8 choices?

9 A Yes.

10 Q Okay. And so if someone's made a bad choice and they  
11 end up in the detention center, it's just as important to  
12 provide that person with the appropriate medical care as  
13 it is to provide anybody else with medical care. Would  
14 you agree with that?

15 A All inmates are provided with appropriate medical  
16 care.

17 Q Okay. And an inmate with a neck brace, what are some  
18 examples of something bad that could happen if that neck  
19 brace were deprived of that person?

20 MR. HARTER: Your Honor, speculation, medical  
21 opinion.

22 MR. HAWKINS: Part of her job, Your Honor, is to make  
23 sure the policies and procedures are adhered to and that  
24 proper medical attention is given to inmates. That's part  
25 of her job description.

1 THE COURT: All right. If you want to ask her -- I  
2 think your question does touch on something that requires  
3 a medical opinion. But if you want to ask her that if a  
4 person is prescribed a particular device for health  
5 reasons, are they going to make sure that that person has  
6 it, or words to that effect, I think that that's fair  
7 game.

8 MR. HAWKINS: Thank you, Your Honor.

9 BY MR. HAWKINS:

10 Q Can we agree, Ms. Middleton, that it would violate  
11 policy to deprive someone with a broken neck of their  
12 C-spine collar? Can we agree on that?

13 A Would they be deprived?

14 Q Yes, ma'am. If they were deprived for a period of  
15 time, would that be a violation of policy?

16 A I wouldn't say that that's a violation of policy,  
17 because at the detention center, there are policy and  
18 procedures that have to be followed.

19 Q Okay.

20 A So therefore, I wouldn't say that we would not  
21 deprive anyone of their medical needs.

22 Q I understand that. But the factual issue is we say  
23 the neck brace was taken for six days, and the sheriff's  
24 office says that it wasn't. So I'm asking if we're right,  
25 is that a policy violation? To take someone with a broken

1 neck and take their neck brace away for six days, would  
2 that violate policy?

3 A I have no reason to believe that any -- that his neck  
4 brace would have been deprived for him for six days.

5 Q Right. If it was, does that violate policy?

6 A I have no reason to believe that that's the way it  
7 happened.

8 MR. HAWKINS: Okay. Your Honor, if I can get  
9 instruction to ---

10 THE COURT: Sure. He's asking a hypothetical. If  
11 someone had to have a neck brace and yet for some reason  
12 it was taken from that person for six days, I'm assuming  
13 that would be a violation of policy, correct?

14 THE WITNESS: Yes. It would be a violation of  
15 policy, but I have no reason to believe that his neck  
16 brace was taken for six days, because whenever an inmate  
17 comes to the facility, we do adhere to their medical  
18 needs. And if his neck brace was taken, it would have  
19 only been taken for a short period of time. And the  
20 reason it would have been taken was to take a photograph  
21 of him, which whenever inmates come to jail, we have to  
22 take a photograph, so everybody needs to look the same.  
23 So that means that if he has anything that makes him stand  
24 out, then it is only removed for a short period of time.  
25 Also, to -- also to check for contraband and for scars,

1 marks and tattoos. But his neck brace would have been  
2 given back to him immediately after the photograph was  
3 taken. I have no reason to believe that his neck brace  
4 was taken for six days.

5 BY MR. HAWKINS:

6 Q Thank you, Ms. Middleton.

7 And I'm looking at a transcript of your deposition.  
8 Do you remember me deposing you back in 2015? I know it's  
9 not a fond memory.

10 A It's been a long time ago.

11 Q It has been a long time. This whole case has been  
12 going a long time.

13 Do you have any -- I know you said you'd have no  
14 reason to believe that's what happened. That's fine. Do  
15 you have any actual visual -- can you say that you know  
16 how long the neck brace was deprived of Mr. Tony Young  
17 for?

18 A I cannot say that because I was not in the booking  
19 area when this -- when Mr. Young came to the detention  
20 center. But I have no reason to believe that the officers  
21 did not follow our protocol and our procedure. They would  
22 not have deviated on Mr. Young's coming to jail.

23 Q Right. And everybody agrees that that's what should  
24 have happened. He should have had the collar. We all  
25 agree on that.

1           Do you know of anybody that can say how long that  
2 neck brace was gone for? Do you know of anybody that can  
3 testify about that?

4           A     Me personally knowing anyone?

5           Q     Yes.

6           A     Not at this time.

7           Q     Do you know anybody who knows anyone that can say how  
8 long the neck brace was gone for?

9           A     I do not.

10          Q     Okay. Do you know of any record that reflects neck  
11 brace checked and immediately returned to inmate?

12          A     Whenever an inmate comes to jail, we are required to  
13 take all of their property. And whenever we take their  
14 property, then there is a list of all the inmate's  
15 property that goes into their bin, so therefore, that  
16 means that everything that we take from that inmate is  
17 listed on their property sheet. So if we had taken his  
18 neck brace and placed it in his property, because that's  
19 where it would have been, it would have been listed on his  
20 property sheet.

21          Q     Right, Ms. Middleton. And, in fact, it is. The neck  
22 brace is listed there along with the medicine that was  
23 taken and all of that. What I'm ---

24                 MR. HARTER: Wait a minute. I think that might be a  
25 misrepresentation.

1 THE COURT: You can handle it on cross.

2 MR. HARTER: Okay.

3 THE COURT: Go ahead, please.

4 MR. HAWKINS: Thank you, Judge.

5 BY MR. HAWKINS:

6 Q I think that's -- I think you're correct. I think  
7 that the collar and his medicine and maybe a lighter and  
8 some blue jeans and all that stuff are in personal  
9 property. What I'm asking, if you know, then you know, if  
10 you don't, that's fine, do you know of a document that  
11 says the neck brace was given back to this inmate so his  
12 neck won't break?

13 A There is no document that I'm aware of.

14 Q Okay. And have you ever heard the phrase -- and I'm  
15 taking this from Lonnie Smith's deposition. Have you ever  
16 heard the phrase "if it ain't documented, it didn't  
17 happen"? Is that something y'all say at the detention  
18 center?

19 A Yes.

20 Q Okay. And so if it's not documented that he got his  
21 neck brace back, how does the jury know that he got that  
22 neck brace back so he didn't suffer a severe spinal cord  
23 injury and be paralyzed or die?

24 A But also, at the same time, there is no documentation  
25 that the neck brace was placed into his property as well.

1 Q No. I think that -- well, we'll get into that a  
2 little bit later, maybe with Tony.

3 But didn't you just testify that the neck brace  
4 should be listed on what was gone through when he came in?

5 A If he keeps it, then it's not listed on his property.  
6 Only the property that we take and place in the property  
7 bin and hold until the inmate is released is placed on  
8 that property sheet.

9 Q Okay.

10 A Anything that they keep with them is not placed on  
11 the property sheet because it's not considered -- it  
12 didn't go in the property bin.

13 Q Okay. Okay. So it's -- is it fair to say then it's  
14 contraband when it comes in, and then when it's checked,  
15 it is not contraband, it's given back and then the other  
16 stuff is taken? Is that what you're saying?

17 A I'm not saying that it is considered contraband.

18 Q Okay.

19 A When an inmate comes in and whether they have a cast  
20 or any type of, say, medical device, then it is checked to  
21 make sure that there is no contraband hidden inside of it.

22 Q Okay.

23 A And then once the device is checked, then it is given  
24 back to the inmate.

25 Q Okay. Have you ever looked at Mr. Young's mug shot?

1 Have you ever seen that during any of this what's been  
2 going on?

3 A Yes.

4 Q Okay. Is it fair to say that whether he had a neck  
5 brace on or not, his mug shot would be taken without the  
6 neck brace?

7 A Yes. His mug shot would be taken without the neck  
8 brace.

9 Q Okay. So when he came in and he had that neck brace  
10 on that was, you know, keeping those fractures from  
11 breaking all the way through ---

12 MR. HARTER: Your Honor, this ---

13 THE COURT: All right. That's an improper  
14 characterization, so ---

15 MR. HAWKINS: Thank you, Judge.

16 THE COURT: It didn't happen, we don't know that it  
17 would have happened, it calls for speculation and a  
18 medical opinion. So objection is on several grounds.  
19 Recharacterize the question.

20 BY MR. HAWKINS:

21 Q And the Court is absolutely right. Thank God this  
22 Greenwood County citizen didn't suffer that injury. But  
23 did the person who took the brace from him to take the  
24 picture or whatever, did he call a nurse or physician or  
25 anything to say, hey, I've got to remove this guy's brace,

1 I want to make sure we don't kill him? Did he do anything  
2 like that?

3 A I can't answer that because I was not there.

4 Q Is there a record of anybody checking with any  
5 medical healthcare provider?

6 A Whenever an inmate comes to jail, there is a  
7 four-page intake form.

8 Q Uh-huh.

9 A And there are questions on there. And also, at the  
10 time whenever Mr. Young came to the jail, he was seen by a  
11 nurse at intake.

12 Q Right, right. And what I'm talking about is when he  
13 goes to be fingerprinted. You're familiar with the  
14 fingerprinting ---

15 A Yes.

16 Q --- procedure. When he's going to be fingerprinted,  
17 he's going to have his picture taken and they tell him to  
18 take that collar off, did anybody -- is there a document  
19 that says we checked with the physician, they cleared us  
20 to remove the document [sic]? Anything like that?

21 A Not that I'm aware of.

22 Q Okay. I'm going to hand you Defendant's Exhibit 10.  
23 These are the progress notes.

24 A And I'm sorry. I meant to bring my glasses.

25 Q I can go grab them.

1 A I had them, but they're back there. I had them. I  
2 had them, but I came up here and didn't . . .

3 Q Ms. Middleton, if you look at the progress notes, on  
4 page -- I think it's the first one. Yeah. On 8/16, do  
5 you see where the neck brace is noted right here? And the  
6 jury is going to be able to see this back in the  
7 deliberation room, so I'm not going to put it up on  
8 the . . .

