

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Maite Murphy, Circuit Court Judge

Appellate Case No. 2023-000592
Case No. 2021-CP-22-00552

Jessica Flegel

Appellant,

v.

Thayne Dawkins Reece,

Respondent.

RECORD ON APPEAL

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SC Court of Appeals

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Certificate of Service

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Certificate of Compliance

Additionally, the Plaintiff testified that she did not see the Defendant's vehicle before impact. Julie Flegel and Charles Flegel both testified at trial. However, neither of them was present when the accident occurred. There was no evidence presented of Defendant's actions immediately prior to or during the accident. No accident reconstruction was presented during trial, which may have included the biomechanics of the speed of the vehicle, the impact, the lighting conditions or any distractions or impairments on behalf of the Defendant. Evidence to support an award of punitive damages would have been based solely on speculation.

Furthermore, Plaintiff filed her motion on March 16, 2023. Rule 59(b) provides that a "motion for a new trial shall be made promptly after the jury is discharged, or in the discretion of the court, not later than 10 days thereafter." SCRCP, Rule 59(b). At the conclusion of the trial, Plaintiff did not move for a new trial and did not request additional time from this Court to file her motion. Therefore, Plaintiff's Motion for a New Trial did not comply with Rule 59(e) of the South Carolina Rules of Civil Procedure. It is

ORDERED, that the Plaintiff's Motion for a New Trial as to Punitive Damages or in the alternative, a New Trial Absolute is HEREBY DENIED. It is

SO ORDERED.



Georgetown Common Pleas

Case Caption: Jessica Flegel VS Thayne Dawkins Reece
Case Number: 2021CP2200552
Type: Order/Other

So Ordered

s/ Maite Murphy 2166

Electronically signed on 2023-04-04 15:55:40 page 3 of 3

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP2200552

Jessica Flegel
PLAINTIFF(S)

Thayne Dawkins Reece
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:

Jury verdict for the plaintiff in the amount of \$10,000.00

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 03/16/2023 .

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), SCRPC.



Georgetown Common Pleas

Case Caption: Jessica Flegel VS Thayne Dawkins Reece

Case Number: 2021CP2200552

Type: Order/Electronic Form 4

So Ordered

s/ Maite Murphy 2166

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ELECTRONICALLY FILED - 2023 Mar 16 2:16 PM - GEORGETOWN - COMMON PLEAS - CASE#2021CP2200552

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

JESSICA FLEGEL

Plaintiff,

vs.

THAYNE DAWKINS REECE,

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO.: 2021-CP-22-00552

VERDICT FORM

1. Do you find that the Defendant was negligent and that such negligence proximately caused the Plaintiff's injuries?

✓ YES
 NO

2. If your answer above is yes, please state the amount of damages sustained by the Plaintiff.

\$10,000

OR

3. We find for the Defendant. guilty

I certify this decision was the unanimous decision of the jury.

Antonia S. Reed AF
FOREPERSON
February 7, 2023.

***Please let the Court know when you finish your deliberations. ***

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

JESSICA FLEGEL

Plaintiff,

vs.

THAYNE DAWKINS REECE,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2021-CP-

**SUMMONS
(JURY- AUTO-NEGLIGENCE)**

TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint on the subscriber at his offices at P.O. Box 1034, Charleston, South Carolina, 29402, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the complaint and judgment by default will be rendered against you.

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Attorney for Plaintiff

July 7, 2021

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

JESSICA FLEGEL,

Plaintiff,

vs.

THAYNE DAWKINS REECE,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2021-CP-

**COMPLAINT
(JURY- AUTO-NEGLIGENCE)**

The Plaintiff complaining of the Defendant alleges:

1. Plaintiff is a resident and citizen of the State of South Carolina, County of Georgetown.
2. Defendant is a resident and citizen of the State of South Carolina, County of Georgetown.
3. That on September 8, 2020, around 10:20 p.m., Plaintiff was the driver of a 2015 Hyundai SUV traveling north on Highway 41 near the intersection of Highway 41 and North Morgan Avenue in Georgetown County, South Carolina and had come to a stop for the construction/paving flag man.
4. That on the aforesaid date, time and place, Defendant was the operator of a 1998 Toyota automobile traveling north on Highway 41 in Georgetown County and by and through the negligence, carelessness, recklessness, willfulness and wantonness of the Defendant, the Defendant failed to stop when vehicles in front of him were stopped for the construction/paving flag man near the intersection of Highway 41 and North Morgan Avenue and struck the Plaintiff's vehicle, propelling her vehicle into across the highway and into a ditch, resulting in injuries and damages to the Plaintiff as hereinafter set forth.

5. That the negligence, carelessness, recklessness, willfulness and wantonness of the Defendant, among other things, consisted of the following:
 - a. In failing to and omitting to stop, slacken the speed or change the lane of travel of the vehicle when the Defendant knew or by the exercise of reasonable care should have known that by continuing to proceed, the vehicle operated by the Defendant would strike Plaintiff's automobile;
 - b. In failing to take proper precautions to avoid allowing the vehicle operated by the Defendant to violently strike and collide with Plaintiff's automobile;
 - c. In operating his vehicle upon the roadway at a high, excess and dangerous rate of speed under the circumstances;
 - d. In failing to keep a proper lookout for the traffic;
 - e. In failing to have and keep his vehicle under proper and reasonable control;
 - f. In failing to exercise that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances.

6. That by reason of and in consequence of the foregoing and as a direct and proximate result thereof the Defendant's vehicle struck Plaintiff's vehicle as aforesaid, resulting in injuries to Plaintiff in and about her entire body, including her neck, shoulder, low back and both legs, requiring medical treatment by reason of which Plaintiff has been caused to expend monies for doctors and other medical expenses and will be caused to expend monies for such care in the future; she has suffered and continues to suffer pain and mental anguish; she has been prevented from engaging in normal activities and her earning capacity has been diminished and she has been deprived of the enjoyments of persons in like circumstances and has otherwise been damaged, all to her damage.

WHEREFORE, Plaintiff prays for judgment against the Defendant, for damages in such sums as will fully, fairly and justly compensate Plaintiff for actual damages, and for such punitive damages that may be just and proper under the circumstances.

