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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Robert E. Hood, Circuit Court Judge

Appellate Case No. 2022-001218
Case No. 2018-CP-40-4835

Joseph P. Sellaro, ... Respondent,

v.

The South Carolina Department of Social Services
and the Richland County Sheriff's Department, ... Defendants,

Of which, The South Carolina Department of
Social Services is the..... Appellant.

RECORD ON APPEAL - VOLUME I
(pp. 1-370)

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INDEX

Volume I

Order, filed July 2, 2020	1
Form 4 Order Denying Post-Trial Motions, filed August 3, 2022.....	7
Jury Verdict Form, filed May 23, 2022	10
Complaint, filed August 31, 2016.....	12
Answer to the Plaintiff’s Complaint by the South Carolina Department of Social Services, filed October 10, 2016	20
Answer of on Behalf of Defendant Richland County Sheriff’s Department, filed October 11, 2016	35
Notice of Motion and Motions for Judgment Notwithstanding Verdict, or Alternatively, Motions for New Trial Absolute and/or New Trial Nisi Remittitur, filed May 31, 2022	41
Reply to Motions for Judgment Notwithstanding Verdict, or Alternatively, Motions for New Trial Absolute and/or New Trial Nisi Remittitur, filed July 8, 2022	54
Trial Transcript, May 16, 2022 through May 19, 2022	63
Opening by the Court.....	72
Opening by Mr. Brehmer.....	84
Victoria Deas Johnson	
Direct Examination by Mr. Brehmer.....	95
Cross-Examination by Mr. Garfield.....	107
Re-Direct Examination by Mr. Brehmer.....	108

Jennifer Elaine Perry

Direct Examination by Mr. Brehmer.....	110
Cross-Examination by Mr. Garfield.....	122
Re-Direct Examination by Mr. Brehmer.....	127
Re-Cross-Examination by Mr. Garfield	129

Safiya Tate

Direct Examination by Mr. Brehmer.....	131
Cross-Examination by Mr. Garfield.....	152
Publishing of Family Court Hearing Transcript.....	157

Carol Ann Outlaw

Direct Examination by Mr. Brehmer.....	162
Cross-Examination by Mr. Garfield.....	166
Cross-Examination by Mr. Summers	186
Re-Direct Examination by Mr. Brehmer.....	193
Publishing Portions of Deposition of Dr. Jeffrey Hall Brandenburg	199

Joseph Sellaro

Direct Examination by Mr. Brehmer.....	230
Cross-Examination by Mr. Garfield.....	263
Cross-Examination by Mr. Summers	281
Motion for Directed Verdict of SCDSS by Mr. Summers	313

Zemulus Dozier

Direct Examination by Mr. Garfield	318
Cross-Examination by Mr. Summers	348
Cross-Examination by Mr. Brehmer	350
Re-Direct Examination by Mr. Garfield.....	366
Re-Cross Examination by Mr. Summers.....	368

Volume II

Karen Gilman

Direct Examination by Mr. Garfield	371
Cross-Examination by Mr. Summers	392
Cross-Examination by Mr. Brehmer	394
Re-Direct Examination by Mr. Garfield.....	400

Reginald Gaymon

Direct Examination by Mr. Garfield	401
Cross-Examination by Mr. Summers.....	424
Cross-Examination by Mr. Brehmer.....	432
Re-Direct Examination by Mr. Garfield	442
Re-Cross Examination by Mr. Summers	448
Motions for Directed Verdict.....	451

Valorie McDaniel

Direct Examination by Mr. Summers.....	496
Cross-Examination by Mr. Garfield.....	528
Redirect Examination by Mr. Summers	534

Naqua Edgerton

Direct Examination by Mr. Summers.....	536
Cross-Examination by Mr. Brehmer	556
Re-Direct Examination by Mr. Summers.....	561

Tyler Burns

Direct Examination by Mr. Summers.....	562
Cross-Examination by Mr. Brehmer	572
Motions for Directed Verdict	580
Closing by Mr. Brehmer	585
Closing by Mr. Garfield.....	603
Closing by Mr. Summers	604
Reply by Mr. Brehmer	627
Charge by the Court.....	632
Question by the Jury	653
Verdict.....	658
Polling of the Jury.....	659

Plaintiff’s Trial Exhibit #1	664
Plaintiff’s Trial Exhibit #2	667
Plaintiff’s Trial Exhibit #3	670
Plaintiff’s Trial Exhibit #4	671
Plaintiff’s Trial Exhibit #5	674
Plaintiff’s Trial Exhibit #6	677
Plaintiff’s Trial Exhibit #7	680
Plaintiff’s Trial Exhibit #8	685
Plaintiff’s Trial Exhibit #9	691
Defendant RCSD Trial Exhibit #1	692
Defendant DSS Trial Exhibit #4	696
Transcript of Motion Hearing, July 28, 2022	709
Notice of Appeal	736
Certificate of Counsel	
Certificate of Compliance	

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

) Civil Action No.: 2018-CP-40-4835

Joseph P. Sellaro,

Plaintiff,

v.

The South Carolina Department of
Social Services and the Richland
County Sheriff's Department,

Defendants.

ORDER

This matter comes before this Court by way of a motion for summary judgment on behalf of the Defendant Richland County Sheriff's Department ("RCSD"). A hearing on this motion was held on May 28, 2020 in Columbia, South Carolina via remote conferencing. Present at the time and presenting oral arguments were counsel for the Plaintiff, Barry B. George, Esq., and for this Defendant, Robert D. Garfield, Esq. For the reasons discussed herein, this Court grants in part and denies in part Defendant RCSD's motion.

I. FACTUAL BACKGROUND

On February 27, 2016, the Plaintiff, 67 years of age, was at his residence in Richland County, awaiting the return of Eileen Sellaro ("Eileen"), his wife who was out running errands. *See*, Comp., ¶ 6. The Plaintiff and Eileen had been married for forty years. *Id.*, ¶ 7. While she was out, Eileen was involved in a motor vehicle collision and was taken to Palmetto Richland Hospital. *Id.*; *see also*, Outlaw depo., p. 20.

At this time, a Palmetto Richland Emergency Department nurse contacted Carol Outlaw, Eileen's primary contact in her cell phone. *See*, Outlaw depo., p. 20. Outlaw and Eileen had been close friends and co-workers for roughly ten years. *Id.*, pp. 14-16. The nurse informed Outlaw that Eileen had been in a serious wreck and inquired about Eileen's next of kin. *Id.*, p. 20. Outlaw went to the hospital at which time she learned that Eileen had died. *Id.*, pp. 22-23. At this point, Outlaw was the sole contact as there were no other family or friends at the hospital at this time. *Id.* Richland County Sheriff's Department ("RCSD") deputies and Deputy Coroner Zem Dozier

responded to the hospital as well. *Id.*, pp. 23-24. Dozier asked Outlaw to accompany him to the Sellaro residence to assist him in informing the Plaintiff of his wife's passing. *Id.*, pp. 24, 73-74.

RCSD deputies, Dozier, and Outlaw went to the Plaintiff's residence and advised the Plaintiff that his wife had died. *Id.*, pp. 31, 94; *see also*, Comp., ¶ 8. The Plaintiff was very upset upon hearing the news. *Id.*, p. 28.

The overarching question for RCSD deputies and Dozier at the time was whether the Plaintiff had the ability to care for himself. *Id.*, pp. 28, 31-32. In so doing, RCSD deputies and Dozier interviewed both Plaintiff and Outlaw. *Id.*; *see also*, Comp., ¶ 8. Outlaw, in addition to having been Eileen's close friend, had been a registered nurse for approximately thirty (30) years. *Id.*, p. 30. She was familiar with the Plaintiff's health issues. *Id.*, pp. 16-17. Outlaw formed the opinion, primarily based on previous conversations with Eileen, that the Plaintiff could not have taken care of himself at that particular time. *Id.*, p. 50. Recognizing her role as the only source of information for the RCSD deputies and the Deputy Coroner, Outlaw was honest and forthright as she conveyed this information to the authorities. *Id.*, pp. 92-93, 120-121.

Accordingly, Outlaw apprised the deputies and the deputy coroner of the following: That Eileen had been the Plaintiff's sole caregiver at the house and did "everything for him." *Id.*, pp. 41, 100, 102. For instance, the Plaintiff was an insulin-dependent diabetic. *Id.*, p. 104. Eileen would manage his treatment which included administering his medications and checking his blood sugar. *Id.*, pp. 17-18, 54. Moreover, the Plaintiff did not drive a vehicle and Eileen "did all the driving." *Id.*, pp. 98-99. As Outlaw stated in her deposition, "If (Eileen) got around, she drove. If he got around, (Eileen) drove." *Id.* Critically, in the wake of Eileen's death, Outlaw represented to the deputies that Plaintiff could not take care of himself alone. *Id.*, pp. 39-40, 98.

In the presence of authorities, the Plaintiff's blood sugar level was checked and registered a dangerously high 550 mg/dL. *See*, Outlaw depo., pp. 41, 103.

These events took place late on a Saturday evening. *Id.*, p. 97. Eileen had no family in the State of South Carolina. *Id.*, pp. 41-42. Eileen was believed to be estranged from her siblings. *Id.*, p. 34. The Plaintiff and Eileen were also estranged from their three children, all of whom ostensibly lived out-of-state. *Id.*, p. 33.

Acting on Outlaw's representations, "the RCSD deputy took 'emergency protective custody' ('EPC') over the Plaintiff and directed the Plaintiff to board an ambulance to be admitted to Palmetto Health." *See*, Comp., ¶ 9.

In the case at bar, the Plaintiff has brought suit against RCSD¹ for false imprisonment, negligence/gross negligence, intentional infliction of emotional distress,² civil conspiracy, and violations of the State Constitution.

II. LEGAL STANDARD

Summary judgment is appropriate “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” S.C.R.C.P. 56(c). It is well established that the Court, in considering a motion for summary judgment, must view the facts and reasonable inferences therefrom in the light most favorable to the nonmoving party. A party opposing summary judgment may not rest on the mere allegations of the pleadings, but must set forth or point to specific facts in the record showing that there is a genuine issue of material fact. *Bravis v. Dunbar*, 449 S.E.2d 495 (Ct. App. 1994); *Dickert v. Metropolitan Life Ins. Co.*, 306 S.C. 3111, 313, 411 S.E.2d 672, 673 (Ct. App. 1991), (citations omitted), *rev'd in part on other grounds*, 311 S.C. 218, 428 S.E.2d 700 (1993).

III. ANALYSIS

A. Civil Conspiracy

In order to prove a cause of action for civil conspiracy, a plaintiff must show: (1) a combination of two or more persons, (2) for the purpose of injuring the plaintiff, (3) which causes him special damage. *See, Vaught v. Waites*, 300 S.C. 201, 387 S.E.2d 91, 95 (Ct. App. 1989). A plaintiff's allegations of a civil conspiracy must be more than an embellishment of another cause of action. *See, Id.* Additionally, the conspiracy cause of action must include a claim for special damages. *See, Id.*; *see also, Todd v. South Carolina Farm Bureau Mut. Ins. Co.*, 276 S.C. 284, 278 S.E.2d 607 (1981).

¹ This Court recognizes that the RCSD is not a legal entity of the State; that the proper entity is the Sheriff of Richland County in his official capacity⁷ and that his office constitutes a governmental entity as set forth pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.* and is under the jurisdiction of the Act. To this extent and since the May 28, 2020 hearing, this Court has been informed that the Plaintiff has consented to a substitution to reflect the appropriate party-Defendants=.

² This Court has been further advised that the Plaintiff has agreed to dismiss the cause of action for intentional infliction of emotional distress with respect to all Defendants. *See*, South Carolina Code Ann. § 15-78-30(f) (providing that a "loss" recoverable under the Tort Claims Act “does not include the intentional infliction of emotional harm.”) Additionally, the Plaintiff has dismissed his claims for relief in the form of costs and/or punitive damages pursuant to S.C. Code Ann. § 15-78-120(a) against all Defendants.

In South Carolina, the gravamen of the tort of civil conspiracy is the damage resulting to the plaintiff from an overt act done pursuant to the combination. *See, Pye v. Estate of Fox*, 633 S.E.2d 505, 511 (S.C. 2006). Because the quiddity of a civil conspiracy claim is the damage resulting to the plaintiff, the damages alleged [for civil conspiracy] must go beyond the damages alleged in other causes of action. *See, Id.* It is not the monetary damages sought by the party, but rather the injury allegedly sustained which is to be weighed in determining whether the claim satisfies this requirement.

Under the authority of the *Vaught* and *Todd* cases, the Defendant Sheriff argues that the Plaintiff has failed to state a claim for civil conspiracy. First, the allegations that form the basis of the Plaintiff's civil conspiracy cause of action do not meet the requisite elements and are identical to those alleged in other causes of action. Accordingly, the conspiracy claim is expressly premised on allegations that the Plaintiff was unjustly and unlawfully taken into custody. Consequently, this Defendant submits that the Plaintiff's civil conspiracy claim does no more than re-allege his other causes of action and then allege the existence of a civil conspiracy. *See, Comp.*, ¶ 42 (“As a direct and proximate result of the Defendants' [conspiratorial] conduct the Plaintiff was damaged as set out above (Paragraphs 23 and 24 [for gross negligence]) and is entitled to an award of actual and punitive damages.”) Finally, this Defendant contends that the Plaintiff has failed to allege any special damages in his Complaint. This Court agrees and the Defendant Sheriff is entitled to summary judgment on the Plaintiff's civil conspiracy claim.

B. State Constitutional Violations

The Plaintiff also alleges that his due process rights under the South Carolina Constitution were violated by his false imprisonment and the Defendant deputies' actions. *See, Comp.*, ¶ 45 (“The Defendants' actions deprived the Plaintiff of his substantive and procedural due process rights pursuant to the South Carolina Constitution, Article 1, Sections 3, 13, and 22.”)

This Defendant argues that there is no statutory scheme in South Carolina which enables a citizen to bring a private right of action for civil damages under the State Constitution. This Court agrees and finds that, no viable cause of action exists where, as here, the state Constitution does not provide for a private cause of action for civil rights violations and the legislature has not enacted a statute enabling this type of action. *See, e.g., Gibbs v. S.C. Dept. of Probation, Parole, and Pardon Services, et al.*, 2002-UP-363 (Ct. App. 2002)(Unpublished).

C. Remaining causes of action

That as it pertains to the Defendant RCSD, the remaining causes of action before this Court consists of (1) false imprisonment and (2) negligence/gross negligence. In considering all the evidence and reasonable inferences therefrom in the light most favorable to the Plaintiff, this Court finds that there are genuine issues as to material facts with respect to these claims. As a result, this Court denies the Defendant RCSD's motion as it pertains to these causes of action.

CONCLUSION

IT IS, THEREFORE ORDERED that the Defendant RCSD's summary judgment is granted to the extent that the Plaintiff's fourth cause of action for civil conspiracy and fifth cause of action for deprivation of state civil rights are dismissed.

IT IS, FURTHER ORDERED that the Plaintiff's third cause of action for intentional infliction is dismissed as it pertains to all Defendants by way of consent of the Plaintiff.

IT IS, FURTHER ORDERED that the Sheriff of Richland County in his official capacity be substituted for the Defendant Richland County Sheriff's Department ("RCSD") by way of consent of the Plaintiff. Therefore, the Clerk of Court shall amend the above caption so as to denote, "*Joseph P. Sellaro, Plaintiff, v. The South Carolina Department of Social Services and the Sheriff of Richland County in his official capacity, Defendants.*"

IT IS, FURTHER ORDERED that the Plaintiff's claims for relief in the form of costs and/or punitive damages are dismissed as it pertains to all Defendants pursuant to S.C. Code Ann. § 15-78-120(a) by way of consent of the Plaintiff.

IT IS, FURTHER ORDERED that the Defendant RCSD's summary judgment is denied with respect to the Plaintiff's first and second causes of action for negligence and gross negligence, and false imprisonment, respectively, both of which will continue for the trial of this matter.

IT IS SO ORDERED.

The Honorable Robert E. Hood
Circuit Judge, Fifth Judicial Circuit

June ____, 2020
Columbia, South Carolina



Richland Common Pleas

Case Caption: Joseph P Sellaro vs South Carolina Department Of Social Services ,
defendant, et al
Case Number: 2018CP4004835
Type: Order/Other

So Ordered

s/ R.E. Hood #2164

Electronically signed on 2020-07-01 15:29:32 page 6 of 6

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP4004835

Joseph P Sellaro
PLAINTIFF(S)

South Carolina Department Of Social Services et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

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

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

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

This matter was before the Court on July 28, 2022, upon the Defendant South Carolina Department of Social Service's post-trial motions. Karl Brehmer, Esq. and Paige George, Esq. were present representing the Plaintiff. Lake Summers, Esq. and Andrew Lindemann, Esq. were present representing Defendant South Carolina Department of Social Services. After consideration of the record, arguments made, and the applicable law, the Court hereby denies all of Defendant South Carolina Department of Social Services post-trial motions.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/02/2022 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

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



Richland Common Pleas

Case Caption: Joseph P Sellaro vs South Carolina Department Of Social Services ,
defendant, et al

Case Number: 2018CP4004835

Type: Order/Electronic Form 4

So Ordered

s/ R.E. Hood #2164

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STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
Joseph P. Sellaro)
)
Plaintiff,)
vs.)
)
The South Carolina Department of Social)
Services and The Sheriff of Richland)
County in his official capacity,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2018-CP-40-04835

JURY VERDICT FORM

Defendant Sheriff of Richland County, Leon Lott, in his official capacity

1. Do you unanimously find by a preponderance of the evidence that Defendant Sheriff was negligent?

____ YES – Go to Question 2
☒ NO – Go to Question 3

2. Do you unanimously find by a preponderance of the evidence that Defendant Sheriff's negligence was the proximate cause of the Plaintiff's injuries?

____ YES
____ NO

GO TO QUESTION 3

3. Do you unanimously find by a preponderance of the evidence that Defendant Sheriff falsely imprisoned the Plaintiff?

____ YES
☒ NO

GO TO QUESTION 4

Defendant South Carolina Department of Social Services

4. Do you unanimously find by a preponderance of the evidence that Defendant South Carolina Department of Social Services was negligent?

☒ YES – Go to Question 5
____ NO – Go to Question 6

RICHLAND COUNTY
FILED
2022 MAY 23 AM 11:30
JEREMY W. MORRIS
CLERK OF COURT

5. Do you unanimously find by a preponderance of the evidence that Defendant South Carolina Department of Social Service's negligence was the proximate cause of the Plaintiff's injuries?

☒ YES
☐ NO

GO TO QUESTION 6

6. Do you unanimously find by a preponderance of the evidence that Defendant South Carolina Department of Social Services falsely imprisoned the Plaintiff?

☒ YES
☐ NO

GO TO QUESTION 7

Damages

7. If you answered **YES** to question number 2, 3, 5, **OR** 6, then please state the total amount of damages, if any, sustained by Plaintiff.

\$ 300,000

8. If, and only if, you answered **YES** to either question number 2 or 3 **AND** either 5 or 6, using the combined fault that caused the Plaintiff's injuries as one hundred percent (100%), what percentage of Plaintiff's damages is attributable to the Defendant Sheriff and what percentage is attributable to Defendant South Carolina Department of Social Services? [The percentages must add up to 100%.] [Do not reduce the Plaintiff's total damages based on the percentage of negligence by any party.]

Defendant Sheriff 0 %

Defendant South Carolina
Department of Social Services 100 %

Total 100 %

May 19, 2022
Columbia, South Carolina

Foreperson

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Joseph P. Sellaro,

Plaintiff,

-vs-

The South Carolina Department
of Social Services and The Richland
County Sheriff's Department,

Defendants.

) IN THE COURT OF COMMON PLEAS
) CASE NO.:

COMPLAINT
(Jury Trial Requested)

RICHLAND COUNTY
FILED
2016 AUG 31 PM 3:19
JEANNETTE W. McBRIDE
C.C.P. & G.S.

The Plaintiff complaining of the Defendants would respectfully show unto the Court that:

1. Plaintiff is a resident and citizen of Richland County, South Carolina;
2. Defendant South Carolina Department of Social Services (hereinafter "DSS") is a state agency existing by virtue of the laws of South Carolina, operating and conducting its business in South Carolina, including Richland County; DSS is subject to civil suit pursuant to the South Carolina Tort Claims act;
3. Defendant Richland County Sheriff's Department (hereinafter "RCSD") is a county political subdivision existing by virtue of the laws of South Carolina, operating and conducting its business in South Carolina, specifically Richland County; RCSD is subject to civil suit pursuant to the South Carolian Tort Claims Act;
4. The acts or incidents that are the subject of this action occurred in Richland County, South Carolina;
5. This court has jurisdiction over the parties and the subject matter;

FACTS

6. On February 27th, 2016, the Plaintiff was in his home in Richland County, awaiting the return of his wife who was out running errands;

7. While she was out running errands Plaintiff's wife of 40 years died tragically;
8. That evening an officer of the Richland County Sheriff's deputy along with a friend of the deceased arrived at the home of the Plaintiff. The friend reported falsely to one or both Defendants that Plaintiff was unable to care for himself due to mental and physical infirmities;
9. Acting on the false report, the deputy took "emergency protective custody" over the Plaintiff and directed Plaintiff to board an ambulance to be admitted to Palmetto Health Richland; contemporaneously, Plaintiff was advised that his wife was dead; Plaintiff was very upset and confused by receiving the news of his wife dying at the same time as the deputy directed him to board an ambulance; Plaintiff boarded the ambulance at the direction of the deputy and against his will;
10. Upon his arrival at Palmetto Health Richland on Saturday February 27th, 2016, he waited for several hours before being admitted to a room;
11. On Sunday February 28th, 2016, Plaintiff was evaluated by the resident physician and was not found to have any physical or mental impairments warranting commitment;
12. On Monday, February 29th, 2016, he was evaluated by the resident psychiatrist who found that he had no signs of dementia and was more than capable of making his own decisions; nonetheless, Plaintiff was still being held against his will at the hospital;
13. Defendants knew or should have known the results of Plaintiff's medical evaluations over the weekend as well as on Monday, February 29th, 2016, as well as on Tuesday March 1st, 2016;
14. Nonetheless, DSS filed an action in the Family Court requesting that Plaintiff be adjudicated a vulnerable adult pursuant to statute, that they be allowed to continue to have custody over the Plaintiff, and that they be allowed to have access to his assets;

15. On Tuesday, March 1st, DSS appeared before a family court judge requesting that they be allowed to retain custody of Plaintiff due to his “condition”. DSS did not allow Plaintiff to attend this hearing.

16. Acting on the information provided by Defendants at the hearing, the presiding family court judge signed an order granting custody of the Plaintiff to DSS and redirecting all governmental benefits of Plaintiff to DSS.

17. On Wednesday March 2nd, 2016, a 3rd physician evaluated Plaintiff to which the physician stated in his report: “patient was admitted against his will,” “he is not demented”, “absolutely no medical or psych needs”, “no medical reason to be here”, “he would like to be able to mourn the death of his wife”

18. Again, Defendants knew or should have known of the evaluation of Wednesday, March 2nd, nonetheless, refused to allow Plaintiff to leave the hospital;

19. Pursuant to the family court action, a Guardian Ad Litem (GAL) was appointed by the family court to protect the interests of Plaintiff;

20. Upon discovering what had transpired, the GAL filed an emergency motion on Friday, March 4th requesting that Plaintiff be allowed to return home; nonetheless, after receiving the motion the same day, DSS refused to allow Plaintiff to leave the hospital;

21. On Monday, March 7th, an emergency hearing was held in the family court, where inexplicably, DSS agreed to relinquish custody of Plaintiff and allowed him to leave the hospital and return home;

22. Plaintiff was discharged from Palmetto Health Richland on Monday, March 7th, 2016;

23. Plaintiff was held at Palmetto Health Richland against his will by Defendants for 10 days without cause; because of that, Plaintiff was unable to see his wife of 40 years for the

last time, was unable to mourn the death of his wife, was unable to attend the visitation event at Dunbar Funeral Home, was unable to participate in any funeral proceedings, was unable to provide input as how to dispose of her remains; and to this day Plaintiff has not seen his wife's remains and is unsure of the location of his wife's remains; Further, Plaintiff has been diagnosed with depression and will continue to suffer from it; Lastly, Plaintiff, because he was not home for 10 days, his dogs, who he deeply loved, were disposed of by a neighbor;

24. As a direct and proximate result of the Defendants' negligent, careless, reckless, willful, and wanton conduct Plaintiff has suffered severe injuries which have caused and will in the future cause him to endure great physical pain, suffering, mental anguish, emotional distress, and impairment of health and bodily efficiency. These injuries have caused the Plaintiff to incur costs for medical services, and have caused him permanent disability.

FOR A FIRST CAUSE OF ACTION

(Negligence and Gross Negligence)

25. The Plaintiff repeats each and every preceding allegations of this complaint as if repeated verbatim.

26. Defendant DSS has a duty to exercise due care in exercising its responsibilities under the vulnerable adult statutes, S.C. Code Ann. 43-35-10 (et seq.).

27. That Defendant RCSD, by and through its deputies, officers, and employees, breached its duties and was grossly negligent in exercising its duties pursuant to statute in the following particulars:

- a. Apprehending Plaintiff with no legal cause;
- b. Taking custody of Plaintiff when it knew or should have know there was nothing wrong physically or mentally with Plaintiff;
- c. Taking custody of Plaintiff when it knew or should have known Plaintiff was

not in a life-threatening situation;

- d. In failing to appropriately vet the woman who falsely reported that Plaintiff was unable to care for himself;
- e. In acting on the request of a false reporter;
- f. In failing to follow up with the hospital in determining whether Plaintiff needed to remain in custody;
- g. In representing to a judge under oath that Plaintiff was in a life threatening situation due to his physical and mental infirmities when it knew or should have known those allegations were not true;
- h. In failing to exercise that degree of due care that a reasonably prudent officer would have employed under the circumstances;

Any or all of which are in violation of the laws and ordinances in such cases.

28. As a direct and proximate result of the Defendant RCSD negligent, grossly negligent, careless, reckless, willful, and wanton conduct Plaintiff was damaged as set out above and is entitled to actual and punitive damages.

29. Defendant DSS has a duty to exercise due care in exercising its responsibilities under the vulnerable adult statutes, S.C. Code Ann. 43-35-10 (et seq.).

30. That Defendant DSS, by and through its deputies, officers, and employees, breached said duties and was grossly negligent in exercising its duties pursuant to statute in the following particulars:

- a. Apprehending Plaintiff with no legal cause;
- b. Taking custody of Plaintiff when it knew or should have known there was nothing wrong physically or mentally with Plaintiff;
- c. Taking custody of Plaintiff when it knew or should have known Plaintiff was

not in a life-threatening situation;

- d. In failing to appropriately vet the woman who falsely reported that Plaintiff was unable to care for himself;
- e. In acting on the request of a false reporter;
- f. In failing to follow up with the hospital in determining whether Plaintiff needed to remain in custody;
- g. In retaining custody over the Plaintiff for ten days when it knew or should have known Plaintiff did not suffer from any mental or physical infirmity;
- h. In refusing to allow Plaintiff to attend the court hearing of March 1st;
- i. In refusing to relinquish custody and allow Plaintiff to leave hospital for 10 ten days despite being told on multiple occasions by the hospital that Plaintiff had no mental or physical infirmities;
- j. In representing to the family court that Plaintiff was in a life threatening situation due to his physical and mental infirmities when it knew or should have known those allegations were patently false;
- k. In failing to exercise that degree of due care that a reasonably prudent officer or employee would have employed under the circumstances;

Any or all of which are in violation of the laws and ordinances in such cases.

31. As a direct and proximate result of the Defendant DSS's negligent, grossly negligent, careless, reckless, willful, and wanton conduct Plaintiff was damaged as set out above (Paragraphs 23 and 24) and is entitled to actual and punitive damages.

FOR A SECOND CAUSE OF ACTION

(False Imprisonment)

32. The preceding allegations that are consistent with this cause of action are realleged as if repeated verbatim.

33. The employees and agents of the Defendants did unlawfully and intentionally restrain and restrict the Plaintiff's freedom of movement by condemning him to a hospital room for 10 days. This was done without the Plaintiff's consent.

34. As a direct and proximate result of the Defendants' conduct and action, the Plaintiff was damaged as set out above (Paragraphs 23 and 24) and is entitled to an award of actual and punitive damages.

FOR A THIRD CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

35. The preceding allegations that are consistent with this cause of action are realleged as if repeated verbatim.

36. The Defendants' through their acts and omissions intentionally and recklessly inflicted severe emotional distress upon Plaintiff;

37. The conduct of Defendants' was so extreme and outrage that it exceeds all possible bounds of decency and must be regarded as atrocious, and utterly intolerable in a civilized society;

38. The Defendants' actions caused the Plaintiff severe emotional distress;

39. As a direct and proximate result of the Defendants' conduct the Plaintiff was damaged as set out above (Paragraphs 23 and 24) and is entitled to an award of actual and punitive damages.

FOR A FOURTH CAUSE OF ACTION

(Civil Conspiracy)

40. The preceding allegations that are consistent with this cause of action are

realleged as if repeated verbatim.

41. The acts and conduct of the Defendants' employees in exercising dominion over the Plaintiff for 10 days consisted of a combination of two or more employees conspiring together for the purposes of injuring the Plaintiff.

42. As a direct and proximate result of the Defendants' conduct the Plaintiff was damaged as set out above (Paragraphs 23 and 24) and is entitled to an award of actual and punitive damages.

FOR A FIFTH CAUSE OF ACTION

(Due Process Violations)

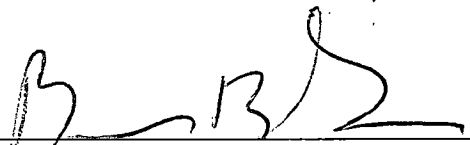
43. The preceding allegations that are consistent with this cause of action are realleged as if repeated verbatim.

44. The Defendants' actions were subject to the South Carolina Constitution;

45. The Defendants' actions deprived the Plaintiff of his substantive and procedural due process rights pursuant to the South Carolina Constitution, Article 1, Sections 3, 13, and 22;

46. As a result of the Defendants' wanton willful, reckless, and/or intentional acts, the Plaintiff was damaged as set out above (Paragraphs 23 and 24) and the Plaintiff is entitled to an appropriate amount of actual and punitive damages from the Defendants;

WHEREFORE, Plaintiff prays for judgment against the Defendants in a sum sufficient to adequately compensate him for his actual damages, punitive damages, attorney's fees, for the costs of this action, and for such other and further relief as this Court may deem proper.



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§§ 43-35-5, *et seq.*, cited as the South Carolina Omnibus Adult Protection Act. SCDSS otherwise denies the allegations from this paragraph and demands strict proof thereof.

3. As they exclusively relate to Defendant Richland County Sheriff's Department ["RCSD"], SCDSS respectfully declines to respond to the allegations from paragraph 3 of the Plaintiff's complaint. To the extent that a response is required of it, SCDSS is without sufficient information by which to admit or deny the allegation(s) articulated by the Plaintiff in paragraph 3, and, therefore, SCDSS respectfully denies the same and demands strict proof thereof.

4. SCDSS, upon information and belief, generally admits the allegation(s) from paragraph 4 of the Plaintiff's complaint.

5. SCDSS respectfully asserts that the allegation(s) from paragraph 5 of the Plaintiff's complaint are jurisdictional in nature, and, consequentially, no response to such allegations is required.

**THE SECTION OF THE PLAINTIFF'S COMPLAINT STYLED AS
"FACTS"**

6. SCDSS is without sufficient information by which to admit or deny the allegation(s) articulated by the Plaintiff in paragraph 6 of his complaint, and, therefore, it respectfully denies the same and demands strict proof thereof.

7. SCDSS is without sufficient information by which to admit or deny the allegation(s) articulated by the Plaintiff in paragraph 7 of his complaint, and, therefore, it respectfully denies the same and demands strict proof thereof.

8. SCDSS is without sufficient information by which to admit or deny the allegation(s) from paragraph 8 of the Plaintiff's complaint, and, therefore, it respectfully denies the same and demands strict proof thereof. However, SCDSS specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

9. SCDSS is without sufficient information by which to admit or deny the allegation(s) from paragraph 9 of the Plaintiff's complaint, and, therefore, it respectfully denies the same and demands strict proof thereof. However, SCDSS again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

10. SCDSS is without sufficient information by which to admit or deny the allegation(s) from paragraph 10 of the Plaintiff's complaint, and, therefore, it respectfully denies the same and demands strict proof thereof. However, SCDSS again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

11. SCDSS is without sufficient information by which to admit or deny the allegation(s) from paragraph 11 of the Plaintiff's complaint, and, therefore, it respectfully denies the same and demands strict proof thereof. However, SCDSS again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

12. SCDSS is without sufficient information by which to admit or deny the allegation(s) from paragraph 12 of the Plaintiff's complaint, and, therefore, it respectfully denies the same and demands strict proof thereof. However, SCDSS again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

13. SCDSS denies the allegations from paragraph 13 of the Plaintiff's complaint, and it again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

14. Regarding the allegations from paragraph 14 of the Plaintiff's complaint, SCDSS admits only that it filed a "SUMMONS, NOTICE OF HEARING, Explanation of the Right to an ATTORNEY [Removal]," as well as a "COURT INFORMATION SHEET/COMPREHENSIVE EVALUATION SUPPLEMENTAL REPORT (Adult Protective Services)" with the South

Carolina Family Court for Richland County on March 1, 2016. SCDSS denies any and all other allegations from paragraph 14, and it again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

15. Regarding the allegations from paragraph 15 of the Plaintiff's complaint, SCDSS admits only that the Honorable James McGee of the Richland County Family Court conducted a hearing on March 1, 2016 which resulted Judge McGee granting temporary legal custody of the Plaintiff to SCDSS and granting SCDSS the right to provide for and to authorize such routine and/or emergency medical care as may have been required for the Plaintiff's well-being. SCDSS denies any and all other allegations from paragraph 15, and it again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

16. Regarding the allegations from paragraph 16 of the Plaintiff's complaint, SCDSS admits only that the Honorable James McGee of the South Carolina Family Court for Richland County conducted a hearing on March 1, 2016 which resulted Judge McGee granting temporary legal custody of the Plaintiff to SCDSS, granting SCDSS the right to provide for and to authorize such routine and/or emergency medical care as may have been required for the Plaintiff's well-being, and declaring that any and all governmental benefits payable for the benefit of the Plaintiff should be redirected to SCDSS. SCDSS denies any and all other allegations from paragraph 16, and it again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

17. SCDSS is without sufficient information by which to admit or deny the allegation(s) from paragraph 17 of the Plaintiff's complaint, and, therefore, it respectfully denies the same and demands strict proof thereof. SCDSS again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

18. SCDSS denies the allegations from paragraph 18 of the Plaintiff's complaint, and it again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

19. Regarding the allegations from paragraph 19 of the Plaintiff's complaint, SCDSS admits that on March 3, 2016, the Honorable Monet Pincus of the South Carolina Family Court for Richland County issued an "Order of Appointment of a Guardian Ad Litem for a Vulnerable Adult," in which the Plaintiff was identified as a vulnerable adult. SCDSS denies any and all other allegations from paragraph 19, and it again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

20. Regarding the allegations from paragraph 20 of the Plaintiff's complaint, SCDSS generally admits that sometime after March 3, 2016 and before March 7, 2016, the attorney for the Plaintiff's Guardian Ad Litem filed a motion to dismiss of the action brought by SCDSS. SCDSS denies any and all other allegations from paragraph 20, and it again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

21. Regarding the allegations from paragraph 21 of the Plaintiff's complaint, SCDSS admits that on March 7, 2016, the presiding judge of the South Carolina Family Court issued a bench order which, upon the agreement of all parties, dismissed the action brought by SCDSS. Notwithstanding the aforementioned bench order, SCDSS again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

22. SCDSS is without sufficient information by which to admit or deny the allegation(s) from paragraph 22 of the Plaintiff's complaint, and, therefore, it respectfully denies the same and demands strict proof thereof.

23. Regarding the allegations from paragraph 23 of the Plaintiff's complaint, SCDSS denies that the Plaintiff was held against his will at any time at any location on or after February 27, 2016. SCDSS is without sufficient information by which to admit or deny the remaining allegations from paragraph 23 of the Plaintiff's complaint, and, therefore, it respectfully denies the same and demands strict proof thereof.

24. SCDSS denies the allegations from paragraph 24 of the Plaintiff's complaint, and it again specifically denies that it held or caused the Plaintiff to be held against his will at any time on or after February 27, 2016.

**THE PLAINTIFF'S FIRST CAUSE OF ACTION
AGAINST DEFENDANT SCDSS
("Negligence and Gross Negligence")**

25. SCDSS incorporates its responses to the allegations from paragraphs 1 through 24 of the Plaintiff's complaint as if set forth herein verbatim

26. Regarding the allegations from paragraph 26 of the Plaintiff's complaint, SCDSS admits that it is the agency charged with the duty of providing for the protection of vulnerable adults, as defined in S.C. Code Ann. §§ 43-35-5, *et seq.* To the extent that paragraph 26 articulates factual allegations against it; SCDSS respectfully denies the same and demands strict proof thereof.

27. As they exclusively relate to the RCSD, SCDSS respectfully declines to respond to the allegations from paragraph 27 of the Plaintiff's complaint. To the extent that a response is required of it, SCDSS is without sufficient information by which to admit or deny the allegation(s) articulated by the Plaintiff in paragraph 27, and, therefore, SCDSS respectfully denies the same and demands strict proof thereof.

28. As they exclusively relate to the RCSD, SCDSS respectfully declines to respond to the allegations from paragraph 28 of the Plaintiff's complaint. To the extent that a response is required of it, SCDSS is without sufficient information by which to admit or deny the allegation(s) articulated by the Plaintiff in paragraph 28, and, therefore, SCDSS respectfully denies the same and demands strict proof thereof.

29. Regarding the allegations from paragraph 29 of the Plaintiff's complaint, which appear to be duplicative of the allegations from paragraph 26, SCDSS again admits that it is the agency charged with the duty of providing for the protection of vulnerable adults, as defined in S.C. Code Ann. §§ 43-35-5, *et seq.* To the extent that paragraph 26 articulates factual allegations against it; SCDSS respectfully denies the same and demands strict proof thereof.

30. SCDSS denies the allegations from paragraph 30, and specifically paragraphs 30(a) through (k), of the Plaintiff's complaint.

31. SCDSS denies the allegations from paragraph 31 of the Plaintiff's complaint.

**THE PLAINTIFF'S SECOND CAUSE OF ACTION
AGAINST DEFENDANT SCDSS
("False Imprisonment")**

32. SCDSS incorporates its responses to the allegations from paragraphs 1 through 31 of the Plaintiff's complaint as if set forth herein verbatim.

33. SCDSS denies the allegations from paragraph 33 of the Plaintiff's complaint.

34. SCDSS denies the allegations from paragraph 34 of the Plaintiff's complaint.

**THE PLAINTIFF'S THIRD CAUSE OF ACTION
AGAINST DEFENDANT SCDSS
("Intentional Infliction of Emotional Distress")**

35. SCDSS incorporates its responses to the allegations from paragraphs 1 through 34 of the Plaintiff's complaint as if set forth herein verbatim.

36. SCDSS denies the allegations from paragraph 36 of the Plaintiff's complaint.

37. SCDSS denies the allegations from paragraph 37 of the Plaintiff's complaint.

38. SCDSS denies the allegations from paragraph 38 of the Plaintiff's complaint.

39. SCDSS denies the allegations from paragraph 39 of the Plaintiff's complaint.

**THE PLAINTIFF'S FOURTH CAUSE OF ACTION
AGAINST DEFENDANT SCDSS
("Civil Conspiracy")**

40. SCDSS incorporates its responses to the allegations from paragraphs 1 through 39 of the Plaintiff's complaint as if set forth herein verbatim.

41. SCDSS denies the allegations from paragraph 41 of the Plaintiff's complaint.

42. SCDSS denies the allegations from paragraph 42 of the Plaintiff's complaint.

**THE PLAINTIFF'S FIFTH CAUSE OF ACTION
AGAINST DEFENDANT SCDSS
("Due Process Violations")**

43. SCDSS incorporates its responses to the allegations from paragraphs 1 through 42 of the Plaintiff's complaint as if set forth herein verbatim.

44. SCDSS respectfully asserts that the allegations from paragraph 44 of the Plaintiff's complaint constitute legal conclusions, and, consequentially, no response to such allegations is required. To the extent that a response is required of it, SCDSS denies that any of the causes of action asserted by the Plaintiff in his complaint are meritorious, and it again admits

that it is the agency charged with the duty of providing for the protection of vulnerable adults, as defined in S.C. Code Ann. §§ 43-35-5, *et seq.*

45. SCDSS denies the allegations from paragraph 45 of the Plaintiff's complaint.

46. SCDSS denies the allegations from paragraph 46 of the Plaintiff's complaint.

AS TO THE PLAINTIFF'S PRAYER FOR RELIEF

47. SCDSS denies the Plaintiff's prayer for relief, which appears in the final unnumbered paragraph of his complaint, in its entirety.

FOR A SECOND DEFENSE

48. SCDSS denies each and every allegation of the Plaintiff's complaint not previously admitted, qualified, or explained.

FOR A THIRD DEFENSE

49. The Plaintiff's complaint fails to state a single cause of action upon which relief may be granted, and, accordingly, SCDSS reserves its right to file a motion to dismiss the Plaintiff's complaint in accordance with South Carolina Rule of Civil Procedure ["SCRCP"] 12(b)(6).

FOR A FOURTH DEFENSE

50. The Plaintiffs claims against SCDSS are barred, in whole or in part, by the provisions of the South Carolina Tort Claims Act, S.C. Code Ann. §§ 15-78-10, *et seq.*

FOR A FIFTH DEFENSE

51. SCDSS is entitled to immunity pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. §§ 15-78-10, *et seq.*, as amended, and specifically including, but not limited to §§ 15-78-60(1), (2), (3), (4) and (5), and, to the extent applicable, § 15-78-60(31).

52. SCDSS is not a proper party, in whole or in part, to the Plaintiff's complaint pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. §§ 15-78-10, *et seq.*

FOR A SIXTH DEFENSE

53. The Plaintiff is barred from any recovery of punitive damages, in whole or in part, pursuant to the common law of the State of South Carolina, as well as the provisions of the South Carolina Tort Claims Act, S.C. Code Ann. §§ 15-78-10, *et seq.*, and specifically S.C. Code Ann. § 15-78-120(b).

54. SCDSS is a public sector entity against which punitive damages may not be awarded.

FOR A SEVENTH DEFENSE

55. The Plaintiff failed to exhaust his administrative remedies regarding one or more of the claims he asserted within his complaint.

FOR AN EIGHTH DEFENSE

57. Some if not all of the Plaintiff's claims are barred by the applicable statute of limitations.

FOR A NINTH DEFENSE

58. Some if not all of the Plaintiffs claims for damages are limited and/or foreclosed by the doctrine of avoidable consequences.

FOR A TENTH DEFENSE

59. The Plaintiff failed to mitigate any damages he purportedly sustained as a result of any action or inaction on the part of SCDSS and/or its employees.

FOR AN ELEVENTH DEFENSE

60. SCDSS and its employees, at all times relevant to the events described by the Plaintiff in his complaint, acted in good faith, on reasonable grounds, and without malice or intent to harm.

61. The Plaintiff's claims against any and all SCDSS employees are barred, because, at all times alleged herein, they acted within the course and scope of their respective employment at SCDSS.

62. All SCDSS employees implicated by any of the claims articulated by the Plaintiff in his complaint acted at all times within the scope of their official duties and without actual fraud, actual malice, intent to harm, or involvement in any crime constituting moral turpitude.

63. All SCDSS employees implicated by any of the claims articulated by the Plaintiff in his complaint acted in good faith at all times alleged therein; therefore, the Plaintiff's claims against them are barred.

FOR A TWELFTH DEFENSE

64. SCDSS respectfully alleges, upon information and belief, that any injuries or damages allegedly sustained by the Plaintiff were due to, occasioned by, or caused by intervening acts or omissions on the part of someone else other than it, without which acts and/or omissions the Plaintiff would not have sustained any injuries or damages alleged in his complaint, the existence of which are not admitted and are specifically denied, all of which SCDSS pleads as a complete bar to the Plaintiff's action.

FOR A THIRTEENTH DEFENSE

65. Some if not all of the Plaintiff's claims are barred by the doctrine of *collateral estoppel*.

FOR A FOURTEENTH DEFENSE

66. Some if not all of the Plaintiff's claims are barred by the doctrine of *res judicata*.

FOR A FIFTEENTH DEFENSE

67. Some if not all of the Plaintiff's claims are barred by the doctrine of waiver.

FOR A SIXTEENTH DEFENSE

68. SCDSS asserts that the Plaintiff has not properly pled and cannot prove that any act or omission taken by any its employees was taken with gross negligence.

FOR A SEVENTEENTH DEFENSE

69. At all times herein, SCDSS and its employees acted in conformity with the provisions of S.C. Code Ann. §§ 43-35-5, *et seq.*, cited as the South Carolina Omnibus Adult Protection Act, and specifically including, but not limited to, §§ 43-35-15(c), 43-35-20, 43-35-45, and 43-35-55.

FOR AN EIGHTEENTH DEFENSE

70. SCDSS respectfully asserts that it is immune from suit and liability under the doctrine of sovereign immunity.

71. SCDSS respectfully asserts that its employees are entitled to immunity under the provisions of S.C Code Ann. § 43-35-75.

FOR A NINETEENTH DEFENSE

72. Regarding the Plaintiff's third cause of action styled as "Intentional Infliction of Emotional Distress," SCDSS respectfully asserts that it is barred by S.C. Code Ann. § 15-78-30(f) of the South Carolina Tort Claims Act.

FOR A TWENTIETH DEFENSE

73. To the extent the Plaintiff seeks special damages, the Plaintiff failed to satisfy the heightened pleading requirement of SCRCP 9(g).

FOR A TWENTY-FIRST DEFENSE

74. The Plaintiff's fourth cause of action, styled as "Civil Conspiracy," is barred, because he can show no "special damages" exclusively related to the cause of action.

75. The Plaintiff's fourth cause of action, styled as "Civil Conspiracy," is barred, because the allegations which support the cause of action are merely repetitive of the allegations which support his other causes of action.

76. The Plaintiff's fourth cause of action, styled as "Civil Conspiracy," is barred, because SCDSS and its employees, at all times alleged herein, acted within the course and scope of their respective employment. *Angus v. Burroughs & Chapin Co.*, 596 S.E.2d 67, 70 (S.C. Ct. App. 2004) (*Angus I*), *rev'd on other grounds*, 628 S.E.2d 261 (S.C. 2006) (*Angus II*).

77. The Plaintiff failed to allege facts sufficient to sustain his fourth cause of action, styled as "Civil Conspiracy."

78. The Plaintiff's fourth cause of action, styled as "Civil Conspiracy," is barred by the intra-corporate conspiracy doctrine and/or intra-corporate immunity.

FOR A TWENTY-SECOND DEFENSE

79. SCDSS respectfully asserts, upon information and belief, that any damages it alleged caused, all of which it specifically denies, must be apportioned between SCDSS and other tortfeasors in accordance with S.C. Code Ann. § 15-78-100(c) of the South Carolina Tort Claims Act.

FOR A TWENTY-THIRD DEFENSE

80. SCDSS respectfully asserts that it is entitled to immunity in accordance with *Long v. Seabrook*, 197 S.E.2d 659 (S.C. 1973), and its progeny.

FOR A TWENTY-FOURTH DEFENSE

81. The allegations presented by the Plaintiff in one or more of the causes of action are duplicative, and, therefore, must fail.

FOR A TWENTY-FIFTH DEFENSE

82. The actions taken by SCDSS employees were exercised subject to their respective discretion and/or judgment as employees of SCDSS.

FOR A TWENTY-SIXTH DEFENSE

83. The actions taken by SCDSS and its employees were made for legitimate reasons, in good faith, and without malice, and are thus subject to qualified privilege.

FOR A TWENTY-SEVENTH DEFENSE

84. The Plaintiff's claims are barred by the after-acquired evidence doctrine.

FOR A TWENTY-EIGHTH DEFENSE

85. This Court lacks subject matter jurisdiction over one or more of the claims and/or causes of action articulated by the Plaintiff in his complaint.

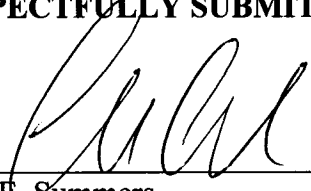
FOR A TWENTY-NINTH DEFENSE

86. SCDSS asserts that the Plaintiff cannot establish the elements of his claims.

WHEREFORE, having fully answered the Plaintiff's complaint, SCDSS respectfully prays the Court to dismiss the entirety of the Plaintiff's complaint against it with prejudice, for the costs of this action, and for any further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED:

BY:


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ATTORNEYS FOR SCDSS

Columbia, South Carolina
October 10, 2016

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Civil Action Number: 2016-CP-40-5299

Joseph P. Sellaro,

Plaintiff,

v.

The South Carolina Department of
Social Services and the Richland
County Sheriff's Department,

Defendants.

ANSWER ON BEHALF OF
DEFENDANT RICHLAND COUNTY
SHERIFF'S DEPARTMENT

(Jury Trial Requested)

RICHLAND COUNTY
FILED
2016 OCT 11 AM 11:37
JENNIFER W. MOORE
C.C.P. & G.S.

The Defendant Richland County Sheriff's Department (hereinafter, "RCSD") answers
the Complaint of Plaintiff as follows:

FOR A FIRST DEFENSE

1. The Complaint fails to state facts sufficient to constitute a cause of action.

FOR A SECOND DEFENSE

2. The Defendant RCSD is immune from suit pursuant to pertinent portions of the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.*, specifically, § 15-78-60 (1), (2), (3), (4), (5), and (6).

FOR A THIRD DEFENSE

3. This Defendant denies each and every allegation of the Complaint not hereinafter specifically admitted, qualified, or explained.

4. That as to Paragraph One (1), this Defendant lacks sufficient information upon which to form a belief as to the truth and veracity of same, and therefore, denies same and demands strict proof thereof.

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5. Paragraph Two (2) contains allegations against another Defendant, the South Carolina Department of Social Services (hereinafter, "SCDSS"), and therefore, requires no response by this Defendant. To the extent that this paragraph contains factual allegations against this Defendant, this Defendant denies same and demands strict proof thereof.

6. That as to Paragraph Three (3), this Defendant denies that the RCSD is a legal entity of the State, but asserts that the proper entity is the Sheriff of Richland County in his official capacity and that his office constitutes a governmental entity as set forth pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.* and is under the jurisdiction of said Act. Except as stated herein, this Defendant denies this paragraph and demands strict proof thereof.

7. That as to Paragraph Four (4), this Defendant generally admits same upon information and belief.

8. The allegations set forth in Paragraph Five (5) is jurisdictional in nature, can neither be admitted nor denied, and this Defendant craves reference thereto.

9. That as to Paragraphs Six (6), Seven (7), and Eight (8), this Defendant only admits upon information and belief that on February 27, 2016, one or more RCSD deputies responded to Plaintiff's residence at the request of the Richland County Coroner's Office following the death of Plaintiff's wife due to an automobile accident. Further answering, these RCSD deputies were informed that Plaintiff's wife had been the primary caregiver for him. Plaintiff had been suffering from Alzheimer's Disease, diabetes, in addition to other medical and mental health issues and was unable to care for himself independently. Except as stated herein, this Defendant denies these paragraphs and demands strict proof thereof.