9 A (Reviews document) What's your question?

10 Q Do you see where the neck brace is noted on 8/16?

11 A Yes.

12 Q Okay. All right. Now, if you flip to -- and then we  
13 go through 17, 18, 19, 20, 21, 22, right on this page.  
14 And then if you go to 23, there's another mention of the  
15 neck brace down here. Do you see that?

16 A Yes.

17 Q Okay. At any point in between here, is there any  
18 mention of the neck brace?

19 A I would have to read this.

20 Q Yeah. That's fine. Take as much time as you need  
21 to.

22 A (Reviews document) I'm done.

23 Q Sorry?

24 A I'm done.

25 Q Okay. Did you see any other notations about the neck

1 brace between when Tony came into booking when it was  
2 taken off of him and the 23rd when the neck brace was  
3 noted again?

4 A I did not.

5 Q Okay. Can you point to any document anywhere that  
6 says he had his neck brace during those six days?

7 A Not that I'm aware of.

8 Q Okay. And are you aware, Ms. Middleton, that Tony,  
9 you know, I think it may even be in his complaint, which  
10 is the first thing that's filed, told us years ago that he  
11 was deprived of the neck brace for six days? Anybody told  
12 you that?

13 A That's in his complaint.

14 Q Okay. And so we didn't get this till a long time  
15 after we filed the complaint, and from 16 to 22, right  
16 before he got the brace back, that would be about six  
17 days, wouldn't it?

18 MR. HARTER: Your Honor, we haven't even heard the  
19 testimony from Mr. Young yet.

20 THE COURT: All right. Fair enough. Fair enough.

21 MR. HAWKINS: Your Honor, before you allow me to  
22 ask ---

23 THE COURT: If you want to ask her about that  
24 particular document ---

25 MR. HAWKINS: Right.

1 THE COURT: --- and what she read, and then you can  
2 loop back -- that back up ---

3 MR. HAWKINS: Sure.

4 THE COURT: --- at some later point in time once  
5 Mr. Young testifies. But I think she can only really  
6 testify as to what she is personally aware of, and I don't  
7 think she's ever truly had a conversation with your  
8 client.

9 MR. HAWKINS: Thank you, Your Honor.

10 BY MR. HAWKINS:

11 Q Have you ever seen Mr. Young's complaint?

12 A I have.

13 Q Okay. Is the time period between the 16th and the  
14 23rd about a week?

15 A Yes.

16 Q Okay. These progress notes, are they the only --  
17 they're the only ones I know of. I'll ask you what you  
18 know. Are these the only documents you know of that draw  
19 any kind of timeline between when he had the brace and the  
20 next time he definitely had the brace on? Is there any  
21 other document that would draw a timeline?

22 A In that progress notes, it states that on the first  
23 day that she saw him, that she makes note of the brace.

24 Q Right.

25 A But at the same time, during the other times that she

1 saw him, whether he was on the walker or his demeanor,  
2 everything was not -- some days she made note of it, some  
3 days she did not.

4 Q Okay.

5 A Some days it was just basically that she gave  
6 Mr. Young meds.

7 Q Right.

8 A She did not make any notes as far as to whether he  
9 was on a walker, whether he had the neck brace on.

10 Q And Mr. Smith made a comment yesterday, you know,  
11 they -- that noteworthy things are noted, and so when  
12 something's noteworthy, it's noted. Is that your  
13 understanding of how records are kept, when there's  
14 something important or noteworthy or new, they note it?

15 A Well, that's medical, so medical -- everybody know  
16 medical, they have a special way of noting things.

17 Q Right.

18 A So, you know, with that being said, it's kind of hard  
19 to say, you know, what's right and what's wrong or to  
20 interpret the medical notes.

21 Q Okay. Is that your understanding of how records are  
22 kept or is it not?

23 A Ask the question again.

24 Q Sure. Sorry. I probably asked you that question.  
25 Is it your understanding of record-keeping that when

1 something is noteworthy, noteworthy or new, it's noted?

2 A (No answer.)

3 Q What I'm getting at is this. If people have been  
4 seeing Tony Young for a week with no neck brace and then  
5 they saw him all of a sudden on the 23rd with a neck  
6 brace, would that be a reason to write down on the 23rd  
7 he's got his neck brace back?

8 MR. HARTER: Judge, this is not her note. This is a  
9 nursing note. It's the lady that testified yesterday.

10 MR. HAWKINS: Your Honor, this is in -- Your Honor,  
11 this is in evidence, and I'm asking somebody from the  
12 sheriff's office about their records. They may employ  
13 Southern Health Partners, but they're responsible for the  
14 detention center and everybody they hire to administer  
15 medical health. And this is already in evidence, Your  
16 Honor. I would ask that I be able to ask her about it.

17 THE COURT: Your question poses somewhat of a  
18 hypothetical, and it's more argumentative, really. I  
19 understand what you're getting at. If you want to ask her  
20 if she finds it strange that on Day 6 there's a notation  
21 indicating -- if she finds it strange personally, based  
22 upon her review of other documents, her job as a jail  
23 administrator, if she finds it peculiar that on Day 6, in  
24 that nursing note, there is suddenly a reference to the  
25 presence of the neck brace, I think that's fine.

1 MR. HARTER: That's fine.

2 MR. HAWKINS: Thank you, Your Honor.

3 BY MR. HAWKINS:

4 Q Do you find it strange that there's a note when he  
5 comes in on the 16th with a neck brace and then the neck  
6 brace is obviously gone for six days? Do you find it  
7 strange that on the 23rd, they all of a sudden note the  
8 neck brace again?

9 A I may find it strange, but at the same time, when I  
10 read the notes, I didn't look and see was it the same  
11 nurse. It could have been a different nurse that made a  
12 different notation. So whenever I read the notes, I  
13 didn't look and see was it written by the same nurse. So  
14 one nurse may document one way if things are -- if it's  
15 noticeable then and had been noticeable in the past.

16 Q Okay. Do you know if there's any surveillance  
17 footage of Tony with the neck brace on? Do you know if  
18 any of that exists?

19 A Due to the length of time, there is no video.

20 Q Okay. There is a camera that's pointed at the  
21 booking area, correct?

22 A Correct.

23 Q Okay. And I've seen other footage unrelated to this  
24 case of that area, and it looks like it's bright and  
25 clear. Is it your understanding that that footage is in

1 color and fairly well zoomed in?

2 A I can't recall if it's in color, but the footage  
3 should be very clear.

4 Q Okay.

5 A It should have been very clear.

6 Q All right. If we had that footage, if the jury had  
7 that footage for those six days ---

8 MR. HARTER: Your Honor, I think I know where this is  
9 going, and I'll object to this. There's been no  
10 preservation letter, no notification of anything about  
11 this lawsuit until -- and this claim until this lawsuit  
12 was filed in 2013. This is totally irrelevant. He's  
13 asked Lonnie Smith about it.

14 THE COURT: I think we have covered -- covered  
15 why ---

16 MR. HAWKINS: Your Honor, could I just respond to  
17 that?

18 THE COURT: Sure.

19 MR. HAWKINS: We sent discovery requests years ago,  
20 and no footage was ever given to us, no footage was ever  
21 identified. We sent a subpoena a week before this trial,  
22 and Lonnie Smith acted like he didn't even know we ever  
23 asked for the video in the first place.

24 THE COURT: All right. Well, there was a substantial  
25 delay in the filing of this action and the events that the

1 plaintiff complained about and alleges. The testimony is  
2 that the digital video system rerecords over itself every  
3 90 days. It would have been long gone prior to the  
4 defendant even ever leaving the detention center, much  
5 less at the time of this lawsuit. That's the only  
6 evidence that we have now.

7 If you want to ask her if her understanding of the  
8 taping system is different from what Mr. Smith testified  
9 to, you can, but to the extent that you're implying that  
10 there's some spoliation or something to that effect, I'm  
11 going to sustain the objection.

12 MR. HARTER: Thank you, Your Honor.

13 BY MR. HAWKINS:

14 Q Ms. Middleton, do you know if anybody's ever made an  
15 attempt to go into the hard drive to retrieve the video  
16 footage of Mr. Young without the neck brace?

17 A I'm not aware that anyone has attempted that, but  
18 whenever we purchased that equipment, we were informed  
19 that it would be recorded over every 90 days. So if we  
20 needed footage, then we needed to obtain it within that  
21 90-day period.

22 Q Okay. So with there being no footage or pictures  
23 with the neck brace, with the documents reflecting the  
24 neck brace was gone for six days, with you not knowing how  
25 long the neck brace was gone or knowing anybody who knows

1       how long the neck brace was gone, do you still stand by  
2       your contention that you don't think the neck brace was  
3       ever deprived of Mr. Young?

4             MR. HARTER: Your Honor ---

5             THE COURT: Sustained as to the form of the question.

6             MR. HARTER: Thank you, Your Honor.

7       BY MR. HAWKINS:

8       Q     What reason do you have to believe that -- in light  
9       of all this evidence, what reason do you still have to  
10      believe that Mr. Young's neck brace was returned to him?

11      A     Because at the Greenwood Detention Center, whenever  
12      inmates come to jail, we are very concerned about their  
13      medical condition, therefore, we do not deprive anyone of  
14      medical. As I stated earlier, if his -- when his neck  
15      brace was removed to take his photograph, I have no reason  
16      to believe that it was not returned to him, because we  
17      take medical very serious. It's not that we would deprive  
18      anyone with someone, you know, having come in with medical  
19      devices, walkers, you know, if they have a crutch,  
20      anything of that nature.

21      Q     So is it your position that he would have just been  
22      returned the neck brace immediately after photographing  
23      and the entire length of time would have only taken a few  
24      seconds or minutes?