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Attorney for Plaintiff

July 7, 2021

Jessica Flegel-Direct by Mr. Howe

1 Q. Can you take us back to that night on September 8, I
2 believe, of 2020?

3 A. I was leaving Georgetown, we had stayed kind of late
4 because Chris' father had passed away very suddenly so the
5 family had been gathering there for days. I had just got off
6 work in Charleston and I drove all the way to Georgetown to go
7 see and spend time with him and then I left and was heading
8 home. I was on 41 going past Tony's Pizza in Andrews and I had
9 just passed the BMW. Once I passed Tony's Pizza there was like
10 a big blinking lit up light that said "caution," to stop ahead,
11 because they were paving County Line Road where it came into 41
12 past the bridge, so they had stopped the traffic on 41 and I
13 had slowed down, and I don't know, I had a weird feeling,
14 something just kept on telling me to kind of, like, not stop
15 close to the car ahead of me, so I stopped about, like, a car
16 length away from the car ahead of me and I was sitting there
17 listening to the radio and a Conway Twitty song had come on and
18 it kind of made me think of Chris and his dad. It was -- I'm
19 sorry -- but I heard the song come and I was listening to it
20 and the next thing I remember is I felt the impact, and I heard
21 the glass breaking and I just remember screaming because the
22 wheel jerked out of my hands and the car was still moving and
23 then it threw me across the road and it wasn't stopping. I had
24 my foot on the brake because I was sitting there with my foot
25 on the brake and it felt like dead hit. It took me a minute to

1 realize, like, what had really happened and where I'd hit at in
2 the ditch and the car was just sitting there and I didn't know
3 what to do. I went to move and I could feel my neck was
4 hurting and some other stuff was hurting so I just kind of sat
5 back in my seat and didn't move because I didn't know what, if
6 I had broken anything, and I was sitting there in the ditch, I
7 was trying to figure out what was happening, and he, Thayne, he
8 ran -- I didn't know his name, I didn't know who he was, he ran
9 up to my door and was banging on my window, like, trying to
10 talk to me. He had blood -- he had blood on his face, and I
11 tried to roll down the window and the car was still on and he
12 tried to open the door, and I said I don't need to get out of
13 the car, I need to stay here because I'm hurting and I don't
14 know if I broke something, I need to sit here, I don't need to
15 move. I don't think I talked to him after that, and a couple
16 other people walked up to my car and, you know, I don't know
17 who they were. They were asking me, you know, if I was okay,
18 and I said, I don't know, I think so, I just, I don't want to
19 move, I'm hurting, my neck hurts, and I guess, I sort of was
20 worried about it that I had broken something, you know, I
21 started hurting and so people walked up and I said it smelled
22 like something was burning in my car. I didn't know what that
23 was. I think somebody reached in and turned my car off for me
24 and then there was a couple of people calling 911 that I guess
25 had stopped in the traffic either ahead of me, but I don't

Jessica Flegel-Direct by Mr. Howe

1 Q. -- after the accident?

2 A. Yes.

3 Q. Could you describe that for me?

4 A. I had pain in my neck. I felt really sore and tight and
5 I had pain in my lower back and I felt it in my right hip and
6 my right knee and then I had bruising and pain on the fronts
7 and backs of my lower legs and my seat belt had locked and I
8 had a bruise on the top of my right thigh about that big from
9 the seat belt because it had locked in place and I think it
10 stayed there probably three, four weeks or better, for that to
11 go away.

12 Q. Did you go to see your car after the accident, did you
13 take any photos of it?

14 A. Yes.

15 Q. Did you take this photo?

16 A. Yes.

17 Q. Where did you take this photo?

18 A. At Al Towing, his lot. He's the, J.J. Eadie (phonetic),
19 he's the one who picked up my car that night, and when I called
20 him he said that we could go look at it and do whatever I
21 needed. He didn't care what time of day or night.

22 MR. HOWE: Your Honor, at this time I'd like to make
23 this photo Plaintiff's number 1. I've got some smaller copies
24 as well.

25 THE COURT: Any objection?

1 MS. GWIN: No, Your Honor.

2 Alright, it's in.

3 (Plaintiff's Exhibit No. 1 was marked for
4 identification and admitted into evidence.)

5 Q: Jessica, I do hate to push you on this issue, but this
6 is what we're here about. What did it feel like when the white
7 4Runner ran into the back of your car? How would you describe
8 it?

9 A. Like I was gonna die is what it felt like, like I was
10 moving in motion and I couldn't stop, because I felt it, you
11 feel the air and the pop and the sound, I think that's what was
12 so loud, was the glass, it instantly popped, and you feel the
13 motion, but then when my car was still moving I wasn't sure
14 what was gonna happen.

15 Q. When you went to go see your car what did you think when
16 you saw it?

17 A. I didn't even know what to think. I just started
18 crying.

19 Q. Now, is there something missing in your vehicle in this
20 picture other than that rear window?

21 A. My spare tire, the glass is falling, it's completely
22 smashed in.

23 Q. If you were to, you know, grade this accident from a one
24 to a ten, how would you describe what you experienced?

25 A. At like a ten.

1 Q. Now, Jessica, do you know how far your car went?

2 A. No, I don't know.

3 Q. Did you ever go back to the scene of the accident?

4 A. No.

5 Q. Was there anything inside of your car that was broken?

6 A. My driver's seat was broken when I went to go look. I
7 guess the pieces that hold it onto the metal was broken.

8 Q. Like a mounting bracket?

9 A. It looked like it. Like, all the pieces had come off
10 the sides of my -- the chair, my visor had come off. When I
11 went to look in the back of my car, because the newer SUV's
12 have cubby holes, they had all been crushed and it looked like
13 my car had folded up like an accordion in the back behind the
14 seats.

15 Q. And Jessica, we touched on, a little bit, the physical
16 effects of this accident, is that the worst thing that you've
17 experienced since the accident happened?