10. That as to Paragraphs Nine (9) and Ten (10), this Defendant only admits upon information and belief that while at Plaintiff's residence, RCSD deputies unsuccessfully attempted to make contact with Plaintiff's family members to assume care

for Plaintiff. As a result, RCSD deputies initiated Emergency Protective Custody (hereinafter, "EPC") protocols with respect to Plaintiff. Plaintiff was transported via an Emergency Medical Services (hereinafter, "EMS") unit to Palmetto Health Richland. Further responding, one or more RCSD deputies escorted the EMS to the hospital, whereupon custody of Plaintiff was transferred to the Defendant SCDSS. Except as stated herein, this Defendant denies these paragraphs and demands strict proof thereof.

11. That as to Paragraphs Eleven (11), Twelve (12), Thirteen (13), Seventeen (17), Nineteen (19), Twenty-two (22), and Twenty-three (23), this Defendant lacks sufficient information upon which to form a belief as to the truth and veracity of same, and therefore, denies these paragraphs and demands strict proof thereof. Further answering, this Defendant craves reference to any and all medical and hospital records for the most accurate evidence of what is contained therein.

12. Paragraphs Fourteen (14), Fifteen (15), Sixteen (16), Eighteen (18), Twenty (20), and Twenty-one (21), Twenty-six (26), Twenty-nine (29), Thirty (30), and Thirty-one (31) contain allegations against another Defendant, and therefore, requires no response by this Defendant. Further answering, this Defendant craves reference to any and all orders issued by the Family Court as well as the official court records for the most accurate evidence of what is contained therein. To the extent that this paragraph contains factual allegations against this Defendant, this Defendant denies same and demands strict proof thereof.

13. That as to Paragraph Twenty-four (24), this Defendant denies same in its entirety.

14. That as to Paragraphs Twenty-five (25), Thirty-two (32), Thirty-five (35), Forty (40), Forty-three (43), this Defendant reasserts and realleges all previous allegations and

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defenses. To the extent that these paragraphs contain factual allegations against this Defendant, this Defendant denies same and demands strict proof thereof.

15. That as to Paragraphs Twenty-seven (27), Twenty-eight (28), Thirty-three (33), Thirty-four (34), Thirty-six (36), Thirty-seven (37), Thirty-eight (38), Thirty-nine (39), Forty-one (41), Forty-two (42), Forty-five (45), and Forty-six (46), this Defendant denies same in their entirety and demands strict proof thereof.

16. That as to Paragraph Forty-four (44), Plaintiff has set forth legal conclusions which can neither be admitted nor denied and, therefore, this Defendant craves reference thereto. This Defendant expressly denies that any of Plaintiff's causes of action with respect to this Defendant or its employees are meritorious.

17. Any and all averments inconsistent with the foregoing are denied. Further, this Defendant asserts that Plaintiff is not entitled to the relief requested in the Complaint, or any other relief against this Defendant.

FOR A FOURTH DEFENSE

18. The Defendant Richland County Sheriff's Department (RCSD) is not a legal entity and, therefore, is not amenable to suit and is not the proper party defendant in this case.

FOR A FIFTH DEFENSE

19. This Defendant alleges that it is immune from suit and liability under the doctrine of sovereign immunity.

FOR A SIXTH DEFENSE

20. This Defendant alleges upon information and belief that at all times herein that its deputies were acting within the course and scope of their employment in a discretionary manner, in good faith, without bad faith or malicious motives in the performance of their official duties, and therefore, this Defendant is immune from suit.

FOR A SEVENTH DEFENSE

21. This Defendant is entitled to immunity under *Long v. Seabrook* and its progeny.

FOR AN EIGHTH DEFENSE

22. As to the cause of action against this Defendant for outrage or intentional infliction of emotional distress, this Defendant alleges that such claim is barred by the South Carolina Tort Claims Act, §15-78-30(f) of the S.C. Code of Laws as amended.

FOR A NINTH DEFENSE

23. This Defendant alleges, upon information and belief, that any damages alleged to have been caused by this Defendant, which are specifically denied, must be apportioned between this Defendant and other tortfeasors pursuant to § 15-78-100(c) of S.C. Code of Laws as amended.

FOR A TENTH DEFENSE

24. This Defendant alleges any and all claims for punitive damages should be dismissed as such damages are not properly recoverable under the common laws of the State of South Carolina or the South Carolina Tort Claims Act, S.C. Code Annotated § 15-78-120(b).

FOR AN ELEVENTH DEFENSE

25. This Defendant, upon information and belief, alleges that any injuries or damages allegedly suffered by Plaintiff, without admitting same to be true, were due to and caused entirely by the negligence of Plaintiff which is more than this Defendant's negligence, and that such is a complete bar to Plaintiff's recovery herein. Further, this Defendant, upon information and belief, alleges that if Plaintiff's negligence was less than this Defendant's negligence, that such negligence should be compared to that negligence of this Defendant, so as to apportion the relative fault as to each party.

WHEREFORE, having fully answered the Complaint of Plaintiff, the Defendant Richland County Sheriff's Department prays that same be dismissed with prejudice and for such other and further relief as the Court deems just and presented to the Court at the time of the hearing.

DAVIDSON & LINDEMANN, P.A.

BY:



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Counsel for Defendant RCSD

Columbia, South Carolina

October 7, 2016

ADL
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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Joseph P. Sellaro,)
Plaintiff,)

Civil Action No. 2018-CP-40-4835

vs.)

**NOTICE OF MOTION AND
MOTIONS FOR JUDGMENT
NOTWITHSTANDING VERDICT,
OR ALTERNATIVELY, MOTIONS
FOR NEW TRIAL ABSOLUTE AND/OR
NEW TRIAL NISI REMITTITUR**

South Carolina Department of Social)
Services and Richland County Sheriff's)
Department,)
Defendants.)

TO: THE HONORABLE ROBERT HOOD

KARL BREHMER, PAIGE GEORGE, AND BARRY GEORGE,
COUNSEL FOR PLAINTIFF

PLEASE TAKE NOTICE that the Defendant South Carolina Department of Social Services ("SCDSS"), hereby respectfully moves before the Honorable Robert Hood at the Richland County Judicial Center, Columbia, South Carolina, at such time and place as may be set by the Court, for an Order pursuant to Rule 50(b), SCRCP, and Rule 59, SCRCP, granting a judgment notwithstanding the verdict (JNOV), or alternatively, a new trial absolute. In the alternative, the Defendant SCDSS moves as well for a new trial nisi remittitur. The Defendant SCDSS reserves the right to supplement these motions with a supporting memorandum of law and also respectfully requests oral argument.

Procedural Background

The Court called this case for trial Monday morning, May 16, 2022, and the Plaintiff pursued claims against the Richland County Sheriff's Department ("RCSD") and SCDSS for (1) negligence and (2) false imprisonment.

After selecting, seating, and swearing the jury Monday morning, May 16, 2022, the Plaintiff began his case Monday afternoon, May 16, 2022. The Plaintiff rested his case Tuesday afternoon, May 17, 2022, at which time the Court heard motions for directed verdict which were denied.

Both RCSD and SCDSS presented their respective cases-in-chief on Wednesday, May 18, 2022, and the Court heard additional motions for directed verdict at the conclusions of their cases. Those motions were also denied. The Plaintiff presented no rebuttal evidence after the RCSD and SCDSS rested their cases.

The Court conducted a conference on May 19, 2022, regarding instructions it would provide to the jury. The Court's conference also addressed the format and substance of the verdict form, which reflected a total of eight questions. Counsel presented closing arguments to the jury immediately thereafter.

The jury began their deliberations early Thursday afternoon, May 19, 2022, and it notified the Court shortly before 5 p.m. that it had reached a verdict. Upon receiving the verdict form, however, the Court announced on the record that the jury had not responded to Question 7, which asked the jury to "please state the total amount of damages, if any, sustained by Plaintiff." The Court also announced on the record that given its responses to Questions 4, 5, and 6 on the verdict

form, all of which concerned SCDSS, the jury needed to deliberate on damages pursuant to Question 7.

The jury departed the courtroom, and after approximately 15 minutes, it announced it had answered Question 7. Upon receiving the verdict form a second time, the Court published the entirety of the jury's responses to all eight of the verdict form's questions. By answering "NO" to Questions 1, 2, and 3, the jury returned a verdict in favor of the RCSD concerning the Plaintiff's two claims. By answering "YES" to Questions 4, 5, and 6, the jury returned a verdict in favor of the Plaintiff on his two claims against SCDSS. In response to Question 7, the jury stated the damages sustained by the Plaintiff totaled \$300,000, and in response to Question 8, the jury apportioned "the combined fault" that caused the Plaintiff's injuries as 100% attributable to SCDSS.

Grounds for Post-Trial Motions

I. Judgment Notwithstanding the Verdict (JNOV)

A. Existence of Probable Cause

The Defendant SCDSS is entitled to a JNOV as to all claims because there was probable cause as a matter of law supporting taking the Plaintiff into Emergency Protective Custody ("EPC") and for the Family Court to order the continuance of custody until the merits hearing was held.

Under South Carolina law, causes of action for false arrest and false imprisonment are the same. *See, Carter v. Bryant*, 429 S.C. 298, 838 S.E.2d 523, 527 (Ct. App. 2020) ("[f]alse arrest in South Carolina is also known as false imprisonment"). "The elements of the tort are intentional

restraint of another without lawful justification." *Id.* "In order to establish a cause of action, the evidence must prove: (1) that the defendant restrained the plaintiff; (2) that the restraint was intentional; and (3) that the restraint was unlawful." *Andrews v. Piedmont Air Lines*, 297 S.C. 367, 377 S.E.2d 127, 130 (Ct. App. 1989).

The Defendant SCDSS is entitled to a JNOV on all claims because there was probable cause for his EPC. In effect, the existence of probable cause makes the restraint lawful, and hence, the Plaintiff's claims fail. South Carolina courts have consistently ruled that the absence of probable cause is an essential element for the state law causes of action for false imprisonment. *See, Jackson v. City of Abbeville*, 366 S.C. 662, 623 S.E.2d 656, 665, n. 4 (Ct. App. 2005). Thus, a finding of probable cause is fatal to that claim.

As a technical matter, a cause of action for "negligent imprisonment" or "negligent investigation" is not actually recognized under South Carolina law. In *Gist v. Berkeley County Sheriff's Department*, 336 S.C. 611, 521 S.E.2d 163 (Ct. App. 1999), the South Carolina Court of Appeals held that "[f]alse imprisonment is an intentional tort; negligence is not an element." 521 S.E.2d at 167. Accordingly, the Court of Appeals concluded that "the gross negligence standard is not applicable" to claims for intentional torts. *Id.* Consequently, as the *Gist* decision demonstrates, there is really no separate cause of action for negligent imprisonment or negligence resulting in a false imprisonment or custodial situation. The Plaintiff's negligence claim is, therefore, really a reiteration or duplication of his false imprisonment claim. Therefore, the existence of probable cause is also a bar to a cause of action for negligent imprisonment, assuming such a cause of action exists under South Carolina law. In other words, SCDSS cannot be found negligent where there was probable cause to support its actions with respect to the EPC and maintenance of custody of the Plaintiff.

The evidence in the record that probable cause existed is undisputed but more importantly unassailable. The Family Court held a Seventy-Two Hour Probable Cause Hearing in accordance with S.C. Code Ann. §§ 43-35-45(B) and 43-35-55(F). The record includes the Seventy-Two Hour Hearing Order issued by Family Court Judge James McGee on March 1, 2016. In paragraph 4 of that Order, Judge McGee ruled as follows:

The above facts clearly establish that there was ample probable cause for taking the [Plaintiff] into [EPC], and **probable cause remains for [SCDSS] being ordered to have custody of [the Plaintiff] pending Merits Hearing.** Based on the above information, [the Plaintiff], is a vulnerable adult, as defined by S.C. Code Ann. § 43-35-10(11) (Supp. 2012), as he is a person eighteen (18) years of age or older who is impaired in his ability to adequately provide for his own care and protection, and [the Plaintiff] is not being adequately cared for by others.

See, RCSD Exhibit 1. (Emphasis added). The Plaintiff is prohibited from collaterally attacking that Order by the Family Court and its findings of fact and conclusions of law. *See, Argoe v. Three Rivers Behavioral Health, LLC*, 392 S.C. 462, 710 S.E.2d 67, 72 (2011) (Supreme Court ruled that plaintiff “was precluded from collaterally attacking the underlying commitment orders”). However, by allowing the Plaintiff to contest the issue of probable case, despite the findings made by Judge McGee in an order that was never appealed or challenged, the Court has improperly allowed the Plaintiff to collaterally attack an EPC order, which is akin to the commitment orders addressed in *Argoe*.

In effect, the issue of probable cause is conclusively established by the Family Court order issued March 1, 2016, and based on the conclusive showing that probable cause existed for the EPC and the continued custody of the Plaintiff following the March 1, 2016 hearing, the Defendant SCDSS is entitled to a JNOV on both the false imprisonment claim and the negligence claim.

B. Tort Claim Act Immunity

Even if the Court were to find that the Defendant SCDSS falsely imprisoned or committed negligence in holding the Plaintiff in Emergency Protective Custody, SCDSS is nonetheless entitled to absolute immunity under the Tort Claims Act.¹ S.C. Code Ann. § 15-78-60(3) precludes liability for a governmental agency for the “execution, enforcement, or implementation of the orders of any court or execution, enforcement, or lawful implementation of any process.” S.C. Code Ann. § 15-78-60(3). Similarly, S.C. Code Ann. § 15-78-60(4) precludes liability for a governmental agency for the “[a]doption, enforcement, or compliance with any law.” S.C. Code Ann. § 15-78-60(4). These provisions tend to work in tandem.²

The Defendant SCDSS assumed jurisdiction of the Plaintiff at Palmetto Health Richland Hospital in the early morning hours of Sunday, February 28, 2016, from the RCSD after the RCSD placed the Plaintiff into EPC in compliance with S.C. Code Ann. §§ 43-35-55(A), (B), (C), and (D). Thereafter, the record is conclusive that SCDSS enforced and complied with the procedures established by statute, namely S.C. Code Ann. §§ 43-35-45(B) and 43-35-55(E), (F), and (G). The standard applicable to the RCSD’s decision to take the Plaintiff into EPC was whether “there [was] probable cause to believe that by reason of abuse, neglect, or exploitation there exists an imminent

¹ In *Rayfield v. South Carolina Dept. of Corrections*, 297 S.C. 95, 374 S.E.2d 910 (Ct. App. 1988), the Court of Appeals explained that “[o]ne who pleads immunity, conditionally admits the plaintiff’s case, but asserts his immunity as a bar to liability.” 374 S.E.2d at 916. Therefore, the assertion of any immunity defense assumes some finding of fault but nonetheless serves as a bar to liability.

² In its jury instructions, the Court also correctly found that S.C. Code Ann. § 15-78-60(1) and (2) are relevant to this litigation. Those immunity provisions apply to “legislative, judicial, or quasi-judicial action or inaction” and “administrative action or inaction of a legislative, judicial, or quasi-judicial nature.” S.C. Code Ann. § 15-78-60(1) and (2).

danger to the vulnerable adult's life or physical safety.” See, S.C. Code Ann. § 43-35-55(A)(1). The Defendant SCDSS did not make the decision to place the Plaintiff in EPC. Instead, SCDSS complied with S.C. Code Ann. §43-35-55(E), and the Family Court timely conducted its March 1, 2016 Probable Cause Hearing pursuant to S.C. Code Ann. § 43-35-55(F), and thereafter issued its Seventy-Two Hour Hearing Order. See, RCSD Exhibit 1.

In sum, SCDSS complied with the procedures established by S.C. Code Ann. § 43-35-55(E), (F), and (G), upon assuming jurisdiction of the Plaintiff from the RCSD at Palmetto Health Richland Hospital in the early morning hours of Sunday, February 28, 2016 until Monday, March 7, 2016, the date upon which the Family Court conducted a hearing at which it ended the Plaintiff's EPC and the Plaintiff was discharged from Palmetto Health Richland Hospital. Accordingly, SCDSS is entitled to absolute sovereign immunity pursuant to S.C. Code Ann. § 15-78-60(4).

Additionally, between March 1, 2016 and March 7, 2016, SCDSS complied with the provisions of the Seventy-Two Hour Hearing Order. Accordingly, because it complied with a valid court order, SCDSS is entitled to absolute sovereign immunity pursuant to S.C. Code Ann. § 15-78-60(3). That is true regardless of whether that order was correctly decided or entered, although as explained above, the Plaintiff is nonetheless precluded from collaterally attacking the Family Court's Seventy-Two Hour Hearing Order, just as the commitment orders in *Argoe* could not be collaterally attacked as a matter of law.³

³ The Defendant SCDSS also notes that S.C. Code Ann. § 43-35-75(A) provides an additional layer of immunity for actions taken under the Omnibus Adult Protection Act. That specific immunity provision was not litigated as part of this case, in part because the Tort Claims Act immunities govern. However, reference is made to S.C. Code Ann. § 43-35-75(A) to further illustrate and emphasize the very point that the General Assembly has recognized that all persons involved in the processes under the Omnibus Adult Protection Act to protect vulnerable adults – governmental and non-governmental alike -- are entitled to immunity from civil liability. In fact, S.C. Code Ann. § 43-35-75(A) provides for immunity not just for reporting activities but also for

C. Absence of Expert Testimony

The Defendant SCDSS is also entitled to a JNOV because there was no expert testimony introduced by the Plaintiff to support a finding that SCDSS, by the acts or omissions of its employees, acted negligently towards him from February 28, 2016, the date upon which the agency assumed jurisdiction of him after the RCSD placed him into EPC, until March 7, 2016, the date upon he was discharged from Palmetto Health Richland Hospital. Likewise, there was no expert testimony introduced by the Plaintiff to support a finding that SCDSS, by the omissions and/or acts of any of its employees, falsely imprisoned the Plaintiff from February 28, 2016 until March 7, 2016. More precisely, the Plaintiff failed to produce (1) any expert opinion testimony concerning any applicable standard of care governing SCDSS's management of the Plaintiff's EPC case from February 28, 2016 through March 7, 2016, nor (2) any expert opinion testimony as to how SCDSS deviated from any such applicable standard.

At most, the Plaintiff produced expert testimony in the form of excerpts from the deposition transcript of Dr. Jeffery Brandenburg, a resident psychiatrist at Palmetto Health Richland Hospital who examined the Plaintiff on February 29, 2016 after his admission on EPC status. However, none of the excerpted deposition testimony by Dr. Brandenburg consisted of expert opinions by him concerning any applicable standard of care governing SCDSS's management of the Plaintiff's EPC case from February 28, 2016 through March 7, 2016 and/or how SCDSS deviated from any such applicable standard.

any person "who participates in an investigation or judicial proceeding resulting from a report." S.C. Code Ann. § 43-35-75(A).

Given the absence of the requisite expert testimony establishing both the standard of care and a breach of that standard, the Plaintiff did not prove his case against SCDSS. SCDSS therefore is entitled to judgment as a matter of law.

II. New Trial Absolute or New Trial Remittitur

A. Submission of Tort Claims Act Immunity Defenses to Jury

The Court correctly determined that there were several immunity provisions under S.C. Code Ann. § 15-78-60 that were applicable to the proper adjudication of this case. The trial court, however, erroneously delegated to the jury to decide the merits of the immunity defenses under S.C. Code Ann. §§ 15-78-60(1)-(4) rather than recognizing that those issues present an issue of law for the Court to decide and apply. The Defendant SCDSS is therefore entitled to a new trial absolute.

B. Damages Award is Unsupported by the Evidence

The Defendant SCDSS is also entitled to a new trial absolute because the trial record is devoid of evidence supporting the jury's \$300,000 verdict against SCDSS. The Plaintiff presented evidence of the RCSD placing him into EPC on February 27, 2016, SCDSS assuming jurisdiction over his EPC case on February 28, 2016 upon his admission into Palmetto Health Richland Hospital, the Seventy-Two Hour Probable Cause hearing conducted by the Family Court on March 1, 2016, the Order of Appointment of a Guardian ad Litem for a Vulnerable Adult entered March 3, 2016 by the Family Court, the Bench Order entered March 7, 2016 by the Family Court, and an

“Itemized Statement of Charges” issued on or after March 7, 2016 by Palmetto Health Richland Hospital to the Plaintiff reflecting “total charges” of \$9,291.00.

Thus, the only economic damages submitted into evidence was the medical bill. While the Plaintiff could claim emotional harm, under South Carolina law “damages for emotional or mental suffering are typically not recoverable, unless there is some physical manifestation of the emotional distress.” *Babb v. Lee County Landfill*, 405 S.C. 129, 747 S.E.2d 468, 481 (2013), citing *Dooley v. Richland Memorial Hospital*, 283 S.C. 372, 322 S.E.2d 669 (1984). The Plaintiff’s evidence did not establish any physical manifestation of the emotional distress nor any needed medical care as a result. Moreover, the Plaintiff had just experienced the death of his wife, which precipitated the EPC, and hence, there would be no possible means for the jury to distinguish emotional harm from collateral circumstances vis-a-vis what was causally related to the alleged acts or omissions of SCDSS. In sum, given the nature of evidence, or the lack thereof, the jury’s \$300,000 verdict against SCDSS was clearly excessive, and SCDSS requests the Court to set it aside and grant a new trial absolute.

C. Verdict is Grossly Excessive

For the same reasons as discussed above, the Defendant SCDSS requests that the Court grant a new trial absolute because the verdict of \$300,000, in addition to be unsupported by the evidence, is shockingly disproportionate to the injuries as to indicate that the jury was moved or actuated by passion, caprice, prejudice, or other considerations not found in the evidence.

As the Supreme Court has explained, “[w]hen a party moved for a new trial based on a challenge that the verdict is either excessive or inadequate, the trial judge must distinguish between awards that are merely unduly liberal or conservative and awards that are actuated by passion,

caprice, or prejudice." *Allstate Ins. Co. v. Durham*, 314 S.C. 529, 431 S.E.2d 557, 558 (1993). "[W]hen the verdict is so grossly excessive ... that the amount awarded is so shockingly disproportionate to the injuries as to indicate that the jury was moved or actuated by passion, caprice, prejudice, or other considerations not found in the evidence, it becomes the duty of the trial judge ... to set aside the verdict absolutely." *Id.*, citing *Easler v. Hejaz Temple*, 285 S.C. 348, 329 S.E.2d 753, 758 (1985).

As discussed above, the verdict of \$300,000 was not supported by the evidence presented. That alone demonstrates that the verdict is grossly excessive. However, other factors also demonstrate that the jury's verdict against SCDSS must have been the result of bias, prejudice, or improper considerations. The Plaintiff sued RCSD and SCDSS for the same conduct. The jury heard the same evidence as to both Defendants. The decision by RCSD to place the Plaintiff in EPC and the subsequent acts by SCDSS upon assuming custody from RCSD were all governed by the same standard – probable cause. With its verdict, the jury found that RCSD did not falsely imprison the Plaintiff nor act in a negligent manner. *See*, Verdict Form, ¶¶ 1-3. SCDSS agrees with that decision. However, the jury's decision to find no fault on the part of RCSD does not comport with the jury's decision to hold SCDSS liable. This inconsistency in the adjudication of the identical claims against RCSD and SCDSS demonstrate quite convincingly that the jury treated SCDSS differently than the evidence and law mandates. That substantial difference in treatment by the jury demonstrates that the jury was most probably motivated by passion, caprice, bias or some other inappropriate motive in returning a verdict against SCDSS and particularly a verdict that exceeds the realms of reasonableness in light of the damages evidence presented. The Court is respectfully requested to set aside that verdict against SCDSS and grant a new trial absolute.

In the alternative, even if this Court were to conclude that the verdict is not grossly excessive as to warrant a new trial absolute, the Defendant SCDSS submits that the verdict is certainly unduly liberal such that the Court should, in the proper exercise of fundamental fairness and justice, grant a remittitur to a more appropriate amount given the evidence. Subject to the other motions, the Defendant SCDSS submits that a more appropriate damages award based on the record presented would be \$50,000. Therefore, in the alternative of the Defendant SCDSS's other arguments for a JNOV and new trial absolute, it submits that a remittitur to \$50,000 would be warranted.

D. Thirteenth Juror Doctrine

The Defendant SCDSS moves for a new trial absolute as well based upon the Thirteenth Juror doctrine. "Under the 'thirteenth juror' doctrine, a trial judge may grant a new trial absolute when he finds the evidence does not justify the verdict. This ruling has also been termed a granting of a new trial upon the facts." *Vinson v. Hartley*, 324 S.C. 389, 477 S.E.2d 715, 722 (Ct. App. 1996). "[T]he trial judge is the thirteenth juror, possessing the veto power to the Nth degree." *Id.* "The trial judge, sitting as the thirteenth juror charged with the duty of seeing that justice is done, has the authority to grant new trials when he is convinced that a new trial is necessitated on the basis of the facts in the case." *Id.* As discussed above, the evidence presented in this case does not support the jury's verdict. Therefore, a new trial absolute should be granted.

Respectfully submitted,

s/ Lake E. Summers

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May 31, 2022

ORAL ARGUMENT REQUESTED

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	
Joseph P. Sellaro,	)	Civil Action No.: 2018-CP-40-4835
	)	
Plaintiff,	)	
	)	REPLY TO MOTIONS FOR
v.	)	JUDGMENT NOT WITHSTANDING
	)	VERDICT, OR ALTERNATIVELY
South Carolina Department of Social	)	MOTIONS FOR NEW TRIAL
Services and Richland County Sheriff	)	ABSOLUTE AND/OR NEW TRIAL
	)	NISI REMITTITUR
Defendants.	)	
_____	)	

TO: The Honorable Robert E. Hood

Lake E. Summers and Andrew F. Lindemann, Attorneys for Defendant DSS

REPLY

1. Judgment Notwithstanding the Verdict (JNOV)

“In ruling on directed verdict or JNOV motions, the trial court is required to view the evidence and the inferences that reasonably can be drawn therefrom in the light most favorable to the party opposing the motions.” *Bass v. S.C. Dep’t of Soc. Servs.*, 414 S.C. 558, 570, 780 S.E.2d 252, 258 (2015) (citing *Sabb v. S.C. State Univ.*, 350 S.C. 416, 427, 567 S.E.2d 231, 236 (2002) “[T]he trial judge is concerned with the existence of evidence, not its weight.” *Id.* (citing *Curcio v. Caterpillar, Inc.*, 355 S.C. 316, 320, 585 S.E.2d 272, 274 (2003)).

“The rule in South Carolina is that on motions for nonsuit, directed verdict, JNOV, and new trial, the evidence and all reasonable inferences which have to be drawn from it must be viewed in a light most favorable to the nonmoving party and if there is any testimony tending to prove allegations of the complaint, the motions must be refused. This rule is especially strong in South Carolina where the "scintilla of evidence rule" is applied.” *Proctor v. Dept. of Health*, 628 S.E.2d 496, 368 S.C. 279 (S.C. App. 2006)

A motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict. *Crossley v. State Farm Mut. Auto. Ins. Co.*, 307 S.C. 354, 415 S.E.2d 393 (1992). “The jury’s verdict will not be overturned if any evidence exists that sustains the factual findings implicit in its decision.” *Smalls v. South Carolina Dep’t of Ed.*, 339 S.C. 208, 528 S.E.2d

682 (Ct. App. 2000) (emphasis added); *see also Hunter v. Staples*, 335 S.C. 93, 515, S.E.2d 261 (Ct. App. 1999).

A. Existence of Probable Cause

Defendant South Carolina Department of Social Services (“SCDSS”) first argues that it is entitled to a Judgment Notwithstanding the Verdict as to all claims because there was probable cause as a matter of law supporting the Plaintiff being taken into Emergency Protective Custody (“EPC”) and for the Family Court to order the continuance of custody until the merits hearing was held.

Probable cause is a question of fact for a jury. “South Carolina follows the minority rule that the issue of probable cause is a question of fact and ordinarily one for the jury.” *Jones v. City of Columbia*, 301 S.C. 62, 65, 389 S.E.2d 662, 663 (1990) (See *Gathers v. Harris Teeter Supermarket*, 282 S.C. 220, 317 S.E.2d 748 (Ct. App.1984); *Parrott v. Plowden Motor Co.*, 246 S.C. 318, 143 S.E.2d 607 (1965)) Probable cause only becomes a matter of law if only one reasonable inference can be made from the evidence. *Carter v. Bryant*, 429 S.C. 298, 303, 838 S.E.2d 523 (Ct. App. 2020).

The General Assembly when enacting the “Ominbus Adult Protection Act” intended “to address the continuing needs of vulnerable adults and to provide services in the **least restrictive setting possible**. *Doe v. S.C. Dep’t of Soc. Servs. (In re Doe)*, 407 S.C. 623, 757 S.E.2d 711 (2014) (citing S.C. Code Ann. § 43-35-5 (Supp. 2013) and *Williams v. Watkins*, 379 S.C 350, 665 S.E. 2d 243 (Ct. App. 2008) (emphasis added) Section 43-35-55(G) of the South Carolina Code of Laws states in part that “[u]pon receiving notification that a vulnerable adult has been taken into protective custody the Adult Protective Services Program shall commence an investigation.” S.C. Code Ann. § 43-35-55 (2015). Section 43-35-55(F) states “[t]he family court shall hold a hearing to determine whether there is probable cause for the protective custody within seventy-two hours of the Department of Social Services filing the petition, excluding Saturdays, Sundays, and legal holidays.” *Id.* There was evidence in the record that a mental health evaluation had been done by a medical provider prior to the seventy-two (72) hour hearing. Additionally, there was testimony that Defendant SCDSS had been provided the mental health evaluation report prior to the seventy-two (72) hour hearing and did not disclose it to the Family Court. The jury in the instant case was charged as to probable cause. The fact that the jury returned a verdict against Defendant SCDSS shows that there was more than one inference that could be made from the evidence. The jury

could have determined that Defendant SCDSS was negligent by withholding from the Family Court the mental health evaluation thus preventing the Family Court from making a proper determination as to probable cause as to Defendant SCDSS. The jury could have determined that the withholding of this evidence by Defendant SCDSS constituted an independent and separate restraint than that of Defendant Richland County Sheriff; that the restraint was intentional; and subsequently that it was unlawful. In the Family Court Order of March 1, 2016, Judge McGee made two separate determinations as to probable cause between Defendant Richland County Sheriff and Defendant SCDSS. It follows that the jury in this matter was allowed to do the same. Since there was more than one inference from the evidence, there was not probable cause as a matter of law. Additionally, it is inequitable to allow Defendant SCDSS to argue that there was a proper determination of probable cause by the Family Court when Defendant SCDSS withheld pertinent information and made misrepresentations to the Family Court.

In support of its contentions, Defendant SCDSS cites *Jackson v. City of Abbeville*, 366, S.C. 662, 623 S.E.2d 656 (Ct. App. 2005), *Carter v. Bryant*, 429 S.C. 298, 838 S.E.2d 523 (Ct. App. 2020) and *Gist v. Berkeley County Sheriff's Department*, 336 S.C. 611, 521 S.E.2d 163 (Ct. App. 1999). The *Jackson*, *Carter* and *Gist* cases involve causes of action for false imprisonment based on a detention of a person by a police officer for criminal charges. In each of these cases, there is only one governmental agency and there is no analysis by either court as to a transfer to another governmental entity. Additionally, the dispositive issue before the Court in *Jackson* was “whether the ‘probable cause to arrest’ determination is confined to the actual charges or whether consideration of an uncharged offense is appropriate.” *Jackson* at 658. The record is clear that Mr. Sellaro was not under investigation for any criminal matter. Section 43-35-55(C) specifically states that “[a] vulnerable adult who is taken into protective custody by a law enforcement officer, may not be considered to have been arrested.” *S.C. Code Ann.* § 43-35-55 (2015). Plaintiff believes that this makes these cases distinguishable from the facts at hand as does the issue of a separate detention by Defendant SCDSS. Viewing the evidence in the light most favorable to the Plaintiff and the inferences that can be made therefrom, the Plaintiff argues that the causes of action of false imprisonment and negligence were properly submitted to the jury.

B. Tort Claim Act Immunity

Defendant SCDSS, citing §15-78-60(3) and (4), next argues that it is entitled to absolute immunity under the Tort Claims Act. S.C. Code Ann. § 15-78-60(3) states that a governmental entity is not liable for a loss resulting from “execution, enforcement, or implementation of the orders of any court or execution, enforcement, or lawful implementation of any process.” In the instant case, Defendant SCDSS took custody of Mr. Sellaro upon Mr. Sellaro arriving to the hospital.

When a law enforcement officer takes protective custody of a vulnerable adult, the officer must transport the vulnerable adult to a place of safety which must not be a facility for the detention of criminal offenders. The Adult Protective Services Program has custody of the vulnerable adult pending the family court hearing to determine if there is probable cause for protective custody.

S.C. Code Ann. § 43-35-55(B). At no time between Mr. Sellaro’s transportation to the hospital and the seventy-two-hour hearing was there any order of a Court or execution of any process. Plaintiff points the Court to *Wortman v. Spartanburg*, 310 S.C. 1, 425 S.E.2d 18 (1992). In *Wortman*, a Spartanburg police officer found lottery tickets taped to a restaurant counter. *Id.* 310 S.C. at 2. Wortman appeared at police headquarters claiming the lottery tickets were his and was arrested without a warrant for possession of lottery tickets. *Id.* The charge was subsequently dismissed and Wortman filed suit against the City of Spartanburg for unlawful arrest. *Id.* The Supreme Court stated the facts in the record “established that Wortman was arrested **before** the City obtained a warrant from a magistrate.” *Id.* at 3. The Supreme Court subsequently found that “the actions of the police did not occur during the execution or enforcement of the order of any court or during the lawful implementation of any process as contemplated by §15-78-60(3). *Id.* As Defendant SCDSS was not acting pursuant to any order or process at the time of its initial custody of the Plaintiff, Defendant SCDSS is not entitled to immunity under S.C. Code Ann. §15-78-60(3).

A special duty exception exists to §15-78-60(4) as laid out in *Jensen v. Anderson County Dept. of Social Services*, 403 S.E.2d 615, 304 S.C. 195 (1990), and *Repko v. Cnty. of Georgetown*, 416 S.C. 22, 785 S.E.2d 376 (Ct. App. 2016). A special duty exists when a duty is owed to an individual rather than the general public. *Jensen*, 304 S.C. at 200. See also *Rayfield v. South Carolina Dept. of Corrections*, 297 S.C. 95, 374 S.E.2d 910 (Ct. App. 1988).

1988) *Jensen* was enacted prior to the Tort Claims Act and prior to the Child Protection Act being repealed and replaced with the South Carolina Children's Code. However, the Supreme Court in *Arthurs ex rel. Munn v. Aiken County*, 346 S.C. 97, 551 S.E.2d 579 (2001) found that *Jensen* was compatible with the Tort Claims Act. The purpose of the Omnibus Adult Protection Act which Defendant SCDSS claimed to be enforcing was a statute to protect an intended class and not the general public. Therefore, an exception to the immunity exists and Defendant SCDSS is not entitled to a JNOV under either §15-78-60(3) or §15-78-60(4).

C. Absence of Expert Testimony

The jury was charged as to causes of action for Negligence and False Imprisonment. "In order to recover in a negligence action, the plaintiff must show (1) a duty of care owed by the defendant to the plaintiff; (2) a breach of that duty by a negligent act or omission; and (3) damage proximately resulting from the breach." *Crolley v. Hutchins*, 300 S.C. 355, 387 S.E.2d 716 (Ct. App. 1989) "In order to recover under a theory of false imprisonment, the complainant must establish (1) the defendant restrained him; (2) the restraint was intentional; and (3) the restraint was unlawful." *Jones by Robinson v. Winn-Dixie Greenville, Inc.*, 456 S.E.2d 429, 318 S.C. 171 (Ct. App. 1995).

Defendant SCDSS took on a duty of care as to the Plaintiff when Defendant Richland County Sheriff transferred custody of Mr. Sellaro to Defendant SCDSS. Plaintiff is only required to prove by a preponderance of the evidence that Defendant SCDSS breached that duty. Dr. Brandenburg in his deposition testimony that was read to the jury said that Mr. Sellaro did not need to be in protective custody. Defendant SCDSS failed to provide Dr. Brandenburg's records to the family court judge. Those two facts together taken in the light most favorable to the Plaintiff establish evidence from which the jury could determine that Defendant SCDSS breached the duty owed to the Plaintiff. The medical bills incurred by the Plaintiff and Plaintiff missing his wife's funeral were the direct result of Defendant SCDSS' actions and omissions. Without Plaintiff's detention, those injuries would have not occurred.

Plaintiff analyzed the False Imprisonment cause of action earlier in this reply. There is evidence from which a jury could determine that Plaintiff's detention was unlawful. Defense counsel has provided no case law supporting its contention that expert testimony is necessary for

either cause of action. If it is required, Dr. Brandenburg's testimony regarding Mr. Sellaro would be enough to satisfy that requirement.

2. New Trial Absolute or New Trial Remittur

"The rule in South Carolina is that on motions for nonsuit, directed verdict, JNOV, and new trial, the evidence and all reasonable inferences which must be drawn from it must be viewed in a light most favorable to the nonmoving party and if there is any testimony tending to prove allegations of the complaint, the motions must be refused. This rule is especially strong in South Carolina where the "scintilla of evidence rule" is applied." *Proctor v. Dept. of Health*, 628 S.E.2d 496, 368 S.C. 279 (S.C. App. 2006)

A. Submission of Tort Claims Act Immunity Defenses to Jury

Defendant SCDSS argues that the Court should not have charged the immunity statutes to the jury; therefore Defendant SCDSS is entitled to a new trial absolute. "The burden of establishing a limitation upon liability or an exception to the waiver of immunity under the Tort Claims Act is upon the governmental entity asserting it as an affirmative defense." *Steinke v. South Carolina Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999) "This Court has repeatedly stated that the burden of establishing a limitation on liability or an exception to the waiver of immunity is upon the governmental entity asserting it as an affirmative defense." *Pike v. South Carolina Dept. of Transp.*, 343 S.C. 224, 540 S.E.2d 87 (2000)

"The law to be charged to the jury is determined by the evidence at trial." *Frazier v. Badger*, 361 S.C. 94, 603 S.E.2d 587 (2004) "When instructing the jury, the trial court is required to charge only the current and correct law of South Carolina." *Proctor v. Dept. of Health*, 628 S.E.2d 496, 368 S.C. 279 (Ct. App. 2006) (citing *Cohens v. Atkins*, 333 S.C. 345, 349, 509 S.E.2d 286, 289 (Ct. App.1998)) "The substance of the law is what must be instructed to the jury, not any particular verbiage.... A jury charge which is substantially correct and covers the law does not require reversal." *Proctor v. Dept. of Health*, 628 S.E.2d 496, 368 S.C. 279 (Ct. App. 2006) (citing *Burroughs v. Worsham*, 352 S.C. 382, 391, 574 S.E.2d 215, 220 (Ct. App.2002)) "When reviewing a jury charge for alleged error, the appellate court must consider the charge as a whole in light of the evidence and issues presented at trial. "Id. (citing *Daves v. Cleary*, 355 S.C. 216, 224, 584 S.E.2d 423, 427 (Ct. App. 2003)). If the charge is reasonably free from error, isolated portions

which might be misleading do not constitute reversible error.” *Id.* “To warrant reversal for refusal to give a requested instruction, the refusal must have not only been erroneous, but prejudicial as well.” *Id.* (quoting *Cohens*, 333 S.C. at 349, 509 S.E.2d at 289)

The charging of the immunity provisions under S.C. Code Ann. §15-78-60 (1)-(4) was not prejudicial to Defendant SCDSS. The charge of the immunity provisions to the jury was proper when considering the evidence and issues presented to the jury. Therefore, Defendant SCDSS can prove no error and is not entitled to a new trial absolute.

B. Damages Award is Unsupported by the Evidence

Defendant SCDSS also argues that it is entitled to a new trial absolute because the “trial record is devoid of evidence supporting the jury’s \$300,000 verdict against SCDSS.” Defendant SCDSS argues that the hospital bill was the only economic damage and does not sustain the jury’s verdict.

S.C. Code Ann. §15-78-50(a) states that “[a]ny person who may suffer a loss proximately caused by a tort of the State, an agency, a political subdivision, or a governmental entity, and its employee acting within the scope of his official duty may file a claim as hereinafter provided.” The Act defines loss to mean “bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and **any other element of actual damages recoverable in actions for negligence**, but does not include the intentional infliction of emotional harm.” S.C. Code Ann. §15-78-30(f) (Revised 2015) (emphasis added)

In an action for negligence, elements of actual damages include:

- (1) loss of income; (2) loss or impairment of earning capacity; (3) out-of-pocket expenses; (4) medical expenses, including physicians, hospital, medicines, physical therapy expenses, rehabilitation expenses, and transportation expenses connected with medical treatment; (5) any future damages resulting from permanent injuries; (6) disfigurement; (7) loss of family services; (8) deprivation of normal life expectancy; (9) alteration of lifestyle; (10) psychological trauma; (11) mental anguish; (12) mental distress; (13) apprehension; (14) anxiety; (15) emotional injury; (16) psychological injury; (17) depression; (18) sexual dysfunction; (19) pain and suffering; (20) loss of enjoyment of life.

Ralph King Anderson, Jr., *South Carolina Requests to Charge – Civil*, 2009, §13-3. Of these, the trial court charged to the jury “(1) Out-Of-Pocket Expenses; (2) Medical Expenses, Including

Physicians, Hospital, Medicines, Physical Therapy Expenses, Rehabilitation Expenses, And Transportation Expenses Connected with Medical Treatment; (3) Alteration Of Lifestyle; (4) Psychological Trauma; (5) Mental Anguish; (6) Mental Distress; (7) Apprehension; (8) Anxiety; (9) Emotional Injury; and (10) Psychological Injury.” As these are all damages recoverable under an action for negligence, they are proper damages to be considered under the South Carolina Tort Claims Act. Additionally, the Court charged to the jury “Loss of Enjoyment of Life” and “Pain and Suffering” which are also proper damages to be considered by the jury.

Because of the conduct of Defendant SCDSS, Mr. Sellaro was not allowed to pay proper respects to his wife and attend her funeral. Additionally, he was kept against his will and suffered mental anguish as a result. The medical bill incurred by Mr. Sellaro, the resulting anguish of not allowing Mr. Sellaro to see his wife after she had passed, his elongated stay at the hospital, Mr. Sellaro’s loss of enjoyment of life and his pain and suffering is enough to substantiate the verdict in this matter.

C. Verdict is Grossly Excessive

Defendant SCDSS argues that it is entitled to a new trial absolute because the verdict is grossly excessive. Defendant SCDSS relies in its reasoning on its argument above that Mr. Sellaro only incurred a medical bill of \$9,291.00

“A trial court may grant a new trial absolute on the ground that the verdict is excessive or inadequate.” *Vinson v. Hartley*, 324 S.C. 389, 477 S.E.2d 715 (Ct. App. 1996) (citing *Rush v. Blanchard*, 310 S.C. 375, 426 S.E.2d 802 (1993)). “The jury’s determination of damages, however, is entitled to substantial deference.” *Id.* Based on the medical bills and the psychological effects laid out above, Plaintiff argues that the verdict is not grossly excessive. Additionally, Plaintiff argues that there is no indication that the jury acted on the basis of caprice or passion. Therefore, Defendant SCDSS should not be entitled to a new trial absolute or a remittitur.

D. Thirteenth Juror Doctrine

Finally, Defendant SCDSS moves for a new trial absolute based on the Thirteenth Juror Doctrine. “The trial judge, sitting as the thirteenth juror charged with the duty of seeing that justice is done, has the authority to grant new trials when he is convinced that a new trial is necessitated on the basis of the facts in the case.” *Vinson v. Hartley*, 324 S.C. 389, 477 S.E.2d 715 (Ct. App.

1996) Plaintiff believes the evidence presented to the jury supports the determination of the verdict against Defendant SCDSS. Therefore, Defendant should not be entitled to a new trial absolute.

Respectfully submitted,

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
<u>COUNTY OF RICHLAND</u>	)	
JOSEPH P. SELLARO,	)	TRANSCRIPT
	)	
PLAINTIFF,	)	OF
	)	
VS.	)	RECORD
	)	
THE SOUTH CAROLINA DEPARTMENT OF	)	
SOCIAL SERVICES AND THE RICHLAND	)	
COUNTY SHERIFF'S DEPARTMENT,	)	2018-CP-40-4835
	)	
<u> DEFENDANTS.</u>	)	

May 16th - 19th, 2022

B E F O R E:

THE HONORABLE ROBERT E. HOOD, Judge; and a jury.

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Transcribed by Pamela E. Green, from
DCRP, Digital Courtroom Recorder Project

1	<u>I N D E X</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3		
4	Jury Selection	17
5	Motions	88
6	Opening by the Court	104
7	Opening by Mr. Brehmer	118
8	Opening by Mr. Garfield	129
9	Opening by Mr. Summers	135
10		
11	VICTORIA DEAS JOHNSON	
12	Direct examination by Mr. Brehmer	144
13	Cross-examination by Mr. Garfield	155
14	Cross-examination by Mr. Summers	163
15	Redirect examination by Mr. Brehmer	185
16	JENNIFER ELAINE PERRY	
17	Direct examination by Mr. Brehmer	189
18	Cross-examination by Mr. Garfield	201
19	Cross-examination by Mr. Summers	217
20	Redirect examination by Mr. Brehmer	225
21	Recross examination by Mr. Garfield	227
22	SAFIYA TATE	
23	Direct examination by Mr. Brehmer	230
24	Cross-examination by Mr. Garfield	251
25	Cross-examination by Mr. Summers	268

1	<u>WITNESSES</u>	<u>PAGE</u>
2		
3	Publish transcript of Family Court hearing	302
4		
5	CAROL ANN OUTLAW	
6	Direct examination by Mr. Brehmer	309
7	Cross-examination by Mr. Garfield	312
8	Cross-examination by Mr. Summers	333
9	Redirect examination by Mr. Brehmer	339
10		
11	Publish Portions of Deposition of	
12	Doctor Jeffrey Hall Brandenburg	346
13	JOSEPH SELLARO	
14	Direct examination by Mr. Brehmer	377
15	Cross-examination by Mr. Garfield	410
16	Cross-examination by Mr. Summers	428
17		
18	Motions	458
19		
20	ZEMULUS DOZIER	
21	Direct examination by Mr. Garfield	468
22	Cross-examination by Mr. Summers	498
23	Cross-examination by Mr. Brehmer	500
24	Redirect examination by Mr. Garfield	516
25	Recross examination by Mr. Summers	517

1	<u>WITNESSES</u>	<u>PAGE</u>
2		
3	KAREN GILMAN	
4	Direct examination by Mr. Garfield	521
5	Cross-examination by Mr. Summers	542
6	Cross-examination by Mr. Brehmer	544
7	Redirect examination by Mr. Garfield	550
8	REGINALD JEROME GAYMON	
9	Direct examination by Mr. Garfield	551
10	Cross-examination by Mr. Summers	574
11	Cross-examination by Mr. Brehmer	582
12	Redirect examination by Mr. Garfield	592
13	Recross examination by Mr. Summers	597
14		
15	Motions	601
16		
17	VALORIE LAWTON MCDANIEL	
18	Direct examination by Mr. Summers	646
19	Cross-examination by Mr. Brehmer	670
20	Cross-examination by Mr. Garfield	678
21	Redirect examination by Mr. Summers	684
22	NAQUA EDGERTON	
23	Direct examination by Mr. Summers	686
24	Cross-examination by Mr. Brehmer	706
25	Redirect examination by Mr. Summers	711

1	<u>WITNESSES</u>	<u>PAGE</u>
2		
3	TYLER BURNS	
4	Direct examination by Mr. Summers	712
5	Cross-examination by Mr. Brehmer	722
6		
7	Motions	730
8	Closing by Mr. Brehmer	770
9	Closing by Mr. Garfield	788
10	Closing by Mr. Summers	811
11	Reply by Mr. Brehmer	834
12	Charge by the Court	839
13	Question from the Jury	860
14	Verdict	865
15	Certificate	872

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
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18
19
20
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E X H I B I T S

<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
<u>Plaintiff's Exhibits</u>			
P-1	Order of Appointment of Guardian ad Litem	145	146
P-2	Guardian ad Litem Report	146	146
P-3	Bench Order - March 7 th	151	152
P-4	Ms. Deas Johnson's Affidavit	152	153
P-5	EMS Run Report - February 27, 2016	190	191
P-6	EMS Run Report - February 27, 2016	194	195
P-7	Case Management Notes	231	232
P-8	Transcript of Record from Family Court Hearing	299	300
P-9	Palmetto-Health Bill	402	403

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
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<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>Defendant Richland County</u> <u>Sheriff's Department</u>		
D-1	Family Court Order Dated March 1, 2016		570

1	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2		<u>Defendant South Carolina Department</u>		
3		<u>of Social Services</u>		
4	D-1	SCDSS Adult Services		
5		Intake Sheet	169	184
6	D-2	Ms. Deas Johnson Affidavit	176	184
7	D-3	Palmetto-Health Document	273	274
8	D-4	Palmetto-Health Document Fax	285	
9	D-5	Gastroenterology Note	444	
10	D-6	Cremation Document	451	452
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
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<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
	<u>Court's Exhibits</u>		
C-1	Original Deposition of Doctor Jeffrey Hall Brandenburg		344

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

2
3 (WHEREUPON, the following takes place outside the
4 presence of the jury panel.)

5 THE COURT: All right. Good morning everybody.

6 We're on the record in 2018-CP-40-04835. This is
7 Joseph Sellaro versus the South Carolina Department of
8 Social Services and the Richland County Sheriff's Department
9 and the plaintiff is represented by Paige George and Karl
10 Brehmer.

11 Are we waiting on Barry or are we good to go?

12 MS. GEORGE: It's just the two of us.

13 MR. BREHMER: Two of---

14 THE COURT: Just the two of you.

15 Okay. Good. Okay. Just wanted to make sure I
16 understood that.

17 And then the Sheriff's Department's represented by
18 Robert Garfield and S.C. Department of Social Services
19 represented by Lake Summers.

20 MR. SUMMERS: Yes, sir.

21 THE COURT: Okay. So good morning. Good to see
22 you-all. I think we all know each other in some way, shape,
23 or form.

24 A couple things. We're in a digital courtroom.

25 Okay. All right. So this is Rod right here.

1 THE COURT: Come on in.

2 THE BAILIFF: The jurors are present, judge.

3 THE COURT: All right. Thank you.

4 Thank you-all very much for being on time. We are
5 ready to begin the case and the first thing we need to do is
6 to swear you in.

7 Now, this morning you took a couple of oaths and those
8 oaths were to tell me the truth in response to the questions
9 that I asked. This oath that you're gonna take this
10 afternoon is completely different.

11 Okay. This oath is your promise to me, to the lawyers,
12 to the parties, to the witnesses, to each other, and to
13 yourselves that you will try this case fairly and
14 impartially. We've actually used this oath in this country
15 since the formation of the jury trial system and we say it
16 kind of fast. But when you really listen to the words of
17 it, it truly embodies your duties in being fairly -- fair
18 and impartial to all the sides and to -- in following the
19 law that I give you.