25      A     Yes.

1 Q Okay. Are you aware that Mr. Young's family  
2 complained about him not having his medicine and neck  
3 brace the next day on the 17th? Has anybody told you  
4 about that?

5 A I am aware that he complained about not getting meds,  
6 because whenever he came from the Greenville Hospital, he  
7 was on a certain type of meds that we, at the detention  
8 center, and also following policy and procedure, which  
9 narcotic drugs are not allowed in the detention center.  
10 So his meds would not have been given to him, but he would  
11 have been given a substitute for the pain.

12 Q So did anybody communicate with you -- because it  
13 would be important, did anybody communicate with you the  
14 family's complaint about the neck brace in addition to the  
15 meds?

16 A I was not aware of the neck brace.

17 Q Okay. All right. If the family didn't complain  
18 about the absence of the neck brace, would that be  
19 something that you in your position would need to know  
20 about? Would it be important for people to make you aware  
21 of that?

22 A If his family made a complaint, if the lieutenant  
23 could not handle it, then it would have come to me.

24 Q Okay. Who was the lieutenant? Do you remember?

25 A They rotate shifts, so on that particular day -- or

1 whenever -- you said the 17th, I'm not sure who the  
2 lieutenant was at that time, or it could -- between the  
3 time that Mr. Young came and up until the family actually  
4 made the report.

5 Q Yes, ma'am. And the return of this neck brace, that  
6 would be -- I think you agree it would be a violation of  
7 policy to keep it, so we agree that it will be important  
8 -- do we agree that it would be important to follow that  
9 policy to make sure it's returned as soon as possible?

10 A Yes. Of course.

11 Q Okay. And you agree that the no-narcotics policy is  
12 important?

13 A Yes.

14 Q Okay. You agree it's important to follow policy?

15 A Yes.

16 Q Is that true for the safety of the inmates and for  
17 the staff?

18 A Of course. We always follow policy for the safety of  
19 the inmates and the staff.

20 Q Okay. Well, let's look at some of the other  
21 policies. I'm just going to ask you some questions.

22 Was Mr. Young in good physical health when he came to  
23 the detention center?

24 A What's your definition of "good physical health"?

25 Q Not having a walker, not having a broken neck, not

1 having a broken back, broken rib, bruised spleen, bruised  
2 lung, broken finger, broken arm. That would be not good  
3 health. Would you agree with that?

4 A Well, he had some issues when he came to jail.

5 Q Yes, ma'am.

6 A Some medical issues.

7 Q Was he in good physical health when he came to jail?

8 A Not at that time.

9 Q Okay. All right. But was he admitted anyway?

10 A He had been cleared to come to jail.

11 Q Okay. But he was admitted?

12 A He was — you say admitted?

13 Q Yeah. Y'all processed him through?

14 A Processed him through. Okay.

15 Q Okay.

16 A Yes.

17 Q Okay. Have you looked at any of the medical  
18 screening forms that were filled out?

19 A Briefly.

20 Q Okay. Is it important to fill all those forms out  
21 accurately and truthfully?

22 A Yes, it is.

23 Q Okay. And again, I'll ask you, was Mr. Young visibly  
24 injured?

25 A Yes. He was at that time.

1 Q Okay. He was deemed fit to be incarcerated, wasn't  
2 he?

3 A Yes, he was.

4 Q Okay. Did y'all ever document that and make  
5 paperwork to that effect and return it to him? Do you  
6 know?

7 A What do you mean by making ---

8 Q Since he was deemed physically fit to be  
9 incarcerated, did y'all fill out paperwork to that effect  
10 and return it to Mr. Young?

11 A There's no paperwork that we complete that deems an  
12 inmate fit to come to jail and give that -- give it to  
13 them.

14 Q Okay. So y'all don't ever do this? Don't ever make  
15 -- create paperwork?

16 MR. HARTER: Can we see what we're talking about  
17 here?

18 THE COURT: Yeah.

19 MR. HARTER: The witness is not -- I'm sorry.

20 MR. HAWKINS: Yeah. We're ---

21 MR. HARTER: She's not looking at the document.

22 MR. HAWKINS: Well, I'm asking questions. I've got  
23 the document up here so the jury can see it, but I'm  
24 asking questions. I haven't handed her an exhibit or  
25 anything like that.

1 THE COURT: Why don't you hand her the form that  
2 you're suggesting ---

3 MR. HAWKINS: Sure.

4 THE COURT: --- they need to fill out and give the  
5 copy to the inmate. And just point her ---

6 BY MR. HAWKINS:

7 Q And 2.5, post orders is what I'm looking at.

8 A (Reviews document) Okay. The policy here that you're  
9 looking at appears to be from 2005, and it says here . . .

10 Q It was enacted in 2005. That's right.

11 A What it -- my interpretation of this is that if they  
12 go to the hospital or if they go to Beckman Mental Health,  
13 they're saying that if, once they have passed through the  
14 screening of those -- whether it's the hospital or Beckman  
15 Mental Health, then documentation must show that they are  
16 deemed to be incarcerated at the detention center.

17 Q Okay. So the question is, did y'all make any  
18 paperwork to this effect and return it to the inmate?

19 A Make copies of ---

20 Q Did y'all make a document that he was fit for  
21 incarceration and give it to him? That's all I'm asking.

22 A Okay. Whenever -- Mr. Young, he had come from  
23 Greenville Hospital System, so therefore, he had just left  
24 the hospital, so it would not have been necessary to send  
25 him out to be re-evaluated because he had just been

1 released from Greenville Hospital System. So our nurse  
2 had already corresponded with the Greenville Hospital  
3 System before he was released to us.

4 Q Which nurse was that?

5 A I'm not sure who was on call.

6 Q Would it have been Bouknight or Weaver? Or who would  
7 -- because nobody's testified about that.

8 A What I am saying is that due to his injuries, someone  
9 from Greenville would have contacted us to make sure that  
10 we could accommodate his medical needs ---

11 Q Right. And that's ---

12 A --- before he came to jail.

13 Q And that's a big issue in the case is whether the  
14 doctors at GHS knew where he was going, because they gave  
15 him medicine he couldn't have there. And so we're trying  
16 to figure out did somebody call. Do you know of anybody  
17 that made a call or got a call and talked about this  
18 before y'all processed him through?

19 A Whenever an inmate is injured and they have to go to  
20 the hospital, the hospital is aware that once they leave  
21 the hospital, they are going to be going to jail, because  
22 there has to be a detainer at the hospital ---

23 Q Okay.

24 A --- so that the inmate is not released.

25 Q Okay. So the hospital definitely knew. How do you

1 know they knew? Who have you talked to said the hospital  
2 definitely knew?

3 A That's protocol.

4 Q For who?

5 A In order to have an inmate detained at a hospital,  
6 there has to be a detainer.

7 Q But he wasn't detained at the hospital. He was just  
8 in a hospital bed.

9 A He was at the hospital bed, but he could not have  
10 gotten up and just left the hospital.

11 Q Okay, okay. And we'll hear testimony about that  
12 later, so I understand your answer perfectly fine.

13 I'm going to hand you the minimum standards. Have  
14 you seen these? This is the bare minimum for any facility  
15 in South Carolina. And just look at the front page. Have  
16 you ever seen that?

17 A Yes.

18 Q Okay. Turn to page 20. Okay. Read this bit down  
19 here. That's Section 10.46, I think. Say that for the  
20 jury. Some of them are taking notes. So that's  
21 Section 10.46.

22 A Do you want me to read it out loud.

23 Q No. Just read what it says. I'll ask you questions  
24 about it.

25 A (Reviews document) Okay.

1 Q Okay. I'll take it back if you don't need it.

2 Thanks. I'm just going to ask a question from it.

3 You testified a minute ago that Mr. Young had obvious  
4 severe injuries; is that right?

5 A Yes.

6 Q Okay. Did anybody have an examining physician come  
7 to evaluate Mr. Young?

8 A He had just left Greenville Hospital System.

9 Q Did anybody have a physician to come evaluate  
10 Mr. Young when he got to the detention center?

11 A He was evaluated by a nurse.

12 Q Okay. Did anybody have a physician, a doctor,  
13 evaluate Mr. Young at the detention center?

14 A He was evaluated by a nurse, and he had just been  
15 released from the Greenville Hospital System.

16 MR. HAWKINS: Your Honor, if I could just get an  
17 instruction for her to answer about the detention center.

18 THE COURT: All right. I'm assuming a doctor was not  
19 present at the detention center at that point in time to  
20 perform any kind of evaluation that typically was handled  
21 by a nurse or a nurse practitioner.

22 THE WITNESS: There was no doctor there.

23 THE COURT: Right. Good enough. Got it.

24 MR. HAWKINS: Thank you, Ms. Middleton.

25 Thank you, Your Honor.

1 BY MR. HAWKINS:

2 Q Did anybody -- actually, did anybody ever -- well,  
3 are y'all required to have an on-call, 24-hour doctor?

4 A We're not.

5 Q You're not?

6 A Required to have a 24-hour doctor on call?

7 Q Yes, ma'am. A doctor that you can call on the phone  
8 if you have an emergency.

9 A Oh, yes.

10 Q Oh, okay. All right. Did anybody call that person  
11 when Tony came in?

12 A That would have been part of medical.

13 Q Okay. But medical is run by the sheriff's office, so  
14 do you know if anybody called that person?

15 A We're -- medical is ran by the sheriff's office, but  
16 medical would have been responsible for making that call.

17 Q Right. And I understand your position, because if I  
18 had your job, I'd probably have the same position you do.  
19 I'm just saying that Southern Health Partners is not  
20 responsible here. It's the sheriff's office. So I'm  
21 asking the sheriff's office if they know if anybody called  
22 a doctor. And whatever the answer is, it is.