18 A. No. I -- driving is kind of scary now. I know they --
19 they kind of pick with me about it a little bit, but they
20 understand. Most of the time I drive anywhere I go so I can
21 look in my mirror. I don't exactly, you know, like it when
22 somebody else is driving because I don't feel like I can -- I
23 can look to make sure. I don't sleep at night. I mean, I have
24 dreams about me screaming from the accident and the sound of
25 the glass breaking. Sometimes if I, if I hear it now it kind

REDIRECT EXAMINATION

1

2 BY MR. HOWE:

3 Q. Did you see the car coming up behind you?

4 A. No.

5 Q. Did you hear it coming up behind you?

6 A. No. I didn't hear anything. I didn't have the radio
7 turned up very loud. It was down low and I turned it up one or
8 two, that was about it.9 MS. GWIN: Your Honor, I'm going to object. This is
10 outside the scope of my cross-examination.

11 THE COURT: Sustained. Please stay within the scope.

12 Q. Ms. Gwin talked to you a lot about the treatment that
13 you received after the accident?

14 A. Yes.

15 Q. She talked to you about the medical bills associated
16 with the accident?

17 A. Yes.

18 Q. Do you feel that your damages are limited to just the
19 physical?20 A. I think so, yes. I mean, I got treatment in the
21 chiropractic center, but I mean, I still don't sleep and I have
22 anxiety.23 Q. Let me re-ask the question. Are your injuries from this
24 accident only physical?

25 A. No.

Jessica Flegel-Redirect by Mr. Howe

1 Q. And again, is it fair to say that your -- do you think
2 that the number Ms. Gwin gave us, and I think that was
3 \$4,800.00, do you feel that's an accurate representation of
4 your experience?

5 A. No.

6 Q. Do you feel that's an accurate figure to describe what
7 you're living with every day?

8 A. No.

9 Q. Do you feel that's an accurate figure to describe what
10 you went through just that night?

11 A. No.

12 Q. Was your car totaled?

13 A. Yes.

14 Q. Now, we talked about you going to the chiropractor
15 before the wreck. What were you doing with the chiropractor?
16 What do you do there?

17 A. I'm a massage therapist and I work on patients who come
18 in with pain and other things like that and I help put them on
19 equipment that we have in there and therapies. I explain what
20 we do in the office. A lot of times people come in and they've
21 never been to a chiropractor before and they're scared so I
22 talk to them about it and make them feel more comfortable and
23 understand about what the process is, you know, why we take
24 x-rays, why it's important to do this and the different
25 procedures in the office.

Charles Flegel-Direct by Mr. Howe

1 the scene?

2 A. Well, me and Julia are divorced, and we've been divorced
3 a while, but we still have a good relationship with our
4 children and our grandchildren involved, and I guess we are
5 friends, and she called me and told me Jessica was in a wreck
6 and it happened on 41 and immediately I thought it was on the
7 County Line Road and I took the wrong road and then if you're
8 not familiar with it it comes to a V running parallel and when
9 I realized -- I think I called her and she said it was on
10 Highway 41, so I turned around and took another street across
11 and saw the vehicles and everything stopped and I had to pull
12 off to the side, and I said, that's my daughter. I think there
13 was somebody there flagging traffic. I said, my daughter's in
14 this wreck, I'm going through. He said, yes, sir, go ahead. I
15 went up and saw one car on the right in the ditch up there and
16 her car in the ditch facing the wrong direction, and that
17 just -- I was hunting her and somebody pointed out, I saw the
18 young man, and I don't know if some lady was helping him, maybe
19 his mother, somebody was, and I was hunting my daughter and
20 couldn't find her, and there was a lot of people around,
21 emergency people, I don't know if the fire department or who
22 they were, volunteers, and then somebody said, well, she's in
23 the ambulance, you can go and see her. I think it was one of
24 the ladies from the EMS that came and got me.

25 Q. Where was Jessica's car when you arrived?

1 A. Well, it was in a canal, a ditch, that was two thirds of
2 the way in the ditch like that and it was headed back towards
3 Andrews and I knew she was going across Black River in the
4 opposite direction so I knew it was a pretty violent impact. I
5 looked in at the back of her car, it scared me.

6 Q. Where was the other car, where was the defendant's car
7 when you arrived?

8 A. It was somewhere close to her car. I don't remember if
9 it was a little bit past her car or where, but it was pointed
10 in a ditch and there was a lot of people around then. I
11 remember walking, looking at the car, but it was still in the
12 ditch, I couldn't tell nothing about it. When I went over and
13 saw her car and the back of it just kind of -- I felt a lot of
14 emotion because I couldn't see her. That's why I went there, I
15 can replace a car, but not my daughter, and they was telling me
16 she's okay, well, she's not okay until I see her, and that was
17 my concern. When they opened the side door she was on the
18 stretcher and had a neck brace and she couldn't talk a lot. I
19 wanted to know if she was okay. I could tell she was pretty
20 shook up in a lot of pain, I didn't know how much, but she gave
21 me a thumbs up.

22 Q. You said when you arrived both vehicles were in opposite
23 ditches?

24 A. Yes. The other vehicle was in the ditch on the right
25 and her's was in the ditch on the left-hand side facing back

1 towards Andrews.

2 Q. Are these photos a fair and accurate representation of
3 what you saw when you arrived?

4 A. Yes.

5 Q. And this is how the scene looked when you got there?

6 A. Yes, but I was actually where that car and the person in
7 the pink, I was actually walking up from this direction so it
8 would have been right here on the side of that vehicle. I
9 didn't see it from the left-hand side, but walking up and
10 seeing my daughter's car, the way it looked, it scared me.

11 Q. Now, you didn't take these pictures?

12 A. No, I did not.

13 Q. This is what you saw when you arrived on scene?

14 A. Yes, that's what I saw.

15 MR. HOWE: Your Honor, at this time I'd like to make
16 these Plaintiff's two and three.

17 THE COURT: Any objection?

18 MS. GWIN: No objection, Your Honor.

19 THE COURT: They're in.

20 (Plaintiff's Exhibits Numbers 2 and 3 were marked for
21 identification and admitted into evidence.)

22 THE COURT: Mr. Howe, is the one with the white car 2
23 and plaintiff's car number 3?

24 MR. HOWE: Yes, ma'am.

25 Q. Did you see these skid marks in the road when you got

1 there?