20 So, if you will please stand and raise your right-hand
21 and the clerk will swear you in.

22 (WHEREUPON, the jury was placed under oath at this
23 time.)

24 THE CLERK: Thank you. Be seated.

25 THE COURT: All right. Thank you very much.

1 Now, the first thing that I need to do is correct
2 something that I said this morning and that was when I said
3 that the Richland County Sheriff's Department is a defendant
4 in the case. And, and I'm gonna try to explain this to you
5 to, to help you make, make, makes -- the Richland County
6 Sheriff's Department, as a legal entity, does not exist.

7 Does that make sense?

8 So the Richland County sheriff, which is Sheriff Leon
9 Lott, in his official capacity in his office as the sheriff
10 of the county is the -- one of the defendants in the case
11 and I said the Sheriff's Department. I should of said
12 Sheriff Leon Lott in his official capacity. So he
13 personally is not being sued, but in his capacity as that
14 office holder, his office is being sued and I said the
15 Sheriff's Department and I -- but I should of said Sheriff
16 Lott in his official capacity as the sheriff.

17 So, I apologize. That was my mistake and I, I framed
18 that incorrectly this morning and the lawyers thankfully
19 brought that to my attention. So we got that out of the
20 way.

21 Okay. So, before we begin the actual trial of the
22 case, I thought it might be helpful to explain to you how a
23 trial will work.

24 Okay. So first the plaintiff, and you remember the
25 plaintiff is the party bringing the action, the plaintiff

1 will be allowed to make an opening statement.

2 Okay. Now these opening statements are not evidence.
3 They're simply outlines to help you understand what that
4 party expects the evidence will show. The defendants may,
5 if they choose, make opening statements but they don't have
6 to for reasons that I will explain to you in just a moment.

7 Following the opening statements, you will hear the
8 testimony and the evidence in the case. This will consist
9 of testimony from the plaintiff's witnesses as well as any
10 exhibits which will be introduced into the evidence -- well,
11 for the record of the case.

12 Following the completion of all the testimony, the
13 attorneys will then have an opportunity to come before you
14 and make what are called closing arguments, and this is the
15 attorneys' opportunity to summarize the case from their
16 respective points of view. Again, the opening statements
17 and the closing arguments are not evidence.

18 Okay. Now, following the closing statements, I will
19 then instruct you on the law as it pertains to the issues
20 that have arisen during the case. Once I've done that, and
21 at the very end of the case, you will then be allowed to
22 begin deliberating and talking about and discussing the
23 case.

24 Now, I need to explain your duty to you, okay, and we
25 all have different roles here in the courtroom and basically

1 your duty is this. It is your job or your duty to decide,
2 from the evidence, what the facts are.

3 Okay. So you and you alone are in control of the
4 facts. So you will hear the evidence or see the evidence.
5 You will decide what the facts are and then you will apply
6 those facts to the law that I give you and that's how you'll
7 reach a verdict. In doing so, you must follow the law that
8 I give you whether you agree with it or not.

9 So what is evidence?

10 So evidence will consist of the testimony of the
11 witnesses and any documents or anything else received into
12 evidence as an exhibit and any facts on which the lawyers
13 agree or anything that I tell you you must accept. Do not
14 take anything that I say or that I do as indicating what I
15 think of the evidence or what I think your verdict should
16 be. The easiest way to imagine this is it's like a line
17 between me and you.

18 Okay. On your side of the line sits the facts. It's
19 your job to figure out, from the evidence, what the facts
20 are. On my side of the line is the law and you must follow
21 the law that I give you whether you agree with it or not. I
22 can't tell you what the facts are unless all the lawyers
23 agree on a fact. So, we're gonna make up a silly example.

24 Let's say all the lawyers agree that on the day in
25 question the sky was blue.

1 Okay. I would tell you you must accept as a fact that
2 on the day in question the sky was blue. Outside of
3 something like that happening, you won't hear me to tell you
4 what the facts are. The facts belong to you. The law
5 belongs to me.

6 Now, some things that you're going to hear may sound
7 like evidence, but they're not actually evidence, and you
8 can not consider them as evidence.

9 Number 1. The statements and the arguments of the
10 attorneys are not evidence.

11 Number 2. The questions and the objections of the
12 attorneys are not evidence.

13 Number 3. Anything that I tell you to disregard.

14 So sometimes a witness says something they're not
15 suppose to say and I'll say disregard what, what she just
16 said, okay, and I struggled with this for a long time.

17 Okay. Like how do jurors really put that out of their
18 mind, right?

19 How do they erase it from their memories?

20 Well, you don't have to.

21 Okay. But when you're going through the evidence as
22 you're deliberating, and you're going through piece by piece
23 or portion by portion, whatever I told you to disregard
24 doesn't go into the equation.

25 Okay. So you don't have to erase it from your mind.

1 You just don't put it as part of the calculation or the
2 process that you're going through in coming up with your
3 verdict.

4 Okay. Now, there's two kinds of evidence that you may
5 hear, direct evidence and circumstantial evidence.

6 So, direct evidence is what someone saw, heard, did,
7 touched, sensed by smell, something of that nature.

8 Okay. Circumstantial evidence is indirect evidence.
9 It is the ability to -- it is proof of one or more facts
10 from which you can then find another fact.

11 Okay. The best example is let's imagine it's January.
12 You're in Columbia. You look outside your bedroom window at
13 eleven o'clock at night and you see all of your dead grass,
14 okay, and then you wake up the next morning, you look out
15 your window, and the grass is covered in snow.

16 Okay. Did you see it snow?

17 No.

18 Did you hear it snow?

19 No.

20 Can you make -- come, come to the conclusion that it
21 snowed?

22 Yes, by circumstantial evidence.

23 Okay. Now, the law allows you to give equal weight to
24 either direct evidence or circumstantial evidence.

25 Okay. Now, in this courtroom and throughout this

1 right here and each one of them will make their argument.
2 I'll figure it out and then I'll send them back.

3 Okay. So, whenever that happens, nobody's trying to
4 keep anything from you or hide anything from you but the law
5 requires that I decide certain issues outside of your
6 presence.

7 Okay. Now, so to determine the facts of this case, you
8 have to decide which witnesses to believe and which
9 witnesses not to believe. We call this the credibility of
10 the witnesses.

11 Here are the rules. You can believe every single thing
12 a witness says. You can believe absolutely nothing that a
13 witness says. You can believe part of what a witness says
14 and reject the remaining part. Some things you may consider
15 but you're not limited to are what was that witnesses
16 abilities to see, hear, or know what he or she testified to.
17 How good was their memory. What was the witnesses demeanor
18 like when they testified. Do they have an interest in the
19 outcome of the case or any motive or any bias or any
20 prejudice. Were they contradicted by something they said or
21 wrote before the trial. How reasonable was the witnesses'
22 testimony when considered in light with the other evidence
23 that you believe.

24 Here's the bottom line. You judge people's credibility
25 all day long.

1 Okay. You do it so much that you don't even realize
2 you're doing it anymore.

3 Okay. In the most common example in my house is right
4 before we go to the bus stop and I say did you brush your
5 teeth, right.

6 Okay. And if you're a parent, you've said that and it
7 may be that I don't believe him because I see the cereal in
8 his teeth when he gives me that resounding yes and I see all
9 that cereal, right.

10 Okay. But, in that moment, I judge that child's
11 credibility and you judge people's credibility all day long
12 and you do it with your common sense, okay, and you didn't
13 leave your common sense at the metal detector.

14 Okay. You brought it with you. That's why they picked
15 you. Just use your common sense when you're judging
16 people's credibility.

17 Okay. Now, as I told you early on, this is a civil
18 case. Not a criminal case. So, proof beyond a reasonable
19 doubt, all that kind of stuff you hear in criminal cases,
20 just put it all out of your mind.

21 Okay. So, in a civil case, the -- there is a burden of
22 proof and that is called by a preponderance of the evidence
23 and the burden of proving the case lies with the plaintiff
24 because they brought the case.

25 Okay. So, the burden of proof is called by a

1 preponderance of the evidence.

2 So what does that mean?

3 It simply means the greater weight of the evidence. It
4 is evidence which, as a whole, shows that the facts sought
5 to be proved is more likely true than not true. This can be
6 illustrated by imagining a set of scales. Right now the
7 scales are even.

8 Okay. After you've heard all the testimony, if the
9 scales remain even, or if they tip even slightly in favor of
10 the defendants or the defendant, then the plaintiff has
11 failed to meet his burden of proof and he would not be
12 entitled to recover. If, on the other hand, the scales tip
13 even slightly in favor of the plaintiff, he will be entitled
14 to recover and you should return a verdict for the
15 plaintiff.

16 Now, the preponderance of the evidence isn't who's got
17 more witnesses, right. It's determined by the greater
18 weight of all the evidence presented.

19 Now, there are two defendants in this case and I may
20 say it singularly just because that's the way I'm use to
21 saying it. But you-all are -- understand there's one
22 plaintiff and two defendants in the case. If I say it
23 singularly, I don't mean to but that's just the way I'm use
24 to saying it cause I say this stuff literally every week of
25 my life almost sometimes.

1 Okay. Now, until I advise you, you're not allowed to
2 begin or, or to talk about the case at all with anyone
3 including each other. This discussion -- this includes
4 discussions that are face-to-face, by telephone, email, text
5 message, blog, some kind of app that I don't even know what
6 it is. You can't use it to get information or send
7 information about the case.

8 Okay. You shouldn't be doing any research on any
9 issues in the case. Even if they say a word today and you
10 don't know what that word means, don't go home and open up
11 the dictionary, if you still have one, and look it up.

12 Okay. You're gonna base your decision on the evidence
13 that's in the case.

14 Now, do not watch any news reports about this case. I
15 don't know of any. There's no news media in the courtroom.
16 None of them have asked to be here. But if, for some wild,
17 strange reason this case is on the news tonight, just turn
18 it off or don't watch it or don't listen to it or however
19 you take in your news media in today's world. But, again, I
20 don't know of any and there's none in here.

21 Okay. So feel free to watch the news. But if this
22 case comes on, just turn it off.

23 Okay. Once the case is submitted to you, you will only
24 be allowed to discuss it with each other. The attorneys and
25 the parties in the case have been advised not to talk to

1 you. So, if they see you in the hall or see you coming back
2 from lunch and they don't say hello, they're not being rude.
3 They're merely just following my instructions.

4 Okay. And, Ms. Cogdill, you're gonna be the foreperson
5 of this jury.

6 Okay. You don't get paid any extra, all right, and
7 your vote doesn't count any more. But somebody's got to be
8 in charge of communicating with me. So that's gonna be you.

9 When you come back in after the afternoon break, you'll
10 be seated where this gentleman in the tan coat is. There's
11 no need to move now. Don't worry about it.

12 But -- and then my alternates, you two always need to
13 be on the back row.

14 Okay. The rest of you can sit wherever you want to.

15 Okay. Again, I don't allow note taking. I probably --
16 did I tell you why this morning?

17 I think so, yeah.

18 Okay. And I don't allow note taking for reasons that I
19 probably explained to you this morning.

20 Okay. And is the plaintiff ready to give their
21 opening?

22 MR. BREHMER: Yes, sir, Your Honor.

23 THE COURT: Okay. Mr. Brehmer, are you opening?

24 MR. BREHMER: Yes, sir.

25 THE COURT: Whenever you're ready, sir.

1 MR. BREHMER: Ladies and gentlemen, my name's Karl
2 Brehmer and I, along with Paige George, represent Joseph
3 Sellaro.

4 Okay. Mr. Sellaro's 72 years old.

5 Okay. Let me tell you why we're here and I'm gonna
6 tell you a little bit of background as to what I'm doing and
7 why I'm doing it so you'll understand where I'm going.

8 I -- when I try a case, I always try to figure out how
9 best to present it so that everybody gets all the meaning of
10 it and my thought process in this case is, is to do it
11 chronologically, okay, and this case -- the majority of the
12 relevant facts start on February the 27th of 20 -- 2016
13 and they end on March the 7th of 2016. And what I'm going
14 to try to do is, is to lead you through those facts to --
15 and point out to you what are the relevant details that we
16 are going to present to you and why they are so significant
17 and what they prove.

18 This is a case where Mr. Sellaro was falsely imprisoned
19 by the acts and omissions of the Sheriff's Department and
20 the South Carolina Department of Social Services.

21 Okay. Now, I'm gonna begin my story. On February the
22 27th of 2016, let's start at nine o'clock in the morning,
23 Joseph Sellaro was married to Eileen Sellaro. They had been
24 married for 41 years.

25 Okay. They lived here in Columbia. Joseph -- Eileen

1 had been a hospital employee. I think she worked over at
2 Baptist and she also worked at Richland. She was a unit
3 secretary in the telemetry lab. As just for you, the
4 telemetry lab, as my understanding, is where they got people
5 on monitors that they're watching and she was a unit
6 secretary there.

7 Now, Joseph had worked also in the hospital system and
8 what he did was clean floors, okay, and he was retired at
9 this time because Joseph had hurt his leg. Basically let
10 one of those floor machines get away from him and it tore up
11 his leg and he didn't work. And so he was retired at that
12 point. Joseph was a house husband.

13 Okay. Now, they -- just the two of them lived
14 together. They had four daughters. That's right.

15 That morning, okay, Eileen had some errands to run,
16 okay, and she left the house around ten o'clock and she told
17 him that she would be back later that evening.

18 Now, February the 7th -- 27th was a Saturday and that
19 day went by and Joseph did his normal chores around the
20 house. He said he cut the grass. He took care of the dog.
21 He walked the, the dogs and he did a little bit of
22 housework, which was his normal activity.

23 Well, that night, after dark, it's nine or ten o'clock
24 and Eileen's not home and Joseph sees lights out in front of
25 his house, okay, and here's what had happened between that

1 time. Eileen had been involved in a car accident. She had
2 rear ended another vehicle and she had been taken to the
3 hospital and they had attempted surgery. But,
4 unfortunately, she didn't make it.

5 Okay. She passed away and the Coroner's Office had
6 called the -- had been called and they had gone through
7 Eileen's personal effects to try to find out who her next of
8 kin was.

9 Well, Eileen's personal effects, the only thing they
10 found was, was her cellphone and she had an emergency
11 contact in there. And the emergency contact was a woman by
12 the name of Carol Outlaw.

13 Okay. Ms. Outlaw was called to the hospital and Ms.
14 Outlaw had been a former co-worker of Mrs. Sellaro.

15 Well, Ms. Outlaw had some conversations with the
16 police. There's a big discrepancy in what the police says
17 and what Ms. Outlaw says. But Ms. Outlaw told them that
18 they needed to check on Joey because they needed to --
19 because Joe's kind of like me. He relied a lot on his wife.

20 And so they went to the house. And there was an
21 officer, a bigger fellow, that came to the door and Joe went
22 to the door. And the officer was on the stoop and Joe was
23 at the door. And the officer told Joe says, unfortunately,
24 sir, we have to inform you that your wife died as a result
25 of a car accident, okay, his wife of 41 years.

1 Now, Joe, like everybody else, took it a little hard
2 and the officer says let's -- let us into your house and Joe
3 said well, I don't think so. I don't know you. I don't
4 think so. But, eventually, the officer kind of muscled his
5 way into the house and they went around and they got to
6 asking Joe questions. Said Joe what, what -- what's the day
7 of the week, who's the president, where do you live, and
8 they accused Joe of having dementia.

9 Now, ladies and gentlemen, just by way of course,
10 you're gonna hear from Joe and we're gonna submit to you,
11 when you hear Joe talk for about one to two minutes, you can
12 tell this man ain't never had dementia.

13 Okay. well, things progressed around for a while, all
14 right, and they -- Joe tells them that he's a diabetic and
15 that, you know, he has to check his blood sugar. well, he
16 checks his blood sugar, and because of the stress level,
17 it's up to around five, 550. So, he has to administer
18 himself an Insulin injection, which he does.

19 All right. And they keep talking to him and they say
20 well, we're gonna take you to the hospital. He says for
21 what, to see my wife. Said yeah, we're gonna -- he said,
22 said -- then he learns no, they had some other things.

23 So the officers basically catch him under the arm and
24 they had called an ambulance and the ambulance comes and
25 they bring the gurney into his house and they forcibly,

1 forcibly now, put him on the gurney and strap him down and
2 they take him to Richland Memorial.

3 Now, ladies and gentlemen, I wasn't there on February
4 the 27th, early morning hours of the 28th, of 2016 and I
5 know what Mr. Sellaro says and I've read what they say. But
6 what I've done is I've gone out and gotten some -- what I
7 call extrinsic evidence.

8 I've gotten the ambulance run report and tomorrow
9 you're gonna hear from a very nice young lady. Her name is
10 Jennifer Fox at that time. Now it's Jennifer Fox Perry.
11 She says she's seven months pregnant and she was the EMT
12 that wrote up the ambulance run report and you are going to
13 hear that, on that ambulance run report, Joe Sellaro told
14 Ms. Fox his name, his address, his date of birth, his social
15 security number, his medical conditions, and the medications
16 that he was currently taking and the reason we're gonna do
17 is that to show you that that's not the type of information
18 that a demented person would be able to rattle off.

19 Well, Joe was taken to the Richland Memorial. Now, we
20 move -- because by the time he gets there it's the 28th.

21 Okay. It's the next day.

22 All right. So, they check him in. DSS is involved,
23 brought in as involved, and they basically put him in the
24 mental ward and -- because they're claiming that he has
25 dementia.

1 Now, all the medical reports you're going to hear about
2 is that he was very calm, collected, responsive, not
3 confused, not lacking information at all.

4 Now, then he was kept there and like, you know, that
5 was Sunday. Well, on Monday, which was February the 29th,
6 cause 2016 was a leap year, that Monday there -- Richland
7 Memorial's psychiatrist comes by and sees Joe Sellaro. His
8 name is Doctor Jeffrey Brandenburg and we're going to
9 publish Doctor Brandenburg's testimony to you.

10 Doctor Brandenburg says, without a doubt, that Joe
11 Sellaro is not demented.

12 Okay. He has no problems thinking nor does he have any
13 problem caring for himself. I.e. there is no reason for
14 this man to be into protective custody. None.

15 All right. That is on Monday, the 29th.

16 Well, under the law, when you take somebody in
17 protective custody -- and the law does provide for that
18 cause there are certain circumstances where, especially like
19 elderly people or people that have dementia or whatever,
20 need to be taken and it's a good idea. But -- well, there's
21 a requirement that there be a 72 hour hearing. Well,
22 there's a hearing set for March the 1st.

23 Now, pay specific attention to this. The hospital
24 assigned a social worker to Joe. That social worker's name
25 is Ms. Tate. You will hear from her tomorrow. Ms. Tate did

1 her job.

2 She comes up, and she's no novice to these types of
3 things, and she gets in touch with this caseworker for DSS
4 and, at 11 minutes after 11:00 on March the 1st, Ms. Tate
5 faxes to the DSS caseworker Mr. Sellaro's history, okay,
6 Doctor Brandenburg's report that says that he is not
7 demented, okay, and that he has no business there. That's
8 at 11:11 because the hearing that date is set for 1:30.

9 Mr. Sellaro's assigned DSS caseworker was a Ms.
10 Edgerton.

11 Okay. Naqua -- I think it's Naqua Edgerton. These
12 records are faxed to her. At 1:30, DSS's lawyer, Mr.
13 Spivey, and a representative from DSS, not Ms. Edgerton, and
14 a representative from the Sheriff's Department, not either
15 one of the officers that were involved or at the scene, show
16 up in Court and we have the official transcript of what they
17 said.

18 Okay. It's six pages long. They offered none of Mr.
19 Sellaro's medical records to the Court. The record says
20 that they have no exhibits offered in this hearing and the
21 DSS representative, the person other than Ms. Edgerton, did
22 not say a word, not the first word, and the Sheriff's
23 Department's representative, other than the ones there, say
24 oh, yeah, well this fellow, he's, he's trouble. You know,
25 he's got -- he -- he's got dementia. He's got cognitive

1 problems and he doesn't have any family in the area. So,
2 the judge signs off on the order to hold him until April the
3 7th of 2016.

4 Now, so, Joe is still in the mental ward at
5 (indiscernible) in Richland.

6 Now, time goes on. On March the 3rd of 2016, our
7 Family Court issues an order appointing a guardian ad litem,
8 which is an adult person of competent status to represent
9 what is believed to be an infirmed person and the Family
10 Court appoints a lady named Victoria Deas Johnson.

11 Okay. Victoria Deas Johnson, to Mr. Sellaro, is an
12 angel.

13 Okay. Nothing short of an angel. Let me tell you why.

14 Ms. Johnson does her job. She goes and sees Mr.
15 Sellaro immediately and she gets a hold of Mr. Sellaro's
16 medical records and says to the DSS people what are you
17 doing. There's nothing wrong with this man. He doesn't
18 need to be here and they get a lawyer appointed for
19 Mr. Sellaro or the guardian ad litem named Reynolds Elliott
20 and Mr. Elliott files a motion with the Family Court and
21 asks for an immediate hearing and gets a hearing on March
22 the 7th of 2017 -- 2016.

23 And, at that hearing, there's no matter in controversy
24 because everybody agrees that Mr. Sellaro don't need to be
25 there, the Sheriff's Department, and DSS, and you know what?

1 As far as Mr. Sellaro's physical and mental condition,
2 nothing changed between February the 27th and March the
3 7th.

4 So he was confined against his will for those days
5 without the ability to see his deceased wife. He never got
6 to see and pay his respects to her body or her person. She
7 was in the same hospital in the morgue. They wouldn't take
8 him down there and her sister came here from New Jersey
9 before Mr. Sellaro was released and had Mrs. Sellaro
10 cremated and Ms. Outlaw, who ended up with possession,
11 because of Mr. Sellaro being drug out of his home, ended up
12 with possession -- the keys to the house, she euthanized one
13 of his dogs and put another one in a pet shelter and he
14 eventually got two of them back. Two of them back.

15 Now, ladies and gentlemen, those are the relevant facts
16 and, in all likelihood, they're going to be undisputed,
17 undisputed. I have documentation that proves everything
18 that I just told you. You don't have to believe a word
19 anybody says. Just look at the documents.

20 Now, here are our legal theories. They are basically
21 two. The first one is, is that the Sheriff's Department was
22 negligent on two separate occurrences. The first one was on
23 February the 27th, 2016, when they assisted and
24 participated in taking Joseph Sellaro into custody cause
25 they had no reason to do so.

1 You make up your mind when you hear Joseph talk. This
2 man is not demented.

3 Okay. He's very bright. He's very intelligent.

4 The second thing that they did was they have an
5 opportunity to correct their error of their ways on
6 February -- on March the 3rd. They didn't send anybody to
7 the hearing with any knowledge of what was going on. They
8 had nothing to support their position whatsoever. Added
9 another four days to Joseph Sellaro. That's what the
10 Sheriff's Department did wrong.

11 what did DSS -- DSS did nothing right.

12 Okay. What did they do wrong?

13 Let's talk about it.

14 One. They ignored the medical documentation that is
15 right there in their hands.

16 Okay. Ms. Tate faxed these things to them.

17 Okay. The reason that they're faxed to them is because
18 of this protective custody hearing.

19 Okay. Nothing. They did nothing. They came to court.
20 They misrepresented the facts to the Court. Not only did
21 they do nothing, they overtly misrepresented the facts or
22 allowed the facts to be misrepresented.

23 Okay. And they kept Joseph in custody, in custody --
24 in their custody because technically they didn't get his
25 custody until the 28th because it was that time before

1 they got to the hospital until March the 7th.

2 Okay. This was already, regardless of whether this had
3 happened or not, was gonna be some of the worst days of
4 Joseph's life, losing his spouse of 41 years. But, ladies
5 and gentlemen, what they did to him was unspeakable,
6 unconscionable, and unforgivable.

7 We ask that you listen to all the evidence and you
8 decide and you use your own experience when you listen to
9 Joseph talk.

10 Okay. You listen to your own experience when you
11 listen to him talk. That man is not demented and he sure
12 wasn't demented 74 months ago cause that's how long ago this
13 happened, 74 months.

14 Thank you.

15 THE COURT: All right. Thank you, Mr. Brehmer.

16 MR. GARFIELD: Your Honor, may we approach just real
17 quick?

18 THE COURT: Sure.

19 MR. GARFIELD: Thank you.

20 (WHEREUPON, a bench conference was held out of the
21 hearing of the jury at this time.)

22 THE COURT: All right. Who's going first?

23 MR. GARFIELD: I am, Your Honor.

24 THE COURT: Okay.

25 MR. GARFIELD: Thank you.

1 MR. SUMMERS: Thank you, judge.
2 (WHEREUPON, a short recess was taken at this time.)
3 THE COURT: We got everybody?
4 All right.
5 (Pause.)
6 THE COURT: All right. Let's bring them in.
7 (WHEREUPON, the following takes place within the
8 presence of the jury.)
9 THE BAILIFF: The jury is seated, judge.
10 THE COURT: All right. Thank you very much.
11 Welcome back and the plaintiff may call their first
12 witness.
13 MR. BREHMER: Call Ms. Victoria Deas Johnson.
14 THE COURT: All right. Ms. Johnson, come on up.
15 THE BAILIFF: Raise your right-hand and put your
16 left-hand on the Bible.
17 VICTORIA DEAS JOHNSON, being first
18 duly sworn, testified as follows:
19 THE CLERK: Please have a seat. State your full name
20 for the record.
21 THE COURT: And I'll need you to take off that mask for
22 me please, Ms. Johnson.
23 THE WITNESS: Okay.
24 THE COURT: Just take it off completely. There you go.
25 State your full name.

1 THE WITNESS: Victoria Deas Johnson.

2 THE COURT: All right.

3 DIRECT EXAMINATION

4 BY MR. BREHMER:

5 Q. Ms. Johnson, how are you employed?

6 A. With the Department on Aging.

7 Q. Okay. And in February of 2016, did you participate in
8 the guardian ad litem program?

9 A. Yes.

10 Q. Okay. And were you the guardian ad litem for Mr. James
11 P. Sellaro?

12 A. Yes.

13 MR. BREHMER: Okay. Mark this as Defendant's Exhibit
14 1.

15 THE COURT: Plaintiff's.

16 MR. BREHMER: Plaintiff's. I mean Plaintiff's Exhibit
17 1.

18 MR. SUMMERS: Mr. Brehmer, if you could, just identify,
19 if you haven't yet, what the---

20 THE COURT: Or just show it to him. Either way.

21 MR. SUMMERS: ---item is.

22 MR. BREHMER: It's the order of appointment of the
23 guardian ad litem for a vulnerable adult.

24 MR. SUMMERS: Very good, sir. Thank you.

25 MR. BREHMER: Thank you.

1 (WHEREUPON, the order was marked as Plaintiff's Exhibit
2 No. 1 for identification purposes only at this time.)

3 Q. Okay. Could you please identify what is Plaintiff's
4 Exhibit No. 1, Ms. Johnson?

5 A. It's a legal appointment order signed by a judge.

6 Q. Okay. And how did you get involved in the guardian ad
7 litem program?

8 A. When an adult comes into adult protective services,
9 they're appointed a guardian ad litem through the court
10 system.

11 Q. Okay. And do you -- is your name on that list?

12 A. Yes, sir.

13 Q. Okay. And were you appointed as the guardian ad litem
14 for Mr. Sellaro?

15 A. Yes.

16 Q. What was the date of the order that you were appointed
17 as the guardian ad litem?

18 A. March 3rd.

19 Q. Okay. Now --.

20 THE COURT: Are you moving that in?

21 MR. BREHMER: In a second.

22 THE COURT: Okay.

23 MR. BREHMER: Okay. I would like to mark this as
24 Plaintiff's Exhibit No. 2.

25 (WHEREUPON, the guardian ad litem report was marked as

1 Plaintiff's Exhibit No. 2 for identification purposes only
2 at this time.)

3 Q. Could you please identify Plaintiff's Exhibit No. 2 for
4 the record please?

5 A. It's my guardian ad litem report---

6 Q. Okay.

7 A. ---to the Court.

8 Q. Okay. And is that a document that you authored?

9 A. Yes, sir.

10 Q. Okay. And was that document created contemporaneously
11 with your investigation and work?

12 A. Yes.

13 MR. BREHMER: Okay. Your Honor, at this time we would
14 offer Plaintiff's Exhibits 1 and 2 into evidence.

15 MR. GARFIELD: Without objection.

16 MR. BREHMER: Okay.

17 MR. SUMMERS: Without objection.

18 THE COURT: All right. Plaintiff's 1 and Plaintiff's 2
19 are both admitted without objection.

20 (WHEREUPON, Plaintiff's Exhibit Nos. 1 and 2 were
21 received into evidence at this time.)

22 Q. Okay. Now, once you were appointed by the Court system
23 as a guardian ad litem on February 3rd, 2016, what did you
24 do?

25 A. First I contact DSS to get information concerning the

1 case.

2 Q. Okay. And from your contact with the Department of
3 Social Services, did you make a determination as to whom had
4 been assigned his caseworker?

5 A. Yes.

6 Q. And was that Ms. Naqua Edgerton?

7 A. Yes.

8 Q. Okay. Did you speak with Ms. Edgerton?

9 A. Yes, I did.

10 Q. Did Ms. Edgerton provide you records?

11 A. Yes.

12 Q. What records were you provided?

13 A. Hospital records.

14 Q. Okay. Was it the intake information on Mr. Sellaro?

15 A. Yes, sir.

16 Q. Was it the emergency room records?

17 A. Yes.

18 Q. And his progress records?

19 A. Yes.

20 Q. Were you provided the reports from the family
21 physician---

22 MR. GARFIELD: Objection.

23 Q. ---that saw him?

24 MR. GARFIELD: This is all leading. If she could just
25 tell what records she did review rather than asking her

1 specific things she may of reviewed.

2 THE COURT: All right. You may rephrase your question.

3 MR. BREHMER: Okay.

4 THE COURT: Sustained as to leading.

5 MR. GARFIELD: Thank you.

6 Q. Did you -- what records did you review other than --
7 just than -- other than the broad term of medical records,
8 did you review a family doctor's report?

9 A. I reviewed the history and physical that are done at
10 the hospital prior to entrance. I reviewed the psych
11 evaluation that was done and all the records as far as like
12 labs and any test that were done.

13 Q. Okay. Subsequent to review of those records, what did
14 you do?

15 A. Once I read through all the records, I contacted the
16 DSS case manager --

17 Q. Okay.

18 A. -- and I asked her questions about the dementia
19 because, when I read in the medical report, it stated that
20 he did not have dementia.

21 Q. Okay. And was that from Doctor Brandenburg's report?

22 A. It was from Doctor Brandenburg, psych physician.

23 Q. And that report was dated February the 29th?

24 A. Yes.

25 Q. Okay. And what did Ms. Edgerton say?

1 A. She was saying that she just has to wait on the other
2 psych eval. But I didn't know if there were gonna be
3 another psych eval.

4 Q. Okay. But Mr. Sellaro had already had a psych
5 evaluation?

6 A. Yes, sir.

7 Q. Okay. All right. Once you reviewed those records and
8 talked to Ms. Edgerton, what did you do?

9 A. I visited with Mr. Sellaro at the hospital and I talked
10 to the social worker at the hospital as well as Mr. Sellaro.

11 Q. Okay. Was that Ms. Tate?

12 A. Yes.

13 Q. Okay. When you talked to Mr. Sellaro at the hospital,
14 how did he appear to you?

15 A. He was able to have a meaningful, meaningful
16 conversation. He was able to tell me what happened the
17 night that he came into custody. He was able to tell me
18 history as well as current events. He was up walking
19 around. I mean he appeared fine --

20 Q. Okay.

21 A. -- to me.

22 Q. Okay. All right. Did his appearance appear, from a
23 lay person's prospective, to be consistent with what you had
24 read in the records?

25 A. No.

1 Q. Okay. Okay. How did he appear?

2 He was fine?

3 A. That he was cognitively aware and that he could make
4 his decisions.

5 Q. Okay. Now, from your review of the medical records,
6 inclusive of Doctor Brandenburg's report and Mr. Sellaro
7 report -- Mr. Sellaro's in person visit, what did you do?

8 A. I met with -- I got with my attorney that was appointed
9 to me, Mr. Reynolds Elliott --

10 Q. Okay.

11 A. -- and asked that we file a motion to have his case
12 dismissed.

13 Q. Okay. And that was on March the 4th?

14 A. That the case was dismissed---

15 Q. No.

16 A. ---was March 4th.

17 Q. March 7th was the day the case was dismissed.

18 A. Yes.

19 Q. Okay. March the 4th is when you got Mr. Reynolds
20 Elliott to file the motion?

21 A. Yes.

22 Q. Okay. Now, did Mr. Elliott file that motion?

23 A. He did.

24 MR. BREHMER: Okay. And now -- have this marked as
25 Plaintiff's Exhibit No. 3.

1 (WHEREUPON, the March 7th bench order was marked as
2 Plaintiff's Exhibit No. 3 for identification purposes only
3 at this time.)

4 Q. Okay. Let me show you what's been marked as
5 Plaintiff's Exhibit No. 3.

6 will you please identify Exhibit No. 3?

7 A. This is a bench order that we had written up to have
8 the case dismissed for Mr. Sellaro.

9 Q. Okay. And now was that, was that the order that let
10 Mr. Sellaro free from the home or from the hospital?

11 A. Yes.

12 Q. Okay. And that was done by consent?

13 A. Yes.

14 Q. Okay. So, did DSS consent to that?

15 A. Yes.

16 Q. Okay. To the best of your knowledge, did anything
17 change in Mr. Sellaro's condition between in that week prior
18 to that order?

19 A. No.

20 Q. Okay. Was there any change in Mr. Sellaro's health in
21 that week?

22 A. No.

23 Q. Okay. Did you see anything that reflected a change in
24 his emotional state during that week?

25 A. He was just sad that his wife had passed --

1 Q. Okay.

2 A. -- which is normal.

3 Q. Okay. As most of us would be?

4 A. Yes, sir.

5 MR. BREHMER: Okay. Okay. Now, we would move
6 Plaintiff's Exhibit No. 3 into evidence.

7 MR. GARFIELD: Without objection.

8 MR. SUMMERS: No objection, sir.

9 THE COURT: Plaintiff's 3 admitted without objection.

10 (WHEREUPON, Plaintiff's Exhibit No. 3 was received into
11 evidence at this time.)

12 (WHEREUPON, Ms. Johnson's affidavit was marked as
13 Plaintiff's Exhibit No. 4 for identification purposes only
14 at this time.)

15 Q. Ms. Johnson -- Deas Johnson, could you identify
16 Plaintiff's Exhibit No. 4 please?

17 A. My after davit (phonetic) testimony.

18 Q. Okay. And was that an affidavit that you prepared or
19 that was prepared for you for the motion to dismiss?

20 A. Yes.

21 Q. Okay. Did you review that affidavit?

22 A. Yes.

23 Q. Okay. Is that affidavit or was that affidavit on March
24 the 4th, 2016, true and correct to your -- best of your
25 knowledge?

1 A. Yes.

2 Q. On today's date, which I believe is May the 16th of
3 2022, is it still true and correct to the best of your
4 knowledge?

5 A. Yes.

6 MR. BREHMER: Okay. Your Honor, I would move
7 Plaintiff's Exhibit No. 4 into evidence at this time.

8 MR. SUMMERS: No objection from DDS, sir.

9 MR. GARFIELD: No objection, Your Honor.

10 THE COURT: All right. Plaintiff's 4 admitted without
11 objection.

12 MR. BREHMER: Okay.

13 (WHEREUPON, Plaintiff's Exhibit No. 4 was received into
14 evidence at this time.)

15 Q. Now, in addition to having taken Mr. Sellaro into
16 custody on February the 28th of 2016, what else had DSS
17 done as far as Mr. Sellaro's finances?

18 A. During the probable cause, they can ask that the
19 finances be redirected to a facility once he's placed or
20 they can ask that they be put on hold.

21 Q. Okay. And what had, what had occurred to Mr. Sellaro's
22 finances in this hearing?

23 A. That the order that they be redirected.

24 Q. To whom?

25 A. To the facility that they could place him.

1 Q. Okay. To DSS's chosen place?

2 A. Yes.

3 Q. Okay. So they took his money?

4 A. I just know that they can order that in --.

5 Q. They did.

6 A. Yeah.

7 Q. Okay. Now, since March the 7th, 2016, other than
8 about this litigation, have you had any contact with Mr.
9 Sellaro?

10 A. I have not.

11 Q. Okay. And was the duration of your involvement in this
12 matter from March the 3rd of 2016 until March the 7th of
13 2016?

14 A. I have not.

15 Q. I mean -- well, basically you had a four day window
16 that you were---

17 A. Uh huh.

18 Q. ---involved in this case, correct?

19 A. That's correct.

20 Q. And two of those days were a Saturday and a Sunday?

21 A. Yes, sir.

22 Q. Okay. And -- okay. And don't -- did anything change
23 in Mr. Sellaro's case from your involvement other than the
24 fact that you got him released?

25 A. No, sir.

1 Q. Okay. Was there any new information provided by you
2 that wasn't in existence prior to your involvement?

3 A. No, sir.

4 Q. Okay. All right. All right. Thank you, ma'am.
5 Answer any question these other gentlemen may have.

6 THE COURT: All right. Who wants to go first?

7 MR. GARFIELD: I will, Your Honor.

8 THE COURT: Okay. Mr. Garfield.

9 MR. GARFIELD: Yes, Your Honor. Thank you.

10 CROSS-EXAMINATION

11 BY MR. GARFIELD:

12 Q. Good afternoon, Ms. Johnson. I'll try not to trip.
13 You or -- got a lot of cords.

14 So Mr. Brehmer asked you about your report.

15 A. Uh-huh.

16 Q. I think that's an exhibit into evidence, and if you
17 would turn to Page 2 of your report?

18 THE COURT: Does she have it?

19 MR. GARFIELD: I, I thought she had it up there.

20 THE COURT: Do you have it?

21 THE WITNESS: Yes, sir.

22 THE COURT: Okay. All right. Great. Thank you.

23 Q. The copy I have is unsigned but it -- this is -- this
24 contains your recommendations in this case?

25 A. Yes, sir.

1 THE COURT: Redirect.

2 MR. BREHMER: Just one thing, judge.

3 THE COURT: Okay.

4 REDIRECT EXAMINATION

5 BY MR. BREHMER:

6 Q. Ms. Deas Johnson, just for clarity, and the Court
7 system and DSS don't work on Saturday and Sunday, do they?

8 A. That's correct.

9 Q. Okay. All right. So -- all right. You got -- you got
10 re -- you got appointed on Thursday. You got the motion
11 filed and the hearing set on Friday and on Monday he was
12 released?

13 A. Yes, sir.

14 Q. Thank you.

15 MR. GARFIELD: No, Your Honor. Thank you though.

16 MR. SUMMERS: Nothing further, sir.

17 THE COURT: All right. Thank you, ma'am. Have a nice
18 day.

19 THE WITNESS: Thank you.

20 THE COURT: All right. Ladies and gentlemen, we'll go
21 ahead and stop there for the day. We're just a few minutes
22 before five o'clock. So, we're at a good stopping point.

23 As I release you for the evening, I would remind you
24 don't do any of your own research on the case. Don't
25 discuss the case. Don't have any contact with anybody

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Tuesday, May 17th, 2022

THE COURT: All right. Good morning, everybody, and we're back on the record in Sellaro versus Richland County Sheriff and SCDSS.

Let's see. I got everybody from the plaintiff. I got everybody from the defense.

Is there anything from the plaintiff we need to take up before we get started?

MR. BREHMER: Nothing.

THE COURT: Mr. Garfield.

MR. GARFIELD: No, Your Honor. Good morning.

THE COURT: Wonderful. Good morning.
Mr. Summers.

MR. SUMMERS: Nothing from DSS, sir.

THE COURT: Okay. Great. Thank you very much.
All right. Let's bring them in.

MR. BREHMER: Thank you.

(WHEREUPON, the following takes place within the presence of the jury.)

THE BAILIFF: All the jurors are seated, Your Honor.

THE COURT: Thank you.

All right. welcome back, ladies and gentlemen. Thank you very much for being on time. I hope you had a good evening. Hope you're well rested and ready to stay awake

1 and hear a bunch of testimony today.

2 All right. Y'all look good. Got smiles on your faces.
3 That means you're getting to know each other a little bit,
4 which is good, and we're ready to continue now and the
5 plaintiff may call their next witness whenever they're
6 ready.

7 MR. BREHMER: We call Ms. Jennifer Fox Perry.

8 THE COURT: Okay.

9 THE BAILIFF: You need to stand and face this way
10 towards Madam Clerk. Place your left-hand on the Bible.
11 Raise your right.

12 JENNIFER PERRY, being first duly
13 sworn, testified as follows:

14 THE CLERK: Please have a seat. State your full name.
15 Watch your step.

16 THE WITNESS: My full name is Jennifer Elaine Perry.

17 DIRECT EXAMINATION

18 BY MR. BREHMER:

19 Q. Okay.

20 A. The Fox was dropped off when I got married.

21 Q. Okay. All right. Was Fox your maiden name, ma'am?

22 A. It was, yes.

23 Q. Ma'am, how are you currently employed?

24 A. I am currently employed through Prisma Health Richland

25 --

1 Q. Okay.

2 A. -- as a respiratory therapist.

3 Q. As a respiratory therapist.

4 In February of 2016, how were you employed?

5 A. I was employed with the Richland County EMS as a
6 paramedic.

7 Q. Okay. All right.

8 Have this marked as the plaintiff's next exhibit.

9 (WHEREUPON, the EMS run report was marked as
10 Plaintiff's Exhibit No. 5 for identification purposes only
11 at this time.)

12 MR. BREHMER: Thank you.

13 Ms. Perry, can you please identify Plaintiff's Exhibit
14 No. 5 for the jury please?

15 A. Can I identify it?

16 Q. Yes.

17 A. A run report.

18 Q. Yes.

19 A. What else -- I don't know what else I need to identify.

20 Q. Is it, is it a run report?

21 A. Yes, sir.

22 Q. Okay. And is it a run report that would of been
23 prepared by you on February 27, 2016?

24 A. Yes, sir.

25 Q. Okay. And does it appear to be a true and accurate

1 copy of that run report?

2 A. Yes, sir.

3 MR. BREHMER: Your Honor, at this time we would move
4 Plaintiff's Exhibit No. 5 into evidence.

5 MR. GARFIELD: No objection from the sheriff.

6 MR. SUMMERS: None from DSS, sir.

7 MR. BREHMER: Okay.

8 THE COURT: All right. Plaintiff's 5 --.

9 MR. BREHMER: Okay.

10 THE COURT: -- excuse me, is admitted without
11 objection.

12 MR. BREHMER: Thank you.

13 THE COURT: I apologize. I had a cough.

14 (WHEREUPON, Plaintiff's Exhibit No. 5 was received into
15 evidence at this time.)

16 Q. Ms. Perry, could you please explain to the jury what a
17 run report is so that, that they know?

18 A. A run report is a documentation from start to finish of
19 the call that I ran. So, what I saw on scene, what time we
20 got there, what time we left, if anything happened in route
21 to the hospital, vital signs.

22 Q. Okay. All right. Was this a report that was prepared
23 referencing your run to Mr. Sellaro's house on February the
24 27th, 2016?

25 A. Yes, sir.

1 Q. Okay. What time were you dispatched?

2 A. We were dispatched at 23:18.

3 Q. Okay. Does that mean 11:18PM?

4 A. Yes, sir.

5 Q. Okay.

6 A. Everything's in military time.

7 Q. Okay. And what time did you arrive at Mr. Sellaro's
8 house?

9 A. It says that we ar -- we arrived at 23:26. So 11:26PM.

10 Q. Okay. All right. Now, when you re -- were there, were
11 you provided information about Mr. Sellaro?

12 A. Yes, sir.

13 Q. Did some of this information come from Mr. Sellaro?

14 A. Yes, sir.

15 Q. Did some of it come from the police?

16 A. Yes, sir.

17 Q. Okay. Now, would you please give the address where you
18 went?

19 A. 1837 Crestview Avenue in Columbia.

20 Q. Okay. And that was the County of Richland, correct?

21 A. Yes, sir.

22 Q. Okay. Now, I'm not trying to be funny and I'm not
23 trying to be silly but you did see Mr. Sellaro there?

24 A. Yes, sir.

25 Q. Okay. Okay. And other than being six years older, is

1 it -- was his a phy -- physical appearance similar?

2 A. I honestly don't really remember exactly what he looked
3 like from six years ago to now. So --

4 Q. Okay.

5 A. -- I can only assume that he looks the same.

6 Q. Okay. Was his -- was his race the same?

7 A. I would assume so. However, on this, it does not -- I
8 don't know how I ended up putting a different race on here
9 versus---

10 Q. Would you please---

11 A. ---what he looks like now.

12 Q. ---publish to the jury what you put as his race?

13 A. I put black.

14 Q. Okay.

15 A. Non Hispanic. But it's a drop down box. So, I'm not
16 sure how I didn't put white.

17 Q. Okay. All right. All right. Now, you also entered a
18 description.

19 what was the -- what does the description say?

20 A. Male patient found ambulatory on scene.

21 Q. Was that meaning that he could walk around?

22 A. Yes.

23 Q. Okay. Okay. And what'd you put with patient
24 belongings?

25 A. I put a jacket and a cardboard with a number written on

1 it both left with patient in ER.

2 Q. Okay. And other agencies?

3 A. Law enforcement.

4 Q. Okay. All right. Now, it goes down there to the
5 duration.

6 How long were you there?

7 A. Twenty minutes.

8 Q. Okay. And what does anatomic location mean?

9 A. Somewhere on the body.

10 Q. Okay. And ALS assessment?

11 A. It is advanced life support assessment. So, it just
12 means that a paramedic assessed the patient.

13 Q. Okay. Now, does this report contain Mr. Sellaro's date
14 of birth?

15 A. This report right here that I have in my hand does not.

16 Q. Okay. Okay. Hold on. Maybe I picked up the wrong one
17 this morning.

18 (Pause.)

19 MR. BREHMER: Okay.

20 (Whereupon, a EMS run report was marked as Plaintiff's
21 Exhibit No. 6 for identification purposes only at this
22 time.)

23 Q. I'm gonna show you what now has been marked as
24 Plaintiff's Exhibit No. 6.

25 Okay.

1 A. This one has his date of birth on it.

2 Q. Okay. And that's a -- that's another run report?

3 A. Yes, sir.

4 MR. BREHMER: Okay. Unfortunately -- Your Honor, we
5 would move to enter Plaintiff's Exhibit No. 6 into evidence.

6 MR. GARFIELD: No, no objection.

7 MR. SUMMERS: None from DSS, sir.

8 MR. BREHMER: Okay.

9 THE COURT: All right. Six without objection.

10 (WHEREUPON, Plaintiff's Exhibit No. 6 was received into
11 evidence at this time.)

12 Q. Ms. Perry, just for information, Plaintiff's Exhibit
13 No. 5 and Plaintiff's Exhibit No. 6 are virtually identical
14 with the exception of the personal information redacted?

15 A. Yes, sir.

16 Q. Okay. Okay. Now, Plaintiff's Exhibit No. 6, does that
17 contain Mr. Sellaro's date of birth?

18 A. Yes, sir.

19 Q. Okay. All right. Does it contain Mr. Sellaro's social
20 security number?

21 A. Yes, sir.

22 Q. Okay. And is that information that you would of had to
23 receive from him?

24 A. Yes, sir.

25 Q. Okay. Okay. And does his date of birth have both a

1 year, a date, and a month---

2 A. Yes, sir.

3 Q. ---a month?

4 A. Yes, sir, it does.

5 Q. Does his social security number have seven digits?

6 A. Yes.

7 Q. Okay. well, no, it's three, five---

8 A. It's---

9 Q. ---nine digits.

10 A. It's nine digits.

11 Q. Nine digits.

12 A. Yes, sir.

13 Q. I'm sorry. Nine digits.

14 Okay. Have nine digits?

15 A. Yes, sir.

16 Q. Okay. Do they appear to be valid dates of birth and
17 social security numbers?

18 A. Yes, sir.

19 Q. Okay. Now, does it also contain a medical history
20 portion?

21 A. Yes, sir.

22 Q. Okay. And what were the four items of medical history
23 that were given?

24 A. Asthma, dementia, diabetes, and a pacemaker.

25 Q. Okay. Now, where would you have gotten that

1 information?

2 A. I would of gotten the information from the patient
3 himself or from law enforcement telling me that that's what
4 it was.

5 Q. Okay. All right. Do you recall which one came from
6 where?

7 A. I don't.

8 Q. Okay. Now, it also has current medications.

9 A. Yes, sir.

10 Q. Okay. What three current medications did they list?

11 A. Albuterol, Humalog, Novolog.

12 Q. Okay. And where would that information have come from?

13 A. It would have either come from the patient, or if law
14 enforcement saw the patient medication with the patient's
15 name and date of birth on it, it could of come from that
16 too.

17 Q. Okay. All right. Now, on Page 2 of Exhibit No. 6 and
18 5, there is a narrative under activity.

19 A. Yes, sir.

20 Q. Did you type that in?

21 A. Yes, I did.

22 Q. Would you please read that narrative for the jury
23 please?

24 A. Yes, sir, to the best of my ability cause it is very
25 small.

1 Q. Well, why don't you go to Exhibit No. 5 because the
2 print's on it is larger than the one on six. It's just --
3 but that's a copying---

4 A. Okay.

5 Q. ---thing.

6 A. Yes, sir. So a narrative reads arrived on scene. Was
7 approached by law enforcement. Law enforcement states that
8 the patient's wife died earlier today and law enforcement
9 was called out for a welfare check by the coroner. Law
10 enforcement states that, per the neighbor who happens to be
11 best friends with the patient's deceased wife, stated that
12 the patient has a history of dementia.

13 The patient able to answer all questions appropriately.
14 Per law enforcement states that the patient stated to them
15 he was unsure if he checked his blood sugar or took his
16 Insulin. Law enforcement states that the patient checked
17 his blood sugar and glucometer read 550 milligrams per
18 deciliter. Law enforcement states that the patient then
19 took Insulin to correct his blood sugar. The patient told
20 crew that he took 60 units of Insulin a few hours ago.

21 Sheriff's Department placed the patient under emergency
22 protective custody due to patient not having a caretaker at
23 home any longer. Patient denies any chest pain, shortness
24 of breath, abdominal pain, weakness, dizziness, or any
25 nausea or vomiting. No trauma noted.

1 Q. Okay. Now, did you obtain some of this information
2 from Mr. Sellaro?

3 A. Did I?

4 Q. Yes.

5 A. Yes.

6 Q. Okay. Because, in one portion here, it says that he

7 --.

8 A. Told the crew that he took 60 units---

9 Q. Yes.

10 A. ---of Insulin.

11 Q. Yes.

12 A. Yes, sir.

13 Q. Okay. And is there any reference in there that had Mr.
14 Sellaro not been able to communicate with you, that would of
15 been noted, would it not?

16 A. Yes, sir.

17 Q. Okay. If he had any visible signs of afflictions of
18 any type, you would of noted that, correct?

19 A. Yes, sir.

20 Q. None of that was noted, was it?

21 A. No, sir.

22 Q. Okay. And if he had had any ability or inability to
23 communicate with you, you would of noted that, wouldn't you?

24 MR. GARFIELD: Objection. I've just kind of been
25 res -- reticent to object to this line of question. All

1 this is leading, Your Honor.