23 A I can't answer that.

24 Q Okay. Do you have any evidence that a doctor was  
25 called?

1 A I don't have any evidence that a doctor ---

2 MR. HARTER: Your Honor, he just said ---

3 THE COURT: All right. We've been down this road.  
4 Let's move along, please. I think we've covered this  
5 ground several, several times. So ask her a different  
6 question involving a different issue, please.

7 BY MR. HAWKINS:

8 Q And Ms. Middleton, before the neck brace was removed,  
9 did anybody call the doctor then?

10 A If a ---

11 Q A 24-hour, on-call doctor that's always available.

12 A That would have been part of medical.

13 Q Okay. Do you have any evidence that anybody called  
14 the doctor at that time?

15 A I don't have any evidence.

16 Q Okay. Did Tony ever cause any problems at the  
17 detention center?

18 A No. Not that I'm aware of.

19 Q Was he a relatively pleasant inmate? I mean, sort of  
20 a vanilla inmate to deal with?

21 A Yes, he was.

22 Q Was he put in a special-needs cell or was he put in a  
23 handicap cell?

24 A It would have been a special-needs room, which is  
25 handicap and special needs are like vice versa.

1 Q Okay. Is it ---

2 A I can't recall what type of room, whether it was a  
3 handicap room or whether it was a special-needs room.

4 Q Okay. Is it accurate to say that special-needs room  
5 just means he's in a room alone and isolated just by  
6 himself? Is that the difference between the special-needs  
7 cell and a regular cell?

8 A The special-needs cell, also handicap cell, they  
9 have all the basic needs that they need in the room. The  
10 only thing they have to come out for is to use the  
11 shower.

12 Q Okay. And maybe I was just wrong, but it was my  
13 understanding that handicap cell had certain things like  
14 rails to get to the toilet and things like that but the  
15 special needs doesn't; is that not accurate?

16 A Yes. That's accurate.

17 MR. HAWKINS: Okay. All right. That's what I was  
18 trying to get at.

19 I think I may have just one more question. Bear with  
20 me.

21 I don't think I have any more questions,  
22 Ms. Middleton. Please answer any questions Mr. Harter  
23 has.

24 THE COURT: Mr. Harter?

25 MR. HARTER: Thank you, Your Honor.

CROSS EXAMINATION

1  
2 BY MR. HARTER:

3 Q Sharon, we've kind of plowed through some of this, I  
4 think, with some other witnesses, but let me ask you one  
5 thing. You've been gone from the sheriff's office for a  
6 while now, right?

7 A I retired December of 2017.

8 Q Okay. And at the time Mr. Young -- you looked at the  
9 records that we have in this case; is that right?

10 A Yes. That's correct.

11 Q And I want you to correct me if I'm wrong, but it's  
12 my understanding, and you've mentioned the detainer, that  
13 Mr. Young was at Greenville Memorial Hospital until August  
14 the 16th of 2011, and then he was brought to the Greenwood  
15 County Detention Center by the Highway Patrol.

16 A That's correct.

17 Q Okay. And it was because the Highway Patrol had made  
18 that charge against Mr. Young.

19 A Yes.

20 Q Okay. And that transport from GHS to Greenwood  
21 Detention Center was by a uniformed Highway Patrol  
22 officer.

23 A Yes, it was.

24 Q Now, is that typical that the law enforcement agency  
25 who's making the charge or whose case it is handles making

1 the arrest and/or arranging for the detainer at a medical  
2 facility, and they handle getting that inmate to the jail  
3 when the inmate is released?

4 A That is the procedure.

5 Q Okay. Now -- and is it -- does the procedure work  
6 such that when the detainer is placed on the inmate or the  
7 suspect at that point, he is to be detained at that  
8 medical facility until released; is that correct?

9 A That is also correct.

10 Q And the medical facility contacts the arresting  
11 officer or the arresting agency to arrange for the  
12 transfer to the detention center; is that correct?

13 A That is also correct.

14 Q Okay. And I'm not aware of any communications, and I  
15 don't believe the medical records indicate that there was  
16 a conversation or communication between the hospital and  
17 the jail before Mr. Young was presented there. Now, is  
18 that appropriate?

19 A It's appropriate that there is no record to say that  
20 there was a conversation.

21 Q Okay. And when this inmate comes to the jail for  
22 booking, then the jail itself makes a determination based  
23 on the documentation has this person been released from a  
24 medical facility and have they been cleared for booking,  
25 and if they have, you have to book them unless there's

1 some reason why you think ---

2 MR. HAWKINS: Objection, Your Honor. This is beyond  
3 cross. He's just testifying.

4 THE COURT: Overruled. Go ahead.

5 BY MR. HARTER:

6 Q Unless you have a reason to think that this release  
7 from this hospital, something has changed between then and  
8 the time this inmate is there, you would have to have a  
9 reason to send them back for some other further consult;  
10 is that right?

11 A That's correct considering he's just come from the  
12 hospital.

13 Q Okay. And in this case, did you note from the  
14 records that, in fact, he was brought to the jail, and  
15 that when Beverly Weaver was engaged in the booking  
16 process, out of abundance of caution, she contacted a  
17 nurse, Sherry Bouknight, and had her come to the booking  
18 area that very day?

19 A Yes.

20 Q Okay. Now, I think we know the answer to this, but  
21 what discretion or what prerogative does the jail have if  
22 an inmate has been placed, a suspect has been placed under  
23 arrest by a judicial officer pursuant to some warrant and  
24 there is a medical clearance from a hospital to -- from  
25 that person?

1 A We ---

2 Q What discretion does the jail have? Can you say  
3 "come back tomorrow," or "go home, we'll check you later,"  
4 or do you have to take them?

5 A We have to take them as long as they have been  
6 medically cleared.

7 Q Okay. Any reason to think that Mr. Young was not  
8 medically cleared by GHS on the afternoon of  
9 August 16, 2011?

10 A There was no reason to think he had not been cleared.

11 Q No reason to send him back for any further  
12 evaluation, was there?

13 A No. Not at that time.

14 Q Okay. Now, let me go ahead and talk about this. You  
15 were asked about a provision of the minimum standards.  
16 And, Sharon, I think this is the section that you were  
17 asked to look at and read.

18 A Yes.

19 Q Okay. And I want to just make sure I'm correct about  
20 this. The minimum standards that deal with -- that you  
21 were asked to look at, really, these would be very  
22 applicable to a situation where you have an inmate or a  
23 person that came into the jail that was just maybe  
24 arrested on the street, right? They might have been in a  
25 car wreck, they might have been in a fall, they might have

1       been in a fight or they might have some medical condition  
2       or some condition that would require them to be sent out;  
3       is that right?

4       A     That's correct.

5       Q     Okay.  So if somebody comes to the jail, they haven't  
6       been to a hospital already, you're going to do these kind  
7       of things to make sure that's right.

8       A     That they are acceptable for the jail.

9       Q     And if not, you'll send them to Self or you'll send  
10      them for some kind of further evaluation; is that right?

11      A     That's true.

12      Q     Okay.  No need to do that in this case, was there?

13      A     Not at that time.

14      Q     Okay.  I want to make sure.  Booking photo, is this  
15      Mr. Young's booking photo?

16      A     It is.

17      Q     Okay.  This photo would have been taken that very  
18      day; is that right?

19      A     Yes.

20      Q     And the time is 1605, and the date is 8/16/2011,  
21      right?

22      A     Correct.

23      Q     Okay.  And you note his address.

24             And so as part of the booking process, his photo was  
25      taken, right?

1 A Yes.

2 Q Okay. And, of course, there's no collar in that  
3 photograph; is that right?

4 A Yes.

5 Q There's no collar, correct?

6 A No collar.

7 Q Okay. And I think you told the jury the reason why  
8 you would not want to take the booking photo with the  
9 collar?

10 A Yes, I did.

11 Q And you removed the collar to inspect for contraband;  
12 is that right?

13 A Yes.

14 Q And you removed it to see if Mr. Young has tattoos or  
15 markings, because those are things that are important for  
16 identification, and when somebody has a booking photo,  
17 they're in the legal system ---

18 A Yes.

19 Q --- in some respect, right? Okay.

20 And you mentioned another reason why this booking  
21 photo you would want to take it without the collar on. Is  
22 that because this photograph may -- and nobody's  
23 suggesting that this happened, but anybody's booking  
24 photographs may be used in a photograph lineup sometime if  
25 necessary; is that right?

1 A Yes. That's correct.

2 Q So for law enforcement purposes, that could be what  
3 they would do; is that right?

4 A Yes.

5 Q Now, you were asked about whether or not there is  
6 documentation that Mr. Young's collar was taken from him  
7 at booking and then immediately handed back to him, right?

8 A Correct.

9 Q Is that -- is that the kind of thing that you would  
10 document, that you would expect an officer to write down  
11 "I took his collar, I took his photograph, I gave his  
12 collar back"? Would you expect an officer to document  
13 that?

14 A It's not required to be documented.

15 Q Okay. And you were asked about this idea of if it's  
16 not documented, it didn't happen or it never happened.  
17 And maybe we've heard that in the medical field, but as an  
18 ideal, but in the real world, Sharon, and in  
19 documentation, is it conceivable to document every single  
20 thing that happens?

21 A We would like to document everything that happens,  
22 but -- in a perfect world.

23 Q And you document events and things that are important  
24 or significant, right?

25 A Yes.

1 Q Okay. And sometimes what you even do is you would,  
2 quote, document by exception. You would make a note of  
3 something that is unusual as opposed to something that is  
4 ordinary. In fact, if everything is ordinary, there's no  
5 reason to write an incident report, right?

6 A Correct.

7 Q So an incident report would be an example of somebody  
8 who's documenting something that is sort of the exception;  
9 is that right?