2 A. I don't remember seeing any there. I'm not saying there
3 wasn't any there, but I don't remember seeing any skid marks in
4 the road.

5 Q. Did you talk to anybody at the scene?

6 A. I talked with a couple of people and pointed out,
7 because I didn't know who the defendant was, and I could
8 remember somebody pointed out he was the boy in the wreck, or
9 young man, excuse me, and some emergency people, I don't know
10 who the people were that I spoke to, and like I told you
11 earlier that I think it was the lady, one of the people from
12 the EMS that took me to the ambulance to see Jessica. In my
13 mind I was trying to comprehend everything going on. I didn't
14 quite understand what happened to her but at the time I could
15 look at it and tell that she got hit in the rear end pretty
16 hard and trying to sort it all out, and it scared me. You get
17 a call your daughter's in a wreck, you need to go to her and
18 you get there and see the car before you see her, and when I
19 saw her that was -- I followed the ambulance to the emergency
20 room.

21 Q. Was it your understanding that it was Mr. Reece who was
22 driving the car at the scene?

23 A. Yes.

24 Q. What were your thoughts on the severity of the accident
25 when you got there?

Charles Flegel-Direct by Mr. Howe

1 A. When I saw her car in the ditch and it was in the ditch
2 on the other side, in my opinion, the way I saw it I was
3 thankful she was still alive because that's a violent accident.
4 You don't tear up a vehicle like that going slow, it don't
5 happen. In my opinion, that's a fact, that was a pretty hard
6 hit.

7 MR. HOWE: Your Honor, if it's okay with you and Ms.
8 Gwin, I've got a notepad, there's been a lot of talk about
9 where everybody came to rest. Mr. Flegel was there, and I
10 wouldn't want to make it an exhibit, just make it a
11 demonstrative, but him kind of draw out where he recalls
12 everything came to rest, is that okay?

13 THE COURT: Any objection?

14 MS. GWIN: No, Your Honor.

15 THE COURT: You may proceed. Mr. Flegel, you can
16 stand kind of right here in front of the jury so they can see.

17 MS. GWIN: Your Honor, may I move so I can see it?

18 THE COURT: Yes, ma'am. Actually, Counsel, if you
19 could scoot it this way a little bit, that way I could see as
20 well.

21 MR. HOWE: Right here?

22 THE COURT: That's fine. Thank you.

23 Q. Kind of walk us through as you're going.

24 A. Alright, I'm gonna draw the road, and this would be
25 Highway 41. I'm gonna put "north" up there with an arrow, and

1 this down here would be Andrews. When I came up from this
2 direction, I'm gonna draw the ditches on the side, and as you
3 can see in the pictures there were brush and stuff on each
4 side. When I came up to the scene from this direction this
5 vehicle was in the ditch with the defendant's vehicle here.

6 Q. That was the 4Runner?

7 A. Yes, and her car, I'm not sure exactly how far apart
8 they was because don't remember that, but her car was two
9 thirds of the way in the ditch right in the ditch and when I
10 walked up and saw her car the door was opened so I knew she
11 wasn't in it and there was people around all in this area. I
12 came from this area and I walked to the side of the road right
13 there at the edge of the ditch but this car was where I could
14 not see the front so I didn't know, I didn't go around the
15 other side, I didn't know the door was open, and I saw her
16 vehicle and was looking at it. Then I took pictures later of
17 her vehicle after I saw her but seeing her vehicle, that scared
18 me to death. I didn't see her, I saw the ambulance there and I
19 didn't know, and I went to the ambulance and they was busy in
20 there with her so, I mean, the door was closed, I couldn't see
21 her, and all these people were telling me stuff and talking to
22 me, and I reckon I was a little bit excited, or whatever you
23 want to call it, from not knowing exactly what's going on and
24 looking at her car and saying, my Lord, where's my daughter.
25 Somebody got me to the EMS and they opened the side door for me

Charles Flegel-Direct by Mr. Howe

1 to see her. Do you need anything else from this?

2 Q. Did you see any signs of breaking or anything leading up
3 to the point of impact?

4 A. I think there was some stuff in the road, I'm not sure,
5 I'm not exactly sure. After you say that, I think I do
6 remember seeing some stuff back there in the road right there,
7 somewhere about close to where the impact was.

8 Q. You mean, like, tire marks, not like breaking glass?

9 A. No, I don't remember seeing any tire marks. I'm not
10 saying they weren't there, but I don't remember seeing any tire
11 marks. If there was I can't recall it.

12 Q. You can head on back up to the stand. And one more
13 time, the young man who is with us in the courtroom here today,
14 do you recall seeing him at the scene of the accident?

15 A. Well, he looks a lot different than he did, it's be
16 almost three years, it's been, what, two and a half years. I
17 think he's a little bit bigger than he was. I don't know his
18 age, I guess he was still growing.

19 Q. But it is the same young man?

20 A. It is the same fellow.

21 Q. And that was the young man who was wandering around with
22 blood on his face?

23 A. Well, he was right there coming in like the right side
24 of the road there close to where his vehicle was and there was
25 a lady there helping him. I don't remember if it was EMS or

1 would be improper. Thank you, Your Honor.

2 THE COURT: Thank you, Counsel. Based upon the
3 evidence that has been presented thus far and in taking that
4 evidence to be most likely favorable to the plaintiff, your
5 motion is respectfully denied, as it does create a question of
6 fact for the jury to determine.

7 MS. GWIN: Thank you, Your Honor.

8 THE COURT: Ms. Gwin, are you just planning to call
9 your client?

10 MS. GWIN: Can I speak with him for just a moment?

11 THE COURT: Sure.

12 MS. GWIN: And then it would be pretty short because
13 he doesn't have much recollection of the actual accident.

14 THE COURT: Okay. If you need just a minute, just
15 let me know.

16 MS. GWIN: Thank you.

17 THE COURT: Let's have our jury, please.

18 (Jury entered the courtroom.)