2 THE COURT: Sustained.

3 MR. BREHMER: Okay.

4 THE COURT: You may rephrase your questions.

5 Q. would you have noted if he had had any inability to
6 communicate?

7 A. Yes, sir.

8 Q. Okay. would you have noted if he would of had any
9 ability to ambulate?

10 A. I put that he was ambulatory on scene. So, yes, sir, I
11 would of put---

12 Q. Okay.

13 A. ---that he wasn't.

14 Q. Okay. Okay. Okay. Is your narrative complete and
15 correct to the best of your knowledge?

16 A. I feel like some of the narrative is left off because I
17 usually end with I ended at the hospital or we had no
18 complications in route and that part is missing.

19 Q. Okay.

20 A. So, I'm not sure where that part went.

21 Q. Okay. All right. Now, what time did y'all arrive at
22 the hospital?

23 A. It says that we arrived at 23:58.

24 Q. Okay. So two minutes to 12:00?

25 A. Yes.

Jennifer Perry - Cross-examination
By Mr. Garfield

1 Q. Okay. Thank you, ma'am.

2 THE COURT: All right. Cross-examination.

3 MR. GARFIELD: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. GARFIELD:

6 Q. Good morning, Ms. Perry.

7 A. Good morning.

8 Q. So I understand you were at Mr. Sellaro's residence for
9 roughly 20 minutes on this evening?

10 A. Yes.

11 Q. Correct?

12 A. Yes, sir.

13 Q. And at the time you were there, you were able to see
14 and treat Mr. Sellaro.

15 Is that right?

16 A. Yes, sir.

17 Q. And according to your report, he was a 68 year old
18 male?

19 A. Yes, sir.

20 Q. And when you arrived on the scene, would it be correct
21 in saying that you were approached by law enforcement?

22 A. Yes, sir.

23 Q. And they had explained to you that you were there for
24 an emergency protective custody call, an EPC call?

25 A. Yes, sir.

1 Q. That was a call that you're -- you were familiar with
2 at the time?

3 A. Yes, sir.

4 Q. Okay. And you understood that that is something that
5 law enforcement -- a tool that law enforcement would have in
6 order to take a vulnerable adult into custody --

7 A. Yes, sir.

8 Q. -- if they established probable cause?

9 A. Yes.

10 Q. Okay. And you understood from law enforcement that Mr.
11 Sellaro's wife had died earlier that day?

12 A. Yes, sir.

13 Q. And law enforcement had called the Coroner's Office, or
14 excuse me, law enforcement was called out by the Coroner's
15 Office for a welfare check.

16 Was that your information?

17 A. Yes, sir.

18 Q. And the Sheriff's Department placed Mr. Sellaro under
19 EPC, according to them, due to Mr. Sellaro not having a
20 caretaker at home any longer?

21 A. That is correct.

22 Q. Okay. And you understood at the time that he was an
23 Insulin dependent diabetic, Mr. Sellaro?

24 A. Yes, sir.

25 Q. And he had prescriptions of Humalog and is it---

Jennifer Perry - Cross-examination
By Mr. Garfield

1 A. It's Novolog.

2 Q. ---and Novolog?

3 A. Yes, sir.

4 Q. These are forms of Insulin?

5 A. They are, yes, sir.

6 Q. Used to treat diabetes?

7 A. Yes, sir.

8 Q. And you further understood, Ms. Perry, that Mr. Sellaro
9 had a blood sugar reading of over 500 -- I think it's 550 as
10 noted?

11 A. Yes, sir.

12 Q. That's -- you'd agree with me that's considered high?

13 A. Yes, sir, it is.

14 Q. Now, are you familiar with a medical condition called
15 diabetic ketoacidosis?

16 A. Yes, sir.

17 Q. Okay. Is that also known as DKA?

18 A. Yes, sir.

19 Q. If, if, if someone's blood sugar spikes very high, and
20 their Insulin, and their Insulin is low, they could develop
21 DKA or diabetic ketoacidosis?

22 A. Yes, sir.

23 Q. Okay. Have you -- and during the course of your tenure
24 as an EMS paramedic, had you treated patients or, or gone to
25 scenes to treat patients with DKA?

Jennifer Perry - Cross-examination
By Mr. Garfield

1 A. Yes, sir, I have.

2 Q. Okay. How -- and I don't think you were asked this
3 question, how long you were working with the Richland County
4 EMS?

5 A. I worked there for seven years.

6 Q. Okay. And the -- full-time as a paramedic or did you
7 -- were you an EFT -- EMT and then---

8 A. I was an EMT and then I became a paramedic. So, I
9 started working as a paramedic in 2014.

10 Q. Okay. And at this time you were fully in the capacity
11 of a paramedic?

12 A. Yes, sir.

13 Q. Certified paramedic?

14 A. Yes, sir.

15 Q. Okay. And similarly is there a condition known as
16 hypoglycemia?

17 A. There is, yes, sir.

18 Q. And, and wouldn't you agree with, Ms. Perry, that
19 hypoglycemia may result from having too much Insulin in the
20 bloodstream?

21 A. Yes, sir, it is when your blood sugar drops too low,
22 yes, sir.

23 Q. It's when your blood sugar drops too low?

24 A. Yes, sir.

25 Q. Have you treated hypoglycemic patients before?

Jennifer Perry - Cross-examination
By Mr. Garfield

1 A. Yes.

2 Q. And whether it's DKA or hypoglycemia, both are -- both
3 of these could be life threatening conditions?

4 A. Yes, sir.

5 Q. They're considered medical emergencies?

6 A. Yes, sir, they are.

7 Q. So, beyond diabetes, you understood from either talking
8 to the patient or law enforcement that he had other medical
9 conditions.

10 Is that right?

11 A. Yes, sir.

12 Q. One being asthma?

13 A. Yes.

14 Q. And he was being treated for asthma with an Albuterol
15 regimen.

16 Is that right?

17 A. That is correct.

18 Q. And he also had some type of heart issues or condition
19 that required him having a, a defibrillator or a pacemaker?

20 A. A pacemaker, yes, sir.

21 Q. Okay. And according to his, I'm, I'm sorry, his
22 deceased wife's friend, the information came to you that he
23 had dementia?

24 MR. BREHMER: Objection, Your Honor.

25 MR. GARFIELD: It's --.

Jennifer Perry - Cross-examination
By Mr. Summers

1 A. I am not sure.

2 Q. And do you recall anyone -- and a person named Victoria
3 Deas Johnson calling you?

4 A. I don't.

5 Q. Very good.

6 I thank you for your time, ma'am.

7 A. Okay.

8 Q. There may be another round of questions coming your
9 way.

10 A. Okay.

11 Q. So be prepared.

12 REDIRECT EXAMINATION

13 BY MR. BREHMER:

14 Q. I just want to clarify one thing.

15 A. Yes, sir.

16 Q. And this is on your narrative and to just make sure
17 that it's clear.

18 On Page 2 of Exhibit 5 or 6 in the activity section.

19 A. I have it up, yes, sir.

20 Q. Okay. You wrote in the middle of the paragraph law
21 enforcement states the patient checked his blood sugar and
22 the glucometer read 550 milligrams/DL.

23 A. Uh-huh.

24 Q. Correct?

25 A. Yes, sir.

1 Q. And it was your understanding that the -- law
2 enforcement had observed my client taking his blood sugar
3 level?

4 MR. GARFIELD: Objection. It's her understanding. The
5 objection's withdrawn. It sounded like hearsay but I'll
6 withdraw it.

7 THE COURT: You may reask the question.

8 Q. Do you---

9 THE COURT: If she -- she can answer if she remembers.
10 But if not, you're welcome to reask it.

11 Q. It was your understanding that the -- law enforcement
12 had watched my client take his glucose -- his blood sugar
13 level with his glucometer?

14 A. So, I was told but I'm not sure if they watched or he
15 took it or who told me. But I was told that he that -- by
16 law enforcement that he checked it.

17 Q. Okay. So they -- you understood at the scene that they
18 had observed that?

19 A. I would assume so, yes.

20 Q. Okay. Well, let's go to the next sentence and you said
21 law enforcement states that the patient then took Insulin to
22 correct his blood sugar.

23 A. Yes.

24 Q. Correct?

25 A. Yes, that is correct.

1 Q. Okay. So it was your understanding that in the---

2 A. Someone watched him take his blood sugar.

3 Q. They watched it and then they watched him administer
4 his Insulin?

5 A. Yes.

6 Q. Okay. Okay. And that it was your understanding that
7 those are activities completed by Mr. Sellaro?

8 A. It's not noted that it was completed by anyone else.
9 So, that's the only thing I can go off of.

10 Q. Thank you.

11 A. You welcome.

12 THE COURT: Hold on one second.

13 THE WITNESS: Yes, sir.

14 MR. GARFIELD: Beg the Court's indulgence.

15 THE COURT: Sure.

16 (Pause.)

17 RECROSS-EXAMINATION

18 BY MR. GARFIELD:

19 Q. Ms. Perry, I'm just trying to understand because
20 this -- you'd agree with me this narrative's a little
21 confusing?

22 A. It is a little confusing, yes, sir.

23 Q. Okay. And part of this narrative does say that the --
24 Mr. Sellaro -- patient told crew, that would mean Mr.
25 Sellaro told you and/or your partner?

1 THE COURT: Thank you for your patience this morning.
2 THE WITNESS: Thank you.
3 THE COURT: Yes, ma'am.
4 MR. BREHMER: Wish you well with that little boy --
5 THE COURT: Thank you.
6 MR. BREHMER: -- or big boy.
7 THE COURT: All right. Who's next?
8 MR. BREHMER: We would call Ms. Tate as our next
9 witness, Your Honor.
10 THE COURT: Okay. All right. Come on up please,
11 ma'am, right over here. Thank you very much.
12 THE BAILIFF: Stand right here for me facing Madam
13 Clerk. Place your left-hand on the Bible. Raise your
14 right.
15 SAFIYA TATE, being first duly
16 sworn, testified as follows:
17 THE CLERK: Please have a seat. State your full name
18 for the record.
19 THE WITNESS: Okay.
20 THE COURT: And if you would, please, ma'am, remove
21 your mask for me.
22 THE WITNESS: Uh-huh.
23 THE COURT: Thank you.
24 THE WITNESS: My name is Safiya Tate.
25 THE COURT: Would you spell that first name for me

1 please?

2 THE WITNESS: First name is S like Sam, A like apple, F
3 like Frank, I-Y-A.

4 THE COURT: And last name is Tate?

5 THE WITNESS: Yes, ma'am. T-A-T-E.

6 THE COURT: All right. Thank you very much, Ms. Tate.

7 THE WITNESS: Thank you.

8 THE COURT: Mr. Brehmer, whenever you're ready.

9 MR. BREHMER: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MR. BREHMER:

12 Q. Ms. Tate, could you please tell the jury where you
13 currently work?

14 A. Yes, sir, I'm a full-time social worker with Central
15 Columbia Kidney Center and I work PRN as a case manager with
16 Prisma Health Richland.

17 Q. How long have you been a social worker just in general?

18 A. In total, I would say about 11 years.

19 Q. Okay.

20 A. Maybe 12.

21 Q. Okay.

22 A. Twelve years.

23 Q. Okay. In February of 2016, were you a social worker?

24 A. Yes, sir, I was.

25 Q. Okay. And in February of 2016, by whom were you

1 employed?

2 A. I was working full-time as a case manager with
3 Palmetto-Health Richland now Prisma --

4 Q. Okay.

5 A. -- Richland.

6 Q. Okay. Were you assigned a case on behalf of Mr. Joseph
7 Sellaro in February of 2016?

8 A. Yes, sir, I was the social worker on Seven West where
9 he was placed.

10 Q. Okay. And do you remember when you were assigned?

11 A. That was my full-time unit. So, when I arrived on
12 Monday and he was there, he became one of the patients that
13 I cared for, followed up with.

14 Q. Okay. All right. So that would of been February the
15 29th thereabouts?

16 A. Yeah. Sure.

17 Q. Okay. Good.

18 (WHEREUPON, the case management note was marked as
19 Plaintiff's Exhibit No. 7 for identification purposes at
20 this time.)

21 THE COURT: Seven?

22 MR. BREHMER: Plaintiff's Exhibit 7.

23 THE WITNESS: Thank you.

24 Q. Ms. Tate, am I -- would you please tell me -- tell the
25 jury what Plaintiff's Exhibit No. 7 is.

1 A. Exhibit No. 7 appears to be my case management note
2 which we would enter for all interaction that we have with
3 the patients.

4 Q. Okay. All the interaction that you had with the
5 patients?

6 A. Uh-huh.

7 Q. Do those appear to be true and accurate case management
8 notes of your care or your interaction with Mr. Joseph
9 Sellaro?

10 A. Yes, sir, they do.

11 MR. BREHMER: Okay. Okay. Your Honor, at this time we
12 would offer Plaintiff's Exhibit No. 7 into evidence.

13 MR. GARFIELD: No objection from the sheriff.

14 MR. SUMMERS: None from DSS, sir.

15 MR. BREHMER: Okay.

16 THE COURT: All right. Seven is admitted without
17 objection.

18 (whereupon, Plaintiff's Exhibit No. 7 was received into
19 evidence at this time.)

20 Q. Okay. Now, I want to direct your attention to the
21 first page of February the 28th of 2016.

22 A. Uh-huh.

23 Q. Okay.

24 A. Okay.

25 Q. Okay. These -- are these records -- this when the

1 record started on Mr. Sellaro?

2 A. This is when my documentation started but he was there
3 in the emergency room. So another case management team took
4 care of him prior to or would of documented prior to me
5 coming in on the 28th.

6 Q. Okay. All right. It says here, on interventions, it's
7 got under comments, it says met with the patient.

8 was that you meeting with the patient?

9 A. Oh no. I was thinking these are my notes. These are a
10 Nurse Patricia and then is when the documentation started.
11 She's the ER social discard -- discharge case manager.

12 Q. Okay. But this is information that you relied upon?

13 A. Yes, sir, we feed off of one another. So, once I came
14 onto the case, I would review her notes and then build from
15 that.

16 Q. Okay. And it's got on here on the comment, it said met
17 with the patient.

18 Could you read that?

19 A. Uh-huh. It says met with patient regarding discharge
20 plans. Patient states his wife, Eileen, died here last
21 night while being treated for broken blood vessels in her
22 neck. She states that Richland County Sheriff's Department
23 showed up at his home to inform him of his wife's death and
24 brought him here against his will. He says that someone
25 told them (Richland County Sheriff's Department) that he's

1 unable to care for himself, which is not true.

2 He states that a doctor came in today and told him that
3 be -- that he is being admitted for his safety. He
4 requested that someone explain to him -- explain this to him
5 because he has never heard of this. LMS -- LMSW explained
6 that he is EPC'd, what that means, and what that -- and what
7 happens next.

8 Patient states that he has three children who live in
9 different states and says that he has been able -- unable to
10 inform them of their mother's death as all of their numbers
11 are in her phone. He has called the Coroner's Office to try
12 and retrieve the phone and is awaiting a return call.

13 Q. Okay. Okay. All right. Now -- okay. Now move on
14 down to the bottom of the page.

15 A. Uh-huh.

16 Q. Okay. It's page -- under the comments, it says patient
17 found to have --?

18 A. Patient found to have capacity by psych team. Met with
19 patient at bedside to discuss APS case. Patient reports
20 that he is not sure about why he was EPC'd and denies
21 diagnosis of dementia. State that -- states that he was
22 visited by Naqua Edgerton, APS worker.

23 want me to keep going?

24 Q. Yes, please.

25 A. He met with Naqua today and was informed that they will

1 have a hearing tomorrow. Patient's upset because he can not
2 attend. LMSW attempted, attempted to speak with Naqua and I
3 provided the desk numbers and her cellphone number. I
4 stated voice mail left. Awaiting return call.

5 Patient explained that he has a home, four dogs, and
6 was able to care for himself. He does not drive. He has
7 three children none of which will be able to come to South
8 Carolina to pay their respects to their mother and/or assist
9 father. Joey lives in Kansas. Stevie lives in
10 California/\$1,200 ticket one way and Virginia -- and
11 Virginia lives in West Virginia in a group that does not
12 communicate with outside world. Difficult to contact.

13 As a result, patient's sister-in-law, Katherine
14 Crawford, has come down from New Jersey and covered all of
15 the cremation expenses for patient's wife. Sister will take
16 remains back to New Jersey or NJ and bury wife with family
17 as patient's wishes -- as patient wished. Dunbar Funeral
18 Home managing cremation and arrives to get patient to
19 endorse release of wife's remains to sister.

20 Patients denies vulnerability and feels safe to return
21 home. He is concerned about missing house payments. Will
22 reach out to bank, Nationwide, to discuss patient's
23 situation. MCM, medical case management, following.

24 Q. Okay. All right. Okay. And is this part of the
25 information you relied on?

1 A. Uh-huh.

2 Q. Okay.

3 A. Yes.

4 Q. Okay. And on March the 1st, 2016, which is the next
5 entry --

6 A. Uh-huh.

7 Q. -- is that an entry made by yourself?

8 A. Yes, sir.

9 Q. Okay. And the -- it's got a time there at 11:11
10 eastern standard time.

11 would that be the time that it was entered?

12 A. Yes, sir.

13 Q. Okay. would you please read what it says under the
14 comments section?

15 A. Uh-huh. It says call received from APS DSS Naqua
16 Edgerton. I provider her numbers to discuss case.

17 Emergency protective custody hearing scheduled to take place
18 today at 1:30. Medical records faxed, H&P, psych capacity,
19 consult note, meds, MB progress notes faxed, fax number
20 provided for presentation at hearing. Following hearing
21 Naqua will call back with ruling, and I guess that's in
22 parenthesis, remain in custody versus return home alone.

23 LMSW also discussed fact that patient currently has a
24 mortgage and is concerned about missing payments since he is
25 unable to manage accounts while here at Palmetto-Health

1 Richland.

2 Q. Okay.

3 A. Medical case management following.

4 Q. Okay. I'm gonna ask you to elaborate a little bit on
5 that.

6 A. Okay.

7 Q. So, did you fax medical records to Naqua Ex -- Naqua
8 Edgerton?

9 A. Yes, sir.

10 Q. And would you mind telling the jury what your
11 understanding of who Ms. Naqua Edgerton was and what her
12 involvement was with Mr. Sellaro?

13 A. Uh-huh. Naqua was a case manager with DSS. She worked
14 in their adult protective services department and she was
15 following the case and my contact for Mr. Sellaro.

16 Q. Okay. And you used some abbreviations here. It says
17 faxed H&P.

18 what does H&P stand for?

19 A. That's a health and physical where the physician will
20 gather all of that person's medical history, current
21 problems, and a plan of care and like what they're treating
22 for.

23 Q. Okay. All right. Then it says psych capacity consult
24 note.

25 what is that?

1 A. Well, generally in those cases we would -- they would
2 consult the psychiatric team. They would come in and do an
3 assessment to determine whether or not that patient has
4 capacity to make decisions and is safe to live alone or to
5 manage -- maintain all their needs.

6 Q. And you faxed that report to Ms. Edgerton?

7 A. Yes, sir.

8 Q. Okay. And then it says med -- meds.

9 Is that the list of medications?

10 A. Yes, sir.

11 Q. Okay. And then it's got MD progress notes, correct?

12 A. Uh-huh.

13 Q. And is that the progress notes from Mr. Sellaro's care
14 and treatment at Palmetto-Richland from the time he arrived
15 up until current?

16 A. I don't know if it was from -- up from time -- the time
17 he arrived until current but it would of definitely been
18 recent notes for -- that the physician completed during
19 their daily rounds.

20 Q. Okay. And the purpose for you faxing those to Ms.
21 Edgerton is what?

22 A. For inclusion in the Court hearing so that they could
23 make a good determination of whether or not he needed to
24 remain in care or whether he was safe enough to discharge
25 home alone.

1 Q. And Ms. Edgerton represented to you that the hearing
2 was on the 1st of March at 1:30?

3 A. That's what I documented.

4 Q. Yeah.

5 A. Yes, sir.

6 Q. Okay. And you faxed them --

7 A. Uh-huh.

8 Q. -- at the time this note was made, correct?

9 A. Yes, sir.

10 Q. Okay. So, she would of had them better than two hours
11 before the hearing?

12 A. She should have.

13 Q. Sure.

14 A. I mean they should of been received somewhere. I mean
15 they should of been delivered somewhere, yes, sir.

16 Q. Yeah.

17 A. Somebody got them.

18 Q. Okay. Okay. All right. All right. Now, as the
19 social worker -- as the social worker, was there any effort
20 by the Department of Social Services to allow Mr. Sellaro to
21 appear at this probable cause hearing?

22 MR. SUMMERS: I'm gonna object, Your Honor. Calling
23 for speculation on behalf of the witness.

24 THE COURT: I, I, I agree. I sustain this. So that I
25 think you can rephrase the question.

1 MR. BREHMER: I will.

2 THE COURT: It's just gonna---

3 MR. BREHMER: Okay.

4 THE COURT: ---be the way you phrase it. I think it
5 does call for speculation.

6 MR. BREHMER: Okay.

7 Do you have any information that attempts were made to
8 have Mr. Sellaro present at the probable cause hearing on
9 March the 1st?

10 A. No.

11 Q. Okay.

12 A. I don't.

13 Q. Okay. Were you asked for any assistance in getting Mr.
14 Sellaro to the probable cause hearing on March the 1st?

15 A. Not that I documented, no, sir.

16 Q. Sure.

17 And that would of been something important, correct?

18 A. Yes, I've never seen that happen before. So it's
19 probably just normal to me. But, but we didn't discuss him
20 being released from the hospital in order to go to the
21 hearing.

22 Q. Okay. well, let's flip over to the next page.

23 A. Yes, sir.

24 Q. Okay. These are entries made by you the next day, is
25 it not, March the 2nd?

1 A. Yes.

2 Q. It's 18:16 which is 6:16PM?

3 A. Uh-huh.

4 Q. Okay. So you were working late?

5 A. I do that a lot.

6 Q. Yes, ma'am.

7 THE COURT: Ma'am, was that a yes, ma'am?

8 THE WITNESS: Huh?

9 THE COURT: Was the uh-huh a yes?

10 THE WITNESS: It was a yes.

11 THE COURT: Okay.

12 THE WITNESS: I'm sorry.

13 THE COURT: That's okay. You -- it's impossible for
14 them to take down uh-huh or hu huh. So just say yes or no
15 and you'll be allowed to explain your answer.

16 THE WITNESS: Thank you.

17 THE COURT: Yes, ma'am.

18 MR. BREHMER: Okay. Thank you.

19 would you please read the comments on your March 2nd,
20 2016 -- 6:16PM note?

21 A. Yes, it said return call received from APS Richland
22 County DSS Naqua Edgerton. Judge has ruled that patient
23 remain in custody and found that he is incapable of caring
24 for himself. Ruling was made through reports from police
25 officers who placed patient in emergency protective custody.

1 Officer stated that patient is unable to administer his own
2 Insulin.

3 LMSW inquired about what DSS's discharge plan. Naqua
4 plans to get patient admitted to a residential care
5 facility. He will need a two step PPD. LMSW voiced concern
6 for patient's home. Eight years left on mortgage. Four
7 dogs not been tended to and needed to finalize paperwork and
8 affairs following loss of wife.

9 LMSW inquired about whether or not family coming down
10 will influence Court's decision to release patient. Naqua
11 states that she needs to discuss this case with her
12 supervisor. Discuss situation with patient. Patient
13 reports, reports that he just wants to leave and stated that
14 one of his sons is trying to get situated to drive down from
15 Kansas.

16 Patient also has family, brother and sister, Karen.
17 Not sure if they were un -- if they were able to travel down
18 from the north (? New Jersey). Patient reports that the
19 coroner will deliver his wife's belongings to include card,
20 food stamp, insurance if -- to patient at hospital.

21 Patient upset. Has been speaking with ALD and feels
22 like he is being held against his will. Patient encouraged
23 to be patient since APS will have to be notified if he
24 leaves AMA. Patient voice understanding. Medical case
25 management following.

1 Q. Okay. And this is your notations of your information
2 with Mr. Sellaro?

3 A. Yes, sir.

4 Q. Okay. So, Mr. Sellaro was concerned about the
5 arrangements for his wife's services?

6 A. Yes, sir.

7 Q. Okay. Mr. Sellaro was concerned about his mortgage,
8 correct?

9 A. Correct.

10 Q. Did Mr. Sellaro tell you that there was eight years
11 left on the mortgage?

12 A. That's the only way I would of known that.

13 Q. Yeah.

14 You wouldn't of gone and talked to his bank and said
15 hey, they're eight years left?

16 A. No. And if I would of I would of documented it.

17 Q. Sure.

18 Okay. And he was concerned about his pets?

19 A. Yes, sir.

20 Q. And he identified the four pets?

21 A. Yes, sir.

22 Q. Okay. So -- and these -- were these concerns that he
23 was voicing to you as the social worker?

24 A. Yes, sir.

25 Q. Okay. All right. Okay. What does APS stand for?

1 A. Adult protective services.

2 Q. Okay. And what does AMA stand for?

3 A. Against medical advice.

4 Q. Okay. Okay. Now, I'm, I'm trying to phrase my
5 question---

6 A. Okay.

7 Q. ---without being insulting to anybody.

8 But the truth of the matter is there was no medical
9 advice in the record at this point keeping him in there, was
10 there?

11 A. No, him staying was gonna be based on the fact that it
12 was a Court order for him to be in the care---

13 Q. Yeah.

14 A. ---until a safe plan was --

15 Q. Okay.

16 A. -- developed.

17 Q. But the truth of matter is, is from the time he came
18 into the hospital on February the 28th at early -- in the
19 early morning hours up until the time of this note of March
20 the 2nd, 2016, at 6:16PM, there was not a shred of medical
21 evidence in the record that, that he should be there, was
22 there?

23 MR. SUMMERS: I'm gonna object as to the form of that
24 question, Your Honor, for the truth of the matter---

25 THE COURT: It's, it's leading. Yes, sustained.

1 MR. BREHMER: Okay.

2 THE COURT: You may rephrase your question.

3 Q. Was there anything in the records that you saw, other
4 than the Court order, keeping him there?

5 A. Well, from -- I mean I'm only gonna work from the
6 social worker's---

7 Q. Sure.

8 A. --- (indiscernible).

9 So, the social -- my, my approach to his situation at
10 that point was based on the fact that he was in custody.

11 Q. Yeah.

12 A. So I can't speak on the medical conditions because I
13 was the social worker---

14 Q. Sure.

15 A. --- and the medical doctors, you know, make their
16 recommendations of treating him.

17 Q. Okay. Okay. All right. Now -- okay. On the
18 following day, March the 3rd, 2016, you entered a note, did
19 you not.

20 A. Uh-huh.

21 Q. Okay.

22 A. I mean yes.

23 Q. Okay.

24 A. Sorry.

25 Q. Would you please share that note and what time of day

1 it was made?

2 A. This was again -- it was 16:33. So it's at 3:00 or
3 4:30.

4 Q. 4:30?

5 A. 4:30.

6 Q. Yeah.

7 A. It states patient came to nurse's station and explained
8 that when police officers came to his home and removed him,
9 he gave his keys to his neighbor, Karen Outlaw. The
10 agreement between he and Karen was that Karen would look out
11 for the house and let the four dogs in and out. Patient
12 states that he spoke with Karen today and she informed him
13 that she euthanized one of his dogs, sent one to the pound,
14 and kept two. In quotation marks it says "you'll never get
15 them back."

16 Patient very upset and reports he is now concerned
17 about his home. He placed call to Sheriff's Department.
18 They plan to come to the hospital and meet with patient.

19 Later his guardian ad litem, Victoria Deas Johnson,
20 arrived to discuss her role in the case. Victoria provided
21 with medical records, H&P, consult -- psych consult note,
22 meds, diabetic education consult note, MB progress notes.
23 Victoria explained that she is reviewing case and will meet
24 with DSS staff to discuss patient's best interest. Also is
25 looking forward to meeting with patient's son, Joey,

1 planning to come from Kansas City, Minnesota in around
2 3/9/16. So I guess he was expected to arrive around
3 3/19/16.

4 Per -- Victoria provided recent Court order. Copy
5 placed on chart. Copy given to ALD, Michael, and a copy
6 given to patient. Medical case management following.

7 Q. Okay. All right. So, on March the 3rd Mr. Sellaro
8 represented that his dog had been euthanized?

9 A. Yes, sir.

10 Q. And another one had been put in a shelter?

11 A. Yes, sir.

12 Q. Okay. And he wasn't getting the other two back?

13 A. That's what he told me and that's what I documented,
14 yes, sir.

15 Q. Okay. You didn't document anything about any ranting
16 or raving of him, correct?

17 A. No, sir.

18 Q. Wasn't he -- I mean he -- was he talking intelligently?

19 A. According to my notes, yes, sir.

20 Q. Okay. And you would of noted had he been, for lack of
21 a better term, off his rocker?

22 A. I think I would of noted it.

23 Q. Okay. Let's move down to your next note that was later
24 that day at 6:32PM.

25 okay?

1 A. Okay. It says Richland County Officer McAdams arrives
2 to floor to advise patient on his rights. Officer explained
3 that since patient gave Ms. Outlaw his keys they can not go
4 and get them back. He also explains that dogs will remain
5 in her care until patient is released. Since patient gave
6 her permission and the keys, he has to go back to her to get
7 keys and animals. Officers will escort him.

8 Patient advised to have his guardian ad litem and/or
9 family go to house to look around to see if any damage has
10 been done to home or if anyone has taken any belongings
11 regardless of whether or not home has been disturbed.
12 Patient will need to call Richland County again and they
13 will take a formal complaint. Patient advised to write all
14 of these events down in a chronological order to refer back
15 to. Medical case management following.

16 Q. Okay. So, you participated in this conversation with
17 Mr. Sellaro and Officer McAdams?

18 A. I documented it. I can't recall if I was in the room
19 when they visited.

20 Q. Okay. All right. And the following date, March the
21 4th of 2016, at 17:42 which is 5:42PM --

22 A. Uh-huh.

23 Q. Okay.

24 A. Yes.

25 Q. Okay. Tell us what you entered.

1 A. Call received from his guardian ad litem, Victoria
2 Deas, to report that patient has been assigned to Attorney
3 Elizabeth Boozer. Guardian ad litem officer is working to
4 get patient's case dismissed and/or get the hearing date
5 moved up. Victoria requested additional documentation to
6 include with motion being filed today. Information faxed.
7 Await return call.

8 Q. Okay. And you did all that at 5:42PM?

9 A. Yes.

10 Q. That's what your log says?

11 A. Yes.

12 Q. Okay. And I understand this was six years ago?

13 A. Okay.

14 Q. We all understand that.

15 Now, your next entry on the same day at 7:52PM.

16 A. Hearing scheduled for Monday at 2:00PM at Richland
17 County Family Court per Victoria, guardian ad, guardian ad
18 litem. Message sent to DSS case manager, Naqua, to share
19 info and see if she plans to escort patient to court. Will
20 consult with ALD to see if this is possible. Medical case
21 management following.

22 Q. Okay. Okay. And you entered another note on March the
23 7th of 2016.

24 A. APS Richland County DSS Naqua Edgerton arrived to
25 transport patient home for 1:00PM hearing to determine

1 whether or not patient will be released from DSS's custody.
2 AMA absence permit endorsed by patient prior to him leaving
3 campus. Hearing held. Court ruled in patient's favor and
4 he was released from DSS. Able to go home independently.
5 Patient and Naqua returned to campus. Patient discharged by
6 Doctor Oladapo. No additional needs.

7 Q. Okay. And was that the end of your entry?

8 A. Yes, sir.

9 Q. Okay. Does these records, which I think was
10 Plaintiff's Exhibit 2, clearly document your activity and
11 work as the social worker for Mr. Sellaro?

12 A. Yes.

13 Q. Okay. And -- okay. Now, did I understand the records
14 correctly that he was allowed to go to the March 7 hearing?

15 A. Yes.

16 Q. Okay. Okay. Okay. Okay. Thank you, ma'am. Answer
17 any---

18 A. You welcome.

19 Q. ---any questions any of these other lawyers may have.

20 A. Thank you.

21 Q. Yes, ma'am.

22 MR. BREHMER: Your Honor, just before I sit down, I did
23 enter Plaintiff's Exhibit No. 7, did I not?

24 THE COURT: Yes, sir. You did.

25 MR. BREHMER: All right. Thank you.

1 THE COURT: It was without objection.

2 MR. BREHMER: Thank you.

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. GARFIELD:

6 Q. Good morning, Ms. Tate.

7 A. How are you?

8 Q. Good.

9 How are you?

10 A. Good. Thank you.

11 Q. I met you at your deposition. Talked to you a little
12 bit this morning.

13 A. Yes, sir.

14 Q. We hear a lot about this EPC.

15 A. Uh-huh.

16 Q. Emergency protective custody.

17 A. Yes.

18 Q. Okay. So I'd like to kind of back up and explain the
19 process or have you explain for the jury the process itself
20 a little bit.

21 A. Okay.

22 Q. So, it -- in these kind of situations, officers, law
23 enforcement officers --

24 A. Yes.

25 Q. -- would come into the patient's home?

1 A. Yes.

2 Q. Right?

3 And they make whatever assessment they make?

4 A. Right.

5 Q. Right.

6 And they initiate or facilitate the EPC, the emergency
7 protective custody?

8 A. Correct.

9 Q. They do that under statute?

10 A. Uh-huh. Yes.

11 Q. They have -- I'm sorry and I cut you off.

12 A. Hu huh.

13 Q. They have the ability to do that under South Carolina
14 law?

15 A. Yes, sir.

16 Q. Okay. And so once the patient is removed, they go to
17 the hospital, right?

18 A. Right.

19 Q. And at this point when they go to the hospital, before
20 we ever get anyone else involved, all right.

21 A. All right.

22 Q. Other than the law enforcement agency designating a
23 witness to testify at the probable cause hearing, other than
24 that --

25 A. Okay.

1 Q. -- law -- you'd agree with me that law enforcement's
2 role in the EPC is pretty much done?

3 A. Yes. At that point, my understanding is that DSS is
4 consulting and the case managers and someone comes from them
5 to then assume care --

6 Q. Right.

7 A. -- once the order's---

8 Q. But---

9 A. ---signed.

10 Q. Right. And that's where I -- maybe there's been a -- I
11 wouldn't say confusion but you're helping with the clarity
12 of this situation.

13 A. Okay.

14 Q. So once the patient is taken to the hospital, a place
15 of safety, and just before DSS gets involved, other than the
16 probable cause hearing, law enforcement's role in this
17 process is basically done?

18 A. Generally, yes.

19 Q. Yes.

20 And so it's like you said that DSS is consulted, right?

21 A. Right.

22 Q. And an established case manager with DSS in whatever
23 county we're talking about---

24 A. Right.

25 Q. ---gets assigned, right?

1 THE WITNESS: Thank you.

2 THE COURT: Have a great day.

3 THE WITNESS: You too.

4 THE COURT: Okay. And let's see.

5 How long's the next witness there, Mr. Brehmer?

6 MR. BREHMER: The next witness is gonna be real short,

7 Your Honor.

8 THE COURT: Okay.

9 MR. BREHMER: And---

10 THE COURT: Let's go ahead and do the next witness
11 please.

12 MR. BREHMER: Okay.

13 (WHEREUPON, a transcript for a hearing on March 1st,
14 2016, was marked as Plaintiff's Exhibit No. 8 for
15 identification purposes only at this time.)

16 MR. BREHMER: Your Honor, I would -- Your Honor, I
17 offer into evidence Plaintiff's Exhibit No. 8 which is a
18 transcript of record of a March 1, 2016, hearing in the case
19 of 16-DR-40-869 captioned South Carolina Department of
20 Social Services versus in the interest of Joseph Sellaro, a
21 vulnerable adult.

22 MR. GARFIELD: And, and---

23 THE COURT: Is this the one you had the previous
24 objection on?

25 MR. GARFIELD: well, it wasn't -- objections are not.

1 Just -- so I'd just like a placeholder at this time just so
2 we can reference this --

3 THE COURT: Okay.

4 MR. GARFIELD: -- outside the presence of the jury.

5 THE COURT: All right. Very well.

6 MR. GARFIELD: Okay. Thank you.

7 THE COURT: Mr. Summers.

8 MR. SUMMERS: No objection, sir.

9 THE COURT: Okay.

10 MR. BREHMER: Your Honor, we would move Plaintiff's
11 Exhibit No. 8 into evidence.

12 THE COURT: Okay.

13 (WHEREUPON, Plaintiff's Exhibit No. 8 was received into
14 evidence at this time.)

15 MR. BREHMER: And I would request, Your Honor,
16 permission to give an instruction to the jury and then allow
17 me to publish Exhibit No. 8 please.

18 THE COURT: Okay. Which instruction would you like me
19 to do?

20 MR. BREHMER: As to what this is --

21 THE COURT: Okay. Well, let me see it.

22 MR. BREHMER: -- and what, what I'm doing.

23 THE COURT: All right. Let me see it.

24 MR. BREHMER: Yes, sir.

25 THE COURT: All right. So, ladies and gentlemen,

1 Plaintiff's Exhibit No. 8 is the transcript of record of a
2 hearing that occurred on March the 1st of 2016 in Family
3 Court, which is -- so the caption of the case would be the
4 South Carolina Department of Social Services in the interest
5 of Joseph Sellaro and this would of been before Judge McGee,
6 who is a Family Court judge, who was holding Court here in
7 Richland County. It was before a court reporter. There was
8 an attorney that was present for the South Carolina
9 Department of Social Services who was Mr. Scott Spivey, and
10 then it appears that the witness testimony before the Court
11 was from a -- someone named Ben Bolding.

12 And so Mr. Brehmer is now going to publish this
13 transcript to you.

14 MR. BREHMER: Yes, sir.

15 THE COURT: All right.

16 MR. BREHMER: Thank you, Your Honor.

17 THE COURT: And so this would of been taken, just like
18 we're here in Court, right, you know, in front of a Family
19 Court judge. There wouldn't be a jury. There's no juries
20 at all in the Family Court system and then the witness would
21 take the witness stand, be sworn. The lawyer would ask
22 questions and things of that nature and Mr. Brehmer's gonna
23 publish that transcript to you and it's in -- it will be an
24 exhibit.

25 So when he goes -- when it comes time to deliberate at

1 the end of the case, you'll have the transcript with you,
2 and, therefore, you'll be -- if you want to spend more time
3 with it you can other than just this verbal publication that
4 he's doing at this point.

5 Okay. Does that cover what you wanted me---

6 MR. BREHMER: Yes.

7 THE COURT: ---to say, Mr. Brehmer?

8 MR. BREHMER: Yes, sir.

9 THE COURT: All right.

10 MR. BREHMER: I'll begin -- the first page is the face
11 page of the transcript. I'll begin on the second page which
12 gives an index. It's a motions hearing, March 1, 2016.
13 Ruling of the Court on Page 5. Certificate on Page 6.

14 The next is index of witnesses. The witnesses -- the
15 only witness was Ben Bolding directed by Mr. Spivey. Index
16 of exhibits, court reporter note no exhibits were marked or
17 received into evidence.

18 Page 3. The following proceedings are reported on
19 March 1, 2016.

20 "THE COURT: Call your case, Mr. Spivey.

21 MR. SPIVEY: Thank you, Your Honor.

22 Your Honor, this is the Department of Social Services
23 versus Joseph Sellaro. It's 2016-DR-40-869.

24 Your Honor, here with me is Valorie McDaniel with the
25 Department of Social Services. Also here from Richland

1 County Sheriff's Office is Mr. Ben Bolding.

2 Now this is the Court. Mr. Bolding, good to see you,
3 sir.

4 This is Mr. Spivey. Your Honor, this is an adult
5 protective services case. Just very briefly, the caregiver
6 of this adult was killed and he has nobody to care for him.
7 If you want some brief testimony.

8 THE COURT: No, I saw the pleadings. I read them. The
9 caregiver was killed it appears very recently, February 27.
10 Is that correct?

11 MR. SPIVEY: Your Honor, I believe it was Saturday.

12 THE COURT: Yes, I guess we better have some testimony
13 since I don't see a veteran case. Just briefly, she can
14 testify or Mr. Bolding can testify from right here.

15 Who do you want to testify?

16 MR. SPIVEY: Mr. Bolding please, Your Honor.

17 THE COURT: Mr. Bolding, would you stand please, sir,
18 and raise your right-hand.

19 Ben Bolding, being first duly sworn, testifies,
20 testifies as follows.

21 THE COURT: Yes, sir, Mr. Spivey.

22 MR. SPIVEY: Mr. Bolding, where do you work?

23 A. The Richland County Sheriff's Department.

24 Q. Can you tell me about the involvement you had with
25 Mr. Sellaro?

1 Yes. One of my coworkers, Investigator Reggie Gaymon,
2 we have on call shifts, he was on call that night and was
3 requested to come out in reference to this case. He
4 actually went to the house and was able to make contact with
5 Mr. Joseph Sellaro as the coroner was notifying him about
6 the death of his wife.

7 At that time they began to ask him questions about his
8 ability to care for himself. Everything that was asked of
9 him he was unable to -- they determined at that time he was
10 unable to take care of himself, that his wife was deceased
11 was the actual caregiver. At that time he was placed into
12 emergency protective custody as we could not get a hold of
13 any family member who was willing to come talk -- take care
14 of him.

15 This is a question by the Court. I read the complaint
16 that I believe he has a son, George Chip Miller, in
17 California.

18 Is that correct?

19 The witness responds yes, sir.

20 The Court says, and y'all still have not been able to
21 contact him since the filing of this -- these pleadings?

22 WITNESS: No, sir.

23 COURT: Thank you so much.

24 COURT: I will find that Mr. Sellaro is a vulnerable
25 adult and that protective custody shall be placed with the

1 South Carolina Department of Social Services. It was filed
2 that such protection and assistance and placement is
3 required, shall have access to all his necessary records
4 with a hearing on the merits to be held within 40 days.
5 Thank you so much."

6 End of transcript. The last page is the certification
7 from the court reporter as to the accuracy of the contents
8 of this record.

9 THE COURT: All right. Thank you, Mr. Brehmer.

10 MR. BREHMER: Thank you.

11 THE COURT: And do you have any -- how long is your
12 next witness?

13 MR. BREHMER: Probably 30 minutes.

14 THE COURT: On direct or you think total?

15 MR. BREHMER: Direct.

16 THE COURT: Want to stop now or you think she's gonna
17 be---

18 MR. GARFIELD: Mine might be at least that, that
19 long---

20 THE COURT: Okay.

21 MR. GARFIELD: ---if we're talking the same witness.

22 MR. SUMMERS: Mine as well.

23 THE COURT: Okay. That's fair. That's fair.

24 MR. GARFIELD: Yes, sir.

25 THE COURT: And I'm just ball parking. You have not---

1 the wall or stand up against the back wall. That's
2 perfectly fine.

3 Okay. It's okay if bailiffs sleep. It's not okay if
4 you sleep.

5 You get that, Mr. Hudson?

6 THE BAILIFF: Yes, sir.

7 THE COURT: All right. Okay. Thank you for being
8 again -- on time again and I -- the plaintiff may call their
9 next witness when they're ready.

10 MR. BREHMER: Call Ms. Carol Outlaw.

11 THE COURT: All right. Ms. Outlaw, come on forward.

12 THE BAILIFF: Stand right here for me, ma'am, facing
13 the clerk. Place your left hand here. Raise your
14 right-hand facing Madam Clerk.

15 CAROL OUTLAW, being first duly
16 sworn, testified as follows:

17 THE CLERK: Please have a seat. State your full name.

18 THE WITNESS: All right.

19 THE COURT: And, Ms. Outlaw, if -- would you please
20 remove your mask?

21 That would be appreciated. Thank you, ma'am.

22 THE WITNESS: Okay. It's Carol N. Outlaw.

23 THE COURT: And you're gonna have to get closer to that
24 microphone.

25 THE WITNESS: Okay.

1 THE COURT: Scoot on up. There you go.

2 DIRECT EXAMINATION

3 BY MR. BREHMER:

4 Q. Ms. Outlaw, were you present at Joseph Sellaro's home
5 on February 26th, 2018 -- 2016?

6 A. I was.

7 Q. Okay. Do you recall telling the police whether Mr.
8 Sellaro had dementia?

9 A. I do not recall.

10 Q. Okay. Do you recall telling the police that Mr.
11 Sellaro had a heart condition with a pacemaker?

12 A. Do not recall.

13 Q. Okay. When Mr. Sellaro was taken away by the
14 government, you took possession of his house, did you not?

15 A. I took keys from Mr. Sellaro.

16 Q. Okay. Okay. And you took, took keys of -- and were
17 there four dogs in the house -- at the house?

18 A. There were four dogs at the house.

19 Q. Okay. Now -- and you represent -- did you represent to
20 Joseph Sellaro that you would care for his dogs while he was
21 --?

22 A. I told him I would feed the dogs, yes.

23 Q. Okay. Okay. All right. Was anyone else other than
24 the police and the EMS there that night?

25 A. I don't recall.

1 Q. Okay. Now, one of those four dogs was euthanized, was
2 it not?

3 A. It was.

4 Q. Okay. And that was while Mr. Sellaro was at Richland,
5 correct?

6 A. Correct.

7 Q. One of the dog -- one of the other dogs was taken to
8 Pets Incorporated?

9 A. Yes.

10 Q. Okay. So, when Mr. Sellaro was released on March the
11 7th, there were only two dogs available, correct?

12 A. Correct.

13 Q. Okay. Okay. Now, the euthanization occurred over at
14 the veterinarian clinic on Fernandina Road out in the St.
15 Andrews community, correct?

16 A. Correct.

17 Q. Okay. And you and Mr. Sellaro's sister-in-law,
18 Kathleen Prunty, took the dog there, correct?

19 A. Correct.

20 Q. Okay. Kathleen Prunty was not there on
21 February 26th, 2016, was she, at the Sellaro residence?

22 A. No.

23 MR. GARFIELD: Objection, Your Honor. It's leading.

24 THE COURT: Sustained as to leading.

25 Q. Was Katherine Prunty at the Sellaro residence on

1 February 26th, 2016?

2 A. No.

3 Q. Okay. Did she arrive later?

4 A. She arrived --

5 Q. After---

6 A. -- after she heard Mrs. Sellaro had died.

7 Q. Okay. Okay.

8 A. Yes.

9 Q. Okay. Now, Mr. Sellaro tested his blood sugar at the
10 residence that night, did he not?

11 A. I don't recall.

12 Q. Okay. Have you reviewed the deposition that you gave?

13 A. I read it last week but it's over 175 pages worth.

14 Q. Okay. Okay. Do you recall testifying in your
15 deposition that Mr. Sellaro's the one that tested his blood
16 sugar that evening?

17 A. I don't recall.

18 Q. Okay. And do you recall Mr. Sellaro representing how
19 he prepared his meal?

20 A. I don't recall.

21 Q. Okay. All right. Thank you, ma'am.

22 A. Certainly.

23 THE COURT: All right. Cross-examination please.

24 CROSS-EXAMINATION

25 BY MR. GARFIELD:

Carol Outlaw - Cross-examination
By Mr. Garfield

1 Q. Good afternoon, Ms. Outlaw.

2 A. Good afternoon.

3 Q. I'm gonna ask you a little bit about your background,
4 your professional background, if I could start please,
5 ma'am.

6 I understand that you graduated from the University of
7 South Carolina?

8 A. Yes.

9 Q. And you received a bachelors -- a, a BS degree, a
10 bachelor's in nursing?

11 A. Correct.

12 Q. And you're a registered nurse, are you not?

13 A. Correct.

14 Q. And you first became a registered nurse in 1987?

15 A. Correct.

16 Q. So, we've all done some quick math here.

17 So you've been a registered nurse, an RN, for 34 years?

18 A. Thirty-five.

19 Q. Thirty-five.

20 Okay. Thank you for your service.

21 You've been -- you've held that registered nurse
22 certification continuously through that time?

23 A. Correct.

24 Q. And in that time I understand you've worked as an RN
25 for different hospitals and, and healthcare entities here

1 locally?

2 A. Correct.

3 Q. You've worked for the Lexington Medical Center?

4 A. Yes.

5 Q. You've worked at Palmetto-Health Baptist?

6 A. Correct.

7 Q. You've worked at Palmetto-Health Richland?

8 A. Correct.

9 Q. You've also spent some time working at Three Rivers
10 Behavioral, Behavioral Health.

11 would that be right?

12 A. Yes.

13 Q. Okay. Had to say that. Make sure it sounded okay.

14 So, in your years of nursing, would you have had --
15 you, you were asked about the blood sugar from Mr., Mr.
16 Brehmer just now and you said you didn't recall certain
17 things about this particular evening.

18 But in your years of nursing, had you had a, a working
19 knowledge, a nursing -- a working, nursing knowledge of
20 diabetes?

21 A. Yes.

22 Q. Okay. Had you ever treated diabetic patients in the
23 past?

24 A. Yes.

25 Q. Have you ever administered Insulin to diabetics?

Carol Outlaw - Cross-examination
By Mr. Garfield

1 A. Yes.

2 Q. And in your years of nursing, I understand that you've
3 been a floor nurse?

4 A. Correct.

5 Q. You've been a nurse manager?

6 A. Correct.

7 Q. You've been a supervising nurse?

8 A. Yes.

9 Q. You've even also spent some time called I think the
10 term is an AOD.

11 Does that sound right?

12 A. Yes.

13 Q. And what's a, what's a -- can you tell the jury what an
14 AOD is?

15 A. It's an administrator on duty.

16 Q. It---

17 A. So basically what that is is a nursing supervisor that
18 helps run the hospital as far as nursing, staffing, and we
19 actually place patients appropriately and we, we're --
20 respond to all emergencies, any type of behavioral or
21 medical emergencies within the hospital.

22 Q. Could that occasionally be in a situation with an
23 emergency protective custody or an EPC scenario?

24 A. Yes.

25 Q. And that would be where law enforcement would take

Carol Outlaw - Cross-examination
By Mr. Garfield

1 someone in protective custody?

2 A. Correct.

3 Q. And that could be a child or a vulnerable adult or
4 whoever?

5 A. Correct.

6 Q. You also have a nursing certificate -- certification in
7 medical surgical.

8 Is that correct?

9 A. Correct.

10 Q. Okay. So, we're here today. You're called as a
11 witness for Mr. Sellaro. I'm gonna ask you questions about
12 Mr. Sellaro's wife, Eileen Sellaro.

13 Did you know her?

14 A. Yes.

15 Q. Okay. And at the time of her death in February of
16 2016, would you have considered yourself friends with
17 Eileen?

18 A. She was one of my best friends.

19 Q. Okay. And you had known her for some years at that
20 time?

21 A. Correct.

22 Q. And what was -- what were the circumstances how the two
23 of you met and became friends?

24 A. Eileen and I worked together at Palmetto-Health
25 Baptist. She was the floating secretary. So she actually

Carol Outlaw - Cross-examination
By Mr. Garfield

1 would put orders in the computer and respond to all codes.

2 So, we worked together well -- very well as a team.

3 Q. All right. And so it'd be correct to say that you,
4 yourself, Ms. Outlaw, had worked at Palmetto-Health Baptist
5 for a number of years?