10 A Yes.

11 Q Okay. And you were asked about some of these medical  
12 records. But also, I want to look back here. I believe  
13 that in one of the questions that I heard that you were  
14 asked, there was some reference to the notion that the  
15 family had complained about Mr. Young not having a  
16 cervical collar on, okay? I think you were asked about  
17 that. Do you remember that?

18 A I was asked about that.

19 Q Okay. Now, I want to look at this page right here.  
20 And this is a documentation on the 17th. And Sharon, let  
21 me ask you, if you can -- I'm going to show you what I'm  
22 talking about here on the 17th. It looks like at 1600  
23 hours, which is 4:00 that afternoon, it says, "The nurse  
24 called to courtroom to meet with inmate and family.  
25 Family very upset due to inmate not receiving meds from

1 hospital. DC meds are narcotics and can't be given.  
2 Explained that a substitute has been ordered to be  
3 replaced -- received," I'm sorry, "on 8/18. Family was  
4 concerned with sleeping situation. Explained will  
5 additional mat and will monitor daily." And that's a note  
6 by Sherry Bouknight.

7 In that note, is there any mention about his family  
8 complaining that Mr. Young did not have a cervical collar  
9 on?

10 A No. There's no reference to the collar, that the  
11 family complained about the neck brace.

12 Q Okay. All right. And further about the neck brace,  
13 I want to ask you, I think Mr. Hawkins might have  
14 suggested to you in a question that they had made an  
15 allegation way, way back that Mr. Young had been deprived  
16 of his cervical collar for six days, implying that these  
17 records line up with the allegations of this lawsuit about  
18 this six-day period. Do you remember these questions?

19 A Yes.

20 Q Okay. I want to look at -- I want to ask you if you  
21 can look at this lawsuit paperwork and tell me if that  
22 lawsuit makes any reference to Mr. Young's collar being  
23 taken away from him for six days. I'm going to suggest to  
24 you that it doesn't, but please confirm that.

25 A (Reviews document) No.

1 Q Okay. Sorry to make you do that.

2 And you were asked about the property in evidence and  
3 the sheet and what -- I think you explained to us that if  
4 Mr. Young's collar had been taken away from him, that if  
5 it wasn't returned immediately after his photograph, that  
6 it would appear on some kind of property sheet, right?

7 A That's correct.

8 Q Okay. I think this has been introduced as an exhibit  
9 by the plaintiff, but let me ask you, Sharon, I don't know  
10 if you can see this, and I apologize, but this is an  
11 intake/release medication or supplies form. And does this  
12 medication and supplies form indicate that -- this applies  
13 -- excuse me -- this applies to medication and supplies;  
14 is that correct?

15 A Yes. The form says "medication or supplies."

16 Q Right. Medication or supplies. So if you took  
17 medication or if you took a medical supply from an inmate,  
18 it would be on this form, right?

19 A Yes.

20 Q Okay. And I think we agree that this form shows that  
21 Ms. Weaver took from Mr. Young on August 16, 2011,  
22 90 Lortab tablets, right?

23 A Correct.

24 Q It doesn't make any mention of there being any collar  
25 taken from him, right?

1 A It does not.

2 Q Okay. Sharon, did you try to do a good job when you  
3 worked at the detention center?

4 A Yes, I did. Always.

5 Q Do you feel like people that were working under you  
6 and people that were involved with Mr. Young appropriately  
7 managed him through the booking process and through his  
8 detention time there?

9 A Yes.

10 Q Okay.

11 A All inmates are treated fairly. There's no  
12 partiality.

13 Q And do you have any -- did you ever see any grievance  
14 or any notation in any of the records where Mr. Young  
15 complained that he did not have his cervical collar?

16 A I did not see any grievances pertaining to not having  
17 his collar.

18 Q Or anything in the medical records.

19 A Or in the medical field -- medical records.

20 Q Okay. And you know that his care, he has managed --  
21 was managed at the detention center, and his medical  
22 condition was managed through a nurse, and it was managed  
23 through a doctor or a physician that oversaw his care  
24 while he was there and wrote orders and prescribed  
25 medication for him and had a patient-physician

1 relationship with him, correct?

2 A Correct.

3 MR. HARTER: Thank you.

4 THE COURT: Redirect?

5 REDIRECT EXAMINATION

6 BY MR. HAWKINS:

7 Q Ms. Middleton, how often did the doctor come to the  
8 detention center?

9 A At least once a week.

10 Q What day of the week was it?

11 A If my memory serves me correctly, I think it was on  
12 Thursdays.

13 Q Once every week?

14 A Once every week.

15 Q Should the time of the mug shot, the booking photo,  
16 should that line up with the progress note about the  
17 intake time? Should both of those times be the same?

18 A Repeat the question. I'm not sure what you're  
19 asking.

20 Q The time of the progress note that I handed you that  
21 says he came in on the 16th, should that intake time be  
22 the same as the booking photo document that you looked at  
23 with the mug shot? Should both those be the same or is it  
24 possible for those to be different?

25 A On the intake, then that's computerized. That's --

1 once he's been entered into the computer system, then that  
2 is automatically on the booking report.

3 Q Okay.

4 A Is that what you're asking?

5 Q I'm just asking if they should be the same time on  
6 both of them.

7 A As far as his booking report and the progress notes?

8 Q Yes.

9 A I guess it all depends on the nurse writing hers and  
10 then the actual booking.

11 Q Okay.

12 A Because he could have -- whenever an inmate comes to  
13 the jail, then the four-page intake form is completed  
14 first before the actual booking is completed in the  
15 computer.

16 MR. HAWKINS: Okay, okay. I don't have any more  
17 questions. Thank you.

18 RECCROSS EXAMINATION

19 BY MR. HARTER:

20 Q Sharon, to make sure we address that issue, too, as  
21 well, this progress note from Nurse Bouknight, who came  
22 and saw Mr. Young at the detention center that afternoon,  
23 that's dated 16 what?

24 A It's dated 8/16.

25 Q Wait a minute. I'm sorry. Yeah. August 16th.

1 What's the time? I'm sorry. 1624? I'm talking about  
2 this time right here.

3 A Oh, 1645.

4 Q 1645. 1645. That's 4:45 in the afternoon, right?

5 A Correct. It is.

6 Q Okay. But he was booked, his actual booking intake  
7 record just shows what time?

8 A 1605 -- 1805.

9 Q So the booking occurred after this medical check by  
10 Nurse Bouknight, right?

11 A Correct.

12 MR. HARTER: Thank you. Appreciate it.

13 THE COURT: All right, ma'am. Thank you very much.  
14 You can step down. You're free to go. Take care.

15 Mr. Hawkins, about how many more witnesses do you  
16 anticipate in your case so far?

17 MR. HAWKINS: I'm sorry, Your Honor. You asked me  
18 how many more witnesses we've got?

19 THE COURT: How many more do you think you have?

20 MR. HAWKINS: We have to read some deposition  
21 transcript portions.

22 THE COURT: Okay.

23 MR. HAWKINS: And then we have Samantha Porter and we  
24 have Mr. Young and Mr. Holtzclaw.

25 THE COURT: All right. Ladies and gentlemen, we're

1 going to go ahead and take a midmorning break. Adjourn to  
2 the back, grab a little bit more coffee, use the  
3 facilities and don't talk about the case. Have you back  
4 out here as soon as possible. Thank you.

5 (WHEREUPON, the jury exits the courtroom.)

6 THE COURT: We'll be at ease for a few moments.

7 (WHEREUPON, a recess is taken.)

8 THE COURT: All right. We'll go back on the record.

9 Can y'all talk to me about logistics here, what we're  
10 doing next, et cetera?

11 MR. HAWKINS: Sure, Judge. We were planning to call  
12 Samantha Porter, and then I don't know if we'll be at  
13 lunch by that time or not, but after her, we plan to call  
14 Mr. Young. He'd probably last for a while. And then we  
15 had these deposition transcripts. We've got an issue to  
16 take up with that. And then we have Mr. Holtzclaw.

17 THE COURT: Do you intend to call, Mr. Harter, any  
18 witnesses in addition to who's already testified?

19 MR. HARTER: Probably not, depending on -- I have to  
20 see how Mr. Young's testimony unfolds, you know.

21 THE COURT: Right. The deposition reading should  
22 take about how long, do y'all think?

23 MR. HAWKINS: I don't think very long at all. We --  
24 and actually, I made a mistake. We plan to read -- we  
25 plan to publish those portions after Samantha's

1 testimony ---

2 THE COURT: Okay.

3 MR. HAWKINS: --- before Tony's. And I have a copy  
4 of that to hand up.

5 THE COURT: Sure. Why don't we go ahead and address  
6 whatever issues there are with those depositions.

7 MR. HAWKINS: We don't object to any of theirs. They  
8 object to some of ours.

9 MR. HARTER: And logistically, Judge, as to  
10 Ms. Porter, I'm not sure where they're going to go with  
11 her. She was -- but I believe in her deposition she made  
12 reference to some conversations with some law enforcement  
13 officer that if -- and I believe her suggestion was that  
14 she was threatened in some way, shape or fashion, that if  
15 -- that she might be charged with harboring a fugitive or  
16 interfering with an arrest. There is no indication that  
17 conversation ever occurred with anybody with the detention  
18 center or with a sheriff's deputy. That would have been  
19 with the Highway Patrol. So I just don't want to, you  
20 know, wade into that. She certainly can testify as to her  
21 observations at the bond hearing and her observations of  
22 her dad in the hospital, but as to conversations with  
23 somebody about somebody threatening her with a criminal  
24 charge, I don't see how that's relevant, and I think  
25 there's no foundation. We don't have a name to go with

1 it.

2 THE COURT: First, do you intend to elicit that  
3 testimony? And secondly, if so, what are we talking about  
4 here? Go ahead.