19 THE COURT: Welcome back, ladies and gentlemen of the
20 jury. Counsel, you may call your first witness.

21 MS. GWIN: Your Honor, the defense would rest.

22 THE COURT: Thank you, ma'am. Ladies and gentlemen
23 of the jury, both sides have rested their case, and although
24 both sides have rested their case, it's still not the time for
25 you to deliberate. It's after 3:00 and by the time we do

1 closing arguments and the charge on the law it would be a
2 little bit late and I hate to keep you past 5:00, so we will
3 recess for the evening and resume in the morning for the
4 closing arguments and the charge on the law. If you would
5 return to your jury room at 9:30 in the morning, then we will
6 proceed with the trial of the case. Again, although you've
7 heard all of the evidence at this juncture, please remember
8 it's not appropriate for you to discuss this case amongst
9 yourselves or with anyone else. Have a nice evening, and we'll
10 see you in the morning.

11 (Concluded for the day March 6, 2023 at 3:15 p.m.)

12 THE COURT: Counsel, I'll have my law clerk prepare
13 jury instructions and proposed verdict form and you all can
14 e-mail back and forth and try to be here around 9:15, that way
15 we can have the charge conference and make sure everybody is on
16 the same page with the jury instructions.

17 MR. HOWE: Yes, Your Honor, that's fine with us.

18 MS. GWIN: Yes, that's fine.

19 THE COURT: We'll see everybody in the morning then.

20 MS. GWIN: Thank you.

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1 (Whereupon proceedings reconvened Tuesday, March 7, 2023)

2 THE COURT: Are there any exceptions to the jury
3 charge?

4 MR. HOWE: Just for my own well-being, we pled for
5 punitive damages, if you could reiterate clear and convincing
6 evidence must be by the plaintiff to warrant a punitive damages
7 charge.

8 THE COURT: Although an accident did happen,
9 certainly there was no evidence submitted that he was speeding
10 or drunk or texting or anything of that nature to warrant the
11 punitive damages charge, as well as any financial
12 circumstances, so your motion for that is respectfully denied.

13 MR. HOWE: Thank you, Your Honor.

14 MS. GWIN: Your Honor, I don't have any objections to
15 the verdict form or the jury charges. I would like to renew my
16 motion for a directed verdict. I don't believe we covered that
17 yesterday, but just quickly, it be on the same grounds as to
18 causation or that there was no medical testimony that the
19 injuries and damages were caused by this accident or that the
20 treatment was reasonable or necessary or that the medical bills
21 were reasonable or necessary, so again, I would just ask you to
22 direct a verdict in the defendant's favor on those grounds.

23 THE COURT: Thank you, ma'am. And as it reiterated
24 yesterday, the evidence does establish a question of fact for
25 the jury to determine on those damages. Plaintiff did testify

Jury Charge

1 opportunities to handle this before today, before dragging Ms.
2 Flegel back in here, dragging you all in here and making her
3 relive this in front of everyone, so I ask that you give us a
4 full award of damages, a full count of justice. I thank you
5 for your time and your attention.

6 (Jury Charge)

7 THE COURT: Thank you, Counsel. Ladies and
8 gentlemen, it's now time for me to charge you on the law in
9 this case. I remind you that during this trial you and I have
10 certain duties to perform. As the trial judge it's my
11 responsibility to preside over the trial of this case and I
12 also have the duty to rule on the admissibility of the
13 evidence offered during this trial. You are to consider only
14 the evidence before you. If there was any testimony ordered
15 stricken from the record during this trial, you must disregard
16 that testimony. You are to consider only the testimony which
17 has been presented from the witness stand, any exhibits which
18 have been made part of the record in this case, and any
19 stipulations of counsel. I have the additional duty to charge
20 you the law applicable to this case. It is your duty as jurors
21 to accept and apply the law as I now state it to you, but if
22 you think you have any idea as to what the law is or what the
23 law ought to be and it does not agree with what I tell you the
24 law is, you must forget that idea because you are sworn to
25 accept it and apply the law exactly as I state it to you. In

Jury Charge

1 every case tried in this court before a jury the jury becomes a
2 sole and exclusive judge of the facts. The trial judge cannot
3 comment on or make any statement about the facts in the case.
4 Since you are the sole judges of the facts do not think by
5 anything I have said during this trial that I have any opinion
6 about the facts in this case. The law does not allow me to
7 have an opinion about the facts of the case. The burden of
8 proof in this case is by a preponderance of the evidence. A
9 preponderance of the evidence simply means the greater weight
10 of the evidence. It is evidence which as a whole shows that
11 the facts ought to be proved as more likely true than not true.
12 This could be illustrated by imagining a set of scales. When
13 the case begins, the scales are even. After all of the
14 evidence has been presented, if the remain even or even if they
15 tip even slightly in favor of the defendant, then the plaintiff
16 has failed to meet the burden of proof and would not be
17 entitled to a verdict to recover in this case. If on the other
18 hand the scales tip even slightly in favor of the plaintiff,
19 the plaintiff will have met the burden of proof, and you should
20 return a verdict in favor of the plaintiff. The preponderance
21 of the evidence is not determined by the number of witnesses,
22 instead, it must be determined by the greater weight of all of
23 the evidence.

24 There are two types of evidence generally presented
25 during a trial, direct evidence and circumstantial evidence.

1 Direct evidence is the testimony of a person who claims to have
2 actual knowledge of a fact, such as an eyewitness. It is
3 evidence which immediately establishes the main fact to be
4 proved. Circumstantial evidence is proof of a chain of facts
5 and circumstances indicating the existence of a fact. It is
6 evidence which immediately establishes collateral facts from
7 which the main fact may be inferred. Circumstantial evidence
8 is based on inference and not personal knowledge or
9 observation. It is proof that does not actually establish the
10 fact in question but that asserts or describes something else
11 from which you may reasonably infer the truth of the fact or at
12 least reasonably infer an increase in the probability the fact
13 is true. For circumstantial evidence to be sufficient to
14 warrant the finding of a fact, the circumstances must lead to
15 that fact with reasonable certainty. The facts and
16 circumstances should be considered in light of ordinary
17 experience and common sense. The existence of a fact cannot be
18 based on speculation, surmise or conjecture. The law makes
19 absolutely no distinction between either direct or
20 circumstantial evidence, nor is a greater degree of certainty
21 required of circumstantial evidence than of direct evidence.
22 Necessarily, you must determine the credibility of witnesses
23 who have testified in this case, credibility simply means
24 believability. It becomes your duty as jurors to evaluate the
25 evidence and determine which evidence convinces you that it's

Jury Charge

1 true. In determining the believability of witnesses who have
2 testified in this case you may believe one witness over several
3 witnesses or several witnesses over one witness. You may
4 believe a part of the testimony of a witness and reject the
5 remaining part of the testimony of that same witness. You may
6 believe the testimony of a witness in its entirety or reject
7 the testimony of a witness in its entirety. You may consider
8 whether the witness has any interest in the result of the
9 trial, whether the witness is prejudiced towards either the
10 plaintiff or the defendant, the opportunity for the witness to
11 have seen the matters in things about which the witness may
12 testify and the way that the witness acts on the witness stand.