6 A. Yes.

7 Q. And so being close friends with Eileen, would y'all
8 socialize outside of work?

9 A. Yes.

10 Q. Okay. Did you go to, go to lunches, and dinners, and
11 movies, and that sort of thing?

12 A. Yes.

13 Q. And prior to her death, I understand that you had been
14 to Eileen and Joseph's house?

15 A. Correct.

16 Q. At least one time?

17 Two---

18 A. Yes.

19 Q. However many times you had been there.

20 So you were familiar where she lived and, and her
21 house?

22 A. Yes.

23 Q. And you, in fact, had met Mr. Sellaro.
24 would that be true?

25 A. Yes.

Carol Outlaw - Cross-examination
By Mr. Garfield

1 Q. And as close friends with Eileen, did she have an
2 occasion to share with you details about, from her
3 prospective, details about her husband's health?

4 A. Yes.

5 Q. And is, is it true that it was your understanding that
6 Eileen basically took care of him?

7 MR. BREHMER: Objection, Your Honor.

8 A. Yes.

9 MR. BREHMER: Calls for hearsay. The only way she can
10 get that information is from someone else.

11 THE COURT: All right.

12 MR. BREHMER: Hearsay.

13 MR. GARFIELD: So I'd respond.

14 Your Honor, we're not offering what she knows for the
15 truth of the matter asserted. All of this will be -- come
16 into what Ms. Outlaw purportedly had explained or told law
17 enforcement that they relied on establishing probable cause
18 for the EPC.

19 THE COURT: Okay. It's sustained as to hearsay as
20 directly what she said. But I think you, you can get what,
21 what she took with the information or what she did with the
22 information. But you can't get into exactly what
23 Mrs. Sellaro told her.

24 MR. GARFIELD: Okay. Thank you, Your Honor. And I'll,
25 and I'll do my best to steer clear, and, and to the extent

Carol Outlaw - Cross-examination
By Mr. Garfield

1 that we bounce up against this, I may seek the Court's
2 guidance but---

3 THE COURT: It's okay.

4 MR. GARFIELD: Okay. Thank you.

5 what was your understanding as to what Eileen's role
6 was in the management of her husband's healthcare?

7 A. She took care of him.

8 Q. Okay. What was your understanding as to the, the level
9 of self-sufficiency that Mr. Sellaro had over his own
10 healthcare?

11 A. According to Eileen, she took care of him.

12 MR. BREHMER: Objection, Your Honor.

13 THE COURT: Yeah, you can't---

14 MR. BREHMER: It's hearsay.

15 THE COURT: You can't say what she said, ma'am.

16 MR. GARFIELD: Okay.

17 THE WITNESS: Okay.

18 THE COURT: Okay?

19 THE WITNESS: Okay.

20 THE COURT: I know it's a little confusing. That's
21 why---

22 THE WITNESS: It is a little confusing.

23 THE COURT: I'm not, I'm not trying to fuss at you.
24 I'm trying to help you. You can't say---

25 THE WITNESS: Thank you.

Carol Outlaw - Cross-examination
By Mr. Garfield

1 THE COURT: ---what she said.

2 Does that make sense?

3 THE WITNESS: I got you.

4 THE COURT: Okay. But she's not here---

5 THE WITNESS: Yes, sir.

6 THE COURT: ---right, obviously and we all know that.

7 Okay. But you can't say what she said to you. But you
8 can basically say what you did with that information or
9 processed -- as a result of that information, what you did
10 or what you understood.

11 Does that make sense?

12 THE WITNESS: Okay.

13 THE COURT: Okay.

14 THE WITNESS: Thank you.

15 MR. GARFIELD: Okay.

16 THE COURT: I'm trying to make it, make it a little bit
17 more sense than just say -- telling you to stop.

18 Q. And, Ms. Outlaw---

19 THE WITNESS: Thank you.

20 MR. GARFIELD: Yes.

21 And this is my fault because I'm asking the questions
22 that's maybe inartful or -- let's get past that and see if
23 this pertains to the same subject matter. So let me bring
24 you to this February 27th, 2016.

25 Okay. I represent to you that that was a Saturday.

1 Did -- the day that Eileen passed.

2 A. Yes.

3 Q. So, was -- is it true that the hospital emergency room
4 nurse, this all started with you receiving a call from the
5 Palmetto-Health Richland ER nurse?

6 A. Yes.

7 Q. Okay. Could you please tell us what happened at that
8 point that you -- what you recall?

9 A. The nurse called me and told me---

10 MR. BREHMER: Objection, Your Honor.

11 A. ---that---

12 MR. BREHMER: Hearsay.

13 THE COURT: Yeah, I don't think that that's offered for
14 the truth of it. It's offered to what, what she did with
15 the information. I don't -- go ahead.

16 THE WITNESS: Okay.

17 So, I was, I was called and asked if I was a -- I was
18 the next kin of Eileen. She had gotten in a severe wreck
19 and they needed to talk to the next of kin, and I told the
20 nurse from the emergency room that I was not that -- but if
21 she had Eileen's phone, that her sister's number would be on
22 that phone.

23 Q. But you were not the next of kin, correct?

24 A. I was not the next of kin and I told her so.

25 Q. And were you told that, that the nature of the call or

Carol Outlaw - Cross-examination
By Mr. Garfield

1 did you understand that it was a serious call?

2 A. I did ask her if, if she was critical and she said yes
3 and---

4 Q. And---

5 A. ---that's basically all she can tell me with HIPPA
6 laws.

7 Q. I understand.

8 And so, with this knowledge or with this information,
9 what did you do next, if anything?

10 A. I actually went down to Palmetto-Health Richland.

11 Q. Okay. Now, this next of kin at the time, did you have
12 any understanding of who this person was?

13 A. I knew her -- I, I believe I knew her first name at
14 that time was Kathleen, but I did not know her last name,
15 and I did not have her number at that point.

16 Q. And did you know how Kathleen may have been related to
17 Eileen?

18 A. I knew she, she was her sister.

19 Q. So, when you -- you went down to the hospital?

20 A. Yes.

21 Q. Okay. And you saw -- of the people you saw, you saw
22 the deputy coroner?

23 A. I did.

24 Q. You had had an occasion to see some Richland County
25 sheriff's deputies?

Carol Outlaw - Cross-examination
By Mr. Garfield

1 A. Yes.

2 Q. And the -- with seeing these people, they conveyed to
3 you that Ms. -- that your friend, Eileen, had passed.

4 Is that right?

5 A. Yes.

6 Q. Now, at the hospital, Mr. Sellaro, her husband, he was
7 not at the hospital.

8 Is that correct?

9 A. That's correct.

10 Q. In fact, there was no family at the hospital, were
11 there?

12 A. There was no family.

13 Q. There was no next of kin at the hospital?

14 A. Correct.

15 Q. It was just you?

16 A. Correct.

17 Q. And at this point you were asked to go to the Sellaro
18 household, the, the residence?

19 A. Yes.

20 Q. And you went to the Sellaro household at the request of
21 the deputy coroner.

22 wouldn't that be right?

23 A. Correct.

24 Q. The deputy coroner, the purpose would be purportedly to
25 assist in telling Mr. Sellaro that his wife had passed?

Carol Outlaw - Cross-examination
By Mr. Garfield

1 A. Correct.

2 Q. And you were the one that had personal knowledge of
3 Eileen?

4 A. Yes.

5 Q. Okay. So you, you did go to Mr. Sellaro's house?

6 A. Yes.

7 Q. Right?

8 Okay. When you got there, you saw several police cars?

9 A. Yes.

10 Q. You saw the deputy coroner?

11 A. I, I don't remember that but --.

12 Q. Okay. So -- Your Honor, I do have -- just one moment,
13 ma'am.

14 I do have her deposition. I would like to refresh her
15 recollection on her deposition and I'll lay a foundation for
16 this.

17 THE COURT: well, let's -- yeah, lay the foundation
18 first.

19 MR. GARFIELD: Okay. Yes, sir.

20 Do you recall giving your deposition --

21 A. Yes.

22 Q. -- in this case and I believe it was at the law firm --
23 Mr. Summers law firm.

24 You remember that?

25 A. Correct.

Carol Outlaw - Cross-examination
By Mr. Garfield

1 Q. Okay. And this was---

2 A. Over two years ago, yes.

3 Q. Yes, ma'am. Yeah, it wasn't recent.

4 A. Yes.

5 Q. Right.

6 A. No.

7 Q. In fact, it was a little before COVID?

8 A. It was.

9 Q. Right.

10 So -- but just so we could be clear on the record.

11 So---

12 A. Uh-huh.

13 Q. -- the deposition was on February 20th of 2020?

14 A. Right.

15 Q. And you were present?

16 A. Correct.

17 Q. Okay. Obviously, for your deposition. I was there.

18 A. Correct.

19 Q. And Mr. Summers was there.

20 A. Correct.

21 Q. In fact, you were represented by your own personal
22 attorney, Brian Dumas, at the time?

23 A. Correct.

24 Q. And he was present?

25 A. Correct.

Carol Outlaw - Cross-examination
By Mr. Garfield

1 Q. Okay. And you were asked questions under oath, right?

2 A. Correct.

3 Q. Okay. And you answered them truthfully to the best of
4 your ability?

5 A. Correct.

6 MR. GARFIELD: Okay. Your Honor, and this is just to
7 refresh her recollection and this is Page 26 and I would
8 just start with Line 1, and if I may just approach so she
9 could just read?

10 THE COURT: Sure.

11 Q. Okay.

12 A. Let me get my reading glasses.

13 Q. It's -- absolutely.

14 Okay. And I don't want you to read it out loud. I
15 just want you to read it to yourself and, Your Honor, I am
16 just -- this is Lines, I'm sorry, 2 through 8.

17 A. Okay.

18 Q. Okay. Thank you.

19 A. Certainly.

20 Q. What you just read, did that refresh your recollection?

21 A. It did.

22 Q. Okay. So when you got to Mr. Sellaro's home, you saw
23 several police cars.

24 Is that right?

25 A. Yes.

Carol Outlaw - Cross-examination
By Mr. Garfield

1 Q. And did you see anyone else?

2 A. According to my testimony earlier, I saw the deputy
3 coroner.

4 Q. Okay. And, again, this was a little over two years ago
5 that you were asked.

6 A. Correct.

7 Q. So in, in fairness.

8 And you went up to the house and I understand you
9 knocked on the door?

10 A. Yes.

11 Q. And that there were Richland County sheriffs -- there
12 were deputies with the Richland County Sheriff's Department
13 there.

14 Is that right?

15 A. Yes.

16 Q. Okay. And I believe you testified that there were two
17 sheriff's deputies there?

18 A. I, I don't remember how many --

19 Q. More than one?

20 A. -- deputies. There were definitely more than one.

21 Q. Okay. And the deputy coroner was there really trying
22 to get his attention when you came to the door?

23 When you came---

24 A. Yes.

25 Q. ---to the door?

Carol Outlaw - Cross-examination
By Mr. Garfield

1 A. Yes.

2 Q. And when you went to the door, you had to knock on the
3 door multiple times to, to get his attention?

4 A. Correct.

5 Q. It, it took a while?

6 A. Yes, it did.

7 Q. Okay. And, finally, Mr. Sellaro came to the door and
8 opened the door?

9 A. Correct.

10 Q. And Mr. Sellaro that -- was then told the tragic news.
11 Is that right?

12 A. Yes.

13 Q. Okay. And I understand he was very upset?

14 A. Yes.

15 Q. And the deputy coroner asked you about Mr. Sellaro's
16 ability to care for himself, that he asked you the question.

17 A. I don't recall.

18 Q. Okay. Since we've made a foundation, I just would like
19 to refresh her recollection one more time.

20 Okay. And this is relatively short. Just wanted you
21 to read and I'm reading in the -- this is Page 31 starting
22 at Line 17 and going into the next page.

23 A. Okay.

24 Q. And I think it goes into -- yes, the first few lines of
25 Page 32.

Carol Outlaw - Cross-examination
By Mr. Garfield

1 A. Okay.

2 Q. Okay. Thank you, ma'am.

3 A. Okay.

4 Q. I'll take that from you.

5 A. Certainly.

6 Q. Oh sure.

7 So, in reading that portion, did that assist you in
8 refreshing your memory?

9 A. That did.

10 Q. Okay. And did you report to either the Richland County
11 deputies or anyone about Mr. Sellaro's ability to care for
12 himself?

13 A. It was my understanding through his wife that he could
14 not take care of himself, that she took care of him.

15 Q. Okay. And isn't it true that you told the deputy
16 coroner or the sheriff's deputies that you told them that
17 Eileen took care of her husband and he could not take care
18 of himself?

19 A. Correct.

20 Q. Did you also tell the Sheriff's Department deputies or
21 the other authorities in the house that Mr. Sellaro could
22 not drive and he could not take care of himself alone?

23 A. Yes.

24 Q. In fact, you told them that Mrs. Sellaro did everything
25 for him?

Carol Outlaw - Cross-examination
By Mr. Garfield

1 A. Yes.

2 Q. And that she even took care of his dogs?

3 A. Yes.

4 Q. You told the Sheriff's Department deputies that?

5 A. Yes.

6 Q. And the Sellaros, they lived alone?

7 A. Correct.

8 Q. They, they had no family in South Carolina to your
9 knowledge?

10 A. Correct.

11 Q. And so -- and they had three children?

12 A. Correct.

13 Q. Estranged from all three children?

14 A. Yes.

15 Q. One child I believe may of lived in one part of the
16 country, another one in another part of the country?

17 A. Correct.

18 Q. In fact, Eileen, unfortunately, also had a sibling, I
19 don't know -- really know who this is but with whom she was
20 estranged?

21 A. Correct.

22 Q. And the EMS arrived at some point?

23 A. Yes.

24 Q. Okay. His blood sugar -- well, he already asked this
25 and you said you don't remember. So I won't ask you that

1 question.

2 Do you, do you remember, not the number, but do you
3 remember whether his blood sugar was measured by the EMS?

4 A. I don't recall who took the blood sugar. I do recall
5 that it was over 500. I don't recall any specific number.
6 That was over six years ago.

7 Q. Certainly. I totally understand that.

8 And over 500, we can agree that that's a, that's a high
9 number?

10 A. Yes.

11 Q. It could be dangerously high?

12 A. It could that.

13 Q. Okay. And after that reading was obtained, there was
14 some discussion among Mr. Sellaro and the deputies and Mr.
15 Dozier, the deputy coroner?

16 A. I, I don't recall that discussion.

17 Q. Okay. The Sheriff's Department personnel at the house,
18 you would agree they conducted themselves competently?

19 MR. BREHMER: Objection, Your Honor.

20 A. Yes.

21 THE COURT: Don't answer it until I -- yeah, what's the
22 objection basis?

23 MR. BREHMER: He's asking her opinion. He's asking her
24 to prophesize about the other's conduct that were
25 appropriate. It's not a lay person's opinion.

Carol Outlaw - Cross-examination
By Mr. Garfield

1 THE COURT: Okay. Mr. Garfield, you want to be heard?

2 MR. GARFIELD: I can rephrase.

3 THE COURT: Okay. Sustained as to speculation and lay
4 witness opinion.

5 Q. Did the Sheriff's Department deputies conduct, to you,
6 to conduct themselves in a professional manner?

7 A. Yes.

8 Q. And when you talked to the authorities, ma'am, you
9 fully realized that you were there as a potential resource
10 due to your friendship with Eileen?

11 A. I was a, a friend of Eileen.

12 Q. But you were really the only one that they could get a
13 hold of?

14 In other words, you were there as a resource for her
15 because you knew her and knew---

16 A. Yes.

17 Q. ---something about her?

18 A. Yes.

19 Q. Okay.

20 A. She was my friend.

21 Q. Yes.

22 And what you told the Sheriff's Department or Mr.
23 Dozier, the deputy coroner, or any of the authorities, that
24 was completely true to the best of your knowledge?

25 A. Correct.

Carol Outlaw - Cross-examination
By Mr. Garfield

1 Q. You wouldn't of had any reason to make anything up --

2 A. Correct.

3 Q. -- or to lie or embellish or anything like that?

4 A. Totally correct.

5 Q. Okay. If the police wanted to know something, and if
6 this is something within your sphere of knowledge, you would
7 want to tell them truthfully what you knew?

8 A. Correct.

9 MR. GARFIELD: I beg the, the Court's indulgence.

10 THE COURT: Sure.

11 (Pause.)

12 MR. GARFIELD: Ma'am, thank you for coming down here.

13 I know it was difficult. Please answer any questions anyone
14 else has.

15 THE COURT: All right. Mr. Summers.

16 MR. SUMMERS: Very well, sir.

17 May it please the Court?

18 THE COURT: Yes.

19 MR. SUMMERS: Mr. Brehmer. Mr. Garfield.

20 CROSS-EXAMINATION

21 BY MR. SUMMERS:

22 Q. Afternoon, ma'am.

23 A. Afternoon.

24 Q. Just for the sake of clarity, my name is Lake Summers.

25 I represent South Carolina Department of Social Services.

Carol Outlaw - Cross-examination
By Mr. Summers

1 Do you understand that, ma'am?

2 A. Yes.

3 Q. Thank you for bearing with us all today. It's a rare
4 treat to have three lawyers ask you questions. So I
5 appreciate you hanging in there. Just wanted to go over
6 some what I call big picture items.

7 The events that you were describing with Mr. Garfield
8 and Mr. Brehmer occurred on February the 27th of 2016,
9 correct?

10 A. Correct.

11 Q. Prior to that date, when was the last time you had
12 spoken to Mrs. Sellaro?

13 A. We usually spoke once a day.

14 Q. When was the last time you had seen her?

15 A. I don't remember.

16 Q. This may seem like a mean -- kind of a bad question,
17 but when you usually spoke with Mrs. Sellaro every day, what
18 would y'all discuss?

19 A. Just talked about, you know, what was going on with our
20 days.

21 Q. At the time she passed, was she working?

22 A. No.

23 Q. How long had it been since Mrs. Sellaro had worked to
24 your knowledge?

25 A. I don't really recall.

Carol Outlaw - Cross-examination
By Mr. Summers

1 Q. You were working at the time?

2 A. Yes.

3 Q. And you're still working now?

4 A. Correct.

5 Q. Where do you currently work, ma'am?

6 A. I'm at the Columbia Dorn VA Medical Center.

7 Q. How long you been there, ma'am?

8 A. Three and a half years.

9 Q. Just tell the jury what your duties are.

10 A. I am the night shift nursing supervisor for the
11 hospital. I'm doing the same thing now that I was doing at
12 Palmetto-Health Baptist. I'm the nursing supervisor for the
13 whole hospital at night. Place patients, respond to
14 emergencies, and, and make sure staffing is up to par.

15 Q. This will be a bad question.

16 Did you, did you work last night, ma'am?

17 A. No.

18 Q. When do you next work?

19 A. Tomorrow night.

20 Q. Very good.

21 You are answering some questions for Mr. Garfield about
22 Mr. Sellaro and Mrs. Sellaro's family.

23 Do you recall talking to Mr. Garfield a few moments ago
24 about that?

25 A. Yes.

Carol Outlaw - Cross-examination
By Mr. Summers

1 Q. Just for the sake of clarity, to your knowledge, how
2 many children did Mr. and Mrs. Sellaro have?

3 A. Three.

4 Q. Best of your knowledge, again, if, if you already
5 plowed this ground it's my fault, had -- where do they live
6 starting with the first one that comes to mind?

7 What's the first of the three children whose name comes
8 to mind?

9 A. The last time that Eileen -- that I remember that
10 Eileen talked to me is that---

11 Q. Well, let's---

12 A. ---Joey---

13 Q. Let's hold on right there.

14 A. Oh, well.

15 Q. Just the -- let's do this way.

16 Can you name the three children?

17 A. I'm -- I know Joey. I just don't remember the other
18 two.

19 Q. Do you have any idea where Joey lived back in 2016?

20 A. To the best of my ability, it would be Florida.

21 Q. Do you recall the names of another of the three
22 children?

23 A. I do not.

24 Q. Any idea where any of them lived?

25 A. Now, I think both the other two children lived in New

Carol Outlaw - Cross-examination
By Mr. Summers

1 York.

2 Q. Had you ever personally met any of their three
3 children?

4 A. I met Joey.

5 Q. Do you recall when that was?

6 A. I do not.

7 Q. You talked about agreeing to feed Mr. Sellaro's dogs.
8 Do you recall mentioning that?

9 A. I do.

10 Q. Were the dogs still at his residence while he was
11 admitted to the hospital?

12 A. They were for the first couple days and then I took
13 them to my house because I live over an hour away. And I
14 was working currently and I could not feed them twice a day
15 and take care of them and make sure that they were okay and
16 work.

17 Q. So you took all four dogs?

18 A. Yes, and I had dogs myself.

19 Q. Yes, ma'am.

20 And you mentioned Kathleen, who I believe was
21 Mrs. Sellar's sister?

22 A. Yes.

23 Q. Did you see her or meet with her -- well, let me step
24 back.

25 Did she come into Columbia after Eileen's death?

Carol Outlaw - Cross-examination
By Mr. Summers

1 A. Yes.

2 Q. Did you see her?

3 A. Yes.

4 Q. What did the two of you do when it came to handling
5 Eileen's affairs if you can remember?

6 A. We actually tried to do what we thought was best as far
7 as with Eileen's -- you know, she wanted to know what to
8 do -- we, we did the best we could as far as her dogs and
9 Eileen's remains.

10 Q. And with questioning from Mr. Brehmer, there was
11 discussion about unfortunately what happened to two of the
12 dogs, correct?

13 A. Yes.

14 Q. One was euthanized?

15 A. Yes, that dog was suffering.

16 Q. How was that dog suffering, ma'am?

17 A. Every time she walked she hollered.

18 Q. The other dog was taken I believe to PETSinc?

19 A. Yes, that dog was quite ill and I could not take care
20 of the injuries that dog had.

21 Q. Do you know what kind of illness?

22 Can you describe for the jury what that dog was
23 experiencing, at least what you saw?

24 A. It didn't have a lot of fur on it. It had red just
25 kind of scratchy areas all over and just wounds on the dog's

Carol Outlaw - Cross-examination
By Mr. Summers

1 body.

2 Q. while Mr. Sellaro was admitted to Palmetto-Richland and
3 that's the term I'll use --

4 A. Okay.

5 Q. -- did you ever speak with him?

6 A. He called me multiple times threatening me.

7 Q. Tell the jury about that.

8 A. He would call my cellphone using Eileen's cellphone and
9 threaten to come and kill me multiple times.

10 Q. How many times did that happen, ma'am?

11 A. I, I don't recall.

12 Q. When's the last time you spoke to Mr. Sellaro?

13 A. I really don't recall. It was -- I -- it was some time
14 back in I believe 2016.

15 Q. The two of his dogs that were returned to him, how, how
16 did those dogs get back to his home?

17 A. I took my sister and my sister and I went and dropped
18 the two dogs in his front yard.

19 Q. Have you seen the dogs since, ma'am?

20 A. No.

21 Q. Ma'am, those are all the questions I have. Thank you
22 for bearing with me.

23 THE COURT: Mr. Brehmer.

24 REDIRECT EXAMINATION

25 BY MR. BREHMER:

1 Q. Would you agree that from February the 27th until
2 March the 7th is a period of 10 days?

3 A. I would have to look on a calendar.

4 Q. Okay. Well, February the 27th -- and 2016 was a leap
5 year.

6 27, 28, 29, March 1, March 2, March 3, March 4,
7 March 5, March 6, March 7.

8 That's 10, isn't it?

9 A. Uh-huh.

10 Q. Is that---

11 A. Yes.

12 Q. ---a yes?

13 Okay. And wouldn't you agree that it's fairly common
14 knowledge that the local animal shelter will keep a dog for
15 30 days?

16 A. No, I would not agree.

17 Q. Okay. And you never took them to the county animal
18 shelter?

19 A. Actually Ms. Prunty called the county animal shelter
20 multiple times.

21 Q. Okay. And y'all decided to kill them or get rid of
22 them?

23 MR. SUMMERS: Objection as to the clarification -- the
24 qualification of that action.

25 THE COURT: You can rephrase your question.

Carol Outlaw - Redirect examination
By Mr. Brehmer

1 Q. Okay. You were the one entrusted with the dog,
2 correct?

3 A. Yes, that's correct.

4 Q. And, and the person that entrusted you was Joseph
5 Sellaro, correct?

6 A. Correct.

7 Q. And Joseph Sellaro was, let's just say, out of
8 circulation for February the 27th until March the 7th,
9 correct?

10 A. Correct.

11 Q. And during that timeframe is when the dog was killed?

12 A. Correct.

13 Q. Thank you.

14 THE COURT: Mr. Garfield.

15 MR. GARFIELD: One moment, Your Honor.

16 (Pause.)

17 MR. GARFIELD: Nothing further, Your Honor.

18 THE COURT: Mr. Summers.

19 MR. SUMMERS: Nothing further.

20 THE COURT: All right. Ms. Outlaw, thank you very
21 much. Have a nice day.

22 THE WITNESS: Thank you.

23 THE COURT: All right. You may call your next witness.

24 MR. BREHMER: Your Honor, we intend to publish portions
25 of Doctor Brandenburg's deposition at this juncture.

1 THE COURT: Okay.

2 MR. BREHMER: Could, could I trouble Miss Ball to
3 read---

4 THE COURT: Sure.

5 MR. BREHMER: ---Doctor Brandenburg's portion?

6 MR. GARFIELD: Could she, could she be excused from her
7 --

8 MR. BREHMER: She may. She may.

9 MR. GARFIELD: ---subpoena?

10 MR. BREHMER: She may.

11 THE COURT: Any objection?

12 MR. GARFIELD: No objection, Your Honor.

13 THE COURT: Mr. Summers, any objection?

14 MR. SUMMERS: None, sir.

15 THE COURT: Okay. All right. Ladies and gentlemen of
16 the jury, so what we're gonna do now is we're gonna read
17 some deposition testimony.

18 Okay. And so, I'm gonna help you -- most of you have
19 probably never been through a deposition. So, I'm gonna
20 kind of walk you through what one is and then we'll read it
21 in.

22 So testimony is now going to be presented to you by a
23 deposition. So what a deposition is is it's a document that
24 contains the sworn testimony given by a witness outside of
25 the courtroom in the presence of the lawyers for each party

1 who are all allowed to ask questions just like we do here in
2 court.

3 Does that make sense?

4 So, it's usually in somebody's office. The witness is
5 there. There's a court reporter there. All the lawyers are
6 there. The witnesses -- the witnesses are sworn in and then
7 everybody, just like we do in here, everybody gets a chance
8 to ask questions along the way and then we have an official
9 transcript of that.

10 So sometimes with certain witnesses it's easier just to
11 enter -- to read into the -- their deposition testimony into
12 evidence as opposed to trying to get them up here. So
13 that's what's gonna happen now.

14 So, Kate is gonna play the witness.

15 Okay. And who's the testimony, the testimony of?

16 MR. BREHMER: Doctor Jeffrey Hall Brandenburg.

17 THE COURT: All right. So Kate's gonna play Doctor
18 Brandenburg.

19 Okay. And so what I'm doing now is Mr. Brehmer is
20 handing me Doctor Brandenburg's original deposition, okay,
21 which is in this folder and it's sealed.

22 Okay. So I'm gonna be the one that opens it. So the,
23 the purpose of that big explanation -- and this is the
24 deposition of Jeffrey Hall Brandenburg, medical doctor,
25 taken on December the 20th of 2019.

1 MR. BREHMER: We would like to offer that as a Court's
2 Exhibit.

3 THE COURT: Court's Exhibit, right. This needs to be
4 marked as a Court's Exhibit please, Rod.

5 So the purpose of that whole big explanation I gave you
6 is really to say this.

7 So, just because this witness isn't physically here
8 doesn't mean that this isn't entitled to the same things
9 that you go through with every other witness.

10 Okay. So even though the witness isn't physically
11 here, because we're entering it as a deposition, you should
12 be judging this witness' credibility and weighing the
13 evidence as the same way you would with every single witness
14 that appears before you.

15 Okay. And raise your right hand.

16 (WHEREUPON, Miss Kate Ball was place under oath to
17 accurately read the testimony of Doctor Brandenburg.)

18 THE COURT: All right. Very good.

19 MR. BREHMER: May I consult with---

20 THE COURT: Yes, you may.

21 MR. BREHMER: ---opposing counsel?

22 THE COURT: Sure.

23 Y'all stand up and stretch just a little bit. Just
24 stand up right where you are, stretch, twist, turn. They
25 all want to talk to each other for a second.

1 (WHEREUPON, the deposition of Doctor Jeffrey
2 Brandenburg was marked as Court's Exhibit No. 1 and received
3 into evidence at this time.)

4 (Pause.)

5 THE COURT: Do you have one, Kate?

6 THE WITNESS: Yeah.

7 (Pause.)

8 THE COURT: Okay. And will he be qualified as an
9 expert?

10 MR. BREHMER: Yes. Yes, sir.

11 THE COURT: And is there any objection to then just
12 Doctor Brandenburg as an expert, Mr. Summers?

13 MR. SUMMERS: No, sir, field of psychiatry.

14 THE COURT: Okay. And---

15 MR. GARFIELD: It's the field of general psychology the
16 way I understand?

17 THE COURT: I don't, I don't know what the field is.
18 Somebody---

19 MR. GARFIELD: And I don't---

20 THE COURT: ---just needs to tell me.

21 MR. GARFIELD: I wasn't sure.

22 MR. BREHMER: Psychiatry.

23 MR. SUMMERS: General psychiatry.

24 MR. BREHMER: General psychiatry.

25 THE COURT: Any objection to that?

1 MR. SUMMERS: No objection, Your Honor.

2 THE COURT: Okay. So, ladies and gentlemen,
3 normally -- I'm, I'm gonna go ahead and give this now so
4 we -- it will be easier to read through it without having to
5 take this break.

6 So normally when a person testifies, they have to
7 testify as to what they saw, they heard, they did, they
8 touched, they sensed by smell, something of that nature.
9 However, there's an exception under our rules when someone
10 is qualified, because of education or experience, that
11 person is permitted to give their opinion in certain areas
12 if I qualify them in the -- that way.

13 So, there's no objection to Doctor Brandenburg being
14 qualified as an expert in the area of general psychiatry and
15 what that means is that he will be allowed to give his
16 opinion in that area.

17 Now, that doesn't mean that you have to accept his
18 opinion. But it's evidence for you to use in any way that
19 you see fit and you give it the weight and the credibility
20 that you believe is appropriate just as you should be doing
21 with every single witness that comes before you. And I
22 apologize for stopping that.

23 Mr. Brehmer, you may go right ahead.

24 MR. BREHMER: Okay. Let's begin on Page 4. Line 18.

25 Q. Give us your name -- full name please, sir.

1 A. Jeffrey, J-E-F-F-R-E-Y, Hall Brandenburg.

2 Q. What is your occupation, sir?

3 A. I'm a consult liaison psychiatrist.

4 Q. And where do you work, sir?

5 A. Prisma-Health Richland.

6 Q. And how long have you been there?

7 A. As an attending physician, 23 and a half years.

8 Q. All right. And what is your educational
9 background, sir?

10 A. High school diploma, Evans, Georgia, undergraduate,
11 Tulane University, medical college, Medical College of
12 Georgia, 1992, internship and residency at -- it was
13 Palmetto-Richland and Richland Memorial in 1992 finishing in
14 1999.

15 THE COURT: Slow down. Slow down. You're going --
16 remember you're reading faster than you normally talk.

17 THE WITNESS: Do you want me to start over?

18 THE COURT: So don't go too fast.

19 THE WITNESS: Start over?

20 THE COURT: You don't need to start over.

21 THE WITNESS: Okay.

22 MR. BREHMER: Okay.

23 THE COURT: Just take -- go one's level -- go one level
24 slower please.

25 THE WITNESS: Okay.

1 MR. BREHMER: Thank you.

2 Okay. And you're licensed to practice medicine in
3 South Carolina?

4 A. Yes, sir.

5 Q. And so you're a psychiatrist.

6 Is that what it is?

7 A. I'm an attending psychiatrist.

8 Q. And what is that, sir?

9 A. I'm used as, in the consult liaison version, I
10 assist on the medical surgical floors with anyone who would
11 need a psych -- psychiatric opinion on their inpatients.

12 Q. Okay. And what is a -- what is a -- so a jury will
13 know, how would you define psychiatry?

14 A. Consult liaison psychiatry I would define as
15 bridging the mind and body and treating both injuries of the
16 brain as, as demential delirium as well as substance abuse
17 as well as the major effective disorders such as bipolar,
18 major depression, psychotic disorders, schizophrenia,
19 schizoaffective anxiety disorders. So pretty much any kind
20 of mental illness as well as some -- substance abuse.

21 Q. What is dementia, sir?

22 A. It would be a loss of executive function, loss of
23 short term memory. Sometimes inability to recall words,
24 inability to discern what was reality from I was gonna say
25 confusion.

1 Q. Okay. So when you're looking for characteristics
2 of a dementia, that's what you just related to us.

3 Is that correct?

4 A. Yes, sir.

5 Q. All right. We're here today, Doctor Brandenburg,
6 to ask you some questions about a gentleman named Joseph
7 Sellaro and I think you're familiar with him. You have seen
8 him one time I do believe.

9 A. Yes, sir.

10 Q. And we have some medical records here. I'd like
11 to, to show you. These are medical records from Palmetto
12 Prisma concerning his stay there from I think it was the
13 28th of February, 2016, till March -- to the 7th day of
14 March of 2016.

15 A. Yes, sir.

16 Q. And would you please look at this Page 4 I think
17 you have right here.

18 A. Oh.

19 Q. And this document, this is concerning Joseph
20 Sellaro.

21 Is that right?

22 A. Yes, sir.

23 Q. And the date I have on it is February 28th, 2016.

24 Is that right?

25 A. Yes, sir, that's the date and time I see.

1 MR. BREHMER: Okay. Go over to Page 9. Line 15.

2 Okay. Good. Would you please read that where it says
3 history of present illness?

4 A. Yes, sir. Mr. Sellaro is a 68 year old male with a
5 past medical history for CHF with an EF of 30 percent.
6 Status post ICD placement. PVD, HCV, orthostatic
7 hypotension, POEMS and diabetes mellitus Type II. He
8 presents to the Palmetto-Health Richland emergency
9 department under DSS emergency protective custody order.

10 Per patient's report, patient's wife died in an MVC,
11 motor vehicle collision, yesterday and she was his primary
12 caregiver. Concerns were reportedly expressed that the
13 patient would be unable to care for himself following her
14 death as he carries a diagnosis of dementia. A DSS case was
15 opened and an emergency protective order was issued and the
16 patient was brought in for evaluation and monitoring.

17 Q. All right. Hold on. Wait a minute.

18 When it says he has a history of dementia, do you know
19 where that came from?

20 A. From my chart review, the only place that I found
21 the diagnosis of dementia was in the auto populated
22 electronic medical record.

23 Q. And what does that mean, sir?

24 A. When I opened his chart and looked at the
25 electronical (sic) medical report at Prisma-Health Richland,

1 it was one of his medical diagnosis -- diagnoses, diagnoses.

2 Q. Do you know who made that diagnosis?

3 A. I have no idea.

4 Q. Okay. So you don't know whether that is a
5 factual -- that is factual or not?

6 A. No, sir, I do not.

7 Q. All right. That was just in his record?

8 A. That was in these medical report.

9 Q. All right. And as I stated, you don't know why
10 that was in there?

11 A. No, sir.

12 Q. Okay. Would you go down to the second paragraph
13 there under and just read the first part of that for me
14 please, sir?

15 A. Yes, sir. During interview and exam today, patient
16 is appreciated to be alert, oriented, and conversationally
17 appropriate. He is able to discuss events of last night,
18 aware that his wife has died, and how he got to the
19 hospital. He is oriented to self, self, birthdate, location
20 including hospital, city, state, date, which includes month,
21 day of week, year, just had a birthday, and much of his
22 medical history. He denies that he had dementia. Wants to
23 go home but willing to stay if recommended.

24 His blood glucose was elevated at 381 when he arrived.
25 Per chart review, he had -- has had issues, medical therapy,

1 non-adherence in the past, and problems with syncope.

2 MR. BREHMER: Syn -- syncope.

3 A. Syncope. And falls related to orthostatic
4 hypotension. Hospital internal medicine consulted for
5 social admission.

6 Q. All right. Would you go over to page -- I think
7 the next page you got, that's Page 7, and in the first
8 paragraph, the long paragraph up there, it says -- and drop
9 down to Page 12, Line 25. This is Page 10 of the medical
10 records.

11 A. Okay.

12 Q. Where it says impression and plan, would you read
13 that for me please?

14 A. Yes, sir. Impression and plan. Adult protective
15 services case. Unclear why. Patient awake, alert with
16 absolutely no patient medical or psychiatric needs.

17 Q. And under that you've got -- we've got depression.

18 A. Depression. Patient recently lost wife. I can
19 continue.

20 Q. That's all right. If you just go, just go down.
21 The date on this was March the 7th I believe. If you see
22 down at the bottom where it says I think it says allowed
23 temporary, temporary to go to court today.

24 Is that right?

25 A. Allowed temporary discharge to go to court today.

1 Electronically signed and verified March 7th, 2016, at
2 10:28AM.

3 Q. Thank you, sir.

4 Go to the next page which is Page 12, and this is --
5 would you read under there also impression and plan?

6 A. Impression and plan. APS case. Unclear why.
7 Patient awake, alert with absolutely no inpatient medical or
8 psychiatric needs. Called our legal team to assist.
9 Depression.

10 Q. Let me stop you right there, sir.

11 When you say called our legal team to assist, what does
12 that mean?

13 A. I was -- this is not my note.

14 Q. Yeah.

15 A. But what I'm assuming happened was that Doctor Kyle
16 called Betsy Bradley, who is the Prisma-Health Richland
17 attorney, to assist with the DSS case.

18 Q. Okay. Thank you.

19 And would you look down at the bottom of the page and
20 read down from where it says patient was?

21 A. Yes, sir. Patient was admitted, admitted against
22 his will due to DSS order. It is unclear why patient was
23 placed under custody. He is not demented. No cognitive
24 impairment and no inpatient physical needs. Contacted our
25 legal team to notify of situation. No medical reason to be

1 here.

2 Q. Okay. Thank you.

3 would you go over to Page 13 please?

4 A. Yes.

5 Q. would you read it that -- and this was on March the
6 5th, 2016.

7 would you please read just at the top there where it
8 says he would like?

9 A. He would like to be able to mourn the death of his
10 wife with family. Discharged when cleared by the state.

11 Q. All right. That's enough on that, on that page,
12 doctor. Now let's go over to Page 14 and this is, again,
13 impression and plan.

14 would you read that please?

15 A. Yes, sir. Adult protective service case. Unclear
16 why. Patient awake, alert with absolutely no inpatient
17 medical or psychiatric needs. Called our legal team to
18 assist. Depression patient -- depression. Patient le --
19 recently lost wife.

20 Q. Thank you.

21 And we're at Page 15.

22 would you read the top of that page please?

23 That was from the date of March 5th, 2016.

24 A. Yes, sir. Patient was admitted, admitted against
25 his will due to DSS order. Court yesterday. Unknown

1 results. It is unclear why patient was placed under
2 custody. He is not demented. No cognitive impairment and
3 no inpatient physical needs. Contacted our legal team to
4 notify of situation. No medical reason to be here. He
5 would like to be able to mourn the death of his wife with
6 family. Discharged when cleared by the State.

7 Q. All right. Let's go over to the next page, which
8 is Page 17. This is the date of March the 4th, 2016. I
9 think it's basically the same thing but would you please
10 read it again at the top of the page?

11 A. Patient was admitted against his will due to DSS
12 order. Court yesterday. Unknown results. It is unclear
13 why patient was placed under custody. He is not demented.
14 No cognitive impairment and no inpatient physical needs.
15 Contacted our legal team to notify of the situation. No
16 medical reason to be here. He would like to be able to
17 mourn the death of his wife with family. Discharged when
18 cleared by the state, by the state.

19 Q. Thank you, sir.

20 Go to Page 19. This is on March the 3rd, 2016, and
21 basically that's the same thing that we've read the last.

22 Is that basically the same?

23 Well just read it again if you don't mind.

24 A. Yes, sir. Patient was admitted against his will
25 due to DSS order. Court yesterday. Unknown results. It is

1 unclear why patient was placed under custody. He is not
2 demented. No cognitive impairment and no physical needs.
3 Contacted our legal team to notify of situation. No medical
4 reason to be here. He would like to be able to mourn the
5 death of his wife with family. Discharged when cleared by
6 the state.

7 Q. And when you looked down at the bottom of the page
8 where it says general --

9 A. Yes, sir, it says general, alert and oriented, no
10 acute distress.

11 Q. And that was on March the 3rd, 2016.

12 would you please go to Page 22 now and would you see
13 where it says subjective?

14 would you read that?

15 A. Subjective. No complaints. Trying to find his
16 wife's body (legit). Admitted due to emergency protective
17 custody/DSS case.

18 Q. And would you look down where it says assessment
19 plan?

20 would you read that please?

21 The date of this instrument is February 29, 2016.

22 A. Hospital admission. Excuse me. Assessment and
23 plan.

24 1. Hospital admission due to social situation.

25 2. Depression.

1 3. Diabetes.

2 4. MGUS.

3 5. POEMS syndrome.

4 6. PVD.

5 Orders. Consult with occupational therapy. Consult
6 physical therapy. Wound care. Await emergency protective
7 custody and DSS situation.

8 Q. Thank you so much.

9 We'll go to the next page I think. It's got discharge
10 diagnosis.

11 Just please read that.

12 A. Discharge diagnosis.

13 1. Chronic systolic dysfunction. Congestive heart
14 failure history. Compensated.

15 2. History of diabetes mellitus Type II.

16 3. History of hepatitis-C virus.

17 4. History of peripheral vascular disease.

18 5. Tobacco abuse.

19 6. Peripheral neuropathy.

20 7. Past history of plasma cell dyscrasia with
21 polyneuropathy organum, organomegaly, endocrinopathy,
22 monoclonal protein, and skin changes syndrome. EOEMS.

23 8. Past history of orthostatic hypotension for which
24 he is on chronic Midodrine use. Past history of monoclonal
25 gammopathy of undetermined significant. MGUS.

1 10. Major depression disorder.

2 Q. Doctor Brandenburg, on that discharge diagnosis, is
3 there any diagnosis of dementia?

4 A. No, sir.

5 Q. And under the bottom of that it says hospital
6 course.

7 would you please read that?

8 A. Hospital course. Mr. Sellaro is a 68 year old
9 gentleman with chronic but stable medical conditions who was
10 brought to the emergency room by the D -- by the -- DSS
11 following the death of his wife. The initial concern was
12 that the patient was not able to care for himself. He,
13 however, was clinically stable at admission and he was seen
14 shortly after admission by the psychiatric service who
15 determined that the patient is stable and has capacity to
16 make his own medical decisions.

17 He went to court earlier today with the social worker
18 and it was recommended the patient would be discharged from
19 the hospital to return home. He had been clinically stable
20 throughout the hospital stay with no incident. Tobacco
21 cessation was discussed.

22 Q. Thank you.

23 Now we're at Page 37. That's about his diabetes. I
24 think we can just skip over that one.

25 Now, we're on page -- I have here Page 160.

1 Is that what you have, doctor?

2 A. Yes, sir.

3 Q. Would you read history of present illness?

4 A. History of present illness. The patient is a 68
5 year old male with past history of coronary disease, asthma,
6 diabetes, depression, dementia secondary to childhood head
7 trauma, obstructive sleep apnea, peripheral vascular --
8 should I continue on the next page?

9 Q. Yes, sir. Let's stop right there for a minute.
10 Dementia secondary to child head trauma.

11 Is that the only time in these records that you've ever
12 seen where he had -- it was mentioned he had dementia as a
13 child?

14 A. Yes, it was the only place I could determine that
15 in these medical records.

16 Q. If you had, does that mean -- what does that mean
17 to you, dementia secondary to childhood head trauma?

18 What does that mean to you?

19 A. Well, I have no concrete evidence or history of the
20 injury that he sustained as a child. I would take it to
21 mean he had a head injury that was significant enough to
22 cause at least some temporary confusion.

23 Q. Okay. As a child -- okay.

24 A. As a child, I would assume it would be a
25 concussion.

1 Q. would that be a permanent condition would you
2 think?

3 A. Not in my opinion.

4 Q. Okay. All right. well, could we go over to Page
5 161?

6 If you just go down to the last three or four sentences
7 on that page where it says the patient otherwise.
8 would you read that?

9 A. Oh, up here. I'm sorry. Excuse me. The patient
10 otherwise denies any complaints and is upset that he is here
11 today. Patient denies any fever, chills, a cough,
12 congestion, diarrhea, per patient report. Excuse me. Per
13 report, patient had a blood sugar of 550 at his home.

14 Q. All right. Let's go to Page 162 and the diagnosis
15 impression on that page is what, sir?

16 A. Diagnosis and impression, hyperglycemia, mild
17 hyponatremia. Concerns for home safety.

18 Q. Okay. Let's go to the next page, which is 177. I
19 think we've already been over that one. This would go --
20 this -- would you go -- let's flip over a couple of pages,
21 doctor, to two -- Page 218 and this is dated March the 1st,
22 2016.

23 would you please read under assessment/plan?

24 A. Assessment/plan. Hospital admission due to social
25 situation. Depression, diabetes, MGUS, POEMS syndrome, PVD.

1 orders. Okay for -- patient was admitted against his will
2 due to DSS order. Court today. No medical reason to be
3 here. He would like to be able to mourn the death of his
4 wife with family. Discharged when cleared by state.

5 Q. Thank you.

6 would you go to Page 220 of that please and where it
7 says impression and plan?

8 This is dated March the 2nd, 2016. Impression/plan.

9 A. Impression and plan. APS case. Unclear why.
10 Patient awake, alert with absolutely no medical or psych
11 needs. Called our legal team to assist. Depression.
12 Patient, patient recently lost wife. MGUS. POEMS syndrome.
13 PVD. Patient was admitted against his will due to DSS
14 order. Court yesterday. Unknown results. It is unclear
15 why patient was placed under custody. He is not demented.
16 No cognitive impairment and no physical needs. Contacted
17 our legal team to notify of situation. No medical reason to
18 be here. He would like to be able to mourn the death of his
19 wife with family. Discharged when cleared by state.

20 Q. Thank you.

21 Go to Page 222. That is dated March the 3rd of 2016.
22 Impression and plan.

23 A. Impression and plan. APS case. Unclear why.
24 Patient awake, alert with absolutely no medical or psych
25 needs. Called our legal team to assist. Depression.

1 Patient recently lost wife. MGUS POEMS syndrome. PVD.
2 Patient was admitted against his will due to DSS order.
3 Court yesterday. Unknown results. It is unclear why
4 patient was placed under custody. He is not demented. No
5 cognitive impairment and no physical needs. Contacted our
6 legal team to notify of situation. No medical reason to be
7 here. He would like to be able to mourn the death of his
8 wife with family. Discharged when cleared by state.

9 MR. GARFIELD: Your Honor, may I -- may we approach
10 real quick?

11 THE COURT: Sure.

12 MR. GARFIELD: Thank you.

13 (WHEREUPON, a bench conference was held out of the
14 hearing of the jury at this time.)

15 MR. BREHMER: Okay. We're about done.

16 Page 25, Line 9. You were asked and would you please
17 go to Page 228, and if you would read under the impression
18 and plan, depression and at the bottom there it says patient
19 was admitted against his will again. I'm sorry you have to
20 read all this again but just -- this is just on different
21 dates.

22 Okay. Go ahead. I'm sorry. Line 15.

23 A. Okay.

24 Q. And this is March the 6th, 2016.

25 A. Yes, sir. Impression and plan. APS case. Unclear

1 why. Patient awake, alert with absolutely no medical or
2 psych needs. Called our legal team to assist. Depression.
3 Patient recently lost wife.

4 Q. Okay.

5 A. DM uncontrolled. Likely patient not adhering to
6 hospital diet as he is ambulating freely through hospital.
7 Increase Lantus to 60 and pre-meal Insulin to 15 TID AC.
8 Asked nursing staff to check blood glucose one hour after
9 patient received short acting in SSI to determine response
10 to Insulin. MGUS syndrome. POEMS syndrome. PVD.

11 Patient was admitted against his will due to DSS order.
12 It is unclear why patient was placed under custody. He is
13 not demented. No cognitive impairment and no inpatient
14 physical needs. Contacted our legal team to notify of
15 situation. No medical reason to be here. He would like to
16 be able to mourn the death of his wife with family.
17 Discharged when cleared by state.

18 Q. Skip that next page. Go over to Page 236 please,
19 Doctor Brandenburg, at the bottom where it says
20 recommendations.

21 A. Recommendations.

22 Depression. Patient is currently taking Mirtazapine
23 30 milligrams PO QHS, and Amitriptyline, Amitriptyline a
24 hundred, QD. Recommend continue home meds at this time.
25 Patient denies a breakthrough in depressive symptoms beyond

1 that appropriate for normal bereavement.

2 2. Dementia/capacity. Patient---

3 Q. Let me stop you a minute.

4 when it says dementia capacity, what are they trying to
5 say here?

6 A. I think they are merely grouping that
7 recommendation into the ability to answer whether or not he
8 has dementia and the ability to make his own medical
9 decisions.

10 Q. would you please read that?

11 A. Dementia/capacity. Patient is alert and oriented
12 times four and demonstrates considerable insight into his
13 own condition and circumstances surrounding his admission.
14 He demonstrates capacity to make his own medical decisions
15 and also endorses a significant support network including an
16 adult son who may move into the patient's home to
17 participate in his care.

18 Q. Okay. Okay. I think that'd be all on -- of that
19 one, doctor. I will ask you to look at this report from you
20 that was dated---

21 A. Is that the one you handed me, Ms. George?

22 Q. Yes, sir. Yes, sir.

23 A. Okay.

24 Q. Okay. Go down to page -- Line 22.

25 Doctor Brandenburg, this is dated February 29, 2016.

1 A. Yes.

2 Q. Is this -- do you see Mr. Sellaro on that date?

3 A. Yes, I did.

4 Q. And would you please tell us what you know about
5 that?

6 A. The summary of findings or would you like me to
7 read the --?

8 Q. Let's go with subjective where it says subjective.

9 A. Subjective. Patient was seen this morning on
10 rounds and case was discussed with staff. He is pleasant
11 and cooperative and see no short term memory deficits. See
12 student note for details.

13 Q. And then if you'll go over to the back page there
14 where it says impression and plan.

15 A. Impression and plan. Diagnosis.

16 Axis I. History of depression.

17 Axis II. Deferred. Problem list and plan. I feel he
18 has capacity to make own healthcare decisions.

19 2. Continued Remeron and Elavil.

20 3. I see no evidence of dementia.

21 Q. And, doctor, would you go back up there where it
22 says objective.

23 would you read that please?

24 A. Objective on his psychiatric exam?

25 Q. Yes, sir.

1 A. He was cooperative. Appropriate mood and affect.
2 Patient alert and oriented grossly. Under abnormal or
3 psychotic thoughts, no auditory or visual hallucinations
4 noted. Patient does not appear to be responding to internal
5 stimuli. No delusions. No homicidal ideation. No suicidal
6 ideation. Thought process appropriate.

7 Q. Doctor Brandenburg, would you give us your opinion?
8 would you go through a bunch of medical records here in
9 your examination of him?

10 would you give us your opinion, to a reasonable degree
11 of medical certainty, whether Mr. Sellaro, when you examined
12 him on February the 29th, was suffering from any form of
13 dementia?