5 MR. HAWKINS: Your Honor, when -- during the time  
6 Mr. Young was in the hospital before they took him to the  
7 detention center, she got several phone calls. I think it  
8 was like 9 and 16 minutes or 16 and 9 minutes or something  
9 like that. And somebody was calling her, she don't know  
10 who it was, and was telling her you're going to be charged  
11 with harboring a fugitive, you know. If you take your dad  
12 anywhere, you better not move him, that kind of thing.  
13 And her sister -- I mean, more than one person testified  
14 about that. I don't know if it's going to come out or if  
15 we need it. If she -- if it does come out, I certainly  
16 think it's relevant to the case, but I can see why  
17 Mr. Harter doesn't want it in because it kind of hurts  
18 their defense. But it doesn't really matter what I think.

19 THE COURT: I mean, the gentleman was not even booked  
20 into the detention center at that point in time. He  
21 hadn't even come close to being in the detention center,  
22 so they would -- he would not have been on their radar, so  
23 it stands to reason that they did not make that call.

24 MR. HAWKINS: That's the issue. If they did make  
25 this phone call, she was on the radar. They were trying

1 to track him down, I guess. I don't know.

2 THE COURT: No. That makes absolutely zero sense  
3 because the Highway Patrol, that was the arresting agency,  
4 and the detention center would have no knowledge  
5 whatsoever of any of that. The -- when he was -- the way  
6 the process would work is he would be taken to the  
7 hospital first. The trooper would call the MAIT team. If  
8 there's some evidence of intoxication at some point in the  
9 coming days, a warrant would be gotten for his arrest from  
10 the magistrate, presumably, or the city judge, depending  
11 on where it happened. And typically, the hospital is  
12 notified once that warrant is obtained so that it can be  
13 served and he can be taken into custody when he's  
14 released.

15 I don't know who was making that call. If it was the  
16 Highway Patrol, they're not a party to this action so I  
17 think she needs to stay away from this. It's clear just  
18 on the timing that it could not have been any employee of  
19 Greenwood County or the detention center.

20 MR. HAWKINS: And I think -- and we don't -- I mean,  
21 it's not central to what we're trying to get out of her.

22 THE COURT: Sure.

23 MR. HAWKINS: But I think since we're on the record,  
24 it's important to note that they say it would have been --  
25 we don't know who it was, and then they say it would have

1       been Highway Patrol. She don't know who it was because  
2       she didn't have their number saved in her phone. And if  
3       it was somebody from the Greenwood County Sheriff's  
4       Office, they are a party to the action. And I, you  
5       know ---

6               THE COURT: Yeah. Without evidence that it was ---

7               MR. HAWKINS: I don't know who it was.

8               THE COURT: Yeah. Without evidence that it was,  
9       that's not coming in, and we're dealing with hearsay, and  
10       we're dealing with a collateral matter, and so we're not  
11       -- that kind of testimony is inadmissible by definition.  
12       For all she knows, it could be the relative of the  
13       individual that was hurt. We don't know. Without more,  
14       it's clearly inadmissible.

15              MR. HARTER: Your Honor, I don't mean to interrupt,  
16       but I can correct this maybe a little bit. Carly has  
17       pointed me to that portion of the deposition, and I asked  
18       her, I say, "Okay. Was it the officer that did the  
19       accident report that was calling you?" And her answer was  
20       "yes." So that clearly is somebody else.

21              THE COURT: It would be the MAIT team then.

22              MR. HARTER: Thank you.

23              THE COURT: Let's talk about the deposition since  
24       we'll go straight into that once the next witness  
25       testifies. What is it that you're objecting to?

1           MR. HARTER: Your Honor, this is a deposition that I  
2 took, a discovery deposition. I think you got maybe a  
3 motion in limine on this.

4           We had -- with -- Ms. Knowles was Mr. Young's  
5 ex-wife, and she was at the bond hearing, and she was  
6 identified as a witness. I took her deposition, and then  
7 -- and she testified that -- in the deposition in part  
8 that Mr. Young had on his cervical collar at the time of  
9 the bond hearing, which is a little different from what  
10 some other witness may recollect. And so we had intended  
11 to subpoena Ms. Knowles for her court appearance here  
12 today and then learned that, unfortunately, in the  
13 meantime, she had passed away.

14           So I think on our report or something in our pretrial  
15 information, you indicated that we would be publishing  
16 portions of Mrs. Knowles' deposition. The other side  
17 actually objected to that, filed a motion in limine  
18 suggesting that there was some mental compromise of  
19 Ms. Knowles at the time of her deposition. So -- but  
20 anyway, they apparently have withdrawn that.

21           So I put together my deposition excerpts and sent it  
22 to them last evening. They have sent there's to me.

23           Let me tell you the ones that I object to, Judge.  
24 And I don't know if you have her ---

25           THE COURT: I've got it in front of me.

1 MR. HARTER: You don't have it, do you?

2 THE COURT: I've got it.

3 MR. HARTER: Oh, you do. Okay. I'm sorry.

4 That what I object to is on page 32, line 9 through  
5 16. And I ask, "Did he have on any kind of neck brace or  
6 head -- or head or anything?"

7 And she said, "He left the hospital with a collar on.  
8 They got him back to Greenwood, and you can get this  
9 yourself from the Jailbird from that year, his mug shot  
10 was taken with his collar on."

11 And there has been no indication and no production of  
12 any Jailbird mug shot photograph with his collar on. We  
13 say his collar was taken off, and the mug shot that we  
14 have is with his collar off. She is making reference to  
15 there being another picture in Jailbird magazine with his  
16 collar on, and we've never seen that. That doesn't exist.  
17 And, in fact, the Jailbird magazine, Judge, as you  
18 probably know, they get that picture from us.

19 So this is just -- it's not -- there's no foundation  
20 for it, it's obviously not correct, and it plants another  
21 -- it plants an inconsistency that we don't have here.

22 And she's referencing another photograph. I don't  
23 want this jury to ever be thinking that there is another  
24 photograph taken. There's never any indication of that,  
25 and this lady is implying that. So I would object to

1 lines 9 through 16 for that reason.

2 And then over on page 48 through 51 -- and, you know,  
3 some of the earlier stuff they're going to publish is  
4 that, well, he was at the bond hearing, he had his neck  
5 brace on -- or not his neck brace on. He looked like he  
6 was beat up, that he had wounds and he had pus flowing out  
7 of his -- she testifies to that in some of their excerpts.  
8 But on page 48 picking up with line 15, the question --  
9 and I believe this -- these were questions that  
10 Mr. Hawkins asked. And on 48 he has, "Well, was he still  
11 in a good deal of pain or did he appear to be?"

12 And then she goes on with a discussion and says, "I  
13 know it was narcotic." And she goes on with a discussion  
14 and discusses about his medications. And she says, "And  
15 he couldn't have Advil, but they were charging him for,  
16 and he didn't have no money to pay for it. They wouldn't  
17 give him that. And this was narcotics."

18 And then she goes on over into page 49. And the  
19 question is, "So they were depriving him of medicine that  
20 he needed?" I objected to that. And then she goes on in  
21 a discussion here about stuff that, you know, frankly,  
22 it's not firsthand knowledge of her. And she talks -- and  
23 then she goes on on page 50, and she discusses that they  
24 did not let him see a doctor to do CT scans or X-rays.  
25 You know the imperfections. Question, "Do you know he's

1 supposed to be given something for physical therapy like a  
2 ball or something like that?"

3 And she says "yes."

4 "Do you know how many broken bones he had?"

5 I mean, this is just -- it's information that --  
6 testimony that I think she's not within the realm of her  
7 personal knowledge, and some of it is just . . .

8 THE COURT: All right. Well, let me ask this.  
9 Mr. Hawkins, the copy that you gave up to me has  
10 highlighted areas, and a lot of them -- a lot of the  
11 highlighted areas -- or the part that's not highlighted,  
12 am I correct in assuming, here's the question, that you  
13 intend to elicit the testimony that's highlighted only?

14 MR. HAWKINS: No, Your Honor. This is the -- I gave  
15 you one that I had highlighted earlier. This has the  
16 testimony that we would like to read. And I'll trade with  
17 you.

18 THE COURT: Let's trade.

19 MR. WHITE: Just so it's clear, Judge, that's the  
20 combined like what they want read and what we want read.

21 THE COURT: Right.

22 MR. WHITE: So that includes everything.

23 MR. HARTER: That's right. And my objections are to  
24 page 32 ---

25 THE COURT: Right.

1 MR. HARTER: --- 9 through 16, and then the last two  
2 excerpts, 48 -- page 48 through 51 -- 51 through 24.

3 Kyle, do you have this?

4 MR. WHITE: I've got it.

5 MR. HARTER: Judge, I don't know if this would help  
6 you. This is what we were working from.

7 MR. HAWKINS: And Judge, I -- well, I'll ---

8 THE COURT: Go ahead.

9 MR. HAWKINS: You know, initially, we were -- we did  
10 make a motion in limine to exclude that testimony because  
11 she was on a lot of medications that affect her cognitive  
12 ability, and Your Honor was pretty clear about the fact  
13 that, you know, she's unavailable, it's coming in. So  
14 since it's coming in, what's good for the goose is good  
15 for the gander.

16 32 is the most important page because it shows she  
17 said, "Yeah. He had it on in the picture." Well, we know  
18 he didn't have it on in the picture, and that shows that  
19 her testimony is not reliable. I mean, she says yeah.  
20 And then he leads her to say, "Okay. So he had it off in  
21 the picture, and then he had it on." And then she agrees  
22 with him.

23 She gets the -- she gets the arm wrong. She said it  
24 was -- the cast was on his right arm. It was actually on  
25 his left. She says things that don't make sense.