13 The plaintiff claims that the defendant was negligent
14 and should compensate the plaintiff for the injuries the
15 plaintiff suffered as a result of the defendant's negligence.
16 In order to prove that the defendant was negligent the
17 plaintiff must prove by preponderance or greater weight of the
18 evidence the following things: First, the plaintiff must prove
19 by preponderance or greater weight of the evidence that the
20 defendant owed the plaintiff a duty of care. You must decide
21 the following whether the plaintiff has proven by a
22 preponderance or greater weight of the evidence that the
23 defendant breached the duty of care by a negligent act or
24 omission. Negligence means that a person has done something
25 that a reasonable person would not have done or has failed to

Jury Charge

1 do something that a reasonable person would have done in the
2 same situation. The plaintiff must also prove by preponderance
3 or greater weight of the evidence that she suffered damages as
4 a result of the defendant's breach of duty. Finally, the
5 plaintiff must prove by preponderance or greater weight of the
6 evidence that the damages were proximately caused by the
7 defendant's breach of duty. Proximate cause is something that
8 produces a natural chain of events which in the end brings
9 about the injury. It is the direct cause of the injury. To
10 prove that the defendant's negligence proximately caused the
11 plaintiff's injury, the plaintiff must first prove causation
12 and fact. This is proven by showing that the injury would not
13 have occurred but the defendant's negligence. The plaintiff
14 must also prove legal cause. Legal cause is proven by showing
15 that the injury was foreseeable. This means that the injury
16 incurred is a natural and probable consequence of the
17 defendant's negligence. The plaintiff must prove that some
18 injury from the defendant's negligence was foreseeable but does
19 not have to prove that the particular injury that occurred was
20 foreseeable, however, the defendant cannot be held responsible
21 for things which could not be expected to happen.

22 Proximate cause does not mean the only cause. The
23 defendant's act can be a proximate cause of the plaintiff's
24 injury if it was at least one of the direct concurring causes
25 of the injury. Actual damages are properly called compensatory

Jury Charge

1 damages, meaning, to compensate or to put the plaintiff in the
2 same position they were in prior to the damages received in so
3 far as is monetarily possible. In other words, actual or
4 compensatory damages include compensation for all injuries
5 which occur naturally, the proximate result of the alleged
6 wrongful conduct. The existence causation or amount of damages
7 cannot be left to conjecture, guess work or speculation,
8 however, proof of amount of loss with absolute or mathematical
9 certainty is not required, damages must be proved with a
10 reasonable degree of certainty. The evidence presented by the
11 plaintiff must enable you to determine what amount is fair,
12 just and reasonable. If you find the plaintiff was injured due
13 to the negligent acts of the defendant, the plaintiff is
14 entitled to be fully compensated for all injuries directly or
15 proximately resulting from those negligent acts. In
16 determining the amount of compensation for injuries suffered by
17 the plaintiff, you may consider an award past and present in
18 future damages for things such as out of pocket expenses,
19 medical expenses, pain and suffering, loss of enjoyment of
20 life, future damages, and disfigurement.

21 In personal injury actions a general rule is that
22 plaintiff may recover for the necessary and reasonable expenses
23 caused by the injury, such as amounts necessarily include for
24 medicine, medical services, hospital expenses, and care and
25 nursing. A person who suffers personal injuries because of the

1 negligence of another is entitled to recover for the reasonable
2 value of medical care and expenses incurred for the treatment
3 of the injuries to the time of trial, as well as cost of those
4 reasonably certain to be incurred in the future. If you
5 determine from the evidence and under the law as I have
6 instructed you that the plaintiff is entitled to recover
7 damages including medical, hospital or other healthcare costs,
8 then the plaintiff can only recover such sums as you determine
9 from the evidence to be both reasonable and necessary. Pain
10 and suffering compensates the plaintiff for physical discomfort
11 and emotional response to the sensation of pain caused by the
12 injury itself. There is no definite standard by which to
13 compensate the plaintiff for pain and suffering. You have the
14 authority to determine the amount, if any, to be allowed for
15 pain and suffering using calm and reasonable judgment to ensure
16 that the damages are just and reasonable in light of the
17 testimony and evidence presented in this case. The plaintiff
18 is also claiming loss of enjoyment of life. Loss of enjoyment
19 of life compensates the plaintiff for limitations on the
20 plaintiff's ability to participate in and derive pleasure from
21 the normal activities of daily life. If you find that the
22 plaintiff was permanently injured as a result of the
23 defendant's actions, you must then decide how, if at all, that
24 injury will affect the rest of the plaintiff's life. The life
25 expectancy table is only an estimate of the probable average

1 remaining life of all persons in our state at a given age. In
2 the present case the plaintiff is a 33-year-old female.
3 Pursuant to the life expectancy table a 33-year-old female has
4 an expectancy of 49 years, that is, that would be plaintiff's
5 probable remaining length of life. A person 33 years old would
6 expect to live another 49 years. The plaintiff cannot recover
7 conjectural or speculative damages, however, if you find the
8 plaintiff is entitled to a verdict for actual damages your
9 verdict should include an amount to cover any damages that the
10 evidence shows will be reasonably certain to occur in the
11 future. Future damages need not be proved to a mathematical
12 certainty and often must be approximated. These future damages
13 must be the result of the defendant's negligence. Any future
14 damages that you award must be reduced to their present day
15 value.

16 Ladies and gentlemen of the jury, your verdict must
17 be a unanimous verdict, which of course means that all 12 of
18 you must agree on the verdict. Ma'am, on the end, can I have
19 your name, please?