14 A. It is my medical opinion he was not suffering from
15 any dementia.

16 Q. Is it -- is it your -- would you give your opinion,
17 to a reasonable degree of medical certainty, what is your
18 opinion of him being put under protective custody?

19 A. I'm not sure.

20 MR. GARFIELD: That's not the correct -- I'm sorry.
21 Could Mr. Brehmer reread 23?

22 THE COURT: Yes.

23 MR. GARFIELD: Or read that question back.

24 Q. Be -- is it -- is it your -- would you give us your
25 opinion, to a reasonable degree of medical certainty, what

1 is your opinion of him being put under the protective care?

2 A. I'm not sure.

3 MR. BREHMER: Okay. Okay. Go to Page 31, Line 5.

4 They said they brought him to the hospital.

5 A. Uh-huh.

6 Q. And I think it was protective custody.

7 A. Uh-huh.

8 Q. Do -- did you see any reason for that?

9 A. No, sir, I did not.

10 MR. BREHMER: Okay. Thank you so much. That's all the
11 questions I have.

12 (Pause.)

13 THE WITNESS: Page -- are you not doing Page 95?

14 MR. BREHMER: Wait a minute. I think she pointed out
15 something I missed. I'm sorry.

16 THE WITNESS: Line 23.

17 MR. BREHMER: Yeah, 95. I'm sorry. I missed that.

18 Okay. Go to Page 95, Line 23.

19 It -- what or who diagnosed him with dementia before
20 you saw him?

21 A. There is no way to tell, sir.

22 Q. Okay. So the fact that it's in his record, is
23 this -- if this was put in his record by mistake, you don't
24 know what doctor examined him and made a diagnosis of de --
25 of dementia?

1 Do you know what doctor did that?

2 A. That would not be available for me in the
3 electronical (phonetic) medical record.

4 Q. All right. So once every -- somebody puts
5 something in his medical record about dementia, then it's
6 just when -- just -- that's just on the computer. It comes
7 up every time.

8 Is that right?

9 A. Yes, sir.

10 Q. So from now until if he lives to be 110, if he goes
11 to the doctor about a sore throat and they push in his stuff
12 about it, dementia's going to show up?

13 A. Yes, sir.

14 Q. Whether that's true or not, dementia's not going --
15 dementia is going to show up?

16 A. Yes, sir, it will.

17 Q. And of your personal knowledge, the fact that it is
18 in his medical record prior to you seeing him, you don't
19 know whether that's true or not, do you?

20 A. I do not know.

21 Q. You do not know whether he was suffering -- when
22 you saw him and examined him, he wasn't suffering any
23 dementia, was he?

24 Was he suffering any dementia when you saw him?

25 A. No.

1 Q. Well, can you read them all again but we've read
2 them one time. I will ask you to read this again.

3 would you read it? Just hand it to you this page.
4 This is called hospital course. I'll hand it to you. we'll
5 read it again please.

6 Okay. I think that's it. I think we're good.

7 THE WITNESS: Okay.

8 MR. BREHMER: Okay. Thank you.

9 THE COURT: All right. Do you need in any portions?

10 MR. GARFIELD: I would.

11 THE COURT: Okay.

12 MR. GARFIELD: If I could, Your Honor. Thank you.

13 THE COURT: Okay. Just make sure she knows which page
14 to go to please.

15 MR. GARFIELD: Yes.

16 Good afternoon.

17 THE WITNESS: Hi.

18 MR. GARFIELD: I begin on Page 80, Line 16.

19 Are you situated?

20 THE WITNESS: Yeah.

21 MR. GARFIELD: Okay.

22 Q. Doctor, would you have any reason to disagree that
23 Mr. Sellaro underwent a nuclear stress test in February,
24 2014?

25 A. I would have no reason to disagree.

1 Q. And a month later -- and I'm working up that he
2 underwent a heart catheterization in March of 2014.

3 A. Yes, I see that indicated in the record.

4 Q. Would you have any reason to disagree that, in
5 April of 2014, that he was diagnosed with cardiomyopathy?

6 THE WITNESS: What line are you on?

7 MR. GARFIELD: I'm sorry. I'm on Page 82.

8 THE WITNESS: Okay.

9 No, I would not have any reason to disagree.

10 Q. In fact, he even had an echogram in August of 2014
11 if you look at that right side of the notes?

12 A. Yes, sir.

13 Q. And it appears also that the doctors had intended
14 to give him heart related medicines such as bater (sic) beta
15 blockers and ACE inhibitor and that kind of thing at some
16 point?

17 A. It would appear that way.

18 Q. But it would certainly -- but it was certainly on
19 hold because he was believed to be or there were concerns
20 that he was hypotensive, H-Y-P-O, tensive, right?

21 A. Yes.

22 Q. And that he even had fainting spells?

23 A. Yes.

24 Q. All right. And that was all we're talking about
25 between April 2014 and August of 2014, somewhere in that

1 area?

2 A. Yes.

3 MR. GARFIELD: Page 83.

4 Okay. Mr. Sellaro had legitimate heart problems.

5 A. It -- I would appear so from the notes.

6 Q. Okay. And legitimate heart problems that he was
7 being treated by a cardiologist?

8 A. Yes.

9 Q. And he had undergone diagnostic testing and a
10 procedure. You'd agree with me, just based on your
11 knowledge, that a heart patient that has an ICD, it's
12 important for them to routinely follow-up to make sure that
13 the ICD is in proper working order, has the batteries, or
14 whatever they need to do?

15 A. Yes, I would.

16 Q. It's not something to ignore.

17 A. No, sir.

18 Q. And well similarly medications is not something to
19 ignore if you're on a regimen for heart medications?

20 A. Correct.

21 Q. And it would be concerning if medications were on
22 hold because the patient had fainting spells or low blood
23 pressure like hypotension is low blood pressure, right?

24 A. Yes, it is.

25 MR. GARFIELD: And go to 84.

1 Q. So it's your understanding that Mr. Sellaro was a
2 Type II diabetic.

3 A. That is my understanding.

4 Q. And he was diagnosed some time around 2010
5 according to these notes?

6 A. According to the note.

7 Q. Is it also your understanding that Mr. Sellaro,
8 based on these notes, based on his medical history, that you
9 knew at the time that he was an asthmatic?

10 A. It appears that asthma was listed under his past
11 medical history, yes.

12 Q. And you know that he was a smoker?

13 A. Yes.

14 Q. And what kind of complications arise from someone
15 who has continued tobacco use, you know, in his fifties and
16 sixties despite the fact that this patient who's been warned
17 to discontinue tobacco use and that person being an
18 asthmatic?

19 A. Those are almost too numerous to mention.

20 MR. GARFIELD: And then the next answer.

21 A. Yeah, it could worsen breathing and heart problems
22 to answer it simply.

23 Q. Could it put their life in danger potentially?

24 A. Potentially, yes.

25 Q. This man had serious medical conditions?

1 A. He had multiple medical issues.

2 Q. And you'd agree that if Mr. Sellaro was untreated
3 in some respects these could of all or progressed to
4 potential life threatening conditions?

5 A. Yes, they could.

6 Q. If he was not properly treated, correct?

7 A. That is correct.

8 Q. And this could have been maybe even treated by not
9 only his internist but potential specialists as well?

10 A. Yes.

11 Q. Cardiologist for the heart issue?

12 A. Yes, a cardiologist would be appropriate.

13 Q. If he had a diagnosis of asthma and he was an
14 asthma suffer, potentially a pulmonologist would have to get
15 involved?

16 A. Potentially a pulmonologist.

17 Q. Did you also understand that he was an Insulin
18 dependent diabetic?

19 A. That was indicated in the chart.

20 Q. And he needed to be treated and seen and usually
21 followed up either with an internist or an endocrinologist?

22 A. Yes, I would agree.

23 Q. And if he didn't do some or all of these things,
24 this gentleman, Mr. Sellaro, could basically die?

25 A. That certainly would be possible.

1 MR. GARFIELD: Okay. That's all for cross.

2 THE COURT: Okay.

3 MR. SUMMERS: The Sheriff's Department adequately
4 covered DSS's equities in that particular, judge.

5 THE COURT: Okay. Did you need to read anything else?

6 MR. BREHMER: No, sir.

7 THE COURT: Okay. All right. Get a bonus for today.
8 That's it.

9 Okay. All right. And let's go ahead and take our
10 afternoon break, ladies and gentlemen. Anytime we read
11 deposition testimony it's good to stretch your legs
12 afterwards, get a soda or something like that. So we'll
13 take about a 10, 15 minute break. Don't discuss the case.
14 We'll be back with you in a few moments.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury.)

17 MR. GARFIELD: I didn't hear you talking, Your Honor.

18 THE COURT: Anything before we break?

19 MR. GARFIELD: No, Your Honor. Thank you.

20 THE COURT: Okay.

21 MR. SUMMERS: Nothing from DSS, sir.

22 THE COURT: Okay. All right. Let's take a little
23 break and we'll be back in a few minutes.

24 You got another witness for this afternoon?

25 (WHEREUPON, there was no audible response.)

1 THE COURT: One more, one more all together?

2 MR. BREHMER: Yes, sir.

3 THE COURT: Okay. Good. All right.

4 MR. GARFIELD: So, for logistics, may I ask, Your
5 Honor, this would potentially close the case. We could
6 start the next case first thing in the morning.

7 THE COURT: Well, it depends on how far we make it with
8 that witness but yeah.

9 MR. GARFIELD: Well, I mean whenever we're done with
10 that witness.

11 THE COURT: But I think, for logistics purposes, I
12 would tell witnesses -- of course, you don't have to call
13 any witnesses and you, you know that. But if you want to
14 have some witnesses lined up at -- did y'all decide who
15 wants to go first if you're gonna go?

16 MR. GARFIELD: I think we'll go first.

17 THE COURT: Okay. Perhaps---

18 MR. GARFIELD: The sheriff will.

19 THE COURT: I would go ahead and, you know, let them
20 know probably tomorrow morning or mid morning just depending
21 on how far we make it through Mr. Sellaro this afternoon.

22 MR. GARFIELD: That's great. Thank you.

23 THE COURT: Is that -- okay.

24 MR. SUMMERS: Very good, sir. Thank you.

25 THE COURT: Okay. Great.

1 All right. Thank you.

2 (WHEREUPON, a short recess was taken at this time.)

3 THE COURT: Anything before we bring them in, Mr.

4 Brehmer?

5 MR. BREHMER: No, sir, Your Honor.

6 THE COURT: Mr. Garfield.

7 MR. GARFIELD: No, Your Honor.

8 THE COURT: Mr. Summers.

9 MR. SUMMERS: No, sir.

10 THE COURT: All right. You can bring them in.

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 THE BAILIFF: All the jurors are seated, Your Honor.

14 THE COURT: All right. Welcome back, ladies and
15 gentlemen.

16 We will continue now with the plaintiff's case and you
17 may call your next witness.

18 MR. BREHMER: Your Honor, we'd call Mr. Joseph Sellaro.

19 THE COURT: All right. Come on forward, sir, and be
20 sworn please.

21 MR. BREHMER: Raise your left-hand. Raise your right.

22 JOSEPH SELLARO, being first duly,
23 testified as follows:

24 MR. BREHMER: I'm going to back you right around here
25 by the microphone, Mr. Sellaro.

1 THE WITNESS: Okay.

2 MR. BREHMER: Right there where the -- that's good.
3 Okay?

4 THE WITNESS: Yeah.

5 MR. BREHMER: I'm gonna move myself right over here.

6 THE WITNESS: All right.

7 THE COURT: Can you see good with that microphone right
8 here?

9 (WHEREUPON, there was no audible response.)

10 THE COURT: Okay. Any -- if either one of y'all need
11 to move, you're more than welcome to move if you want to.

12 MR. SUMMERS: Thank you, Your Honor.

13 THE COURT: You certainly can.

14 DIRECT EXAMINATION

15 BY MR. BREHMER:

16 Q. Mr. Sellaro, could you give the jury your full name?

17 A. Joseph P. Sellaro.

18 Q. Okay. Mr. Sellaro, are you originally a South Carolina
19 native?

20 A. No, I'm not.

21 Q. Okay. Where'd you grow up?

22 A. Jersey City, New Jersey.

23 Q. Okay. And when did you move to South Carolina?

24 A. Approximately 14 years ago.

25 Q. Okay. And were you married?

Joseph Sellaro - Direct examination
By Mr. Brehmer

- 1 A. Yes.
- 2 Q. To whom were you married?
- 3 A. To my wife, Eileen.
- 4 Q. Okay. How long were you and Eileen -- how long had
- 5 y'all -- had been married now---
- 6 A. We were going on our 41st year.
- 7 Q. Okay. Okay. And as a result, did y'all have children?
- 8 A. Yes, three.
- 9 Q. Three?
- 10 A. Three children.
- 11 Q. Okay. Did Eileen have one before you were married?
- 12 A. Yes.
- 13 Q. Okay. And that's your older son?
- 14 A. That's -- yes.
- 15 Q. Chip?
- 16 A. No, no, no. That's her brother, Chip.
- 17 Q. Okay.
- 18 A. Her, her son, his name is -- I'm not -- cause I never
- 19 really -- he moved -- he went to the Marines when he was
- 20 young, eight -- 17 and we haven't seen him. But I know he's
- 21 living in Hollywood.
- 22 Q. Okay.
- 23 A. Joey's living in Kansas City.
- 24 Q. Okay.
- 25 A. And Virginia's in west Virginia.

1 Q. All right. Now -- all right. Now, are you retired?

2 A. Yes.

3 Q. Okay. And what type of work did you do here in South
4 Carolina before you retired?

5 A. I worked in Baptist Hospital buffing the floors at
6 night.

7 Q. Okay. All right. And did you have an accident with a
8 floor finishing machine?

9 A. Yeah, I ran into a, a door and I broke my leg.

10 Q. Okay. And did they retire you at that time?

11 A. Yeah.

12 MR. GARFIELD: Objection, Your Honor. Leading.

13 THE COURT: Sustained.

14 Q. Okay. Okay. Now, since you retired, what do you do
15 during the day?

16 A. I take care of the house, my dogs, my lawn.

17 Q. Okay.

18 A. Mow my lawn. Stuff like that.

19 Q. Okay. All right. And there has been testimony that
20 your wife, Eileen, was your caregiver.

21 Is that true?

22 A. No.

23 Q. Tell us how the household worked prior to February the
24 26th of 2016.

25 A. Eileen would get up early, seven o'clock, go to work.

1 I'd get up about eight o'clock, go take my dogs for a walk,
2 come back, eat. If the lawn needed mowing, I'd mow the
3 lawn. I had a sit down lawn mower and other days I'd come
4 in the house, buff the floors in the house, and my days went
5 like that.

6 Q. Okay.

7 A. Feeding the dogs.

8 Q. Okay. Were you a house husband?

9 A. I -- yeah, I guess you'd call me that, yes.

10 Q. All right.

11 A. Yeah.

12 Q. All right. Now, when Eileen was at work, were you
13 capable of fixing yourself a meal to eat?

14 A. Oh, yeah, I, I took care of my -- I took care of
15 myself.

16 Q. Okay. All right. Were you okay to take your
17 medications?

18 A. Sure.

19 Q. Okay.

20 A. I took my medications. I took my Insulin in the
21 morning once a day and that was it.

22 Q. Okay. And are you a diabetic?

23 A. Yes.

24 Q. Okay. Type II?

25 A. Type II.

1 Q. Okay. And how much Insulin did you take per day?

2 A. At that time I was taking 120.

3 Q. Okay.

4 A. I'm down to 15 now right to -- today.

5 Q. Okay. And who administers your Insulin shots?

6 A. I do.

7 Q. Okay. And have you always administered your Insulin
8 shots?

9 A. Yeah, ever since I was -- been on it. Well, I, I have
10 a -- go to a counselor to learn how to give myself
11 injections and stuff like that. But, after that, I'd, I'd
12 give it to myself.

13 Q. Okay. Give them to yourself.

14 A. And I -- yeah, and I -- yeah, at, at night I'd take --
15 I'd check my blood sugar, make sure it's not too high. If
16 it's too high, I'd take a small shot, Insulin shot.

17 Q. Okay. Do you have what they call I think a glucometer
18 or something?

19 A. Yes.

20 Q. Okay. That measures your blood sugar.

21 A. Me -- yes.

22 Q. Okay. All right. Now, what does stress do to your
23 blood sugar?

24 A. Excuse me?

25 Q. Stress. Stress.

1 A. what distresses it?

2 Q. No, what stress -- does -- what does a stressful day do
3 to your blood sugar?

4 MR. GARFIELD: Objection. That's leading.

5 A. Nothing.

6 MR. GARFIELD: It's, it's---

7 THE COURT: Well, it's not.

8 A. It doesn't affect it.

9 THE COURT: Stop, stop, stop, stop.

10 what's the objection?

11 MR. GARFIELD: Well, it's a -- it's leading. It's
12 assuming -- it's assuming a conclusion, what stress does to
13 it.

14 THE COURT: No, overruled.

15 MR. GARFIELD: Okay.

16 MR. BREHMER: Okay.

17 THE COURT: All right. Go ahead.

18 Q. what does a---

19 THE COURT: You can reask the question.

20 Q. what does a stressful day do to your blood sugar?

21 A. Nothing. It doesn't affect my -- your blood sugar at
22 all.

23 Q. Okay. Now, let's go to the day of February 27, 2016.

24 A. Right.

25 Q. Okay. Let's start in the morning.

1 All right?

2 A. Okay.

3 Q. That was a Saturday?

4 A. Yes.

5 Q. What time did you and Eileen arise that day, get up?

6 What time'd you get out of the bed?

7 A. By eight o'clock.

8 Q. Okay.

9 A. Eight, nine o'clock. We always got up before usually
10 around eight o'clock.

11 Q. Okay. And what were your plans and what were her plans
12 for the day?

13 A. Eileen had to go to, to see her -- a doctor. She was
14 in a car accident and she was going through that process and
15 I planned on mowing my lawn --

16 Q. Okay.

17 A. -- cause I just bought a brand new sit down lawn mower
18 and I wanted to use it as much as possible.

19 Q. They are fun to use, aren't they?

20 A. I love them.

21 Q. Yeah.

22 A. Yeah.

23 Q. Now, so what time did Eileen leave the house?

24 A. Before 9:00.

25 Q. Okay. And what time were you anticipating her to

1 return?

2 A. By around 5:00.

3 Q. Okay. And between 9:00 and 5:00, other than enjoying
4 that new riding mower --

5 A. Yeah.

6 Q. -- what did you do?

7 A. I ate. I took care of my -- fed my dogs and watched
8 some little bit of TV.

9 Q. Okay. Now, that evening, that evening --

10 A. Yeah.

11 Q. -- Eileen didn't return home?

12 A. No.

13 Q. When did you become aware that something had gone
14 wrong?

15 A. I was sitting in my living room and -- with my dogs on
16 the floor and I was thinking where the heck -- hell -- heck
17 is Eileen and I looked up, and on the venetian blinds I seen
18 red lights and I -- it, it -- I just had this ominous
19 feeling that since -- don't tell me Eileen was in a car
20 accident. And two police officers were knocking on my door
21 and I said yeah, what. They said we're here to let you know
22 that your wife, wife was killed in a car accident.

23 Q. Okay. Now let's stop right there.

24 were you in the wheelchair at that time?

25 A. No, no, no. This is from diabetes two years later.

1 Q. Okay. So you were able to stand up and walk?

2 A. Yeah.

3 Q. Okay.

4 A. I walked to them.

5 Q. And you were walking around?

6 A. Yes.

7 Q. Okay. Okay. And you lost your leg to diabetes you
8 said two years after that?

9 A. About two years about -- later, yeah.

10 Q. Okay. So, I'm gonna ask the obvious but did the
11 officer's representations upset you?

12 A. I was bewildered to say the least. I, I, I -- they
13 were talking to me and I -- all I remember hearing them say
14 was Eileen is, is dead.

15 Q. Okay.

16 A. She was killed in a car accident was -- we're here and
17 I'm sorry just -- what -- to tell you that and like -- and I
18 kind of -- I guess I was -- I lost it after that cause they
19 were asking me silly questions about who's my doctor and
20 what's his address. And I was answering them as good as
21 possible. But then I'm saying well, wait a minute. I --
22 where's my wife and they said she's in the morgue and
23 that -- at Palmetto-Health.

24 Q. Okay.

25 A. And I said well, I got to go, excuse me, and they're in

1 the doorway with their foot in the door.

2 Q. The officer?

3 A. Yeah, I took -- when I said excuse me, I -- and I'm
4 thinking to myself how am I gonna get there cause Eileen has
5 the car. I said I'll take a cab to myself. And I said
6 okay, excuse me, officer. And as I'm pulling the screen
7 door, he got his foot in the door -- the lady got her -- the
8 foot in the door and she -- Mr. Sellaro, we have to come in.
9 Their hands were up like that. I felt like I was being
10 attacked.

11 Q. Uh-huh.

12 A. I was being attacked and I said well, what's going --
13 what are you doing, what's going on, and they pushed me
14 back.

15 Q. They pushed you?

16 A. Yeah, put their hands on my, my chest. You know, they
17 didn't throw me down or nothing. Just, just---

18 Q. Gently pushed you back.

19 A. Mr. Sellaro, we got to talk to you.

20 Q. Yeah.

21 A. And I said I don't have nothing to say. I got to go
22 see my wife and they wouldn't let me go. Two minutes later
23 an ambulance pulls up and I said what -- what's the
24 ambulance for and they brought up a gurney up and they said
25 get on it. You got to get on the gurney. I said for what.

1 what did I do. what, what do you -- what -- I -- what's
2 going on. we'll, we'll take you to see your wife at the
3 hospital.

4 Q. Okay.

5 A. And that -- I -- that's all I was thinking about. So I
6 laid on, on the gurney. They put me on the gurney -- put me
7 in the ambulance, brought me to the hospital. Now they said
8 they brought me to the emergency ward. They didn't bring me
9 to no emergency ward. They put me in the en -- enclosure in
10 the room with glass windows down in the basement and that's
11 where I stayed till Monday morning.

12 Q. Okay.

13 A. I wasn't no -- not in no emergency ward.

14 Q. Okay. You were in a basement in a---

15 A. Yeah.

16 Q. ---glassed enclosure?

17 A. Glass enclosure where they put the crazy people.

18 Q. Yes, sir.

19 Now---

20 A. And I was screaming all night and nobody even came down
21 there.

22 Q. Okay. Now, did you tell the officers I don't want to
23 go with you?

24 A. Yeah, numerous times.

25 Q. Okay.

1 A. Num -- I said I have to go see my wife.

2 Q. Okay.

3 A. And they said no, you have to come with us and I said
4 no, I don't. What are you talking -- what are you even
5 doing here.

6 Q. Okay. Now---

7 A. And I remember that lady, her girlfriend, she was
8 standing in the background saying Joe, don't worry about it.
9 It will be all right and I'm -- I didn't even answer her
10 cause I didn't even know why she was there. I don't even
11 know that woman.

12 Q. Okay.

13 A. I didn't like her but I -- and I didn't know her.
14 Anyway, she was standing -- and now they're all in my house
15 and the cops are yelling at my dogs. My dogs are barking
16 naturally.

17 Q. Sure.

18 A. And they're yelling shut up, get over there, and I'm
19 saying what, what -- are you gonna shoot my dogs. Now
20 what's going on. I -- anyway I wind up in a glass enclosure
21 room down in the basement. I wasn't in no emergency room.

22 Q. Okay. Well, let's, let's, let's don't get quite that
23 far ahead of ourselves.

24 A. Okay.

25 Q. Now, did they -- did, did the officers put you on the

1 gurney or did you get on there yourself?

2 A. They pushed me back that way and said get on the
3 gurney. You're not -- and you're not, you're not leaving.
4 We have to take you with us.

5 Q. Okay.

6 A. And I said why do I have to go with you. Do you have a
7 warrant. They said we don't need a warrant. I said oh, you
8 don't. Why not. This is the United States of America and
9 they said we don't need a warrant. Get on the gurney.

10 Q. Okay.

11 A. So we'll take you to see your wife.

12 Q. Sure.

13 A. That's why I got on the gurney. That's why I a lot --
14 or they never would of got me on that gurney.

15 Q. Yes, sir.

16 Now, the young lady that testified, the pregnant lady
17 that testified this morning --

18 A. Yeah.

19 Q. -- the -- okay. Does -- she was the paramedic or
20 person.

21 Did you give her your name and address?

22 A. First of all, the paramedic that came up with the
23 gurney was a guy.

24 Q. Sure.

25 A. I don't even remember her. I don't.

1 Q. Okay.

2 A. I don't know where she came from.

3 Q. Okay. Okay.

4 A. I don't remember her at all.

5 Q. Okay. Did you -- but you gave them your information as
6 to what your date -- age, age and date of birth was?

7 A. Yeah. Sure.

8 Q. And what your social security number was?

9 A. Everything.

10 Q. Medical conditions?

11 A. Yeah, then they started asking me crazy questions,
12 what's your doctor's address, where does he live.

13 Q. Sure.

14 A. I don't know.

15 Q. Sure.

16 Now, let me ask you this.

17 Have you, to the best of your knowledge, ever had any
18 issues with dementia?

19 A. No, I, I---

20 Q. Any---

21 A. ---didn't even know what the word meant.

22 Q. Ever, even to today, have you had any trouble with
23 dementia?

24 A. No.

25 Q. Okay. You ever -- to your -- best of your knowledge,

1 ever been diagnosed with Alzheimer?

2 A. No.

3 Q. Okay. Okay. Okay. You ever, to the best of your
4 knowledge, taken any medications for memory loss or
5 cognitive function?

6 A. No. Not, not -- never.

7 Q. Okay.

8 A. I --.

9 Q. And did you tell the people -- what did you tell the
10 people at the hospital?

11 A. I never seen nobody. They, they brought me in right
12 through the front door, door in the elevator, down in the
13 basement, into that room which had a, a bed with no mattress
14 on it. No phone. No nothing. I was incognito basically is
15 what I recall.

16 Q. Did they let you keep your clothes?

17 A. Yeah, I kept my clothes. Nobody ever came down till
18 Monday morning.

19 Q. Okay. All right.

20 A. And all the time I'm thinking my wife is right in the
21 morgue over there --

22 Q. Okay.

23 A. -- and they wouldn't let me go see my wife. I didn't
24 even -- I couldn't see my wife laid out and her sister snuck
25 down and had her cremated behind my back and took the ashes

1 back up with her.

2 Q. To New Jersey?

3 A. Yes.

4 Q. Okay. So you never got to pay last respects to your
5 wife.

6 A. No, I never even got to see my, see my -- see Eileen.

7 Q. Okay. Now, I have to ask you this. I know the
8 question -- did you love Eileen?

9 A. Yes, sir, with all my heart.

10 Q. Yes, sir.

11 A. Forty-one years that we were together.

12 Q. Still love Eileen?

13 A. Still love her.

14 Q. Okay. Okay.

15 A. I'll love her till the day I die.

16 Q. Yes, sir.

17 Now, did you -- when somebody at the hospital -- the
18 people from the hospital and DSS came to see you, did you
19 answer their questions?

20 A. Sure.

21 Q. Okay.

22 A. I got -- I told them everything that I could, that I
23 knew of.

24 Q. Okay. And you -- the hospital doctor that came by --?

25 A. Psychiatrist came to see me.

1 Q. Yeah.

2 You answer all his questions?

3 A. Yes.

4 Q. Okay. Okay. And -- okay. And did you, did you want
5 to leave?

6 A. Oh definitely.

7 Q. Yeah.

8 A. Every time I tried to leave that social worker told me,
9 if you leave the floor, I'm sending the guards after you the
10 first time. She said the second time you'll be strapped to
11 the bed if you try to leave. I, I heard them say that that
12 was a renal -- people with renal failure were up there.
13 There's -- that's -- that -- that's the crazy ward. I mean
14 when, when you're deemed crazy, they put you on the
15 seventh floor.

16 Q. Sure.

17 Okay. Well that was your impression of where you were
18 is -- was the mental, mental---

19 A. Yeah.

20 Q. Okay.

21 A. Anyway.

22 Q. Okay.

23 A. Yeah.

24 Q. Okay. Now, if you could of left, would you of left?

25 A. Yes.

1 Q. Okay. Were you there against your will?

2 A. Yes.

3 Q. Okay.

4 A. Everyday I, I tried to sneak on the elevators and that
5 social worker grabbed me or she -- three or four times she
6 told me, she said I -- security will come get you the first
7 time. The second time you'll be strapped to your bed. So
8 she scared the --.

9 Q. Sure.

10 Okay. Okay. Now, I think the fourth day in the
11 coroner brought you Eileen's phone.

12 A. Yeah.

13 Q. Okay. Okay.

14 A. Yes.

15 Q. Okay. Now---

16 A. No, not the coroner. The guy from the -- where she was
17 cremated.

18 Q. Okay.

19 A. Funeral home.

20 Q. The funeral home?

21 A. Yeah.

22 Q. Funeral, funeral home?

23 A. Is that the coroner?

24 Q. No. No, it's funeral, funeral home.

25 A. Oh.

1 Q. Somebody brought you her phone?

2 A. Yeah, the guy from the --

3 Q. Okay.

4 A. -- funeral home.

5 Q. Okay. Did you call the Sheriff's Department trying to
6 get them to get out of what you believed to be the mental
7 institution?

8 MR. GARFIELD: Objection, Your Honor. It's just
9 leading.

10 MR. BREHMER: I just asked---

11 THE COURT: Did you call the Sheriff's Department?

12 MR. GARFIELD: Did you, did you -- who, if anybody, did
13 you call. Did you call anyone. I'm just -- it's --.

14 THE COURT: Overruled.

15 Go ahead.

16 Q. Did you call the Sheriff's Department?

17 A. Yes.

18 Q. Okay. How'd that go?

19 A. They hung up on me.

20 Q. They hung up on you?

21 A. Yeah.

22 Q. Did they say anything before they hung up?

23 A. We can't help you. Don't bother us. Good-bye.

24 Q. Okay.

25 A. When I told them that I was calling from the, the nut

1 ward basically what people call it. The seven -- Seven
2 West.

3 Q. Yeah.

4 And they hung up on you?

5 A. Yeah, I guess they thought I was crazy. I don't know.

6 Q. Okay. Okay. All right. Now, you remember Ms. Deas,
7 Victoria Deas Johnson?

8 A. Yes.

9 Q. Okay. That nice lady that testified yesterday?

10 A. Yes.

11 Q. Okay. She came to see you?

12 A. She came to speak to me, yeah.

13 Q. Okay. All right. And did she -- went to court for
14 you?

15 A. Yes.

16 Q. Okay.

17 A. She's very nice.

18 Q. And got you to go to court?

19 A. Yes.

20 Q. Okay.

21 A. She started -- got me out of there.

22 Q. Yeah.

23 Okay. She got you out of there?

24 A. Yeah.

25 Q. And she did everything she could for you to the best of

1 your knowledge?

2 A. Yes, cause she had said to me, she said, Mr. Sellaro,
3 Mr. Sellaro, I've spoken to -- I've been here for 20 minutes
4 speaking to you and they have you in here for having
5 dementia. People don't get dementia one day and a week
6 later it's gone. It's -- it goes away. So you don't have
7 dementia and I'll go to court and say that, and I said well,
8 I, I really would -- she started the ball rolling.

9 Q. Okay. She started the ball rolling?

10 A. Yes.

11 Q. Got you out of there.

12 A. Yeah.

13 Q. Okay. And you were actually allowed to go to court on
14 the 7th of March?

15 A. No, they wouldn't. They -- that social worker said you
16 don't go to court. I said well, what do you have the --
17 what do you have a court hearing for if I'm, if I'm not
18 there.

19 Q. I'm not talking about the first one. I'm talking about
20 the second one---

21 A. Oh---

22 Q. ---on the 7th.

23 A. ---the second one?

24 Yeah, that was Elene -- Eline -- Elont -- Elene Boozler
25 was the lawyer --

1 Q. Yeah.

2 A. -- that Ms. Johnson got for me and she -- both of them
3 helped me get out.

4 Q. Okay. And you were released on the 7th day of March?

5 A. Yeah, the, the -- when I went in front of the judge,
6 the judge said Mr. Prosecutor, what's going on here. Your
7 Honor, we made a mistake and he said you made a mistake.
8 well, you're gonna -- how do you correct it. He said we'll
9 have to release him, Your Honor, and that -- and I left.

10 Q. Okay. Left.

11 Did anything other than your address change between
12 March -- February the 27th and March the 7th?

13 A. Did anything change?

14 Q. Yeah.

15 well, anything about your medical condition---

16 A. No.

17 Q. ---your emotional stability, anything like that changed
18 during---

19 A. No.

20 Q. ---that timeframe?

21 A. No. I went home. I -- you know, unfortunately, it was
22 terrible going back home without Eileen but I did -- had
23 a -- I carried on with my life --

24 Q. Sure. Sure.

25 A. -- day by day.

1 Q. Despite the loss you carried on?

2 A. Yes.

3 Q. Now, these pets that you had that -- okay.

4 A. Yes.

5 Q. What type of condition were your pets
6 in?

7 A. The two were basically puppies. They're about three
8 years old. The ones that Ms. Outlaw had killed was a, a
9 baby Chihuahua that big. Nothing -- there was no hair
10 falling off her. There was nothing wrong. She's perfectly
11 healthy and my Angelina, I had her for 10 years.

12 There was nothing wrong with her. She was a little
13 slow. Like if I called her and I said come on Angie, we'll
14 take a walk, she'd look at me and then get up slowly and
15 slowly walk over but she walked.

16 Q. Sure.

17 A. There was nothing wrong with her. I don't know how or
18 who she went to to have my dog euthanized but I didn't give
19 her permission for that. She just went and had my dog
20 euthanized and I don't know what she did with the Chihuahua.
21 I still don't know to this day.

22 Q. Okay. Okay. Did you eventually get the two back?

23 A. Well, yeah, after about three weeks of me calling her,
24 I -- and I said I'm just gonna keep calling you and she hung
25 up and I called back constantly.

1 I said okay. I'm coming up there with the cops and she
2 don't want cops in her house cause she's got rifles and guns
3 all over her walls and she got scared then. And she said
4 I'm gonna bring your dogs back. Open up, open up the gate
5 to your house and the door to your house. She said but
6 don't you dare come out of that house. I said what a -- why
7 not. What are you, what are you gonna do. She said come
8 out of the house and find out and then I kind of -- she kind
9 of scares me.

10 Q. Yeah.

11 A. Anyway, about three hours later, all I hear is barking
12 and my two dogs jumped up in my lap, Nicki and Jersey.

13 Q. Okay.

14 A. And I said -- I -- and I, I actually cried --

15 Q. Okay.

16 A. -- for my other two dogs.

17 Q. Sure.

18 what -- did you ever threaten that lady?

19 A. Threaten her?

20 Q. Yeah, you -- she -- you heard her testify.

21 You ever threaten her?

22 A. No, she scared me.

23 Q. Okay.

24 A. Believe me when I, when I tell you that. She, she
25 scared me. She lost -- must of lost 150 pounds with them

1 when I knew her. She was big --

2 Q. Yeah.

3 A. -- and abusive with her mouth and obnoxious and she,
4 she actually scared me. I -- and I, I told my wife, I said
5 Eileen, watch yourself with her and then I said Joe, nobody
6 likes her in the hospital. Everybody hates her. And I said
7 well, you're -- Eileen treated her -- took her over to the
8 house and stuff cause she felt sorry for her cause she had
9 no friends.

10 Q. Sure.

11 A. They all hated her. All the girls in the hospital,
12 they didn't even talk to her.

13 Q. Sure.

14 Now, how old are you, Mr. Sellaro?

15 A. 73.

16 Q. Would you please tell the jury what your date of birth
17 is?

18 A. [REDACTED] 48.

19 Q. Okay. Okay. Where are you living now?

20 A. Where am I living now?

21 I'm in Westside Convalescent Center.

22 Q. And is that here in Columbia?

23 A. Yes.

24 Q. Okay. And what are your living conditions?

25 A. I live, I live in a four man dormitory.

1 Q. Okay.

2 A. Have my own bed, my own TV, radio. I -- they have
3 nurses there around the clock on duty and they're helping
4 me -- I have a prosthesis but my legs is -- have -- I've
5 gotten crippled in both my legs --

6 Q. Sure.

7 A. -- since, since I lost my foot and they're teaching me
8 how to, how to walk with the prosthesis.

9 Q. Okay.

10 A. So that's what I'm working on, getting out of there.

11 Q. Okay. All right. Now -- just one second.

12 A. Uh-huh.

13 (Pause.)

14 MR. BREHMER: Mark this as the next exhibit,
15 Plaintiff's Exhibit.

16 (WHEREUPON, the Palmetto-Health bill was marked as
17 Plaintiff's Exhibit No. 9 for identification purposes only
18 at this time.)

19 Q. Mr. Sellaro, I'll show you what's been marked as
20 Plaintiff's Exhibit 9.

21 Is that the bill that the hospital sent you for your
22 stay?

23 A. Yeah.

24 MR. BREHMER: Okay. Your Honor?

25 A. Yes.

1 MR. BREHMER: Your Honor, we would move Plaintiff's
2 Exhibit No. 9 into evidence.

3 MR. GARFIELD: Without objection.

4 MR. SUMMERS: No objection, sir.

5 THE COURT: Okay.

6 MR. BREHMER: Thank you.

7 (WHEREUPON, Plaintiff's Exhibit No. 9 was received into
8 evidence at this time.)

9 Q. Now, Mr. Sellaro, there's been a bunch of testimony
10 about the fact that you have a pacemaker.

11 Is that correct?

12 A. Yes, I do.

13 Q. Okay. You do receive medical treatment with a
14 cardiologist?

15 A. Not -- I haven't seen a cardiologist in a few years.

16 Q. Okay. All right.

17 A. But the -- about the pacemaker?

18 Q. Yes, sir.

19 A. I heard the other guy talking about I hadn't -- it's --
20 yeah, it's been in there for six years, years. I have a
21 monitor that they sent me from the hospital and it's on my
22 dresser and basically it has four lights on it. The one
23 light at the end means you're -- everything's fine. If
24 something goes wrong, battery, or it just shuts down, an
25 alarm goes off.

- 1 Q. Sure.
- 2 A. So that's how I take care of that.
- 3 Q. You're being monitored with your pacemaker?
- 4 A. Yeah. Yeah.
- 5 Q. Okay. But---
- 6 A. And that's a -- hooked up to the computer in the
- 7 hospital.
- 8 Q. Okay. Okay. So, you got that condition under control.
- 9 A. Yeah.
- 10 Q. Now your diabetic condition --
- 11 A. Yeah.
- 12 Q. -- you keep it under control with Insulin, correct?
- 13 A. Yeah, I'm really on top of that cause I'm down to 15
- 14 milligrams --
- 15 Q. Okay.
- 16 A. -- whereas about four years ago I was on 120.
- 17 Q. Sure.
- 18 A. So, I brought it way down.
- 19 Q. And your asthma?
- 20 A. I take medication for that.
- 21 Q. How long, how long have you had asthma?
- 22 A. All -- since I was born --
- 23 Q. Okay.
- 24 A. -- basically.
- 25 Q. For, for the last 70 some odd years?

1 A. Yes.

2 Q. Have you had any trouble controlling your asthma?

3 A. No, none at all. I always have a, a, a nebulizer.

4 Q. Sure.

5 A. There's two different ones. One's for long lasting and
6 one's for if I have a sudden asthma attack --

7 Q. Okay.

8 A. -- and I have both of them with me at all times.

9 Q. Okay. Now, there's also been some testimony that
10 you've got some depression.

11 You've had depression?

12 A. Yes, I've, I've been depressed in my life, yes.

13 Q. Okay. And had any medical treatment for your
14 depression in a long time?

15 A. No. Basically I -- my -- when I was with Eileen,
16 Eileen was friends with a few doctors. I went to a doctor.
17 He talked to me. I, I can't remember his name but it was
18 like seven, eight years ago and he put me on some type of
19 medication and the depression went away cause I ran out of
20 the medication over the weekend, and, come Monday, found out
21 I wasn't depressed anymore. So I, I didn't need the pills
22 anymore.

23 Q. You had that under control?

24 A. Yes.

25 Q. Okay. Are those all your medical conditions?

1 A. Yes.

2 Q. Okay. All right. Do any, any of those medical
3 conditions keep you from functioning?

4 A. I, I -- I've had to get use to being in a wheelchair --

5 Q. Sure.

6 A. -- was -- cause I lost my foot.

7 Q. Okay.

8 A. Other than that, no, I can -- I'm on top of everything.

9 Q. Well, here's the point that I'm trying to get back and
10 my question that I asked you was a very poor question and
11 I'm -- the real relevant thing is on February the 26th of
12 2016 --

13 A. Right.

14 Q. -- February 27 and February 28, did you have your
15 medical conditions under control?

16 A. Yes.

17 Q. Were they managed?

18 A. Yes.

19 Q. Were they influencing or adversely impacting your life
20 or your daily living experiences?

21 A. No, not at all.

22 Q. Okay. Okay. Okay. Now, from what you saw and what
23 you knew from being there, in February the 27th of, of
24 2016, had the police or some other responsible person come
25 by and advised you of the unfortunate death of Eileen --

1 A. Yes.

2 Q. -- and left, would you have been all right?

3 A. Yes, I would of got a cab and went to the hospital to
4 see Eileen.

5 Q. Okay. But you were able to feed yourself?

6 A. Sure.

7 Q. Bathe yourself?

8 A. Yeah, I fed all, all that day. I had breakfast, lunch,
9 and dinner.

10 Q. Okay. Okay. And able to care for your medical needs?

11 A. Yes.

12 Q. Okay. Now, did Joey come down after you got out of the
13 hospital or the nut ward?

14 A. Joey's a drug addicts (sic). He lives in Kansas City
15 and he's very undependable.

16 Q. Sure.

17 A. He's 40 something years old. Me and Eileen brought him
18 down here two or three times and he turned against us. He
19 stole from us, you know, for drugs and he went back to
20 Kansas City. So, I don't know if somebody got in touch with
21 him or not. I don't know.

22 Q. Okay. Okay.

23 A. As far as Colm (phonetic), I don't -- I didn't even
24 know where he lived, if he lived on a street, or was he
25 living with -- in a house. I don't -- didn't even know.

1 That's why I couldn't contact him.

2 Q. Yes, sir.

3 Now -- okay. How are you making it today with your
4 living experience?

5 A. I'm doing good.

6 Q. Okay.

7 A. I'm in, I'm in the convalescence center.

8 Q. Sure.

9 A. But, like I said, I'm learning to use my prosthesis
10 which I obtained last year, and I, I ran into some problems
11 because, after I lost my foot, about six months later I --
12 my legs became crippled and, and they're -- I'm practicing
13 every day doing muscle enhances and stuff to help me so I
14 can put the prosthesis back on and, and walk.

15 Q. Okay. Now, you've been through your -- you lost your
16 leg about two years after Eileen's death, correct?

17 A. Yeah, it was about two years.

18 Q. Okay. So, you were able to get yourself to the doctor
19 when you needed to go?

20 A. Yeah.

21 Q. Okay. And you went through that surgical procedure for
22 the removal of your leg?

23 A. Yes.

24 Q. Okay.

25 A. In Palmetto hos -- Richland.

1 Q. And you went to the rehab facility for that, correct?

2 A. Yes.

3 Q. And you've basically managed your life, correct?

4 A. Yes, I did the best I could, yes.

5 Q. Best you could.

6 Okay. Thank you, sir.

7 A. You're welcome.

8 Q. Now, here's one thing and I, I forgot to ask you this
9 and this is my fault.

10 Were you emotionally distraught from Eileen's death?

11 A. Yes, I would say so. For a couple, for a couple weeks
12 and I cry to, to, to this day when I think about her and
13 losing her and what we had together and -- everything,
14 everything was taken from me. You know, my wife died, that
15 lady had my dogs killed. The police threw me in jail for
16 nothing and, and, yeah, I was emotionally distraught at that
17 time, yes.

18 Q. Well, it's, it's really hard to imagine but we, we have
19 to kind of convey a message, kind of convey a picture.

20 What was your feelings and emotions from the time you
21 were, for lack of a better term, locked up --

22 A. Yeah.

23 Q. -- until you were released, coupled with the emotions
24 that you had going on over the loss of your wife and the
25 loss of your pets, how did that make you feel?

1 A. At first I, I cried. I cried for a long time. But
2 then I, as the saying goes, bit my lower lip and I said I
3 got to get out of this place and that was what I depended on
4 doing, getting out of the -- that seventh floor where I was
5 locked up and that's what I did. And then I took it from
6 there and I went back to my house.

7 Q. Okay. And you still think about Eileen?

8 A. Oh, everyday.

9 Q. Okay. You still think about your pets?

10 A. Yes.

11 Q. Okay. Thank you, Mr. Sellaro. Answer any questions
12 these other gentlemen may have.

13 A. Okay. You welcome.

14 CROSS-EXAMINATION

15 BY MR. GARFIELD:

16 Q. Mr. Sellaro, good, good afternoon.

17 A. Good afternoon.

18 Q. I'll tell you today, like I told you at your
19 deposition, I'm sorry for your loss. I can't imagine what
20 you'd gone through on this particular evening.

21 A. Thank you.

22 Q. Need to try to understand some things. Maybe more for
23 points to clarify.

24 A. Okay.

25 Q. If I may?

Joseph Sellaro - Cross-examination
By Mr. Garfield

1 A. Yes.

2 Q. On this particular night, it was a Saturday night.

3 A. Yes.

4 Q. The Richland County Sheriff's Department was at your
5 house?

6 A. Right.

7 Q. Okay. The deputy coroner, the Richland County deputy
8 coroner, was in your house?

9 A. No, I don't remember seeing him at all. All I remember
10 is two police officers---

11 Q. Yes, sir.

12 A. ---who identified themselves as sheriffs -- for --
13 they're from the Sheriff's Office.

14 Q. So---

15 A. Two of them. Not three of them. Two of them. I did
16 not see no coroner.

17 Q. Okay. And---

18 A. And if I -- excuse me.

19 Q. Yes. Yes, sir. Of course, explain your answer.

20 A. If I did see him, he didn't identify himself as I'm the
21 county coroner and maybe he snuck in there. I don't know.
22 There was -- but I re -- distinctly remember two police
23 officers being in there.

24 Q. Okay. And, and I don't mean to suggest that the --
25 actually the count -- the county coroner was in your house.

Joseph Sellaro - Cross-examination
By Mr. Garfield

1 I would represent to you that the, the Richland County
2 Coroner's Office is a fairly large office and they employ
3 lots of deputies and assistant coroners.

4 A. Sure.

5 Q. Do you recall anyone who was affiliated with the
6 Richland County Coroner's Office in your house on this
7 night?

8 A. No.

9 Q. Okay. How about someone from the South Carolina
10 Highway Patrol, were they in your house on this night?

11 A. No, not that I remember. I -- no, two police officers.

12 Q. Two police officers.

13 Okay.

14 A. From the Sheriff's Department.

15 Q. And---

16 A. A lady and a -- a male and a female.

17 Q. A male and a female?

18 A. Right.

19 Q. Okay. Would you agree with me that these two
20 officers---

21 A. Yeah.

22 Q. ---these two deputies---

23 A. Yes.

24 Q. ---or two individuals from the Sheriff's Department
25 spent over one hour with you at -- in your house before the

1 EMS was called?

2 A. I, I would say it was more like an hour and a half. It
3 was more than an hour.

4 Q. Yes, sir.

5 Okay. And so you contend today, and in this lawsuit,
6 that the Sheriff's Department deputies should not have taken
7 you into emergency protective custody, right?

8 A. Right.

9 Q. Right.

10 And that they should not have taken you into any kind
11 of custody because you were perfectly capable of taking care
12 of yourself?

13 A. Exactly.

14 Q. Right.

15 And you did not need a caregiver?

16 A. No.

17 Q. You had several medical conditions --

18 A. Yes.

19 Q. -- at that time?

20 You'd had several chronic medical conditions over the
21 years?

22 A. Chronic?

23 Q. That just -- lasting.

24 A. Well---

25 Q. Not like temporary.

1 A. Well, at -- 10 years ago I had a, a murmur in my heart.
2 I got a heart -- so I wouldn't say that it was ongoing.

3 Q. Sure.

4 A. It was taken care of. They put a defibrillator in my
5 chest.

6 Q. Well, let me ask you this way, sir.

7 Over in your adult life you've had medical conditions?

8 A. Sure.

9 Q. Right?

10 A. Yes.

11 Q. Okay. And even today you have some of those medical
12 conditions?

13 A. Yeah, you're looking at it.

14 Q. Yes, sir.

15 A. My leg.

16 Q. And, and, and you've been prescribed medications by
17 several doctors?

18 A. Several doctors?

19 No, I don't know. I haven't seen no doctors. You tell
20 me where I've seen a doctor that prescribed me medication.

21 Q. Sir, have you been under any prescription medications
22 for any of these medical conditions?

23 A. For my asthma?

24 Q. For, for, for any medical condition---

25 A. No.

Joseph Sellaro - Cross-examination
By Mr. Garfield

1 Q. ---that you have?

2 A. Not that I know of, no. No. I was taking---

3 Q. Okay.

4 A. Excuse me. I was taking something for my heart. I
5 don't know the name of it. They said take this until I
6 think it was a month and then the heart -- the defibrillator
7 will kick in and you won't need the medication and that was
8 10 years ago I believe.

9 Q. So, were you on any medications or any sort of Insulin
10 back in February, 2016?

11 A. Yes.

12 Q. Okay. And since you were perfectly capable of taking
13 care of yourself, I would imagine that you would of been
14 able to drive yourself to doctor's appointments.

15 A. I didn't drive.

16 Q. Okay.

17 A. My wife drove me wherever I had to go.

18 Q. Okay. So your wife drove you to---

19 A. I didn't have a license.

20 Q. Okay. So making sure I understand, you didn't have a
21 license?

22 A. Right.

23 Q. You're -- when you had to go to the doctor, your wife
24 would drive you?

25 A. Yes.

1 Q. Okay. And if you needed somehow to get medicines or
2 prescriptions from a pharmacy or that sort of thing, your
3 wife would take you?

4 A. My wife would drive me there and I would go in and get
5 it, yes.

6 Q. Okay. Or would it -- sometimes she would go get it for
7 you and come home and bring it to you?

8 A. She -- yeah. Yes.

9 Q. Okay. And if there was grocery shopping, going to the
10 grocery store --?

11 A. We done it together.

12 Q. Sure.

13 But she would drive you to the grocery store?

14 A. Yes.

15 Q. Okay. And you---

16 A. Of course.

17 Q. You -- of course, and you'd go grocery shopping and
18 bring your groceries --?

19 A. And go home, yeah.

20 Q. Okay. So, when you say that your medical conditions
21 are thankfully under control now, your issues---

22 A. Yes.

23 Q. You said you're taking a lower dosage of Insulin.

24 A. Yeah, 15 units now.

25 Q. Fifteen.

1 A. Thank God.

2 Q. And your conditions are under control.

3 were they under control at the time that the Richland
4 County Sheriff's Department---

5 A. Sure.

6 Q. ---was in your house?

7 A. I took my Insulin when I woke up that morning. It was
8 about 120 units I believe. Don't quote me on that. And I
9 take my Insulin once a day. There's no need to take it any
10 more than once a day.