1           If we're going to read it into the record, then we  
2 should both have the benefit of that. And he can ---

3           THE COURT: Not so worried about page 32. Talk about  
4 48 through 51, if you could.

5           MR. HAWKINS: 48 through 51?

6           THE COURT: Right. Those objections. I mean, the  
7 idea that the jail was going to charge him for Advil, I  
8 think you would agree that that's preposterous.

9           MR. HAWKINS: No. They did charge him \$5 when he  
10 goes to buy it, but we don't care about that part of the  
11 testimony. It's -- we're fine with taking that -- those  
12 lines out.

13          THE COURT: Okay.

14          MR. HAWKINS: I think they hand out medications at  
15 certain times, and other times if you want it, if you're  
16 paying, you have to purchase from the canteen, I think.

17          THE COURT: All right. So we are now over to  
18 page 49.

19          MR. HAWKINS: And so which lines are out, Judge?  
20 Just so we don't ---

21          THE COURT: He's objecting to pretty much 49 -- well,  
22 the last three lines on page 48 where it talks -- the  
23 portion I took out. "And he could have Advil, but they  
24 were charging him for it and he didn't have no money to  
25 pay for it." So I pulled that out.

1           MR. HAWKINS: Yes, sir. So can we start at "and he  
2 could have Advil"? We just struck the whole sentence --  
3 half of 23, all of 24, all of 25. Is that ---

4           THE COURT: I'm on page 48.

5           MR. HAWKINS: Yeah. I am too, Your Honor.

6           MR. HARTER: I think you're right, Josh. I think you  
7 said you're taking out the last sentence.

8           THE COURT: Just the final sentence.

9           MR. HARTER: Page 48.

10          MR. HAWKINS: Right. Okay.

11          And then as to 49, Your Honor, if she has an  
12 understanding, I mean, that would be an admission by a  
13 party. If he communicated something about not having a  
14 collar or whatever, and when they took him down, did they  
15 keep the collar from him, and then she goes on to note --  
16 tell what she knows, I don't know why she couldn't -- if  
17 they want her testimony in, I don't know why this wouldn't  
18 come in.

19          MR. HARTER: Well, this is testimony that the  
20 plaintiff now wants.

21          Judge, let me -- she never saw the man after the bond  
22 hearing at the jail, okay? She saw him at the bond  
23 hearing, and that was it. This stuff she's talking about  
24 on 49, I mean, I think it's clearly not admissible.

25          MR. HAWKINS: Your Honor, they want it in.

1           THE COURT: Well, if the only time that she saw him,  
2           and I assume that y'all have looked at the visitor's logs  
3           in the jail to confirm that the only time that she would  
4           have seen him would have been at the bond hearing, or  
5           perhaps that's what she testified to in her deposition,  
6           then it stands to reason she must have learned about this  
7           from the plaintiff himself by way of a jail phone call.  
8           And if that's the case, then perhaps if the plaintiff's  
9           version of events are attacked, then the portion in the  
10          transcript that relates substantially the same thing that  
11          the plaintiff is saying, perhaps that could be evidence  
12          introduced after he testifies to indicate that he was  
13          testifying consistently, so it would be like a prior  
14          consistent statement. I'm referring primarily to the  
15          stuff on pages 49, 50 and maybe 51. I can't speak to any  
16          of that, though. I don't know.

17          MR. HAWKINS: And, Your Honor, it's pretty clear on  
18          page 49. I'm looking at line 14 where the new sentence  
19          starts. "It wasn't supposed to come off -- I mean, that's  
20          just -- I was scared to death. He was just going to --  
21          his head was just going to topple off." That portion is  
22          about what she believed or what she was scared of can come  
23          in because that's not hearsay. That's her fear for  
24          somebody that she's close to.

25          THE COURT: Right. I don't disagree.

1           MR. HAWKINS: "He was just in bad shape. I mean,  
2 even though it's my ex-husband, we remain close. We have  
3 children. And it was just a hard thing to have to" -- you  
4 know, all that -- none of that is hearsay.

5           And then she goes on to say down here, he actually  
6 clarified for the jury, "I wasn't ready to see him. I  
7 didn't want -- even though they were grown, they didn't  
8 need to go through this." Or maybe she's talking about  
9 her son there. But that's not hearsay. That's just what  
10 happened.

11           MR. HARTER: Judge, on page 33 I asked her, "Did you  
12 talk to him at the detention center? I mean, did he phone  
13 you?"

14           The answer was no.

15           "Or write you or anything"?

16           "No. I just talked to him and hugged him at the bond  
17 hearing."

18           MR. HAWKINS: She can still testify about what she's  
19 scared of.

20           MR. HARTER: And her impression that she was -- what  
21 she felt is irrelevant. What she saw and an observation,  
22 you know, he's hobbling around, he appeared to have --  
23 that's all okay with her. Her subjective thoughts that,  
24 oh, I'm scared for him, or I'm afraid that he's going to  
25 get hurt, or I'm afraid that they're not taking care of

1 him, that -- her subjective thoughts about this are  
2 irrelevant, Judge.

3 And I don't mean to beat another horse here, but on  
4 this page 32 thing, you know, she's implying there was  
5 another photograph in Jailbirds.

6 THE COURT: Clearly she's mistaken.

7 MR. HARTER: Yeah.

8 THE COURT: I mean, that's something that you can  
9 just deal with either another witness or whatever. That's  
10 a nothing burger right there.

11 MR. HARTER: And we will if we have to. I'll try and  
12 avoid that. I'm trying to pare my list down if I had to  
13 call anybody. I'm okay.

14 THE COURT: Mr. Harter's objection, what I'm having  
15 -- if her own testimony is that the only time she saw him  
16 was at the bond hearing, she talks on page 49 and 50 about  
17 missed appointments, not getting medication, not doing  
18 CT's, not doing X-rays, not allowing physical therapy ---

19 MR. HAWKINS: And that all goes to the credibility of  
20 the witness, Your Honor, which we think is in question, in  
21 dispute.

22 THE COURT: Well, no. My point is that if that is --  
23 if she had heard about that, it would have to be hearsay  
24 because by her own statement, she wasn't here -- or she  
25 wasn't at the detention center.

1 But Mr. Harter, you're raising your hand. Go ahead.

2 MR. HARTER: Your Honor, I'm sorry.

3 THE COURT: Go ahead.

4 MR. HARTER: I was reading from her deposition. To  
5 be perfectly candid with everybody in the courtroom, we've  
6 got a note from the detention center that looks like Debra  
7 Lynn Knowles visited on September 2, 2011, per this note.

8 THE COURT: Okay.

9 MR. HARTER: So I want to make sure September ---

10 THE COURT: 2nd.

11 MR. HARTER: September 3rd. I'm sorry.

12 THE COURT: September 3rd.

13 MR. HARTER: It was scheduled on the 2nd. It  
14 actually occurred on September 3rd ---

15 THE COURT: Okay.

16 MR. HARTER: --- so that there's no misunderstanding.

17 But, again, you know, what she -- her comments about  
18 what is going on with him, I mean, those are -- those are  
19 statements by a party. They're not against his interest.  
20 They're self-serving statements, and certainly, they're  
21 hearsay. It's like ---

22 MR. HAWKINS: Your Honor, what I ---

23 MR. HARTER: I'm sorry.

24 THE COURT: Go ahead, Mr. Hawkins.

25 MR. HAWKINS: But Your Honor, he didn't know what

1 portion she knows from her interactions with Tony and what  
2 she just feels or what she knows from somebody else. If  
3 she says, "I was scared this was going to happen," if he  
4 wants the portions published, then he's got to deal with  
5 the bad and the good. He just wants to cut out the  
6 portions that are bad for him to show that her testimony  
7 is unreliable.

8 THE COURT: Okay. Give me a second. Let me take  
9 another hard look at this, please.

10 (Pause in proceedings.)

11 THE COURT: All right. The portions that Mr. Hawkins  
12 objects to, if the intention is to read this deposition  
13 prior to the plaintiff testifying, I think the plaintiff  
14 has a problem. If the plaintiff testifies and he also  
15 testifies as to a conversation that he had on  
16 September 3, 2011, with his ex-wife and relating that  
17 information or relating the substance of what he told her  
18 and then his version of events is attacked, I think that  
19 Ms. Knowles can then testify from the grave by way of her  
20 deposition in the manner that she does on pages 49 through  
21 51.

22 I have somewhat of a problem on page 49, lines 1  
23 through 4. "So they were depriving him of medicine that  
24 he needed?"

25 "Yes, sir."

1           Again, they weren't depriving him of medication that  
2 he needed, period. End of story. They were depriving him  
3 of narcotics, which he can't have in the jail. So I've  
4 got somewhat of a problem with that. But maybe I'll think  
5 on that.

6           Perhaps it would be best if this deposition were to  
7 be read after Mr. Young testifies, and that way the Court  
8 will have an idea about what he's going to say.

9           MR. HAWKINS: That's fine with us, Your Honor.

10          MR. HARTER: Makes sense, Judge.

11          THE COURT: I mean, in the alternative, we can read  
12 portions of it. Yeah. I'm just trying to figure out  
13 logistics. If we can -- if this deposition is only going  
14 to take 15 minutes, what we may want to do is take the  
15 testimony of the next witness, read those portions of  
16 Ms. Knowles' deposition that aren't objected to, skip over  
17 49, 50 and 51, let the defendant testify after lunch. I'm  
18 seeing -- I'm kind of thinking it's going to be hard to  
19 get this thing to the jury today. I was -- that was my  
20 hope, but it's not looking favorable. But just in terms  
21 of using time efficiently, that's what I think we need to  
22 do, let the next witness testify and then, perhaps, those  
23 portions of the deposition that aren't objected to, you  
24 can read those, and then after the defendant testifies,  
25 assuming he testifies as I think he may as it relates to

1 pages 49, 50 and 51, then those get read back in after  
2 that point in time. Let's play it -- let's do it like  
3 that. That's cleaner.