20 THE JUROR: Anita Ford.

21 THE COURT: Ms. Ford, since you're sitting in that
22 chair I'm going to appoint you as the Foreperson of our jury.
23 As you see, it's a very scientific process as you're sitting
24 there. You get the honor of being our Foreperson. So Ms.
25 Ford, it will be your duty to write on the verdict form the

1 appropriate verdict. Once you all come to a verdict, the
2 verdict form is very self-explanatory. The first question is,
3 do you find that the defendant was negligent and that such
4 negligence proximately caused the plaintiff's injuries? Then
5 you check the appropriate box, either yes or no. Number two
6 is: If your answer above is yes then please state the amount
7 of damages sustained by the plaintiff, and you can put a
8 figure; or number three: We find for the defendant. Once you
9 come to your verdict, if you would then also sign it and knock
10 on the door and we'll bring you back in here to receive your
11 verdict. Please do not begin your jury deliberations until you
12 receive the verdict form and any exhibits that have been
13 introduced. Once you receive those then you may begin your
14 deliberations. You may go to your jury room.

15 (Jury retired to deliberate.)

16 THE COURT: Any exceptions or objections to the
17 charge on the law from either the plaintiff or defense?

18 MR. HOWE: None from the plaintiff, Your Honor.

19 MS. GWIN: None, Your Honor.

20 THE COURT: Thank you. If you all would get together
21 and make sure we have the exhibits and try not to wander off
22 too far in case we get a verdict.

23 I'll release the alternates. We'll ask the bailiff
24 to grab everything for you. Have a great day.

25 (Recess taken.)

1 room.

2 (Jury returned to the jury room to continue deliberations.)

3 THE COURT: Any exceptions or objections from
4 plaintiff or defense?

5 MR. HOWE: None from the plaintiff, Your Honor.

6 MS. GWIN: None, Your Honor.

7 THE COURT: Thank you. We'll mark the question as a
8 Court's exhibit. Thank you. We'll be at ease.

9 (Recess taken.)

10 (Verdict.)

11 THE COURT: Madam Forelady, has the jury reached a
12 verdict?

13 THE JUROR: Yes, ma'am.

14 THE COURT: Would you please hand it to the bailiff?
15 Madam Clerk, if you could please publish.

16 THE CLERK: State of South Carolina, County of
17 Georgetown, Jessica Flegel, Plaintiff, versus Thayne Dawkins
18 Reece, Defendant. Do you find the defendant was negligent in
19 that such negligence proximate caused the plaintiff's injuries:
20 Yes. If your answer is yes, please state the amount of damages
21 sustained by the plaintiff: \$10,000.00: I certify this
22 decision was a unanimous decision of the jury, Anita Ford.

23 THE COURT: Does either counsel request polling of
24 the jury?

25 MS. GWIN: No, Your Honor.

1 MR. HOWE: No, Your Honor.

2 THE COURT: Thank you. Ladies and gentlemen of the
3 jury, if you would please return to your jury room one last
4 time, I'll be in there momentarily to release you.
5 Anything further before I release the jury from either side?

6 MR. HOWE: Nothing from the Plaintiff.

7 MS. GWIN: No, Your Honor.

8 THE COURT: Thank you. We are adjourned. Nice to
9 work with you all.

10 MS. GWIN: Thank you.

11 (Trial concluded on Tuesday, March 7, 2023 at 11:45 a.m.)

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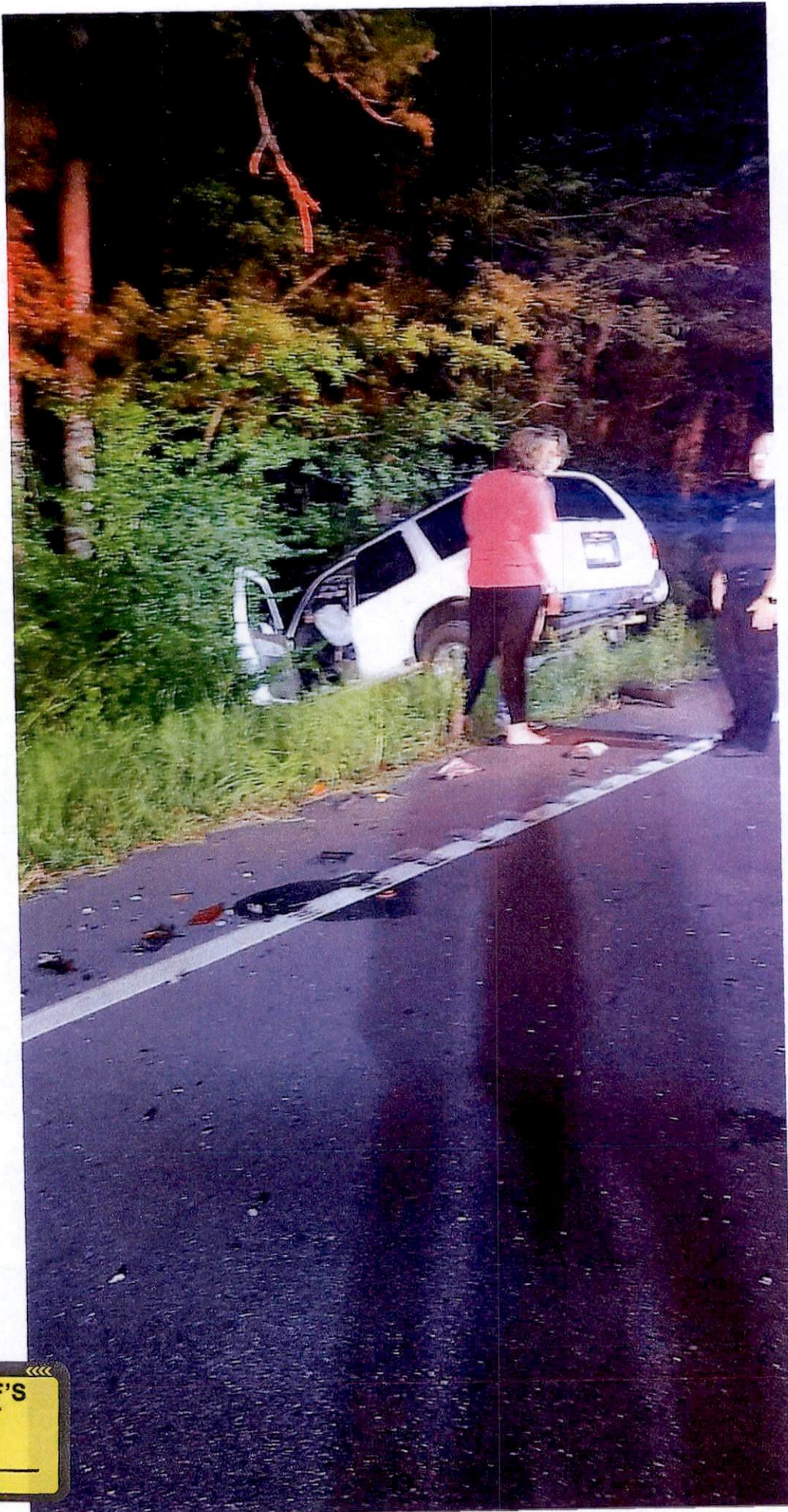
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3/6/23 OK