11 I took it that morning, waited about 15 minutes, did --
12 checked my blood sugar. My blood sugar was down low. No
13 problem and that's it. All that about the Sheriff's
14 Department giving me a blood test, that didn't happen.

15 Q. Okay.

16 A. Cause it -- why would I give them -- do a blood testing
17 in front, in front of them when I did it in the morning?

18 Q. So you're---

19 A. I---

20 Q. I'm sorry.

21 A. You only take Insulin once a day or you'll kill
22 yourself. That's why that happened. So, I wouldn't of
23 given myself an Insulin shot that night or taken my blood.
24 why would I take my blood test?

25 Q. why?

Joseph Sellaro - Cross-examination
By Mr. Garfield

1 A. For what?

2 Q. why would you take -- I'm trying to understand your
3 testimony, sir.

4 why---

5 A. why would I test my blood for them to say I had 550
6 when it's not true?

7 I never gave them no blood test. That's what I'm
8 trying to say. They're lying.

9 Q. And, and no one has testified yet, sir. So I want to
10 understand what you---

11 A. well, where did it come from that I -- my blood was
12 550?

13 That was said today, wasn't it?

14 Q. well, I'm, I'm asking you.

15 So you did not---

16 A. Yes, it was said.

17 Q. So -- okay. So, you're denying -- again, my questions
18 are to clarify.

19 A. Sure. Go ahead.

20 Q. And with all due respect, you deny having your blood,
21 your glucose level or your Insulin level being above 500---

22 A. Sure.

23 Q. ---on this particular night?

24 A. I deny it---

25 Q. Okay.

1 A. ---vehemently.

2 Q. And did the EMS paramedic -- did the EMS folks take
3 your -- check your blood sugar when they came?

4 A. No.

5 Q. Okay.

6 A. They strapped me down -- they strapped me in the
7 gurney.

8 Q. They strapped you in the gurney and they took you off
9 but without ever checking your blood?

10 A. Exactly.

11 Q. Sure.

12 A. why would they check, check my blood?

13 They weren't there for me having a high blood pressure.
14 They were there because the cops told them that I needed to
15 go to the hospital cause I had that disease.

16 Q. Okay. So, again, so I can understand --

17 A. Sure.

18 Q. -- that the police come to your house.

19 Okay.

20 A. Uh-huh.

21 Q. Right?

22 From the time the deputies came to your house until the
23 time that you left with the EMS --

24 A. Yeah.

25 Q. -- at that point --

Joseph Sellaro - Cross-examination
By Mr. Garfield

1 A. Right.

2 Q. -- your blood sugar, according to your testimony, was
3 never checked?

4 A. No.

5 why would it be checked?

6 For what reason?

7 That's what I -- what I'm asking you.

8 THE COURT: Mr. Sellaro?

9 why wouldn't---

10 THE COURT: Mr. Sellaro?

11 THE WITNESS: Yes.

12 THE COURT: Mr. Sellaro, you don't get to ask questions
13 unless you want to say could you repeat the question but
14 you're not the question asker here.

15 THE WITNESS: well, as long as he don't, don't---

16 THE COURT: well---

17 THE WITNESS: ---don't answer my question.

18 THE COURT: ---no, no, no, no, no.

19 THE WITNESS: Okay. Yes. Yes, sir. I'm sorry.

20 THE COURT: You're, you're allowed to say could you
21 repeat the question or I didn't hear you or could you
22 explain that. But you're not allowed to question Mr.
23 Garfield.

24 THE WITNESS: Oh. Okay. I'm sorry. Excuse me.

25 THE COURT: It's okay.

1 Q. We're not in court everyday. I under -- I understand
2 that.

3 A. Yeah.

4 Q. You understood my questions up until this point?

5 A. Yes.

6 Q. All right.

7 A. Of course.

8 Q. So, you said that one of the two deputies physically --
9 made physical contact with you?

10 A. Oh, yeah.

11 Q. Pushed you?

12 A. Yes.

13 Q. Okay. Was this the female or the male deputy?

14 A. I believe it was the female.

15 Q. Okay.

16 A. I'm not -- but I can't swear to that. I don't know
17 which one it -- cause I wasn't really paying attention or
18 which ones was male or female.

19 Q. All right. Was the -- so these two deputies, the
20 female deputy, for instance---

21 A. The tall -- one was tall and one was short. That's all
22 I remember. And one was a male and one was a female.

23 Q. Okay. The female, just gonna ask about her.

24 A. Yeah.

25 Q. She -- was she in uniform?

1 Did she have a Richland County Sheriff's Department --

2 A. Yes.

3 Q. -- uniform?

4 A. Yes, they both did.

5 Q. Okay. And, and the gentleman did too, the other
6 officer?

7 A. Right.

8 Q. The, the female, do you remember what race she was?

9 A. What what?

10 Q. Race.

11 A. White.

12 Q. She was white?

13 A. Yes.

14 Q. Okay. And how about the male?

15 A. He was white but he, he had an accent. I don't know
16 really what the accent was.

17 Q. Okay. This would be the, the male Sheriff's Department
18 deputy?

19 A. Yes.

20 Q. And the female pushed you and so you're saying---

21 A. She, she didn't push me. She---

22 Q. Or gently---

23 A. ---put her hands on my chest and pushed me back.

24 Q. All right. This, this is the -- I don't know if you
25 could -- I'm sorry.

1 Sergeant Gilman, could, could you stand up for me
2 please?

3 (WHEREUPON, Sergeant Gilman stands at this time.)

4 Q. Okay. And I don't know if you can see. I'm just gonna
5 introduce you. This is Richland County Sheriff's Department
6 Sergeant Karen Gilman.

7 A. Yeah.

8 Q. Have you ever had an occasion before today to interact
9 with her?

10 A. That was -- she's the one who came to my house, yeah.

11 Q. Okay. Sit down. Thank you.

12 She's, she's -- this Sergeant Gilman was the one
13 that---

14 A. She -- I don't think she was a sergeant then though.

15 Q. This, this lady---

16 A. I might be wrong. The lady I met, I don't know if she
17 was a sergeant.

18 Q. Yes, sir, I wasn't asking you about rank.

19 If I could be through with my question?

20 A. Okay.

21 Q. The lady that just stood up --?

22 A. Yes.

23 Q. Okay. Was she the lady at your house that night?

24 A. I believe so.

25 Q. Okay. She's the lady, according to your testimony,

1 pushed you or gently, you know---

2 A. Yeah.

3 Q. ---she made physical contact with you?

4 A. Kind of like per -- trying to persuade me to get on the
5 gurney.

6 Q. Okay. She is the one I would represent to you that
7 made the decision to place you in emergency protective
8 custody.

9 A. Okay.

10 Q. Do you have any reason to disagree with that?

11 A. No.

12 Q. Okay. Do you recall that some time after these events,
13 fast forward, you go -- you're discharged from the hospital
14 and you return back home.

15 A. Yes.

16 Q. Okay. At some point.

17 Do you recall ever having interaction with Sergeant
18 Gilman at that point?

19 A. Yes.

20 Q. Okay.

21 A. She stopped at, at my house I guess about a week later.

22 Q. Okay.

23 A. And I -- when I seen her, I seen the police car. I was
24 mowing the lawn. Anyway, I walked up to the fence and she
25 came out of the car, the sergeant, and she said can I speak

1 to you. I said sure. She said I'm really sorry about what
2 happened the other night.

3 Q. Okay. I don't want to know what she specifically said.

4 A. Oh, okay.

5 Q. We may get to that but you---

6 A. All right.

7 Q. She did come to your house?

8 A. Yes, she did.

9 Q. The two of you spoke outside of your house?

10 A. Yes, we do.

11 Q. Okay. And she talked about what happened that night
12 that you were placed in protective custody?

13 A. Yes, she did.

14 Q. All right. And you told her at that time that you
15 understood that she had to do it?

16 A. Yeah.

17 Q. Right?

18 A. Yeah.

19 Q. And you told her at that time that, that she did what
20 she had to do?

21 A. Right.

22 Q. Okay. And this one individual, this sergeant, have you
23 had any other contact with her between that time and today?

24 A. No.

25 Q. Okay. And when you say you were thrown in jail --

Joseph Sellaro - Cross-examination
By Mr. Garfield

1 A. Yeah.

2 Q. -- we're not talking about a---

3 A. Not jail.

4 Q. ---the, the Alvin S. Glenn Detention Center or anything
5 like that?

6 A. No.

7 Q. Okay.

8 A. We're talking about a room with glass enclose -- it's a
9 glass enclosed room.

10 Q. So you were taken from your house via EMS --

11 A. Uh-huh.

12 Q. -- to the Palmetto-Health Richland --

13 A. Right.

14 Q. -- Hospital?

15 A. Yes.

16 Q. Right?

17 And once you were taken there, the EMS folks left?

18 A. No.

19 Q. They stayed?

20 A. They stayed -- they brought me downstairs.

21 Q. Okay. And when you say they---

22 A. And when I say downstairs, I'm not even sure. It might
23 of been upstairs, you know, on the first floor. I have a
24 feeling that it was downstairs though cause there was nobody
25 around down there.

Joseph Sellaro - Cross-examination
By Mr. Garfield

1 Q. But you're not sure?

2 A. I'm what?

3 Not sure about what.

4 Q. About whether it was the first floor or not.

5 A. Yeah, I'm not sure. I don't recall.

6 Q. Okay. And I, and I understand, in [REDACTED] you had a
7 birthdate?

8 A. Yes.

9 Q. Yes.

10 A. The [REDACTED]

11 Q. Yes.

12 You're 73?

13 A. Seventy-three.

14 Q. Okay. And happy belated birthday.

15 A. Thank you.

16 MR. GARFIELD: Just beg the Court's indulgence.

17 (Pause.)

18 Q. Thank you for your patience, Mr. Sellaro.

19 A. Oh.

20 MR. GARFIELD: Your Honor---

21 A. No problem.

22 MR. GARFIELD: ---I would just like to look at the
23 evidence real quick --

24 THE COURT: Sure.

25 MR. GARFIELD: -- before --.

Joseph Sellaro - Cross-examination
By Mr. Garfield

1 THE COURT: All right. Everybody stand up, stretch,
2 turn, twist.

3 (Pause.)

4 THE COURT: Everybody good?

5 MR. GARFIELD: Yes, sir.

6 THE COURT: Did you have enough time to look at what
7 you needed to?

8 MR. GARFIELD: I, I did---

9 THE COURT: Okay.

10 MR. GARFIELD: ---and I don't have any further
11 questions.

12 THE COURT: Okay.

13 Q. Good luck to you, Mr. Sellaro.

14 A. Thank you.

15 THE COURT: Thank you, Mr. Garfield.

16 All right. And let's see.

17 Mr. Summers.

18 MR. SUMMERS: Yes, sir.

19 THE COURT: Whenever you're ready.

20 MR. SUMMERS: Yes, sir. Get a few things organized
21 here, judge.

22 (Pause.)

23 CROSS-EXAMINATION

24 BY MR. SUMMERS:

25 Q. Good afternoon, Mr. Sellaro.

Joseph Sellaro - Cross-examination
By Mr. Summers

1 A. Good afternoon.

2 Q. You comfortable?

3 A. Yes.

4 Q. DO you need anything to drink, water or anything?

5 A. No, I'm good.

6 Q. Very good.

7 A. Thank you.

8 Q. Under questioning I believe from Mr. Brehmer, you
9 described an effort, or it may of been Mr. Garfield, trying
10 to call the Sheriff's Department from the hospital.

11 Do you remember talking about that?

12 A. Yes.

13 Q. And correct me if I'm wrong, but you said that they,
14 whoever you talked to at the Sheriff's Department, hung up
15 on you.

16 Do you recall saying that?

17 A. What?

18 Q. That they -- someone from the Sheriff's Department,
19 when you called them, hung up on you?

20 A. Yes. Oh, yeah. Yes.

21 Q. How many times did you try to call?

22 A. A couple times.

23 Q. And they said they couldn't help you?

24 A. They said they could be of no assistance to me and I --
25 after I thought about it a while, I, I didn't blame them

1 cause that's what I would of told someone if they called me
2 and I was a police officer.

3 Q. Well, didn't a Richland County deputy come to the
4 hospital and talk to you about the keys to your house that
5 you gave Ms. Outlaw?

6 A. Nah.

7 Q. So no Richland County---

8 A. Not that I recall.

9 Q. So, it could of happened. You just don't recall.

10 A. Yeah. I had a lot of other things on my mind.

11 Q. And if I remember correctly -- let me ask you this
12 question.

13 Did you ever call Ms. Outlaw while you were in the
14 hospital?

15 A. Yes.

16 Q. Tell the jury what you recall about your -- how many
17 telephone conversations do you recall with Ms. Outlaw?

18 A. She only answered me one time.

19 Q. One time?

20 A. One time she only answered the phone to talk to me.

21 Q. And what was that like?

22 Tell the jury what happened.

23 A. Yeah. I said I'll, I'll be getting out soon and
24 that -- please drop my dogs off at my house. She started
25 screaming. You're not getting your dogs back. That one dog

1 was too lazy. I had her euthanized. I had the other ones
2 killed and I said look, what are you -- I kind of exploded
3 on the phone.

4 I, I don't know exactly what I said but I said don't do
5 that to, to my other two dogs please cause I'll -- I, I
6 figured that if she had them two killed, it would be nothing
7 to have her killing the other two. So I said okay, no
8 problem, and I hung up and I -- then I called the Sheriff's
9 Department and I told them what was said, and they said,
10 when I get out, to come to the precinct.

11 Q. Did you do that?

12 A. I was only out -- the second day I was out I called her
13 up and she said she was gonna bring the dogs to my, to my
14 house. Do not come outside. I don't want to see you, see
15 you. Just open the gate on the driveway and the gate door
16 to your house and I said what do you mean you don't want to
17 see me. She said if you, if you come out there, something
18 bad's gonna happen to you and she's a gun enthusiast. I
19 don't---

20 Q. Let me stop you right there, sir.

21 A. Yes.

22 Q. When you were answering questions from Mr. Brehmer,
23 your testimony was you didn't know Ms. Outlaw.

24 A. I -- what I said was I did not like her and I did not
25 want her around my wife. I didn't say I didn't know her.

1 She was over at my house two or three times. I had to know
2 her.

3 Q. When?

4 A. I wouldn't---

5 Q. In relation to when your late wife passed away --

6 A. Yeah.

7 Q. -- when had Ms. Outlaw been to your house before your
8 late wife passed away?

9 Had she been there over Christmas?

10 A. Oh, before?

11 Q. Yes, ma'am. Yes, sir.

12 A. Probably three or four months before.

13 Q. How long did she stay?

14 A. Five minutes cause I asked her to leave.

15 Q. Why'd you ask her to leave?

16 A. I was watching TV and she went and stood in front of
17 the TV and I said excuse me, I'm watching this show. She
18 said that's too bad. You're gonna have to wait and I said
19 oh, Eileen, I'm not gonna have -- and then Eileen told her
20 to leave.

21 Q. Did you ever tell anyone at the hospital, after your
22 admission --

23 A. Uh-huh.

24 Q. -- that Ms. Outlaw would be the one who would transport
25 you or drive you or take care of you in any way, shape, or

Joseph Sellaro - Cross-examination
By Mr. Summers

1 form after you were discharged?

2 A. No.

3 Q. Never came up?

4 A. Never ever.

5 Q. who, if anyone, came to your home after you were
6 discharged on March the 7th?

7 A. Yeah.

8 Q. who, if anyone?

9 Did any of your children come?

10 A. No.

11 Q. Now let's -- I think I have the names correctly but
12 forgive me --

13 A. Uh-huh.

14 Q. -- if I don't.

15 A. Okay.

16 Q. You and your late wife had three children?

17 A. Two.

18 Q. Two children. Forgive me.

19 The oldest---

20 A. The third one was from her first marriage.

21 Q. And the -- your stepson then --

22 A. Yes.

23 Q. -- his name is?

24 A. Steven.

25 Q. Is he the one who joined the Marine Corp?

Joseph Sellaro - Cross-examination
By Mr. Summers

1 A. He's in the Marine Corp. Right now he's in Hollywood.
2 He's the stunt person.

3 Q. When's the last time you saw him?

4 A. Oh. Fifteen years ago.

5 Q. The two children that you and the late Mrs. Sellaro
6 shared --

7 A. Yes.

8 Q. -- let's go with the oldest, who's the oldest?

9 A. Joey. He's about -- I guess he's in his forties.

10 Q. Where does he live?

11 A. He lives in Kansas City, Kansas.

12 Q. Let's go with your youngest child.

13 A. Virginia. She lives in West Virginia. She's --
14 belongs to some kind of religious cult where you can't call
15 them and they can't call out and she's vehemently into that.
16 So, I can't -- we could never get in touch with her. Joey
17 lived with us off and on but he had a drug, a drug problem.

18 Q. When's the last that Joey lived with you and this, this
19 would be your late wife, correct?

20 A. Yeah.

21 Q. When's the last that Joey lived with y'all?

22 A. Probably two years ago.

23 Q. Would it be -- so let me ask you this question.

24 A. Yes.

25 Q. You live where now?

1 A. Westside Residential Center.

2 Q. How'd you wind up living there?

3 A. When I got out -- after I lost my foot, I was in the
4 hospital for eight, nine months after that. I wasn't --
5 didn't make my mortgage payments. The, the bank foreclosed
6 on me while I was in the hospital. When I got out, the
7 doors are locked and they had a for sale sign on -- in
8 the -- on, on the front lawn.

9 Q. Well, didn't you---

10 A. So---

11 Q. Didn't you call the Department of Social Services for
12 help?

13 A. Yeah. Yes, and they came in -- they brought me to the
14 hospital.

15 Q. The same agency you're suing today in court is the
16 agency you called for help after the incident -- after the
17 events you just described?

18 A. Different, different situation.

19 Q. Understand. Understand.

20 A. Yes.

21 Q. And you talked -- you now have, is it round the clock
22 nursing?

23 A. Yes.

24 Q. So, none of your children came to stay with you after
25 you were discharged on March the 7th, correct?

1 A. No.

2 Q. Well, let's talk about a bit -- go back a little bit
3 and I'm sorry to bounce all over the timeline.

4 A. That's okay.

5 Q. So, if I, if I confuse you, you will tell me, won't
6 you, sir?

7 A. Yes.

8 Q. Very good, sir.

9 On the night of February the 27th of---

10 A. Right.

11 Q. ---of 2016 --

12 A. Uh-huh.

13 Q. -- that's the evening in which let's just say you had a
14 number of people come to your home.

15 A. Yeah, to say the least.

16 Q. Yes, sir.

17 Did you have any kind of piece of cardboard pinned to
18 your jacket that night?

19 A. No, of course not.

20 why would I have a piece a cardboard pinned to me?

21 Q. Well, sir, I'm, I'm asking you the questions.

22 A. No. No.

23 Q. Yes, sir.

24 A. That's the -- but what I'm saying out loud is that's
25 ridiculous to make me sound like I'm retarded.

1 Q. Was there any kind of piece of cardboard in your house
2 with a number written on it, a phone number, anything?

3 A. There might of been a number on the piece of cardboard
4 somewhere in the house but it wasn't pinned to my clothing.
5 why would I have it pinned to my clothing?

6 Q. Again, sir, I'm asking the questions.

7 A. No, I'm sorry.

8 Q. That's quite all right.

9 A. All right.

10 Q. That's quite all right. I understand this is --

11 A. Yeah, it's---

12 Q. -- eventful for you.

13 A. I didn't, I didn't, I didn't know where that was coming
14 from at all, a piece of cardboard.

15 Q. Now, when you were taken to the hospital, that was by
16 the EMTs, the paramedics?

17 A. Yes.

18 Q. And you said you arrived at the hospital and I think,
19 at one time, you said you were taken downstairs by the
20 paramedics or EMTs but you may of gone upstairs.

21 Do you remember talking about that a few minutes ago?

22 A. Yeah, but that's not what I said.

23 Q. Well, then you tell me again, sir, what you said.

24 A. Okay. When I arrive at the hospital, usually you go to
25 a hospital and you stop at the desk and they sign, you know,

1 do the paperwork and then you go to wherever you go. With
2 me, they brought me straight through and I said where we
3 going. They said -- and the EMT kid said don't worry about
4 it and I don't believe it was the first floor.

5 And so it had to be the basement where they put -- and
6 I'm -- I found out later what the place is. It's where they
7 put crazy people. They lock them up in a room with -- it's
8 a glass enclosure and you don't -- I didn't see nobody till
9 Monday.

10 Q. Make sure I understand your testimony, sir.

11 A. Yes.

12 Q. You're saying no member of the hospital staff came to
13 see you?

14 A. No.

15 Q. No nurse?

16 A. No, nobody.

17 Q. No doctor?

18 A. I screamed and yelled I wanted to see my wife. My wife
19 was down the hallway---

20 Q. I---

21 A. ---stretched out on the stretcher and they wouldn't let
22 me see her.

23 Q. I understand this is very emotional, sir, and if you
24 need to take a minute, I got it.

25 Okay. If you need to take a break, happy to do along

Joseph Sellaro - Cross-examination
By Mr. Summers

1 with---

2 A. No, I'm all right. I'm all right.

3 Q. So Monday was what day?

4 If Saturday's the 27th---

5 A. 27th. Monday was the leap year. 29th.

6 Q. Very good.

7 So if anyone was talking to you and making notes about
8 their conversations with you at the hospital on February the
9 28th, how'd that happen if no one talked to you?

10 A. They're lying.

11 Q. So the hospital staff is lying?

12 A. Yes, I'm, I'm telling you they're lying. You asked me
13 a question and I'm answering it.

14 Q. I understand, sir.

15 When you first talked to anyone at the hospital,
16 hospital staff --.

17 A. Yes.

18 Q. I'm not talking DSS. I'm not talking Sheriff's
19 Department.

20 Do you remember what day it was?

21 Was it the 29th?

22 Was it Monday?

23 A. It was Monday.

24 Q. Do you remember with whom you first spoke?

25 A. The social worker that was, that was here, here

1 earlier. I don't---

2 Q. Ms. Tate?

3 A. Yeah, Ms. Tate.

4 Q. Did you tell her that you had been locked or otherwise
5 secured in a glass enclosure in the -- some place in the
6 hospital?

7 A. Yes, she said that's, that's the way -- that's the way
8 things go before they ship you upstairs to the nut ward.
9 Basically I, I --.

10 Q. That---

11 A. That's not the full description but it was brought --
12 can I explain something?

13 Q. Go right ahead, sir.

14 A. It was brought out -- somebody -- I heard somebody say
15 that all the people up there are for renal fail -- failure.
16 But that's not true cause they have -- that's designated by
17 the people, you know, people on the street that that's the
18 nut ward. They keep you up there until---

19 Q. Well, let me stop you right there, sir.

20 People on the street?

21 A. Yeah, people that you talk to everyday. People at
22 work, et cetera. They -- everybody knows the seventh floor,
23 the seventh floor, they send you up there, oh boy.

24 Q. If Ms. Tate did not record in her notes the
25 conversation that you just described to the jury---

1 A. Yeah.

2 Q. ---about you saying you were in this glass enclosure,
3 why do you think it's not in her notes?

4 A. Maybe because they're not, not suppose to do that to
5 people. But I'm sure I didn't make that up in my mind that
6 I was in a glass enclosure.

7 Q. And you didn't make up in your mind that no one from
8 the hospital staff, no nurse, no doctor, no orderly, no one
9 from the hospital, no one at all came to check on you?

10 A. Exactly till Monday when, when I was brought up out of,
11 out of that room.

12 Q. Was there a restroom in this enclosure?

13 A. I don't know. I know I was locked in that room.

14 Q. You were locked in the room for 36 hours plus?

15 A. I -- something like that, yeah.

16 Q. Was there a sink?

17 A. There was a sink and the toilet --

18 Q. So there was a toilet?

19 A. -- and a bed.

20 Q. And a bed.

21 A. Yeah, there was a toilet now, now that I remember,
22 yeah.

23 Q. Now we've -- you've answered questions from Mr. Brehmer
24 and Mr. Garfield about some of the health issues that you
25 have right now.

Joseph Sellaro - Cross-examination
By Mr. Summers

1 A. Yes.

2 Q. And you talked with them some about health issues
3 you've had in the past.

4 A. Yes.

5 Q. Had you ever fainted, have any problems with fainting
6 before?

7 A. No.

8 Q. Did you ever have an episode where you fainted and your
9 wife had to call the, the EMTs?

10 A. Yes, one time.

11 Q. Oh, so there was one time?

12 A. Yeah, that's when I -- why I got the defibrillator. I
13 was mowing the lawn and I passed out. It was like 110
14 degrees and my wife was telling me don't go out there. It's
15 too hot. I said ay, don't worry about it and I passed out
16 and they brought me to the hospital and the doctors said I
17 was that close to having a heart attack.

18 Q. Do you remember when this was?

19 A. Close to having a heart attack?

20 Q. Yes, sir, I understand.

21 Do you recall -- let's use again your late wife's
22 tragic passing.

23 How many weeks, months, years before that occurred did
24 this fainting episode occur?

25 A. Oh years. Many years be -- I -- I've had the

1 defibrillator eight years now. So, it had to be nine --
2 about nine years ago.

3 Q. Have you always been able to control your diabetes?

4 A. Yes.

5 Q. Are you always and were you always compliant, doing
6 whatever you were suppose to do?

7 A. Oh, a hundred percent.

8 Q. Did you have any need to go to the hospital or see a
9 doctor in December of 2015 if you remember?

10 A. I don't remember. No.

11 Q. You don't---

12 A. I don't recall.

13 Q. Do you know a doctor named Doctor Postic?

14 A. Yes.

15 Q. What does Doctor Postic do?

16 A. I don't know. I think he's a general practitioner.
17 Eileen, my wife, knew him real good.

18 Q. And why is that, sir?

19 A. She worked -- she was a unit secretary in that
20 hospital.

21 Q. Did she also kind of look out for you and take care of
22 you?

23 A. Yes, definitely.

24 Q. So she would manage everything for you?

25 A. Yeah. Basically, yeah, she would tell me if -- did you

1 take your medication, your diabetes medication, and stuff
2 like that, yes.

3 Q. Do you remember how many medicines you took?

4 A. At that time?

5 Q. Yes, sir.

6 A. I took -- I -- no, I can't recall. I know I took --
7 I've always had the diabetes back 10 years ago.

8 MR. SUMMERS: Beg the Court's indulgence.

9 THE COURT: Yes, sir.

10 (Pause.)

11 MR. SUMMERS: Just a moment, sir.

12 (WHEREUPON, the gastroenterology note was marked as
13 Defendant SCDSS Exhibit No. 5 for identification purposes
14 only at this time.)

15 MR. SUMMERS: This would be Defendant's No. 5.

16 Any objection, Mr. Brehmer?

17 MR. BREHMER: Yes, sir.

18 MR. SUMMERS: Should we take it up at a sidebar?

19 MR. BREHMER: I don't know where we need to do it but
20 we do need to do it.

21 THE COURT: All right. Y'all approach real quick.

22 Let me see it.

23 (WHEREUPON, a bench conference was held out of the
24 hearing of the jury at this time.)

25 Q. All right. Mr. Sellaro, sorry about that.

1 A. That's okay.

2 Q. So you saw Doctor Postic would you say in the end of
3 2015?

4 was he one of your physicians?

5 A. Yes.

6 Q. And let's go through some of your other health, health
7 history.

8 A. Uh-huh.

9 Q. Did you have a diabetic foot ulcer at one time?

10 A. Yes.

11 Q. Tell us about that.

12 A. Diabetic foot ulcer is an ulcer in my foot. I --
13 they -- and I -- they took my foot. They -- I lost my foot.
14 It was amputated.

15 Q. When did that procedure occur, sir?

16 A. Five years ago. I, I don't recall actually. I can't
17 remember the exact date.

18 Q. Had you had ulcers before December of 2015?

19 Had that been a problem for you before?

20 A. No, never.

21 Q. Did you have prescriptions or a prescription for, and
22 this -- we'll see if you recognize these names. See if I
23 can pronounce them first of all.

24 A. Uh-huh.

25 Q. Well, let's see. Glycolax, does that ring a bell?

Joseph Sellaro - Cross-examination
By Mr. Summers

- 1 A. No.
- 2 Q. Let's see. Lyrica?
- 3 A. Yes.
- 4 Q. Does that ring a bell?
- 5 A. Yes.
- 6 Q. Tell us about that.
- 7 A. That's for when I had my foot amputated. I got --
- 8 start getting severe muscle -- it was like bolts of
- 9 lightning in my legs and the Lyrica is taken for that.
- 10 Q. We've talked about Novolog before.
- 11 Is that Insulin that you use to manage your diabetes?
- 12 A. Not a -- that was years ago. I take Lantis.
- 13 Q. Remeron, did you take Remeron?
- 14 A. Yeah, that's an anti-depressant.
- 15 Q. Symbicort?
- 16 A. Symbicort, I don't take that no more.
- 17 Q. But did you take it previously?
- 18 A. Yeah, I took it four or five years ago.
- 19 Q. Top -- Toprol, Toprol, T-O-P-R-O-L.
- 20 A. Years ago.
- 21 Q. Mido -- Midodrine, M-I-D-O-D-R-I-N-E.
- 22 A. Don't recall that at all.
- 23 Q. And let me ask you about some of the problems to see if
- 24 you've experienced these --
- 25 A. Okay.

Joseph Sellaro - Cross-examination
By Mr. Summers

1 Q. If you recall this.

2 Okay?

3 A. Yeah.

4 Q. Have you ever -- have you ever had hepatitis?

5 A. Hepatitis?

6 Q. Yes, sir.

7 A. Yeah, I had Hepatitis-B.

8 Q. When did you have that, sir?

9 A. Probably about eight, nine years ago. They put me on
10 medication. That, that medication, in 90 days, it was gone.

11 Q. And forgive me for holding my glasses like this. I now
12 have trifocal lenses. So, it's a bit---

13 A. Oh.

14 Q. ---of a challenge.

15 A. Sure.

16 Q. I apologize.

17 Did you smoke?

18 A. Yes.

19 Q. How many packs a day?

20 A. At that, at that time?

21 Q. Yes, sir.

22 A. Probably two or three.

23 Q. What kind of cigarettes did you favor?

24 A. Cool mental.

25 Q. And how long had you smoked?

1 A. Since I was 15 years old.

2 Q. So since you've -- since you were diagnosed with
3 diabetes, you were still a smoker?

4 A. Yeah, it has -- one has nothing to do with the other
5 one.

6 Q. Understand that, sir.

7 Again, fainting, we talked about that.

8 A. Yeah.

9 Q. Talked about high blood pressure.

10 A. I had it. I don't have it no more.

11 Q. How long did you have it?

12 A. A couple years.

13 Q. Did you take any medicine to treat it?

14 A. Yeah, they had me on -- I can't remember the name of it
15 but I was on it for a couple years till they brought it down
16 to normal.

17 Q. Yes, sir.

18 Did you ever suffer from insomnia?

19 A. Yes.

20 Q. Tell---

21 A. I went to -- in the hospital they had a program at
22 night where they put masks on you and you -- anyway, I got
23 away from that insomnia.

24 Q. Did you ever have to do one of those sleep studies or
25 anything?

1 A. That, that was it, yes.

2 Q. We've talked about your diabetic foot infection.

3 A. Yes.

4 Q. Did you ever have an arterial bypass?

5 A. Yes.

6 Q. Tell the jury about that.

7 A. It was around the time that I had the defibrillator put
8 in. One that they -- they did a -- they put me in that --
9 one of those round x-ray machines and they found that the,
10 and this leg here, the vein was clogged pretty severely and
11 I said don't worry about it, doc.

12 I -- all I -- all I know is two weeks later I couldn't
13 walk my dogs no more. I, I would take them out and a block
14 I had to sit down. My legs hurt. Anyway, they opened --
15 they cut me here and they cleared the vein up and that was
16 the end of that.

17 Q. Yes, sir.

18 I think there's been some testimony or some information
19 about having bipolar disorder?

20 A. I, I think I had it, yeah. I don't think I have it now
21 though.

22 Q. Yes, sir.

23 How long ago do you think you---

24 A. Years ago.

25 Q. ---experienced that?

- 1 A. When Eileen was probably seven years ago. Bipolar.
- 2 Q. Yes, sir.
- 3 Did you have any arthritis issues?
- 4 A. Arthritis?
- 5 Q. Yes, sir.
- 6 A. No.
- 7 Q. How about COPD?
- 8 A. No.
- 9 That's from smoking, right?
- 10 Q. Well, you tell me, sir. If you---
- 11 A. I think that's from smoking. They -- at the time I had
- 12 went on a regimen and it didn't work cause I'm still
- 13 smoking.
- 14 Q. And you mentioned you had a pacemaker?
- 15 A. Yes, I do still have it. Defibrillator, pacemaker.
- 16 Q. And how long again have you had that?
- 17 A. About eight years.
- 18 Q. Very good, sir.
- 19 And I thank you for going through those with me.
- 20 A. No problem.
- 21 Q. And I believe, under questioning from Mr. Brehmer, you
- 22 talked about -- is it Ms. Prunty, your sister-in-law?
- 23 A. Yes. P-R-U-N-T-Y.
- 24 Q. And do you know where she lived or lives?
- 25 A. Coldwell, New Jersey.

Joseph Sellaro - Cross-examination
By Mr. Summers

1 Q. When's the last time you had any contact with her?

2 A. I never had contact with her. I never even seen her.

3 Q. And I want to make sure my questions are precise.

4 A. Sure.

5 Q. So you didn't see her but after March -- I'm sorry.
6 February the 27th of 2016.

7 A. No, of course not.

8 Q. You didn't see her after you were released from
9 Palmetto-Health on March the 7th, 2016?

10 A. No, she's the one that snuck down here and had Eileen
11 cremated, took her ashes back to North Jersey without my
12 permission.

13 Q. Your---

14 A. That's the only I thing know about her.

15 Q. Very good, sir.

16 Beg the Court's indulgence.

17 (Pause.)

18 Q. Just a moment, sir.

19 A. Uh-huh.

20 (Pause.)

21 Q. Mr. Garfield, just -- let the record reflect I'm
22 availing myself of receiving a staple from the clerk's desk.
23 One staple only.

24 May I approach the court reporter, Your Honor?

25 THE COURT: Sure.

1 (WHEREUPON, the cremation information was marked as
2 Defendant SCDSS Exhibit No. 6 for identification purposes
3 only at this time.)

4 MR. SUMMERS: Thank you.

5 This is Defendant's 6.

6 Any objection, Mr. Brehmer, to Defendant's 6?

7 MR. BREHMER: None.

8 MR. SUMMERS: Just let the record reflect Defendant's 6
9 is admitted without objection.

10 THE COURT: All right. Defendant's Exhibit 6 is
11 admitted---

12 Q. So your testimony is that your sister-in-law---

13 THE COURT: ---without objection.

14 MR. SUMMERS: Oh, thank you, sir.

15 (WHEREUPON, Defendant SCDSS Exhibit No. 6 was received
16 into evidence at this time.)

17 Q. Your, your sister-in-law snuck down.

18 A. Yes.

19 Q. And she did what with your wife's---

20 A. Had Eileen cremated. Took the ashes back to North
21 Jersey with her.

22 Q. Well, sir, I'm gonna show you a document and I'll just
23 stand here with your permission?

24 A. Sure. Go ahead.

25 Q. Okay. It's been admitted as Defendant's Exhibit No. 6.

Joseph Sellaro - Cross-examination
By Mr. Summers

1 A. Uh-huh.

2 Q. It says authorization for cremation processing and
3 disposition of the remains of and it has your wife's last
4 name---

5 A. Yeah.

6 Q. ---Sellaro.

7 A. Right.

8 Q. And her first name, Eileen?

9 A. Right.

10 Q. And if I at anytime mispronounce your name I sincerely
11 apologize.

12 Her middle name was?

13 It says Lorena.

14 Is that correct?

15 A. Lor -- Lorena.

16 Q. Lorena. Forgive me---

17 A. Yeah.

18 Q. ---for mispronouncing that.

19 A. It's okay.

20 Q. So this is a four page document.

21 A. Right.

22 Q. And do you see your signature here on the final page?

23 A. Oh, sure. They came to the hospital and asked me to
24 sign the cremation papers for Eileen. I said I'm -- I want
25 to, I want to come see Eileen and they said we'll get you

1 down there. This is the third day I think. Monday it was.
2 The 29th. I, I don't remember the exact date but I signed
3 it, yes.

4 Q. So a Mr. Turner came to the hospital?

5 A. I believe it was Mr. Turner, yeah.

6 Q. And he got your signature on this form for your consent
7 to authorize the disposition of your wife's remains?

8 A. Yeah.

9 Is there a date on that?

10 Q. Yes, sir. Take a look at the final page.

11 A. I can't see it.

12 Q. Oh, sir, I'm sorry. 2/29/2016.

13 A. 2/20 -- okay. Monday. That was, yeah.

14 Q. Yes, sir.

15 And you were saying -- I'm confused.

16 Did you---

17 A. Yeah.

18 Q. Did you ask Mr. Turner about your wife's remains?

19 Who did you ask to see your wife's remains?

20 A. I, I asked everybody in the hospital, the nurse, and
21 then I called up Mr. Turner and asked him and he said well,
22 I can't keep your, your wife's remains here forever.

23 Q. And he was where, sir?

24 A. Some---

25 Q. I'm sorry.

1 A. He -- this is on the phone.

2 Q. So you spoke with---

3 A. I think he said---

4 Q. ---Mr. Turner on the phone?

5 A. Yeah, he said something has to be, you know, done here
6 one way or the other. I said well, what do you want me to
7 do. He said well, you sign the papers and his -- and we can
8 have her cremated and we'll bill you and I said no problem.
9 I signed the papers. She was cremated. Her sister came and
10 got the ashes and the -- and the logs (phonetic) and she
11 took them to North Jersey where --.

12 Q. And you mentioned I think in some questioning from Mr.
13 Brehmer someone brought your late wife's cellphone to you.

14 A. To me, yeah.

15 Q. Yes, sir.

16 A. The guy from the funeral home.

17 Q. That was Mr. Turner.

18 A. Mr. Turner, yeah. He brought Eileen's pocketbook and
19 papers and cellphone and everything.

20 Q. And that was on the 29th?

21 A. Yes.

22 Q. Sir, I thank you for answering all my questions.

23 A. You welcome.

24 Q. Mr. Brehmer may have some questions for you. Maybe Mr.
25 Garfield and we'll go from there.

Joseph Sellaro - Cross-examination
By Mr. Summers

1 A. Okay.

2 Q. Are you comfortable, sir?

3 A. Yes, sir.

4 MR. BREHMER: No further questions, Your Honor.

5 THE COURT: Okay. Thank you, Mr. Sellaro.

6 THE WITNESS: Okay.

7 THE COURT: All right. And let's get him---

8 THE WITNESS: You done with me?

9 THE COURT: Yes, sir, thank you.

10 MR. BREHMER: Well, we're going to stay for a while.

11 THE WITNESS: Oh, yeah. I thought I was going
12 somewhere.

13 MR. BREHMER: Well, you are, home in a little while.
14 But we're gonna stay a little bit longer.

15 THE WITNESS: All right.

16 THE COURT: All right. Mr. Brehmer, do you need to
17 call any more witnesses tonight?

18 MR. BREHMER: No, sir, Your Honor.

19 THE COURT: What---

20 MR. BREHMER: We're -- that is the plaintiff's case.
21 We will rest at this time.

22 THE COURT: Okay. All right. So, ladies and
23 gentlemen, the plaintiff has rested their case. So I have
24 some legal issues that I have to take up outside of your
25 presence. So now is a time to stop for the day so I can do

1 that tonight so tomorrow morning we're ready for you.

2 As I release you for the evening, I want to remind you
3 that you're not allowed to discuss the case or anything
4 about it with anyone and you're not allowed to let anyone
5 talk to you about the case. You shouldn't be doing your own
6 research on any issues. You probably heard some terms today
7 which are not normal terms in your everyday vocabulary. You
8 don't need to go home and try to figure out what those are
9 or what they mean or anything like that. And, again, you
10 don't need to have any contacts with anybody involved in the
11 case.

12 So we'll start tomorrow morning at 9:30. I want to say
13 thank you for your hard work today. I truly appreciate you
14 and the -- I know there may be some after -- some childcare
15 issues at the end of the day with certain jurors.

16 So, the only time that we would really be going past
17 five o'clock is if you're deliberating.

18 Okay. So, let me just kind of walk you through how
19 that works. At some point we'll come to the point where
20 we're doing closing arguments.

21 Okay. Sometimes we start those first thing in the
22 morning, right. Sometimes we start those in the afternoon
23 just cause I don't know or I have an idea but I can't, as
24 you can tell, I can't pinpoint exactly how long things are
25 gonna take.

1 So, there are occasions, it's not always common, but
2 there are occasions when juries are deliberating past five
3 o'clock at night and the goal of that is let's stay here,
4 let's finish so you don't have to come back the next day.

5 So, if we end up in that situation, I'll be able to
6 give you plenty of warning to communicate about any
7 childcare issues that may exist. Right now I don't foresee
8 that happening. But if we get to the point where, you know,
9 tomorrow we're talking about arguing and charging tomorrow
10 afternoon, then I would let you know so you can call who you
11 need to call to work out those childcare things.

12 But generally speaking, it's about a quarter till 5:00
13 and that's about the time we normally stop somewhere in
14 there.

15 Okay. All right. So we'll see you tomorrow morning at
16 9:30. Thank you for your hard work today and have a great
17 evening.

18 (WHEREUPON, the following takes place outside the
19 presence of the jury.)

20 THE COURT: All right. Let -- Rod needs to go to the
21 restroom. So let's -- we'll take a short, couple, two or
22 three minute break, and then we'll do what we need to.

23 Okay.

24 (WHEREUPON, a short recess was taken at this time.)

25 THE COURT: And so the jury's out of the room.

1 Plaintiff's rested their case. And so I assume we need to
2 do some motions.

3 who wants to start?

4 MR. BREHMER: I don't have any at this point.

5 THE COURT: Okay.

6 MR. GARFIELD: This is rare for me, judge. We do not
7 have any at this point.

8 THE COURT: Okay.

9 MR. GARFIELD: But we anticipate making one at the end
10 of our case just for---

11 THE COURT: Okay. That's fine.

12 MR. GARFIELD: ---for a preview.

13 THE COURT: That's fine.

14 MR. GARFIELD: Yes, sir.

15 THE COURT: That's fine.

16 MR. GARFIELD: Thank you.

17 THE COURT: Okay. All right. Mr. Summers.

18 But you do renew all your previous objections and asked
19 that I -- that those are preserved for the record?

20 MR. GARFIELD: Absolutely, judge, and thank you---

21 THE COURT: Okay.

22 MR. GARFIELD: ---for that.

23 THE COURT: Yeah. Okay.

24 MR. GARFIELD: Yes. Very, very well. Thank you.

25 THE COURT: Mr. Summers.

1 MR. SUMMERS: Yes, sir, this will be what we'll call a
2 rough shod one. Forgive me for not being more -- having
3 more materials available.

4 I would move, respectfully, for directed verdict on Mr.
5 Sellaro's case for the grounds that there's been no expert
6 testimony establishing a standard by which DSS either failed
7 to meet or did not meet, however you want to phrase it.

8 We've heard a number of witnesses, basically lay
9 witnesses, come in. The expert testimony came from Doctor
10 Brandenburg. He is a expert in general psychiatry. Not in
11 any type of standard on adult -- vulnerable adult care,
12 vulnerable, vulnerable adult management, anything along
13 those---

14 THE COURT: Right. He was a psychiatry expert. I
15 don't -- don't -- no one disputes that.

16 MR. SUMMERS: Yes, sir.

17 THE COURT: Yeah.

18 MR. SUMMERS: So I would simply move and respectfully
19 move for directed verdict that there's been no expert
20 testimony establishing a standard to begin with or that DSS
21 failed to meet that standard.

22 THE COURT: Okay. All right. Mr. Brehmer.

23 MR. BREHMER: Your Honor, I think that we have
24 established that -- our claim is a negligence and a false
25 imprisonment claim.

1 THE COURT: Right.

2 MR. BREHMER: And the claim is, is that there was
3 absolutely no reason for Mr. Sellaro, one, to have been
4 taken into custody by the Sheriff's Department or, two,
5 maintained in custody by the South Carolina Department of
6 Social Services, that all the evidence they had was, was
7 that he was a competent adult, that he was capable of caring
8 for his needs and there's been no showing that he was
9 incapable of doing it and they had no authority to restrain
10 his person.

11 THE COURT: Okay. All right. So, at this point, the
12 standard before the Court is the existence of the evidence
13 and not the weight of the evidence. The other standard
14 before the Court is considering the evidence in the light
15 most favorable to the nonmoving party.

16 So, I think, based upon that, and my reading of the
17 statutes that are at play which are found in Title 45 and---

18 MR. SUMMERS: Yes, sir.

19 THE COURT: ---that everybody's quoted in their
20 pretrial briefs and whatnot, that, at this point, we have a,
21 a question of fact for the jury and I will respectfully deny
22 DSS motions for summary judgment based upon the testimony
23 that has been presented. I, I don't know that you have to
24 have an expert to establish the standard of care when we
25 have a statute that defines the duties.

1 So --.

2 MR. SUMMERS: Very well, sir. I understand.

3 THE COURT: That's just my thought process.

4 Okay. All right. So, how many, how many witnesses do
5 you think you'll have, Mr. Garfield?

6 I'm just trying to -- and I'm not holding you to this.
7 If you change your mind, you change your mind. I'm just
8 trying to map out the next couple of days in my mind.

9 MR. GARFIELD: Three.

10 THE COURT: Okay. All right.

11 MR. GARFIELD: And I think we could be done -- start
12 first thing in the morning. I think we could be done by
13 early afternoon.

14 THE COURT: Okay. All right. And what about you, Mr.
15 Summers?

16 MR. SUMMERS: I anticipate no more than four. One of
17 them will be very, very quick.

18 THE COURT: Okay.

19 MR. SUMMERS: If I need -- I'll check tonight to see if
20 that---

21 THE COURT: Okay.

22 MR. SUMMERS: ---that witness is necessary. So, I'm
23 thinking no more than four. If we start -- I'll have my
24 folks here, 1:00, 1:30 tomorrow --

25 THE COURT: Okay.

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wednesday, March 18th, 2022

THE COURT: All right. We got one, two three.

All right. Anything from the plaintiff before we bring in the jury, Mr. Brehmer?

MR. BREHMER: No, sir, Your Honor.

THE COURT: Mr. Garfield.

MR. GARFIELD: No, Your Honor. Thank you.

THE COURT: Mr. Summers.

MR. SUMMERS: None, sir.

THE COURT: wonderful. Thank you very much. We can bring them in.

THE BAILIFF: Yes, sir.

(WHEREUPON, the following takes place within the presence of the jury.)

THE BAILIFF: The jurors are seated, judge.

THE COURT: All right. welcome back, ladies and gentlemen. Thank you very much for being on, being on time. That is much appreciated as always.

So, when we left yesterday, the plaintiff rested their case. As I told you in the very beginning, the burden of proof lies with the plaintiff. So, neither of the defendants have to call any witnesses if they don't want to. But they have a right to if they choose to call any witnesses, and, Mr. Garfield, would you like to call any

1 witnesses?

2 MR. GARFIELD: We will, Your Honor.

3 THE COURT: Okay. You may call your first witness.

4 MR. GARFIELD: May it please the Court.

5 The defendant sheriff will call Zemulus Dozier.

6 THE COURT: All right. Mr. Dozier, come on up.

7 MR. GARFIELD: Watch your step.

8 THE BAILIFF: Come around here. Right here, sir.

9 Raise your right-hand.

10 ZEMULUS DOZIER, being first duly
11 sworn, testified as follows:

12 THE CLERK: Please have a seat there, sir. State your
13 full, full name for the record. Spell your first and last.

14 THE WITNESS: I will.

15 THE BAILIFF: Thank you.

16 THE WITNESS: Full name is Zemulus Louis Dozier.

17 THE BAILIFF: Okay.

18 THE COURT: All right. Mr. Dozier, you're gonna need
19 to stay close to that mic for me please, sir.

20 THE WITNESS: Okay.

21 THE COURT: And would you spell your first name for us?

22 THE WITNESS: Sure. Z-E-M-U-L-U-S.

23 THE COURT: And your second -- your last name please?

24 THE WITNESS: D-O-Z-I-E-R.

25 THE COURT: All right. So that microphone is real

1 sensitive. So you're, you're soft spoken. So just stay
2 close to it---

3 THE WITNESS: Okay. All right.

4 THE COURT: ---so we can make sure everyone in the room
5 can hear you please, sir.

6 okay?

7 THE WITNESS: Thank you.

8 THE COURT: Thank you very much.

9 THE WITNESS: Thank you.

10 THE COURT: All right. Whenever you're ready,
11 Mr. Garfield.

12 MR. GARFIELD: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. GARFIELD:

15 Q. Mr. Dozier, good morning.

16 A. Good morning.

17 Q. I'd like you to tell the jury a little bit about
18 yourself.

19 where are you from originally?

20 A. Originally from Kingstree, South Carolina.
21 Williamsburg County.

22 Q. And can you describe your educational background?

23 A. I have a four year degree in criminal justice. Was a
24 former firefighter for six years. Came on board with the
25 Richland County Coroner's Office as a part-time deputy

1 coroner for two years in 2004.

2 Stayed with the Coroner's Office until 2012. I left,
3 start working with School District 2. Stayed with School
4 District 2 till 2015. Coroner Watts, the former coroner,
5 had asked me to come back if I wanted to come back and I
6 told him I did. So, I accept that offer and I came back and
7 I've been here ever since.

8 Q. Okay. And what were the circumstances of you coming
9 back in with the Coroner's Office?

10 A. 2015, the storm, hurricane came through. They were
11 short staff.

12 Q. The, the, the flood?

13 A. Yes, the flood came through and they were short staff
14 and he wanted people that had experience. So, not only me,
15 there's like three other deputy coroners that he offered to
16 come back and they did. So we did.

17 Q. And I think you said you've been there ever since?

18 A. Ever since, yes.

19 Q. Okay. And I understand you've got some sort of cast or
20 injury?

21 A. Yes.

22 Q. And---

23 A. Fractured my elbow in December right before Christmas.
24 The healing process did not go well. So, just had surgery
25 about two weeks ago.

1 Q. Okay.

2 A. Yeah.

3 Q. Well, thank you for being with us.

4 A. Thank you. I appreciate it.

5 Q. Okay. And so can you estimate about how many years
6 you've worked with the Richland County coroner?

7 A. Estimating about 18.

8 Q. Okay. I'd like to bring you to the date of February
9 27th, 2016. That -- represent that that was a Saturday.

10 where were you employed at that time?

11 A. I was employed with the Richland County Coroner's
12 Office.

13 Q. And what title did you hold with the Coroner's Office?

14 A. Deputy coroner, field investigator.

15 Q. And as a deputy coroner, field investigator, what were,
16 what were your duties?

17 A. Our primary duties is respond to homicide, suicides,
18 fatalities, child deaths, ER deaths, drownings. But this
19 particular day, it, it was a hospital call that came in from
20 the ER trauma and was notified by the AOD to respond to the
21 hospital due to a fatality.

22 Q. Okay. And if you would please describe the general
23 procedure when you, as a deputy coroner, have to go through
24 when there's a death at one of the hospitals?