4 All right. Let's have the jury, please.

5 (WHEREUPON, the jury entered the courtroom.)

6 THE COURT: All right. Sorry for the delay in  
7 getting you back out here, ladies and gentlemen. I was  
8 dealing with a few evidentiary objections concerning a  
9 transcript that you're going to hear read into the record  
10 -- or a deposition, rather, that you're going to hear read  
11 into the record sometime later on this morning. So I went  
12 ahead and did that so that we didn't have to take a break  
13 after this next witness. So I was working. Y'all sounded  
14 like you were having fun, so all is fair.

15 Mr. Hawkins, call your next witness.

16 MR. HAWKINS: Thank you, Judge. Plaintiff calls  
17 Samantha Porter.

18 WHEREUPON,

19 SAMANTHA PORTER

20 After having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. HAWKINS:

23 Q Ms. Porter, how are you?

24 A Good. How are you?

25 Q I'm well. Thank you.

1 I know you're a little bit nervous, so start off with  
2 some basic stuff. Tell the jury who you are, what your  
3 name is and your relationship with Tony.

4 A My name is Samantha Porter, and I'm his daughter.

5 Q Okay. You have a pretty close relationship with your  
6 dad?

7 A Yes.

8 Q Okay. Does he live with you?

9 A Yes.

10 Q Okay. Does he help out with your kids?

11 A Yes.

12 Q Okay. I want to talk about, first, when you saw your  
13 dad after this wreck, can you tell the jury how you first  
14 heard about the wreck and what you saw when you went to  
15 the detention center?

16 A I actually came up on the wreck on the road with my  
17 mother-in-law. From there, I went and got my husband. We  
18 -- they transferred him to Greenville. We went up there  
19 while he was in the intensive care, ICU. I visited him a  
20 little bit, and then I had kids to take care of, so I left  
21 my brother there with him. And that's about how it went.

22 Talk about the bond hearing?

23 Q Yeah. Well, let's clarify when you saw him -- or  
24 when he was at the hospital. He was transported to GHS,  
25 right?

1 A Yes.

2 Q Okay. And then he would have been in a coma for like  
3 two days, or unconscious for two days?

4 A Yeah.

5 Q Okay. In ICU?

6 A Yes.

7 Q All right. And then he was transported at some point  
8 to the detention center.

9 A Yes.

10 Q Okay. And we talked a lot yesterday about how he was  
11 discharged to home and all this kind of stuff. To your  
12 knowledge, did Mr. Young ever go home when he was  
13 discharged from the hospital?

14 A No.

15 Q Okay. Did law enforcement take him to the detention  
16 center?

17 A Yes.

18 Q Okay. And was the next time after that that you saw  
19 him at the bond hearing?

20 A Yes.

21 Q Okay. Did he have his neck brace on?

22 A No.

23 Q Okay. Are you absolutely, 100 percent certain that  
24 he didn't have his neck brace on?

25 A He didn't have it on, no.

1 Q All right. Did he appear to be in a good bit of  
2 physical pain?

3 A Yes. He could barely walk.

4 Q Okay. Did he have a walker at that time?

5 A Yes.

6 Q All right. Was his left arm in a cast?

7 A Yes.

8 Q All right. Did he have road rash on him at that  
9 point?

10 A Yes.

11 Q Okay. Now, at some point, did he apologize to you  
12 and your family for what happened?

13 A Yes.

14 Q Okay.

15 A Multiple times.

16 Q Does he seem remorseful about what happened?

17 A Yes.

18 Q I know he's your dad, but I have to ask you, is he  
19 generally a good person?

20 A Yes.

21 Q Has he ever intentionally hurt anybody that you know  
22 about?

23 A No.

24 Q Is he generally a truthful person?

25 A Yes.

1 MR. HARTER: Your Honor, if he could just ask what  
2 she knows about him and her opinions about all this.

3 THE COURT: All right.

4 MR. HAWKINS: Your Honor, the reliability of the  
5 testimony of somebody that knows him is perfectly relevant  
6 in the case.

7 THE COURT: She can testify as to truth, veracity,  
8 general reputation, evidence. Go ahead.

9 MR. HAWKINS: Thank you, Judge.

10 BY MR. HAWKINS:

11 Q I know this next part is difficult to talk about, but  
12 I have to ask you about your mama. I'm sorry. Because I  
13 know she's -- take as much time as you need. Do you need  
14 any water? And, again, I'm sorry to have to ask you about  
15 it, okay?

16 During the last years of your mom's life, did she  
17 struggle with some cognitive issues?

18 A Yes.

19 Q She had seizures?

20 A Yes.

21 Q Was she on medication for seizures?

22 A She was on some type of medication for it, but I'm  
23 not sure of the name.

24 Q Okay. Do you recall -- and I'm going to get your  
25 mom's deposition transcript and just ask you some

1 questions from it. And this will be published to the jury  
2 later.

3 Did she take medication for fluid on her brain?

4 A Yes. I -- for fluid, yes.

5 Q Okay. All right. Was she on several different types  
6 of medication?

7 A Yes.

8 Q Even though your mom and Tony split a while back, did  
9 they still remain close?

10 A Yes.

11 Q Okay. And did she go and see him at the bond  
12 hearing?

13 A Yes.

14 Q Okay. And some of the things we're going to read  
15 have to do with what she saw at the bond hearing. If you  
16 found out that your mother was mistaken about which arm of  
17 Tony's was broken, she said right when it was left, would  
18 that surprise you, knowing about her cognitive issues?

19 A No.

20 Q Okay. If she was mistaken about a good many things,  
21 would that surprise you about -- with her cognitive  
22 issues?

23 A No.

24 Q If she was mistaken about a picture, you know, with  
25 the neck brace off or on, the picture would show if she

1 was right or not, would it surprise you if she got it  
2 wrong?

3 A No.

4 Q Okay. What was your understanding of how your mother  
5 felt about the treatment of Tony?

6 MR. HARTER: Your Honor, that's ---

7 MR. HAWKINS: It's not hearsay, Your Honor. She can  
8 testify about what her understanding of how her mother ---

9 THE COURT: That is hearsay. We have a deposition,  
10 okay? So that is ---

11 MR. HAWKINS: Thank you, Judge.

12 THE COURT: That is way out there.

13 BY MR. HAWKINS:

14 Q At the bond hearing, after you went up and saw the  
15 condition that your dad was in, did y'all complain to  
16 anybody?

17 A Yes.

18 Q Okay. Was anything done to fix the situation after  
19 you complained?

20 A I'm really not sure because I didn't visit with him  
21 again for a few weeks.

22 Q Okay. Do you know if his neck brace was ever given  
23 back to him?

24 A The next time I seen him, he had it on, and that was  
25 a few weeks later.

1 Q Okay. That would have been more than six days later?

2 A Yeah.

3 Q Okay. All right. Did y'all try to get your dad's  
4 bond reduced? I know he, you know, tried to -- you know,  
5 made some effort to get out of there. Did y'all try to  
6 get his bond reduced? Or did y'all try to get money  
7 together so y'all could try to get him out?

8 A Yes.

9 Q Okay. Were y'all able to get that \$5,000 together?

10 A No.

11 Q Are y'all rich people?

12 A No.

13 Q Do you know of -- besides the time that you saw your  
14 dad at the bond hearing without the neck brace, do you  
15 know of any time he would have intentionally, you know,  
16 taken it off himself or anything like that? Has  
17 anybody ---

18 MR. HARTER: Your Honor, object. This is total  
19 speculation.

20 THE COURT: She has to testify about something that  
21 she observed, okay? He's going to testify in a minute.  
22 But let's find out about what she knows and what she saw.

23 MR. HAWKINS: And that's what I'm asking, Your Honor,  
24 if she knows about anything else.

25 THE COURT: Did you ever see your father at any other

1 time without the neck brace?

2 THE WITNESS: Yes.

3 THE COURT: Okay. When?

4 THE WITNESS: A few hours after the bond hearing.

5 THE COURT: Go.

6 MR. HAWKINS: Thank you, Judge.

7 BY MR. HAWKINS:

8 Q And thank you.

9 So you saw him without his neck brace at the bond  
10 hearing.

11 A Uh-huh. Yes.

12 Q And then you saw him a few hours later, and he still  
13 didn't have the neck brace on.

14 A No. He didn't have it on.

15 Q Were you worried at that time about your dad and  
16 about his neck?

17 A Yes.

18 Q Okay. Why were you worried?

19 A Because I knew he had to have the neck brace on. He  
20 had breaks in his neck, and if he didn't have it on, it  
21 could hurt him.

22 MR. HARTER: Your Honor, her ---

23 THE COURT: She can testify that she was worried  
24 about him. I assume that is what motivated her to later  
25 on contact law enforcement. So overrule.

1 MR. HARTER: But there's nothing else. Stop there.

2 THE COURT: Go ahead.

3 MR. HAWKINS: Thank you, Your Honor.

4 BY MR. HAWKINS:

5 Q I think some of that may have gotten cut off. Why  
6 were you worried that your dad didn't have his stabilizing  
7 neck brace on?

8 A He had breaks in his neck, and he was told to wear  
9 it, and if he had taken it off, it could have paralyzed  
10 him or killed him.

11 Q Okay.

12 MR. HARTER: Object. Your Honor, move to strike  
13 that. There's no evidence of that, there's no medical  
14 testimony about that. We've covered that before.

15 THE COURT: All right. I agree.

16 Ladies and gentlemen of the jury, disregard that  
17 last portion. There's been no testimony of a medical  
18 nature that such an eventuality could come to pass should  
19 he fail to have his neck brace.

20 Proceed please, Mr. Hawkins.

21 MR. HAWKINS: Thank you, Ms. Porter. Answer any  
22 questions Rusty has for you.

23 CROSS EXAMINATION

24 BY MR. HARTER:

25 Q Hey, Samantha.