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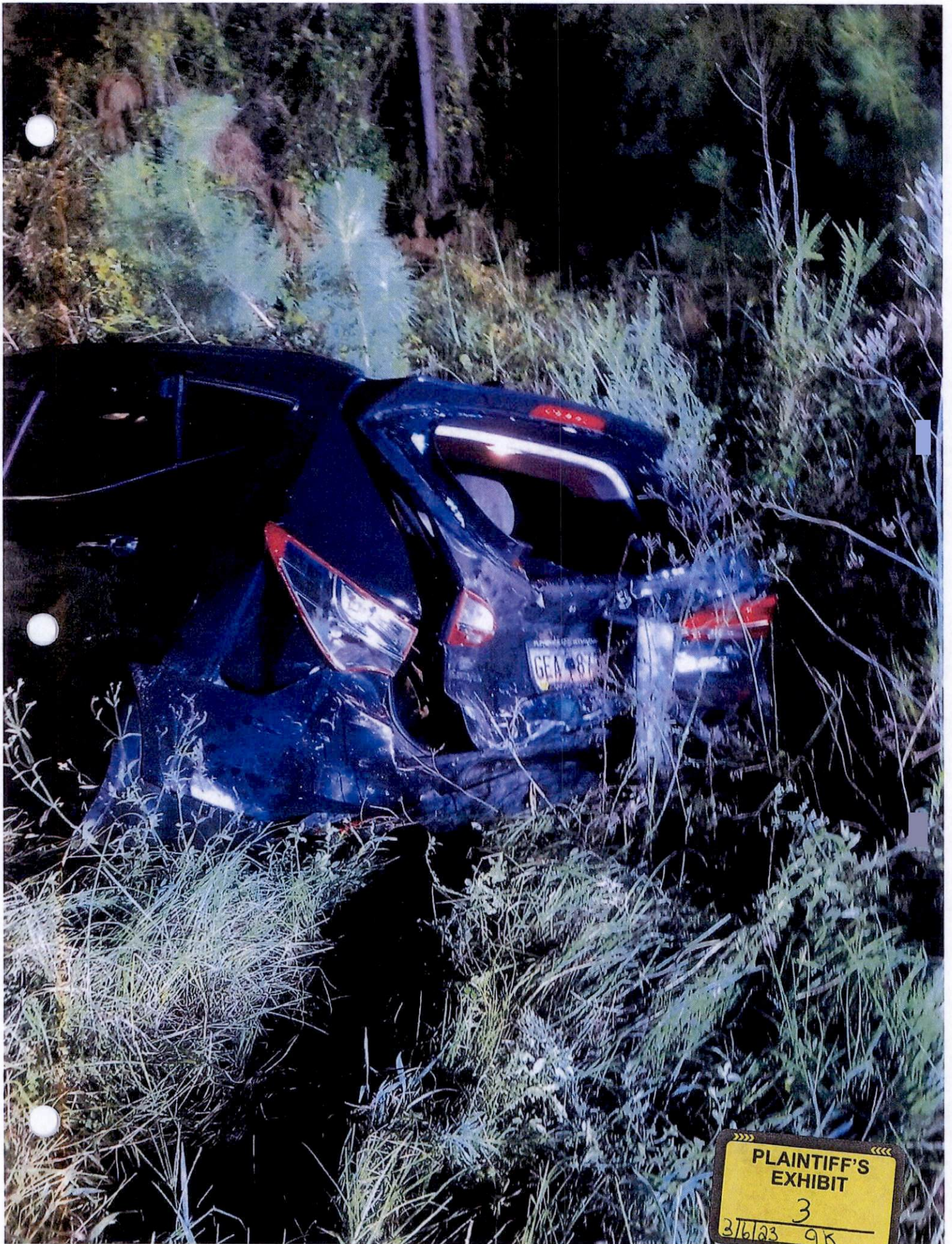
FLORENCE HYUNDAI
GEA 872

SANTAFE

Woman in pink shirt



PLAINTIFF'S
EXHIBIT
2
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

AUG 14 2023

SC Court of Appeals

Maite Murphy, Circuit Court Judge

Appellate Case No. 2023-000592
Case No. 2021-CP-22-00552

Jessica Flegel
Appellant,
v.
Thayne Dawkins Reece,
Respondent.

CERTIFICATE OF COUNSEL

The undersigned counsel certified that the Record on Appeal contains all material proposed to be included by all parties and not any other material.

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Counsel for Appellant

July 25, 2023

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Maite Murphy, Circuit Court Judge

Appellate Case No. 2023-000592
Case No. 2021-CP-22-00552

Jessica Flegel

Appellant,

v.

Thayne Dawkins Reece,

Respondent.

CERTIFICATE OF COMPLIANCE

The undersigned counsel for the Appellant certifies that the Record on Appeal complies with the Supreme Court's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings, issued April 15, 2014.

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AUG 14 2023

SC Court of Appeals

Counsel for Appellant

July 25, 2023