25 A. Normally we received the call from the AOD. We try to

1 get all pertinent information that we need so we can
2 generate a case number primarily getting the next of kin
3 information and most definitely the demographics on the
4 decedent. From that point we will make contact with our
5 supervisors advising them what we have and then we will
6 respond to the hospital.

7 Q. Okay. And you may of said this the first time and I, I
8 may of missed it. So I apologize. You said AOD.

9 what does that stand for?

10 A. Administrator on duty. They are actually the hospital
11 supervisors.

12 Q. So, they are not affiliated with the Coroner's Office?

13 A. No, they're not.

14 Q. They're hospital employees?

15 A. Yes, they are.

16 Q. And have you worked with AODs in the past?

17 A. Many.

18 Q. Okay. You're not a hospital employee but what's your
19 understanding of what their role is generally at the
20 hospital?

21 A. Their, their role is basically to assist the hospital
22 in any needs on staff, and then whenever we have a death,
23 and they will notify us to give us all the pertinent
24 information that they may have that would help us with the
25 investigation.

1 Q. Okay. Well, during the evening hours of February
2 27th, did you have an occasion to receive a call from the
3 AOD?

4 A. I did.

5 Q. And can you tell us about that or at least start with
6 which hospital?

7 I'm sorry. You need to tell us---

8 A. Okay. The hospital was Palmetto-Health Richland. I
9 received a call from the AOD stating that we had a traffic
10 fatality that occurred. The AOD on duty was Diane Smith.
11 She was giving me the reference number of a trauma female of
12 160101. The decedent was admitted to Richland at 17:51 on
13 set -- 27 of 2, which is---

14 Q. So when you say 17:51, that's military time?

15 A. That's military time, 5:51.

16 Q. 5:51PM?

17 A. PM, yeah.

18 Q. Yes, sir.

19 Please continue.

20 A. The decedent was identified as a 62 year old female by
21 the name of Eileen L. Sellaro. She stated that the decedent
22 was traveling home on Brookfield Road, and, during that
23 time, she just had general information on the location of
24 incident and it was witnessed -- decedent appeared, from
25 what highway patrol advised and EMS stated, that the

1 decedent appeared slumped over a 2016 Nissan Rogue prior to
2 impact of a Chevy -- of a Chevrolet, at that time, was
3 Trooper Oxenborn. I'm not sure if he's still employed with
4 the highway patrol. I'm not.

5 He stated that the decedent appeared to have -- had
6 veered into the oncoming lane and struck a Chevrolet truck.
7 Unknown make and model at the time I received that report.

8 Q. Okay. And so, after the, the collision, what was your
9 information as to what happened?

10 A. After the collision, the decedent was transported by
11 EMS to the trauma bay. She was directly admitted to the OR
12 for surgery.

13 During that time, the -- she had severe injuries.
14 She -- and when she was admitted to the OR, they performed
15 surgery on her. They said the decedent had lost a lot of
16 blood in her -- had blood in her stomach and she did have --
17 did appear to have pink sloshed which -- was suction from as
18 blood that's coming from her, from her oral cavity.

19 Q. Okay. And when you said OR, is that operating room?

20 A. Operation room, yes.

21 Q. Okay. And so what else did you learn at this point?

22 A. At this particular time when I responded to the scene,
23 of course they have to notify us anytime a body is moved
24 from a different location. They -- after they pronounced
25 her, they ended up moving her to a different location under

1 my authorization -- under my authority.

2 So I ended up going to that particular location, which
3 is right across in the surgery, surgery room. Decedent was
4 on a cart, which was a gurney, and they had placed the cover
5 over her. I observed her. She didn't have any scars or
6 injuries to the body. No more than the OR procedure that
7 they -- that took place.

8 Q. Okay. And so at this point I understand, correct me if
9 I'm wrong, you're at Palmetto-Health Richland?

10 A. Yes, I am.

11 Q. You have actualized the decedent?

12 A. Yes.

13 Q. And actualized is a word I hear a little bit.

14 A. Yes.

15 Q. So what, what does that mean in your words?

16 A. Actualization is basically when we view the body. We
17 review the body for wounds, stab wounds, scrapes, abrasions,
18 so forth. We check to make sure there aren't any broken
19 bones. We do photos of the body front and back, face, and,
20 at that time, if we do see something that does stand out
21 that may be a little concern, we take a photo of that.

22 Q. Okay. Prior to this evening, had you -- prior to this
23 evening, this Saturday evening, had you known an individual
24 named Carol Outlaw?

25 A. I did.

1 Q. Okay. In what respects did you know Ms. Outlaw?

2 A. Ms. Outlaw have -- and I have worked many cases
3 together. She worked with Baptist if I'm not mistaken
4 during that particular time. Ms. Outlaw was a -- not sure
5 how we made contact but we made contact while I was there at
6 the hospital.

7 Q. Okay. When you said you, you knew Ms. Outlaw, and you
8 had some sort of professional knowledge or relationship with
9 her, what was your understanding as to what she did for a
10 living?

11 A. At that time I think -- she told me she had retired as
12 an AOD and I wasn't aware of that until we started talking.
13 But, at that time, she told me she had retired.

14 Q. But she, she had been an administrator on duty?

15 A. Yes, not that---

16 Q. In her previous?

17 A. Not -- in the previous, yes.

18 Q. Not on this call obviously?

19 A. No.

20 Q. But she's represented to you that that's what she had
21 done when she -- before she retired?

22 A. Right.

23 Q. Okay. I understand.

24 A. And that's through my past experience working with her.

25 Q. Did you understand that she was a nurse?

1 A. Yes, I did.

2 Q. Okay. So, did you have an occasion on this evening to
3 come into contact with Ms. Outlaw?

4 A. Yes.

5 Q. And describe that, that encounter for us.

6 A. Well, we didn't have any information at the -- at that
7 particular time. Highway was at -- wasn't at the hospital
8 at the time. So, a lot of times whenever highway responds,
9 they will have -- they'll run the VIN and they will generate
10 a -- the individual who actually is driving that car and who
11 may be related to that car. So, I did not have any
12 information.

13 So, Ms. Outlaw was very helpful in that aspect to let
14 me know about Mrs. Sellaro, the location of his address,
15 that she was -- she knew her -- his, his wife, which is the
16 decedent. She gave me the address. She gave me some
17 history as well and stated that she rather---

18 MR. BREHMER: Objection as to what she stated, Your
19 Honor. It's hearsay.

20 MR. GARFIELD: Well --.

21 THE COURT: He was about to say what Ms. Outlaw told
22 him?

23 Mr. Garfield, is that right?

24 MR. GARFIELD: Well, I don't really know what he's --
25 what -- what specifically he's going to say. I, I generally

1 --.

2 THE COURT: well, let's, let's rephrase the question
3 then.

4 MR. GARFIELD: Certainly.

5 THE COURT: So as to that it's sustained.

6 Q. well, let me, let me back up a little.

7 Thank you, Your Honor.

8 Let me back up a little bit.

9 So, you said that Ms. Outlaw knew the decedent?

10 A. Yes.

11 Q. Did you have any understanding as to how she knew her?
12 were they friends or colleagues at work or what?

13 A. They're friends.

14 Q. Did she describe how close they were as friends?

15 A. She did not.

16 Q. Okay. So, she -- with knowledge of her.

17 She's providing you background information about
18 Mrs. Sellaro?

19 A. Yes.

20 Q. Oh, excuse me. I'm sorry.

21 Ms. Outlaw's providing you background information on
22 the decedent?

23 (WHEREUPON, there was no audible response.)

24 Q. Is that a yes?

25 A. Yes. Yes.

1 Q. Okay.

2 A. Uh-huh.

3 Q. She's providing you background information about the
4 decedent's car, where she lived, and about her life, her
5 residence?

6 A. Yes.

7 MR. GARFIELD: All right. Your Honor, I think this
8 entire line of questioning, if he's objecting based on
9 hearsay, this is relevant and not hearsay. We are not
10 offering any of this for the truth of the matter asserted.
11 This will just be effect on the listener. For instance,
12 we -- anything he would say would not be to prove, for
13 instance, if she told him that it was, you know, a
14 particular address for the truth. It would be---

15 THE COURT: Your argument is that his---

16 MR. GARFIELD: That he would believe -- that he
17 believed what she said.

18 THE COURT: He believed what he based his next
19 decisions on the information.

20 MR. GARFIELD: And, and I think there will be quite a
21 bit of questioning on this---

22 THE COURT: Okay.

23 MR. GARFIELD: ---and that's where --.

24 THE COURT: All right. Mr. Brehmer, what's your
25 thought on that?

1 MR. BREHMER: It is hearsay, Your Honor, under the
2 evidentiary rules and Ms. Outlaw was here. She had -- they
3 could of easily asked her these questions as to the
4 information that they were provided and I would object to
5 Coroner Dozier testifying as to what somebody else said that
6 has actually been a witness in this case.

7 THE COURT: Okay. All right. Your objection is
8 overruled as to hearsay cause based upon effective listener
9 and Ms. Outlaw's been here and she's been able for direct
10 and cross-examination by all parties.

11 So -- all right. You can ask him those questions.
12 Thank you.

13 MR. GARFIELD: Okay. Thank you, Your Honor.

14 THE WITNESS: Uh-huh.

15 Q. Okay. Please go ahead with what Ms. Outlaw told you.

16 A. She stated that she knew the wife and that she was the
17 primary caretaker for him. She advised me that the -- her
18 husband had -- does have some medical history. When we,
19 when we are told that, we want to try to make point of
20 contact as soon as possible because we do not know what the
21 situation or the condition may be at that point.

22 Q. She described that -- Ms., Ms. Outlaw described the
23 decedent's husband had a medical history.

24 A. Yeah.

25 Q. Did -- was she specific about any medical conditions?

1 A. She did say that he did have -- he was die -- a
2 diabetic.

3 Q. That he was diabetic?

4 A. Yes.

5 Q. Okay. Did she say any -- did she offer anything else
6 about any other medical conditions?

7 A. From my understanding was depression was one -- was
8 another one.

9 Q. Depression?

10 A. Yes.

11 Q. Okay. And I'm looking at your report.

12 Is there anything else that she had told you?

13 A. That's basically, basically the more -- the most
14 essential ones---

15 Q. Okay.

16 A. ---were --.

17 Q. And is it your understanding that the -- the
18 information that you received at this point, did you receive
19 it from any other source, any other person, report, or
20 anything, or are you getting it exclusively from Ms. Outlaw?

21 A. From Ms. Outlaw.

22 Q. Okay. You knew Ms. Outlaw.

23 Did you view her as a credible witness?

24 MR. BREHMER: Objection, Your Honor.

25 MR. GARFIELD: I could rephrase.

1 THE COURT: Objection is sustained. You may rephrase
2 the question.

3 Q. Okay. Did, did you trust what she was telling you?

4 A. Yes, I do.

5 MR. BREHMER: Objection, Your Honor.

6 THE COURT: Sustained.

7 You can't answer that question.

8 Ladies and gentlemen, you will disregard that answer at
9 that point.

10 Q. Based on your personal experiences with Ms. Outlaw, did
11 you have any reason to believe that you could not trust her?

12 MR. BREHMER: Objection, Your Honor.

13 THE COURT: Overruled. I think that's a completely
14 different question.

15 You can answer that one. Go ahead.

16 A. Repeat the question again.

17 Q. Yes, sir.

18 A. I'm sorry.

19 Q. I understand. There's a lot of objections and it's
20 probably my fault.

21 Based on your experiences with Ms. Outlaw, did you have
22 any reason to believe that you could not believe what she
23 was telling you?

24 A. I had no reason.

25 Q. So, after talking with Ms. Outlaw, what, if anything,

1 did you do at this point?

2 A. After I, I spoke with her, I'd immediately notified the
3 sheriff department, request for a line officer to respond to
4 the address. I then, in turn, contacted my supervisor cause
5 I -- we always keep them up-to-date on our, on our outcome.

6 At that time, you know, he said that -- go ahead and
7 meet with the sheriff department. Of course, highway patrol
8 generally respond to the scene with us because it's --
9 that's part of -- that's their jurisdiction.

10 So all of us arrived on scene. After we found out
11 about the situation, once we got there, we all met. Ms.
12 Outlaw stated to me that she would rather be the person to
13 make point of contact with him because he may become alarmed
14 with all the uniform officers coming to the door. We all
15 did went to the door.

16 Q. And, and let me pause you here if I may.

17 A. Sure.

18 Q. And I'm -- and I apologize. So we're -- we know you're
19 at the door of Mr. Sellaro's house.

20 A. Uh-huh.

21 Q. We're talking about February, 2016?

22 A. Right.

23 Q. Had -- before this, had you had any other cases like
24 this, any other scenarios like this in your history as a
25 deputy coroner?

1 A. Many. I have many cases.

2 Q. And the protocol you're following --

3 A. Protocol---

4 Q. -- what you're describing here --

5 A. Yes.

6 Q. -- is -- was that similar or not similar to the
7 procedure you had followed in the past?

8 A. It is, it is similar to the procedures. It is.

9 Q. And you mentioned the Richland County Sheriff's
10 Department in passing.

11 Do you specifically -- could you tell us who you called
12 or who you talked to before ever going to the house?

13 A. I made contact with Reggie Gaymon. He's over victim's
14 services.

15 Q. Okay.

16 A. And if---

17 Q. With the Sheriff's Department?

18 A. Yeah, with the Richland County Sheriff Department and
19 advising him what the situation was.

20 Q. Uh-huh.

21 A. And, of course, we spoke with highway patrol and
22 advised them as well too. So, all of us showed up and
23 arrived at the same time.

24 Q. Had you known Investigator, Investigator Gaymon before
25 this time?

1 A. Yes, I have.

2 Q. Had you worked with him in previous cases?

3 A. Yes.

4 Q. What role does the highway patrol generally have when
5 actually going to someone's house after a death?

6 A. Generally any scene that we respond to we are the lead
7 person on that scene. So, everything is brought to our
8 attention, advised through us, so, you know, we will say
9 okay we can do that, we can do this. From there, highway
10 patrol will generally allow us to take the lead when we make
11 notifications. So that means me, along with highway patrol,
12 highway patrol walking up to the home and knocking on the
13 door hoping that we get a response from the individual in
14 the house.

15 Q. Okay. Is there any indication or do you have any
16 understanding about what time you came to his house?

17 A. It was around 18:31 on the 27th and around that time
18 it was Mr. Gaymon, Richland County, Deputy Wolfe, Master
19 Deputy Gunnion, Richland County Corporal, Corporal Harper
20 with the South Carolina Highway Patrol.

21 Q. Okay.

22 A. Along with Ms. Outlaw.

23 Q. You said 18:31.

24 What was the address you went to?

25 A. The -- I'm sorry. The address is 18 -- I'm sorry. The

1 address was 1831 Crestview Av.

2 Q. Avenue.

3 Okay. And about---

4 A. Yes. Yes.

5 Q. And---

6 A. Yes, and---

7 Q. And, again, what time did you, did you arrive
8 approximately?

9 A. Let me look at my notes here. Give me one second.

10 (Pause.)

11 A. 22:03.

12 Q. Oh, so you arrived at 22:03?

13 A. Right.

14 Q. Mil---

15 A. Right.

16 Q. Military time.

17 A. Right.

18 Q. which translates into what?

19 A. Yes, 10:03PM.

20 Q. 10:03PM?

21 A. PM, yes.

22 Q. Okay. So you arrived at about 10:03PM. You described
23 who was there.

24 A. Uh-huh.

25 Q. Was Investigator Gaymon there?

1 A. Yes.

2 Q. Was -- were there any other individuals from the
3 Richland County Sheriff's Department there?

4 A. Deputy Wolfe, Master Deputy Gunnion, and Corporal
5 Harper with the South Carolina Highway Patrol.

6 Q. Okay. So you had folks there from the Coroner's
7 Office?

8 A. Yes.

9 Q. Highway Patrol?

10 A. Yes.

11 Q. And the Richland County Sheriff's Department?

12 A. That's correct.

13 Q. Okay. And describe what happened next.

14 A. I advised them what, what the situation was as well as
15 Ms., Mr. outlaw. We sat and we talked. How we gonna make
16 the approach to the door. She said that she wanted to be
17 the primary point of contact after we knocked on the door.

18 So we walked to the door. We knocked several times.
19 There was no response. When we don't get a response, then a
20 lot of times we will come around to the, to the windows or
21 to the other doors just to check. I was able to look into
22 the window where -- on the porch and I did see Mr. Sellaro
23 in his recliner. To me appeared to be sleeping. There are
24 several dogs that were around him at the time.

25 So, I told them that yes, I'm, I'm looking at him now.

1 So, they continued to knock and finally he did respond and
2 he came to the door.

3 Q. Okay. So were you able to have a conversation with Mr.
4 Sellaro?

5 A. Ms. Outlaw made the initial contact --

6 Q. And---

7 A. -- with him and we came in after her.

8 Q. She made the initial contact.

9 You came in afterwards and then what happened at that
10 point?

11 A. She got him to his recliner and advised him that we
12 need to talk to you and we have several officials from
13 different agencies here that needs to talk with you.

14 And so, at that time, to me, he seemed a little
15 confused and, you know, it's normal. You just waking up,
16 coming to the door, but a little confused to me, a little
17 disoriented.

18 So, when I, when I walked up to him, I identified
19 myself and I advised him who I'm with and I then told him
20 that I do want to express some sad news to him. And I
21 advised him that his wife had passed away at Prisma-Health
22 Richland.

23 At that time I backed away from it cause Ms. Outlaw
24 came in to act just to help him make this process and I
25 stepped away. Officer McGilley (phonetic), he, he remained

1 there. Everyone remained in the house at the time.

2 There -- they actually wanted to make sure that he was
3 okay and I wanted to make sure that he was okay as well too.
4 So we asked him did you eat something. He did say I, I ate
5 a TV dinner. Did -- they asked him have you -- do you
6 remember taking your Insulin. He said I do remember taking
7 my Insulin. He stated that the -- he wasn't sure how much
8 but he did remember taking his Insulin.

9 Q. Okay. What else, what else do you remember about
10 potential -- what else, what else do you remember, if
11 anything, about his Insulin or his blood sugar?

12 A. We became -- we -- he still had some disorient --
13 disorientation going on with him and I was a little
14 concerned and I pulled -- I pulled Officer Goodman
15 (phonetic) off to the side and I told him, I said, look,
16 you, you might need to have EMS come just to check and make
17 sure he's okay cause that's our primary concern. We wanted
18 to make sure, once we leave that home, that that individual
19 is okay. And so, you know, they -- nothing won't happen
20 afterwards because there've been times when we left and have
21 to turn right back around and go back.

22 So, at that time, they did notify Richland County EMS
23 and they did respond to the scene. So, I stepped away for a
24 little bit and let them do their part as well as the
25 remaining of the other agencies that was there and they,

1 they did say that he has -- his blood sugar was up.

2 Q. Was there any indication throughout any -- did you ever
3 receive a number throughout that night as far as what his
4 blood sugar reading was?

5 A. It was in the five -- it was -- so 550 I think it was
6 from what, what I, what I was told.

7 Q. Okay.

8 A. Yes.

9 Q. You had been---

10 A. And what the EMS run sheet also show too.

11 Q. In your 18 years of being a deputy coroner, being a
12 volunteer firefighter, does, does, does a blood sugar
13 reading, one way or the other, do you have any knowledge as
14 to what the -- a, a normal read is versus an abnormal read?

15 A. I do have, I do have knowledge be -- based on the fact
16 personal knowledge. My dad is diabetic. Grandmother was a
17 diabetic.

18 MR. BREHMER: I'm gonna object---

19 A. The---

20 MR. BREHMER: ---to this lay witness testifying about
21 medical conditions, Your Honor.

22 MR. GARFIELD: He, he -- Your Honor, he was not --
23 we're not testifying, again, for the truth of the matter
24 asserted. What he is saying is that he was in his house and
25 he was trying to make a determination as to whether this

1 person was gonna be able to properly care for himself and
2 --.

3 THE COURT: All right. I, I agree. I think it's
4 sustained. Yeah, I think he's outside of his expertise at
5 this point -- outside of the area of the realm of his
6 personal knowledge.

7 MR. GARFIELD: Thank you, Your Honor.

8 So, let me bring you back to this.

9 The EMS is in the house.

10 A. Uh-huh.

11 Q. Or, excuse me, the EMS had responded to the house?

12 A. Right.

13 Q. Tell me anything you remember at this point.

14 A. They did advise that his blood, blood sugar was
15 elevated. He refused to go. We asked him it will be best
16 if you would go with the EMS to be evaluated but he refused
17 to.

18 So, from there, Ms. Outlaw became more adamant in
19 trying to get him to go with EMS and finally he did and, and
20 they did transport him.

21 Q. Have you ever responded in situations before this or
22 really since then that you would go to a decedent's home and
23 they're other individuals in the house?

24 A. Yes.

25 Q. Would these be adults sometimes?

1 A. Yes.

2 Q. Would these be minors sometimes?

3 A. Yes.

4 Q. Guest, friend, family, neighbors?

5 A. Yes.

6 Q. Okay. What, if anything, are your concerns or what,
7 what is -- what is your approach when they're other people
8 in the house?

9 A. We try to clear the house so we can be one-on-one with
10 the, with the main next of kin because you have so many
11 people that want to come in, want to know. Through HIPPA,
12 you can not do that. So, we have to make sure that we have
13 the actual next of kin present. So we clear the house.

14 Q. Okay.

15 A. And that meaning we ask people to leave.

16 Q. And was it your -- let me ask this.

17 Do you know what emergency protective custody is?

18 A. Yes.

19 Q. Can you tell me what that means to you?

20 A. Emergency protective custody is basically when you
21 remove the individual from the home based on the fact you do
22 not think they are able to care for themselves.

23 Q. All right. And are you, Mr. Dozier, or anyone from the
24 Coroner's Office, do you have the legal authority to take
25 someone into protective custody?

1 A. No, I do not.

2 Q. Okay. Does a -- just a regular civilian, do they have
3 that similar legal authority?

4 A. They do not.

5 Q. Okay. Who, in South Carolina to your knowledge, has
6 the authority, the lawful authority, to do that?

7 A. Department of, Department of Social Services.

8 Q. Excuse me. To take someone into emergency protective
9 custody.

10 A. Yes.

11 Q. Would that be a law enforcement officer?

12 A. That will be a law enforcement officer, yes.

13 Q. So I've heard two different answers.

14 A. The Richland---

15 Q. Emergency protective custody in someone's house, who
16 would have the lawful authority is the question?

17 A. Okay. Law enforcement would. Richland County Sheriff
18 Department would have, have the authority.

19 Q. Okay. And would -- is that a method of providing
20 police protection?

21 A. Yes, it is.

22 Q. Is that one of maybe different options of providing
23 police protection?

24 A. Yes, it is.

25 Q. Did you have any understanding as to whether there were

1 any other people in their lives like family or, or
2 relatives?

3 A. Repeat that question. I'm sorry.

4 Q. The Sellaros, did they have any family?

5 Did they have any relatives that were, that were
6 available and you could reach?

7 A. At that particular time, no. We did a search and we
8 came up with a sister-in-law.

9 Q. Okay. Was, was anyone willing and able and qualified
10 to come to the house that evening to help out?

11 A. No.

12 Q. Did it appear to you that there were any -- anybody,
13 anybody that could step into the caregiving role on this
14 particular late Saturday evening?

15 A. No, there wasn't.

16 Q. And from the deputy coroner's prospective, what is your
17 main goal or what is your role through the EPC process?

18 A. Make sure we have -- the, the individual has proper
19 care and that they are cared for and providing that in the
20 long, in the long run with that that we can continue to work
21 with them to help them through this process.

22 Q. And did you -- I don't want to -- I just want to know
23 from -- based on your own prospective as a deputy coroner.

24 Okay. Did you think that he should of been taken into
25 protective custody?

1 A. Yes, I do.

2 MR. BREHMER: Objection, Your Honor.

3 THE COURT: Sustained. I don't think he's qualified to
4 make that decision.

5 MR. GARFIELD: Well, I didn't -- okay. And the, and
6 the question -- I could rephrase.

7 I don't want to know whether you had decision -- it
8 wouldn't have been your decision.

9 A. That's correct.

10 Q. Okay.

11 A. It would not have been.

12 Q. Okay. Did -- as far as -- but do you believe that --
13 let me ask it this way.

14 Do you, do you believe, based on what you saw in this
15 gentleman's home on this particular evening, that he could
16 properly care for himself?

17 MR. BREHMER: Objection, Your Honor.

18 THE COURT: What's the objection to that?

19 MR. BREHMER: One, it's causing him to speculate. It's
20 offer -- they're offering an opinion of a lay witness. It's
21 not the purpose for which this witness has been called or
22 identified.

23 THE COURT: All right. Overruled. He can answer the
24 question the way he just phrased it.

25 A. From my, from my opinion, I do feel as though that it

1 was for the best interest of Mr. Sellaro to be de -- be
2 the -- be taken from the home.

3 Q. Best interest for Mr. Sellaro to what?

4 A. To be taken from the home and placed into, you know,
5 protective custody.

6 MR. GARFIELD: Okay. I, I beg the Court's indulgence.

7 (Pause.)

8 Q. Mr. Dozier, thank you. I don't have any other
9 questions. I wish you a speedy recovery.

10 A. Thank you.

11 THE COURT: All right. Ladies and gentlemen, we're
12 gonna take a, a break out of order right now because I'm
13 gonna order you lunch today. But to do that I have to give
14 you the sheets of paper and you have to fill them out and we
15 have to get them in by a certain time to get it here.

16 I -- so we're gonna take our morning break right now.
17 we're gonna take just a 10 minute break. So they're gonna
18 bring you sheets of paper. Fill out what you want to eat.
19 There's not a lot of choices. That's a welcome to Richland
20 County Courthouse and they -- and then use the restroom, get
21 a drink. Then we'll come back in about 10 minutes and just
22 drive on. So that way we'll take a shorter lunch break
23 today and hopefully get through the majority of the
24 testimony today.

25 Okay. All right. So we'll take a short break.

1 Mr. Dozier, don't discuss your testimony with anyone at
2 all.

3 THE WITNESS: All right.

4 THE COURT: Okay.

5 THE WITNESS: Thank you, sir.

6 (WHEREUPON, the following takes place outside the
7 presence of the jury.)

8 THE COURT: Yeah, he's free to step down.

9 THE WITNESS: Thank you.

10 THE COURT: I'm doing that so we can --

11 MR. SUMMERS: Sure. Sure.

12 THE COURT: -- we can push through and not take an
13 extended lunch break. So I, I --.

14 MR. BREHMER: Thank, thank you.

15 THE COURT: I, I, I should of told y'all that but my --
16 I, I thought of it after you left the room. So, that will
17 help us condense the lunch break and, and keep pushing
18 through. So let's get them ordered and then we'll come
19 right back.

20 MR. BREHMER: Thank you.

21 THE COURT: Okay.

22 MR. SUMMERS: Thank you, sir.

23 MR. BREHMER: Your Honor, just as a, as a question.

24 THE COURT: Yes, sir.

25 MR. BREHMER: Is my understanding that Mr. Summers---

1 THE COURT: Yes.

2 MR. SUMMERS: ---Mr. Summers would be now
3 cross-examining the witness and then I would go after that.
4 Is that correct?

5 I would think that we -- since we go in accordance to
6 the pleadings that --.

7 THE COURT: Yeah, I would think that makes sense, yeah.

8 MR. SUMMERS: That's perfectly fine.

9 THE COURT: That's fine, yeah.

10 MR. BREHMER: Okay. Thank you.

11 THE COURT: Sure. Okay.

12 MR. BREHMER: All right.

13 THE COURT: We'll just take a short break and come
14 right back.

15 (WHEREUPON, a short recess was taken at this time.)

16 THE BAILIFF: The jurors are present, judge.

17 THE COURT: All right. Welcome back, ladies and
18 gentlemen. Again, don't blame the food choices on me.

19 Okay. I have been complaining about the food choices
20 since I showed up in this building 10 years ago to no avail.
21 So a -- but a free lunch is better than no lunch.

22 How about that?

23 Okay. Okay. All right. So, we are on Mr. Dozier's
24 cross-examination and, Mr. Summers, you're up first.

25 MR. SUMMERS: Very good, sir.

Zemulus Dozier - Cross-examination
By Mr. Summers

1 THE COURT: Thank you.

2 MR. SUMMERS: May it please the Court?

3 THE COURT: Yes, sir.

4 MR. SUMMERS: Mr. Brehmer. Mr. Garfield. Madam
5 Foreperson.

6 CROSS-EXAMINATION

7 BY MR. SUMMERS:

8 Q. I'll start by saying good, good morning, Mr. Dozier.

9 A. Good morning.

10 Q. How are you normally referred to on-the-job?

11 Is it Coroner Dozier?

12 Just out of curiosity.

13 A. Zem.

14 Q. May I call you Zem this morning?

15 A. That's fine.

16 Q. Very good, sir.

17 Just a quick follow-up questions based upon what
18 Mr. Garfield has previously asked you.

19 A. Okay.

20 Q. Do, do you understand that, sir?

21 A. Yes, I do.

22 Q. And you understand that my name's Lake Summers and I
23 represent the Department of Social Services in Mr. Sellaro's
24 lawsuit?

25 A. Yes, I do.

1 Q. Very good, sir.

2 You and Mr. Garfield obviously discussed your
3 recollections of being at Mr. Sellaro's home on the evening
4 of Saturday, February the 27th of 2016, correct?

5 A. That's correct.

6 Q. Once Mr. Sellaro left the home, did you go to the
7 hospital and I'm specific -- speaking of Palmetto-Richland?

8 A. No, I did not. I responded to the hospital on, on the
9 first initial call of, of the death.

10 Q. But you did not return?

11 A. I did not return.

12 Q. Very good.

13 Did you have any other what I'll call follow-up or
14 subsequent contact, telephonically or personally, with Mr.
15 Sellaro?

16 A. I made contact with a Ms. Prunty.

17 Q. Do you know who she is or was at the time?

18 A. At that time I did not know. But I later found out
19 that she was the sister to the deceased.

20 Q. And the deceased's name again was Eileen Sellaro?

21 A. That's correct.

22 Q. Did you have direct contact at any point with Ms.
23 Prunty if I'm correct---

24 A. Yes.

25 Q. ---pronouncing that correctly?

Zemulus Dozier - Cross-examination
By Mr. Summers

1 A. I did. I made, I made contact with her at a number of
2 908---

3 Q. Ah, we can just -- that -- that's fine, sir.

4 A. That's fine.

5 Q. Is it safe to say that the 908 area code is not a South
6 Carolina area code?

7 A. That is correct. It's not.

8 Q. Very good, sir.

9 Aside from Ms. Prunty, did you have any other -- any --
10 I'm sorry. Any communication with any, I'll call a --
11 direct relatives, any children, brother, sisters of Mr.
12 Sellaro on the evening of February the 27th or after the
13 evening of February the 27th?

14 A. I did not. She was the only point of contact.

15 Q. I appreciate your time, sir. Thank you very much.

16 A. Thank you.

17 THE COURT: All right. Thank you, Mr. Summers.

18 MR. SUMMERS: Yes, sir.

19 THE COURT: And, Mr. Brehmer, whenever you're ready.

20 CROSS-EXAMINATION

21 BY MR. BREHMER:

22 Q. Good morning, Mr. Dozier.

23 A. Good morning, sir.

24 MR. BREHMER: I'm sorry.

25 THE COURT: You break it you buy it now. That's the,

1 that's the rule, right, Rod?

2 MR. BREHMER: A dollar a week.

3 THE COURT: A dollar a week, that's right. Rod, had to
4 get up. The (indiscernible) kind of grown a little bit,
5 right?

6 MR. BREHMER: Yes, sir.

7 All right. Thank you.

8 THE DIGITAL REPORTER: Do I need to tape it down?

9 MR. BREHMER: Maybe.

10 Q. All right, Mr. Dozier. Let's see if I understand the
11 scene cause I think that's very relevant.

12 A. Yes.

13 Q. Ten o'clock at night?

14 A. Uh-huh.

15 Q. Yourself, a couple deputies, highway patrolman arrive
16 at Mr. Sellaro's home?

17 A. That's correct.

18 Q. Okay. Y'all got the lights going, correct?

19 A. No lights.

20 Q. Okay. No lights on the cars?

21 A. No blue lights on the car.

22 Q. Okay. Got a bunch of marked police cars?

23 A. That's correct.

24 Q. And you're out in front of his house and you go to the
25 door and he doesn't immediately answer, correct?

Zemulus Dozier - Cross-examination
By Mr. Brehmer

1 A. That's correct.

2 Q. And you go around the house and you look in the window,
3 correct?

4 A. That's correct.

5 Q. And Mr. Sellaro is doing like a lot of us, sitting in
6 his recliner, leaned back in it, reclined in his recliner
7 sound asleep?

8 A. That's correct.

9 Q. That was your impression, correct?

10 A. That's correct.

11 Q. With his pets by his side?

12 A. That's correct.

13 Q. Now -- and then eventually the rap a tap a tap at the
14 door arouses him?

15 A. That's correct.

16 Q. From the -- what you think is a sound sleep, right?

17 A. That's correct.

18 Q. Okay. And he comes to the door and opens the door,
19 right?

20 A. That's correct.

21 Q. And there's a bunch of strangers at his door, correct?

22 A. That's correct.

23 Q. To the best of your knowledge, nobody other than Carol
24 Outlaw there had ever seen Mr. Sellaro, right?

25 A. That is correct, yes.

1 Q. And, to the best of your knowledge, Mr. Sellaro had
2 never seen any of those other people, correct?

3 A. That's correct.

4 Q. So, it's a total foreign transaction here?

5 A. Uh-huh.

6 Q. With a man that just arose and y'all tell him from the
7 get go that his wife of 41 years is now dead, correct?

8 A. That's correct.

9 Q. Now, you've been a coroner I think 16 years is what you
10 said?

11 A. Total?

12 Q. Yes, sir.

13 A. Eighteen.

14 Q. Eighteen. Eighteen. Long time.

15 A. Yes.

16 Q. Okay. And, you know, death is never good.

17 would you -- can we agree on that?

18 A. We can. Yes, we can.

19 Q. But sudden deaths, which this would be, is very
20 traumatic for the recipient to receive, is it not?

21 A. Yes, it is.

22 Q. I mean it hits you, and from what you say, it hits you
23 like a ton of bricks?

24 A. Yes, it does.

25 Q. When you find out that somebody you've loved and

1 cherished is no longer with us, the recipient, it -- it's,
2 it's just devastating?

3 A. That's correct.

4 Q. Okay. Now -- and the truth of the matter is, is, from
5 your experience, people react differently, don't they?

6 A. Yes, they do.

7 Q. I mean there's a whole range of reactions from just
8 sitting there quiet and not speaking, to passing out, to
9 just crying, just, just -- there's a whole range of emotions
10 that goes with that, isn't it?

11 A. Yes, it is.

12 Q. Okay. So, we can agree that Mr. Sellaro was basically
13 hit with a ton of bricks there at ten o'clock?

14 A. He was.

15 Q. I mean he hit it -- that's hard?

16 A. Yes. That's ever for---

17 Q. I mean that is hard.

18 A. Uh-huh.

19 Q. I mean kind of makes your heart tug just to think about
20 it, doesn't it?

21 A. It does, yes.

22 Q. I mean it -- and then, and then you get a bunch of
23 strangers that just told you your wife is dead asking you
24 who your husband is?

25 A. Uh-huh.

1 Q. what is your name, what is your address, and what is
2 your date of birth, and your social security number,
3 correct?

4 A. That's correct.

5 Q. Those, those were the litany of questions that were
6 being pelted on this man, correct?

7 A. From my understanding, yes.

8 Q. Yeah. I mean -- well, you were there.

9 A. I was there, yes.

10 Q. Yeah, you were there. I mean these things just being
11 pelted on this man that's just been dropped this ton of
12 bricks but you know what?

13 He responded, didn't he?

14 He gave his address, didn't he?

15 A. He did --

16 Q. Okay.

17 A. -- to an aspect -- to a certain aspect.

18 Q. He gave his date of birth, didn't he?

19 A. He did.

20 Q. And you know he gave his nine digit social security
21 number, didn't he?

22 A. I wasn't aware of that.

23 Q. Okay. And he also gave his medical conditions,
24 correct?

25 A. I wasn't aware of that.

1 Q. Okay. He also gave his medication that he was on,
2 correct?

3 A. Only way I knew of the medication is because of Ms.
4 Outlaw.

5 Q. Okay.

6 A. Did not des -- he did not describe what type of
7 medication he was on at the time.

8 Q. Okay.

9 A. But he did say that he do remember taking it but did
10 not describe what type of medication.

11 Q. Okay. Now, Mr. Sellaro, who was hit with that ton of
12 bricks that night, within a matter of an hour and a half,
13 was put on a gurney and taken out of his house, wasn't he?

14 A. Yes.

15 Q. Okay. But during that timeframe, he was responding to
16 the questions in a comprehensible manner, wasn't he?

17 A. What type of questions?

18 I'm not familiar with the---

19 Q. Okay.

20 A. ---questions.

21 Q. Well, Mr. Sellaro, do you have any children.

22 He told you that, didn't he?

23 A. I wasn't aware of that he---

24 Q. Okay.

25 A. ---he did. Not from him.

1 Q. Okay. Mr. Sellaro, what medications are you on.

2 Okay. He gave that information.

3 Now -- and the decision was made to take this man out
4 of his house, correct?

5 A. That's correct.

6 Q. He didn't want to go, did he?

7 A. He did not.

8 Q. Okay. And he basically, when he went, was against his
9 will, wasn't it?

10 A. I'm not the one to make that judgment call.

11 Q. Okay. Now, can you, as a deputy coroner, understand
12 how a man like Mr. Sellaro or like any of us -- say it
13 wasn't Mr. Sellaro. Say it was me. Say you came to my home
14 at ten o'clock and told me that the wife that I have lived
15 with for the last 41 years and loved and been my partner was
16 now dead.

17 Okay. Your expectation as the coroner is, is that I
18 would be somewhat rattled, wouldn't I?

19 A. I would. A lot of times we show empathy but not
20 sympathy.

21 Q. Okay. Now -- and Mr. Sellaro admitted to you that he
22 had a diabetic condition at the house, correct?

23 A. The only way that I knew that Ms. Outlaw advised me of
24 it prior to my arrive. Once we arrived, then there was the
25 advise to EMS --

1 Q. Okay.

2 A. -- that --

3 Q. Well, I'm gonna show you what's been marked as Exhibit

4 No. 6.

5 Okay.

6 THE COURT: Is that Plaintiff's 6?

7 MR. BREHMER: Plaintiff's 6.

8 It gives four medical conditions on there that Mr.

9 Sellaro related to the EMS folks.

10 There would be asthma, correct?

11 A. Yes.

12 Q. You see that?

13 A. Yes, I do see that.

14 Q. That's the first one.

15 Dementia's the second one?

16 A. Yes.

17 Q. Correct?

18 A. That's correct.

19 Q. Diabetes is the third one, correct?

20 A. That's correct.

21 Q. Pacemaker is the fourth one, correct?

22 A. That's correct.

23 Q. Okay. All right. Now -- and that information came
24 from Mr. Sellaro, didn't it?

25 A. I am not sure.

1 Q. Okay.

2 A. The information may have been given to Richland County
3 EMS because, whenever they arrive, that's their primary
4 concern to find out the history on the individual.

5 Q. Okay.

6 A. I wasn't present at the time when he gave that
7 information to them. The only way I knew that he did have
8 one of the primary conditions is what Ms. Outlaw advised me,
9 which is diabetes.

10 Q. Okay. Ms. Outlaw was feeding you information?

11 A. She was advising me of information on him.

12 Q. Okay. Now, as the coroner and as one of the officials,
13 officials basically in charge of this event, you are
14 required to use a certain amount of discretion, correct?

15 A. That's correct, yes.

16 Q. Okay. And take all the factors into evidence, correct?

17 A. That's correct.

18 Q. Okay. Now, to the best of your knowledge, the fact
19 that Mr. Sellaro had diabetes, there was no, no treatment
20 rendered for diabetes by him, was there, at the scene?

21 A. As far as I know of --

22 Q. Okay.

23 A. -- he did advise that he did take --

24 Q. Insulin.

25 A. -- Insulin.

Zemulus Dozier - Cross-examination
By Mr. Brehmer

1 Q. Okay.

2 A. But not sure---

3 Q. But he took that?

4 A. ---exactly how much it was.

5 Q. Sure.

6 A. Uh-huh.

7 Q. Okay. And do you know how long he had had diabetes?

8 A. I do not.

9 Q. Do you know how long he had been managing diabetes?

10 A. I do not.

11 Q. Okay. Asthma, did you know that he had had asthma
12 since he was a child?

13 A. I did not.

14 Q. Okay. Can we agree that he would be long beyond the
15 childhood years, correct?

16 A. Yes, we do.

17 Q. Okay. And there was absolutely no evidence that his
18 asthma was not under control, was it?

19 A. Not to my knowledge.

20 Q. He wasn't heaving and hacking and coughing or having
21 any type of asthmatic attack?

22 A. No, he wasn't.

23 Q. Okay. And -- okay. His pacemaker.

24 Okay. There was no evidence as to how long he'd had
25 that pacemaker, was there?

Zemulus Dozier - Cross-examination
By Mr. Brehmer

1 A. There wasn't.

2 Q. There was no evidence that -- you didn't know that he
3 had the pacemaker for 10 years, did you?

4 A. No, I did not.

5 Q. You did not know that the pacemaker was monitored by a
6 unit in his house, did you?

7 A. No, I did not.

8 Q. Okay. And you didn't know of any problems with it,
9 correct?

10 A. I did not.

11 Q. Okay. Okay. And so you took the man off from his
12 house that -- his safe haven, correct?

13 A. That's correct.

14 Q. Okay. Now, as the coroner or deputy coroner, were you
15 aware that he spent 10 days in Richland Memorial?

16 A. I did not.

17 Q. Okay. Were you aware that, during that entire 10 month
18 (sic) stay, he never got any treatment for asthma?

19 A. No, I wasn't aware.

20 Q. Okay. Were you aware that, during that 10 days
21 treatment or stay in Richland, there was never any treatment
22 or change in his diabetic condition by -- at the hospital?

23 A. I wasn't.

24 Q. Were you aware that, in that 10 days in the hospital
25 when he was confined, it was no treatment by a cardiologist

1 regarding his pacemaker?

2 A. I was not aware.

3 Q. Were you aware that the only thing that was done for my
4 client at that hospital was that Sunday -- now he left there
5 and arrived at the hospital at 11:58 on Saturday night.

6 Some time during the day Sunday an internist saw him and
7 said he was fine medically. The next day, Monday, a
8 psychiatrist saw him and said he was fine.

9 Were you aware that those were the only two evaluations
10 this man had in that 10 days?

11 A. I wasn't aware of none of that.

12 Q. Okay.

13 A. But may I say something?

14 Q. No, sir, it's---

15 A. Okay.

16 Q. ---my time to ask questions.

17 Okay?

18 A. Okay.

19 Q. Now -- so the only thing -- the only reason that this
20 man was taken to the hospital was you thought he might have
21 dementia, wasn't it?

22 A. The only reason I knew that he was taken to the
23 hospital is because of his sugar level.

24 Q. Okay. No, sir.

25 The truth of the matter is the only reason that the

1 Sheriff's Department took him to the hospital was because
2 they thought he had dementia, correct?

3 A. I'm not aware of that. The only reason---

4 Q. Okay.

5 A. Again, I will say, the only reason I knew he was
6 transported to the hospital is because of his sugar level
7 and also with his confusion that we noticed in the home and
8 we felt as though that we were -- he wasn't gonna be able to
9 assist himself. So that's the reason why they EPC him---

10 Q. Wait a minute now.

11 A. ---from the home.

12 Q. Confusion in the home. Let's, let's talk about that.

13 A. With his confusion.

14 Q. Let's talk about that. Let's talk about that.

15 A. Okay.

16 Q. I get woke up from sleep at ten o'clock by a bunch of
17 strangers that I don't know that tell me my wife is dead,
18 and you spend -- you know, the ambulance left the house at
19 11:28. So, according to your thing, you were there about an
20 hour and 20 minutes.

21 In an hour and 20 minutes, after being told that my
22 wife of 41 years is dead, y'all decide -- and I answer your
23 questions, y'all decide I can't care for myself, correct?

24 A. The only way -- the reason why that decision was made,
25 again, based on the fact that he was -- did have some form

1 of confusion to the -- this is my personal viewing of it
2 that he did have some form of confusion, that he could not
3 remember how much he took so far as with the Insulin. He
4 did stated that he did eat a TV dinner and then, from there
5 when EMS arrive, they checked his blood sugar. His blood
6 sugar was very high and---

7 Q. Well, actually---

8 A. ---as far as safety reasons, and concern, and proper
9 care, the judgment call was made by the sheriff department
10 to have him EPC'd from the home.

11 Q. Okay. For which he never got the first amount of
12 treatment, correct?

13 A. Only way -- the only time when EMS arrives I do know
14 that they will administer whatever treatment they need to
15 administer. If a person has a very high level of blood
16 sugar, they will try to assist them in every manner --

17 Q. Yes, sir.

18 A. -- so it will not go as far as them going into a
19 diabetic shock.

20 Q. We're not talking---

21 A. But---

22 Q. We're -- go ahead.

23 A. I -- but as far as what happened during that particular
24 time, I stepped back from that portion because the sheriff
25 department took in control of the scene from that point.

1 Q. I understand.

2 A. My primary concern for being there was to make
3 notification --

4 Q. Sure.

5 A. -- and make observation and assist -- and give my
6 opinion.

7 Q. Sure.

8 A. I don't have the authority, once I make a point of
9 contact to the next of kin, what goes from that point. My
10 concern is the death of the individual and making sure I
11 make notification to the proper or the next of kin that I
12 may be able to reach to assist him.

13 Q. I understand. I understand. I wouldn't want you to --
14 I couldn't do your job.

15 But the truth of the matter is, is, is you don't know,
16 yes or no, whether any treatment for any condition was
17 rendered by the EMS or the hospital in that 10 day window,
18 do you, from February the 27th till March the 7th?

19 A. Only thing I do know is that they did transport him to
20 the hospital.

21 Q. Okay.

22 A. Once he leaves that scene, I have no point of contact
23 from that---

24 Q. I understand.

25 A. ---from that point.

1 Q. I understand. Thank you, sir.

2 THE COURT: Mr. Garfield, any redirect?

3 MR. GARFIELD: Yes, Your Honor. I'll try to keep it
4 brief.

5 REDIRECT EXAMINATION

6 BY MR. GARFIELD:

7 Q. Mr. Brehmer was just asking you questions about this 10
8 day hospital stay. Were you aware that he got treatment or
9 seen by certain medical people. You were about to say
10 something and he said he was asking the questions.

11 Do you remember what you wanted to say?

12 A. Actually I did say it. Most of the time, like I stated
13 earlier, when we arrive, we make sure that that individual
14 is in proper care. We generally go -- I generally go in.
15 Now I have to speak for my, myself to make sure that the
16 conditions are well, make sure the, the de -- the next of
17 kin is well. I show empathy not sympathy. And when you
18 show sympathy, you're being caught up into the actual
19 individual and what they're going through. Empathy is
20 basically you're there for their aid and their assistance.

21 So, from that point, once point of contact is made,
22 I've made my, my call and as well as to make notification,
23 the individual is, is either -- they received the, the
24 information or they do not receive the information. But we
25 stay on scene to make sure that a next of kin or someone of

1 that aspect is able to come and be with that family member
2 once we leave.

3 At that particular time, there was no one present, no
4 one there, no one in state that was able to come. So, we
5 can't leave that individual, individual there. There has --
6 something has to be done.

7 Q. Something, something has to be done.

8 Is that what you said?

9 A. Yes, I did.

10 Q. Would one option be that all of you, Coroner's Office,
11 highway patrol, first responder, Sheriff's Department, leave
12 the house --

13 A. We would---

14 Q. -- and leave him to his own devices?

15 A. We will not do that.

16 Q. What, if anything---

17 A. We will not.

18 Q. ---would of been your concerns if that had been done?

19 A. I feel as though the conditions would of been worse.
20 We already know that his blood sugar -- level was high. So
21 I feel as though that his condition would have gotten worse.

22 If there's a family member or not so much as a family,
23 even a neighbor is there to come in and sit with the
24 individual or take that individual into their care until a
25 proper next of kin, if they are out-of-state, can come into

1 state and take the individual over into their care. So we
2 try to make sure that we cover all our bases, dot our i's,
3 cross our t's, because the primary purpose for this is the
4 proper care of that person if they have an extensive medical
5 history.

6 Q. Okay. Thank you again.

7 A. Thank you.

8 THE COURT: Mr. Summers.

9 MR. SUMMERS: May it please the Court?

10 THE COURT: Yes.

11 RECROSS EXAMINATION

12 BY MR. SUMMERS:

13 Q. I'm sure you recall Mr. Brehmer asking you a few
14 questions about treatment or purported lack of treatment
15 that Mr. Sellaro received during his admission to
16 Palmetto-Richland.

17 A. I do.

18 Q. would you expect Mr. Sell -- Mr. Sellaro to have had
19 access to three meals a day while admitted to the hospital?

20 A. I would advise -- yes, he would have.

21 Q. would you expect Mr. Sellaro to have had oh, his vital
22 signs monitored with some degree of regularity, regularity?

23 A. Yes.

24 Q. would you expect Mr. Sellaro to have had his pacemaker
25 and other ailments such as asthma, diabetes monitored and,

1 if necessary, corrected during his admission to the
2 hospital?

3 A. I do, yes.

4 Q. Now, a moment ago you were talking with Mr. Garfield
5 about there were no neighbors to sit and to monitor, to
6 assist Mr. Sellaro, correct?

7 A. That's correct.

8 Q. There was no family available, to your knowledge at
9 that time, to sit, to come and assist and to help Mr.
10 Sellaro?

11 A. No, there wasn't.

12 Q. So you would expect that Mr. Sellaro, during his
13 admission to the hospital, would of had nurses checking on
14 him?

15 A. Yes.

16 Q. Registered nurses?

17 A. Yes.

18 Q. You would expect that he would of had access to
19 physicians checking on him with regularity?

20 A. Yes.

21 Q. You would expect that he would of had access to, if
22 necessary, social workers to assist him in getting things
23 together in the immediate aftermath of the tragic death of
24 his late wife?

25 A. Yes.

1 Q. would you expect Mr. Sellaro to have been placed in a
2 glass enclosure in the bottom of the hospital basement and
3 have had no contact for about 36 hours with anyone
4 whatsoever?

5 Does that comport with your understanding of how a
6 hospital would work?

7 A. No.

8 Q. Thank you very much, sir.

9 A. Thank you.

10 MR. BREHMER: Nothing further.

11 THE COURT: All right. Oh, well, no.

12 Anything else in regards to that?

13 MR. GARFIELD: Oh, no, Your Honor.

14 THE COURT: Okay. Now you can step down, Mr. Dozier.
15 Thank you.

16 THE WITNESS: Thank you.

17 THE COURT: You may call your next witness.

18 MR. GARFIELD: Thank you, Your Honor.

19 The defendant sheriff would call Sergeant Karen wolfe
20 Gilman.

21 THE CLERK: would you state your full name please?

22 THE WITNESS: Karen Ray Gilman.

23 THE CLERK: would you spell your last name?

24 THE WITNESS: G-I-L-M-A-N.

25 THE CLERK: G-I-L-M-A-N?